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Special Educational Needs

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Volume II

Oral and written evidence

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The Education and Skills Committee

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Ms Karen Betony

Mr Terry Saunders

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Mr Gordon and Mrs Julie Hedge

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Philippa Gunner

Paula Jewes

Ms Sarah Bradshaw

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Susan Tresman, British Dyslexia Association
Mr Ian Parkinson
Roding Primary School with Hearing-Impaired Provision, Essex
Alan Share
Corina Scott, schoolteacher, Merton

Report from the National Union of Teachers: The Costs of Inclusion: A study of inclusion policy and practice and English primary, secondary and special schools, John MacBeath, Maurice Galton, Susan Steward, Andrea MacBeath and Charlotte Page, University of Cambridge, Faculty of Education, May 2006

Oral evidence

Taken before the Education and Skills Committee on Monday 31 October 2005

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods
Mr David Chaytor
Mrs Nadine Dorries
Jeff Ennis
Tim Farron

Helen Jones
Mr Gordon Marsden
Stephen Williams
Mr Rob Wilson

Witness: Baroness Warnock, a Member of the House of Lords, examined.

Q1 Chairman: Baroness Warnock, can I welcome you to our proceedings and say what a pleasure it is to have you here and to see you again. We are pretty tight on time today because we have an hour for this part of the inquiry and we have an hour for something quite different afterwards, so we are limited for time. That does not mean to say this will be the only chance we have to talk to you and because of that I am not going to read any of your CV out, which is illustrious and long, because I think most people know it. What they will be particularly concerned about and interested in, of course, is your report that you wrote. Take us, Baroness Warnock, through the history. You were appointed by whom? Was it a Labour education minister? Who appointed you to the original inquiry?

Baroness Warnock: Margaret Thatcher, as a matter of fact. She was Secretary of State for Education.

Q2 Chairman: Yes. What date?

Baroness Warnock: That was early 1974, then the Conservative Government fell and the Labour Government took over the Committee which had just been set up. We had not actually met yet, but we were taken over.

Q3 Chairman: Yes, I knew there was a political change from your being asked to do the job.

Baroness Warnock: The Labour Government was still in power when we reported four years later.

Q4 Chairman: In what year did you report?

Baroness Warnock: 1978.

Q5 Chairman: You reflected on your report fairly recently and it is one of the reasons we are all here today. It is not the only reason because I think I have said in other places that we tend to do reports on issues that we have neglected for some time, and we had discussed in this Committee the fact we had not looked at special education under my chairmanship and it was about time we did. Then, serendipity, you made your speech, wrote your pamphlet and, of course, that was very timely for us.

Baroness Warnock: I think it is one of those occasions when I wrote that pamphlet because there was a lot buzzing all around anyway. It was not ground-breaking, it was just part of that general feeling in the air that the whole thing needed looking at again.

Q6 Chairman: Can you take us through it. When you first wrote the report, I take it you were content with your recommendations. Is it that you have changed your mind about the recommendations that you made, or is it because you do not think Governments ever really carried through the recommendations into policy in quite the way that you anticipated or hoped for?

Baroness Warnock: I think if one reads the first report, the real report, carefully—and I re-read it again—I do not think we ever wanted our recommendation about integration to be taken quite as far as the Government now seems to be taking it with their policy of inclusion. I think the reason for that is simply at the time in 1974, the most severely disabled children had only just come under the Education Department; before that they were the responsibility of Social Services until 1972. So we wanted to introduce a concept of special educational needs that would somehow demonstrate that education overall for all school children was a kind of integrated activity with common aims, and within that integrated activity different children had different needs. Now that was very widely interpreted as meaning that all children would be taught at the same school, and there were people, mostly far left Labour Members of my Committee, who thought the comprehensive ideal would never be fully realised unless there was one kind of school for absolutely everybody, and that was where the beginning of what I regard as the exaggeration of the possibility of inclusion began from.

Q7 Chairman: Good, that certainly gives us a part of the history. In fact, a number of administrations have seemed to have followed this call for integration, have they not? A large number of Secretaries of State have come and gone over the years; they all seem to have subscribed to inclusion

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or integration, or whatever you call it. In trying to look at this in a non-party way, it seems there has been a kind of fashion for this that is really outside of the party political or includes all the main political parties.

Baroness Warnock: I think that is right. I think one huge step in the wrong direction, if I can state it plainly, was the 2001 Education Act which, for the first time, brought together the concept of special educational needs and disability discrimination because that had never been done before. Now to me—you may be able to enlighten me—I am absolutely unclear myself, and I think a lot of schools are, about whether all children who have special needs, let us say from emotional difficulties or whatever it is, are to be thought of as disabled, in which case if they are then if the school cannot handle this child and excludes it, it is caught under the Discrimination Act and is committing a criminal offence. If they are not disabled but are allowed to have special needs without a disability label, so to speak, then the legal situation is different. I have not been able to work that out. As far as I know, I have never found a clear answer for that.

Q8 Chairman: All my colleagues are waiting to ask you many questions, but, can I ask you before we open up the questioning, why do you think so many people seem to think you have let them down? They thought you were the great integrationist, you are the person everyone associated with a particular style. Why do you think they are quite so strident in their reaction to your more recent change of opinion?

Baroness Warnock: I think there are two different answers to that. One of them stems from the whole concept of disability discrimination and I think that there is a large group which really thinks that disability is caused by, say, other non-disabled people's attitudes to disability. If a child is educated in a special school that child is, by that fact alone, being discriminated against. He does not get the chance that other children have to go to a mainstream school and I think that is one stream of what I can only describe as hostility, that my pamphlet, for example, provoked. I think the other thing is that people, and particularly parents, do feel that they are being cheated and therefore their children are being cheated. I do not think this is a particularly party political point, but the reason is the White Paper, last week or whenever it was, which over and over again emphasises parental choice as the great good which is going to come with educational reform, but I think that produces a hollow laugh on the part of parents with children with disabilities because they have no choice. Everything depends on the assessment that their child gets and it is the local authority which conducts the assessment and also has to pay the money and naturally the parents do not believe the assessment is truthful because it is pitched as low as the local authorities can get away with because of the money. They really have virtually no choice of schools and no control over wishing for anything else, so I think they feel cheated for that reason.

Chairman: Thank you very much for those introductory responses, Baroness Warnock. Nadine, would you like to open the questioning?

Mrs Dorries: Chairman, before I actually ask my question, could I ask why Baroness Warnock is only at the Committee for an hour, because that hour has slipped to 45 minutes, and as we are doing SEN as our inquiry and Baroness Warnock is both the authority and architect of the SEN, is it not possible to ask her to come back another day?

Chairman: We are already going to do that.

Mrs Dorries: Fantastic.

Chairman: The answer to your question is that if we do not see the Adult Learning Inspectorate today, the time for comment on the consultation on the abolition of ALI will be over.

Q9 Mrs Dorries: That is fine. I could do 40 minutes on my own. Baroness Warnock, I do not think anyone can disagree that many children benefit from inclusion, and parents with children who want mainstream education should have it as a right. I do not think anyone disagrees with that. You recently stated that inclusion has failed too many children with special needs and that is a view I share. I would like to ask about children who are wrongly placed in mainstream education, of which there are a number in my constituency and many across the country, namely children with conditions such as Asperger's and autism? Children are robbed of the ability to socially interact or communicate. Children who need rigid discipline, who are terrified of noise and chaos and constantly changing teachers and who lack the most basic skills. Some of these children do well in primary school because they have one teacher and a small intimate environment and do quite well there. However, when they move to secondary education, the chaos, the rotating teachers, the noise and the confusion are terrifying to them, and actually I have seen this at first hand. They are terrified, and I have heard teachers say it breaks their heart to see children in that position sometimes. In this situation, I think the policy of inclusion is—and I hate to have to say this—sometimes from what I have seen, a policy of cruelty in some cases and in this environment children cannot cope. It is borne out by the fact that 27% of children with autism, a statistic I know you are aware of, in mainstream education are excluded at any one time. The only lifeline these parents have for those children is in the statementing process. That is the only safety net they have, the only legal road they have to go down is the statementing process, and yet you say that you would like to see that removed. What would you like to see put in its place? Do you not think, as someone of your knowledge, authority and standing in the community and nationally, that you should perhaps be putting forward some of the things you said in your pamphlet and some of the views you have in a more robust manner to the Government?

Baroness Warnock: I think, to defend myself, I would say that the main thrust of my pamphlet was that it is time that the whole structure within which we assess children should be changed and I have no instant solution. You know as well as I do that a new

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system is coming in in Scotland in a fortnight's time and they have given up the expression "SEN" and they have given up records or whatever they used to call statements, and it is all structured differently. My gloomy thought is it is not going to make a bit of difference, but that is nothing to do with it. I think we need another look at the whole thing. What I have against statements, without being able to say what should go in their place, is that they operate so terribly inequitably. Two children with almost identical disabilities, one of whom would have a statement and therefore go to special school if that is what the parent wanted, and the other of whom has a statement obstinately withheld by the local authority, probably for financial reasons, and their disabilities could be almost the same. This seems to me to be very, very inequitable. I want to have a system that does not have this cut-off point for which nobody knows what the criteria are. There are not and never have been any clear criteria to determine whether someone has a statement or not. Just to refer briefly to what you say about autistic children—I blame myself partly for this in the report—we have all got into the way of thinking that special educational needs is a single category of children and if some children with special needs, by adapting the school and bringing teachers in, can flourish in a mainstream school, then all children who have SEN will be the same, but that is particularly not the case, as you say, about autistic children.

Q10 Mrs Dorries: You do not have an alternative proposal to the statementing process then?

Baroness Warnock: Not really. I am not an expert. I would like to see another committee—

Q11 Mrs Dorries: I think you are an expert, Baroness.

Baroness Warnock: I think the great thing about committees, as you know well being Members of this Committee, is that you do learn from one another and people have ideas that you would not have thought of you and you think, "Gosh, I wouldn't have thought of that", and then you explore it. I am a terrific believer in—and you may say that I would say that, would I not—of committees and inquiries because they have time and resources and research. That is what I think is needed.

Q12 Mrs Dorries: Baroness Warnock, you just made the statement that parents can have the choice to send their children to a special school or not. Baroness Warnock, parents do not have the choice. They do not have a choice to send them to a special school. That choice is frequently denied them, whether it is through the funding or a particular policy of the LEA, they do not have a choice.

Baroness Warnock: At least they have a chance if they have a statement to go to a special school if the parents plead and fight.

Mrs Dorries: Only in many cases if they go to a tribunal and have £10,000 to spend and are white and middle class. I am trying to make the point it is variable.

Q13 Chairman: Baroness Warnock, do you want to come back on those?

Baroness Warnock: One of the things that is wrong with the present system—and I know people say it is wrong and not a good idea, but I would not trust myself to have a good idea—is the whole business of the tribunals that they have to go through. If a parent has to identify a school, say, that would suit her child very well, first of all she cannot get a statement and then what is on the statement does not specify and so on and so on. It wastes months and years of the child's life.

Q14 Chairman: It is refreshing, Baroness Warnock, to hear someone say it is important to ask a question of you and you do not always have to have all the answers, but I want to put your mind at rest. You do not have quite the same committee system in the House of Lords as we have here, so let me assure you I will not rest until this Committee of inquiry on special education does a thorough job, reflects with all its resources and comes out with what I hope will be a first-class report which will satisfy even your high standards.

Baroness Warnock: I am not answering directly but if I may say so, one of the things that I find very puzzling about the situation we are in now is that on the one hand you have local authorities, you have teachers in schools, thinking they must interpret all the Education Acts there have been in such a way children are included in the mainstream and that is necessarily the best form, while at the same time I think little is known about parents' wishes. There are these new kinds of schools, specialist non-maintained schools, which are specifically for children with statements. They are special schools, they—probably because they were threatened with closure—applied for and got specialist school status and I know about two of these schools but I think there are 30 of them now up and down the country, and the great thing about them is that they are small, they are about 150 pupils. I think that is big enough for a special school, especially for those autistic spectrum children who need stability, who need to know their teachers, who need that kind of nurturing. What I would love to know is to what extent the rise of these schools really fits in with government policy. I find it terribly, terribly mysterious. I was asked to go to one of these schools and I was incredibly impressed, they are wonderful, and since then, by poking around in the Department and asking questions of the Specialist Schools and Academies Trust people I managed to see a list of them and, as I say, there are 30 of them and more coming. How do they fit in?

Chairman: It is our job to find that out. We will be doing that. We will come back to that in a minute because there are some interesting leads you have given us there.

Q15 Mr Marsden: Can I very quickly come in on what you have just said? You mentioned "autistic spectrum" there and what I would be interested in is, first of all, do you think that the enormous emphasis

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there now is in the coverage of SEN on the autistic spectrum, reflects a wide scale increase in the incidence of autism or the greater awareness of it—

Baroness Warnock: Quite so.

Q16 Mr Marsden: Secondly, if it is a spectrum it presumably goes all the way from very, very severe difficulties to very minor difficulties. Is it then appropriate we should be talking about treating all these children within that spectrum in either inclusive education or special schools?

Baroness Warnock: I think that is a very interesting question but I think the children with manifest disabilities, whom the severely autistic group would be among because many of them have no speech and so on, would already go to special schools. I doubt if many very severely affected children would be in a mainstream school, except in an autistic unit which is a separate thing within the school. I think the children who are least disabled and with less obvious disabilities are in a curious way the children who are worst done-by. Those are the children who have the kind of difficulties that make a large comprehensive school absolute hell. I know of one child for example who has been refused a statement because he has a high IQ. Autism is not a matter of IQ. This child is in complete misery and only goes to school when he is drugged with anti-depressants, but the invisibility of his difficulties makes it so hard for the parent.

Q17 Mr Marsden: I am perhaps being a bit dumb but I am not quite following through the logic of what you are saying. If you are saying children in this position in the spectrum should not be in mainstream education, is it then also appropriate there are children with Asperger's, for example, who do have significant challenges but probably many experts might say the last thing you should do with a child with Asperger's is put them in a special school.

Baroness Warnock: I am not sure that is true. What we perhaps do not do enough of is to follow the child, let us say, a Down's Syndrome child, from the age of nine or 10 very carefully to see how, if at all, that child will manage to survive in a secondary school. I think the transition from primary to secondary is, as has been said, traumatic for most of them but it is particularly traumatic for various kinds of disabilities including Asperger's, including Down's Syndrome, and the reason is partly that adolescent children have different emotional and friendship and group needs from children at primary school. I think there are quite a lot of Down's Syndrome children who suddenly feel themselves completely left out. They have had lots of friends at primary school but because they do not do all the things—some of them do but there are others who cannot manage—they become very miserable and then very angry if they suddenly find themselves excluded from all their previous friends. So there needs to be a much more careful monitoring system for a child who has been pin-pointed so to speak in the primary sector as having learning difficulties of various kinds to see how they are going to manage in the first year of secondary school, and then at that

stage the decision should be made about whether a special school or let us say a small school would be more appropriate.

Q18 Mr Marsden: You think size is an issue here?

Baroness Warnock: The smallness of the school makes a huge difference to the success of the child.

Q19 Helen Jones: I think perhaps, Baroness, my colleagues have hit on a point we need to clarify here because we are talking about children with a wide spectrum of different needs. Can I ask you first of all what is your definition of a special educational need and what definition should this Committee be working to?

Baroness Warnock: What a terrible question!

Q20 Helen Jones: It is fairly important if we are designing the system.

Baroness Warnock: I know. The definition, as you probably know, which comes in the 1981 Education Act is the purest vicious circle you will ever know. A special need is defined as "any need that the school needs to take special measures to meet". Well, that is not much of a definition but it is the only definition there is. I think it is that vagueness actually which has led to what I have referred before, which is the very bad habit of talking of SEN children as a class, a category, of children, all of whom would be expected to flourish in the same sort of environment.

Q21 Helen Jones: That is really the problem, is it not, in dealing with this? If we are to come up with a definition that is worthwhile, that we can work to, bearing in mind we are dealing with young people with a whole range of different needs, is it your view we should be narrowing that definition down, or is it your view that we should be expanding it and looking at all children as individuals? Just thinking of my own experience, I have seen children with special needs flourishing in mainstream schools but I have seen in my constituency very good special schools.

Baroness Warnock: Absolutely.

Q22 Helen Jones: Should we be focusing in this Committee on how we meet the needs of the individual child rather than talking about institutions? If so, how can we in your view produce a system which does that, bearing in mind the whole complex range of issues we are trying to deal with here?

Baroness Warnock: I think what is suggested would be very good, namely it would bring to an end this careless way of treating SEN as a unified category of children. I think very much of what you said would appeal to the Scots because that is exactly what they have been trying to do and they have now given up, as I say, the expression "SEN" and what they now have is "assisted learning support, ALS" and they bring in under the concept of ALS any child who, for whatever reason—social, whatever—is not doing very well at school. So it is I think a practical negative definition. You look at all the children in your class and say, "He is not doing very well, could

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we do anything for him? He is not getting on very well." In a way, it is not very different from the futile circular definition in the 1981 Act but it is very consciously doing what you suggested, namely seeing an individual child and what they really want to make them flourish. I have to say that was really at the back of our minds on my committee all those years ago, when we were trying to invent ways of talking about these children. We were trying to get away from the medical model and that there was something wrong with them, and we invented this concept of seeing what they needed to make them get further along the same road they were treading with all the other children being educated. So it is not a very different idea from that but we know that did not work and it hardened itself into this concept of SEN and it has tried to improve it.

Q23 Helen Jones: If we went down that road, could you give the Committee your view of whether there is enough expertise in most of our schools to make those identifications? Some children are identified as having a special need very early, even before they go into full time education, but others are identified later because their needs become apparent later. Is there enough expertise to identify those needs? Is that where the system breaks down? If not, what should we be putting in place to make sure that expertise is there so if a child is not making progress we can identify it?

Baroness Warnock: That is a terribly important point and the first place one ought to look for that is teacher training and also some of the trainers of teachers ought to come from these trail-blazer schools, of which there are 12 and they are very much scattered about the country. The point of the trail-blazer schools, as you know, is that they are special schools but they are staffed by very expert people who are going out to teach in mainstream schools. That is the point of the schools. I think those trail-blazer teachers should be given a very important role in teacher training and that would mean the caucus of expert people would grow eventually.

Q24 Helen Jones: Who in your view should finally make the decision about where a child or young person should be placed? Let us say we have gone down the road of deciding a child has particular needs, but we are always faced with the problem of where those needs are best met and all the participants in the child's life will not always agree on where they are best met. Who in your view should make that decision at the end of the day?

Baroness Warnock: I do not really know I have a view about that, when you think of teachers in mainstream schools and what many of them are up against with children who simply behave extremely badly. Do you have to treat a child as having a special educational need because he is not learning something and preventing others learning? That is a very difficult judgment to make because the teacher will always blame herself—"If I was better at it, this

person would settle down and learn. I haven't got the knack." It is terrible. I do not know what the answer is.

Q25 Helen Jones: That is the key though, is it not?
Baroness Warnock: Yes.

Q26 Stephen Williams: Perhaps I could change tack. Earlier you mentioned in one of your responses the medical model of looking at children and we have mentioned children on the autistic spectrum and people with mental and physical disabilities. I understand your initial inquiry in the 1970s did not look at the social background of children?

Baroness Warnock: We were forbidden. There were two things we were forbidden to do and these came direct from Margaret Thatcher so how could we disobey. One of the things we were forbidden to mention was dyslexia because that was thought to be a middle class invention. The other we were forbidden to mention was social disadvantage because we were told this would be offensive. But we did sneak in a reference to social disadvantage because we were very much conscious of, or some of us were, the absolute absurdity of pretending this did not exist. If you remember, in the 1981 Act the other bit of this futile definition of special needs was nothing could count as a special need which either comes from social disability or from not having English as your first language. I think with both those together the Department was trying to protect itself against a charge of discrimination on grounds of race or wealth or whatever.

Q27 Stephen Williams: My constituency, Bristol West, is supposedly the archetypal middle class seat and I have the most intellectual constituents in the country with more PhDs and professional qualifications than anybody else, and that is undoubtedly true, but I also have the city centre of Bristol including St Paul's. As I visit primary schools in different parts of my constituency I am struck by the differences, with primary schools in most of my constituency very well supported by the social environment and some of the top primary schools in the country, and then I visit schools in the city centre and the teachers tell me that children cannot concentrate in school because their mother is out doing unsavoury things at night, their dad, if there is a dad at all, has weapons in the house, the child has very little sleep, there are no books in the house. Do you think there needs to be a new definition of the educational needs of a child, not only because of the medical background but their social environment as well?

Baroness Warnock: Fortunately, the new category of special need, emotional and behavioural difficulties, now includes social as well, so that is a great step forward. There is, among many other good movements privately funded, a movement called the Nurturing Group, and that is spreading all over primary schools and it takes children of the kind you have described, whose vocabulary when they come to school consists of five words most of them expletives, and the Nurturing Groups take

these children in groups of six and keep them for as long as a year or two years until they learn, and I think that is a wonderful thing and that is the kind of solution we need because it has to be done quite early. It really is the case of catching them before they are seven, or five say. I think there is hope in the extension of nursery provision too because that is somewhere where you can pick up what is going to turn into an educational need when really first they are nothing but a total failure of communication.

Q28 Stephen Williams: Do you think the statementing process itself needs to be revised to include these children, because often there will not be parental pressure to put the child forward for statementing, whereas in a middle class area there will be pressure to make sure the child is statemented. In the sort of background I am describing there will be no pressure to get their child the extra support needed.

Baroness Warnock: None at all, and the school has a huge responsibility but it has to start as soon as the child starts pre-school, nursery, and go on from there. That is another thing, if I were running a new Royal Commission, I would press for.

Q29 Chairman: We are not all that keen on Royal Commissions in this Committee, Baroness Warnock. We actually said all those things in our inquiry into early years three years ago.

Baroness Warnock: That was very good.

Chairman: That was really only an advertisement for the Committee.

Q30 Jeff Ennis: Baroness Warnock, there are very many critics of the current SEN system in this country—some of whom are on this Committee incidentally—and they say the current system is too cumbersome, litigious, et cetera, and that lack of resources and poor heads on many occasions are put before the needs of the child. Given that scenario, and I am assuming to some extent you may partially or wholly agree with that, and given the fact the Government has already concluded that wholesale change to the present system of statementing would not produce improved outcomes for children with SEN, how do you respond to that, what would seem to be a very placatory response from the Government; very wishy-washy?

Baroness Warnock: With despair really. We know there is a shortage of resources in all kinds of fields of education and if you asked me it was more important to put resources into schools or universities or teachers' salaries, I would be hard put to answer, but I think the solution cannot be just in terms of more resources. I think before huge amounts of money are spent, my view is that there ought to be a structured examination based on evidence of the method of distributing resources rather than the quantity of the resources. I think what we have got wrong is probably the distribution. I think that is in a way a wide ranging answer to your question but I do not think, without a wide overarching reform of the concepts under which resources are distributed, we shall get much further.

Q31 Jeff Ennis: Following on from that particular point, is there any conflict under the existing system between, say, the LA who is the purse-holder at the present time and the Department of Health, for example? You have medical clinicians on many occasions, depending what the condition is, making remarks about what the package should be for that particular child in educational terms, but they have one eye on the fact that in many respects finance is the final arbiter and they put in a sort of open-ended statement saying, "We need to continue the review of that particular child's needs" rather than being specific.

Baroness Warnock: There is an amazing coming-together from different angles in some of these things. On the one hand, we have always lived in a time of scarcity of resources, so there is the argument you cannot pick out every individual child, it is just too expensive to do that, and give him the education he needs, which is one argument. Then, on the other hand, that argument is reinforced I think by the ideology of not treating children with disabilities as though they were different from everybody else. Therefore you have an argument for the resources in that on the one hand it is very expensive to give everybody exactly what they need but secondly, which is a terribly ideological one, that everybody must muck in together because we are all the same really. So in a way the two arguments reinforce each other. I think both these types of arguments need to be unpicked to see what we could do between everybody to ensure fewer people fall through the floorboards. It is a negative approach to me really; rescue the children, do not say they will cope because coping is not enough.

Q32 Jeff Ennis: Can I push on a bit further on the point that Helen was making about who should decide the placement of the child, in an integrated school or a special school, and give you an example? With children suffering from Down's Syndrome you get a number of parents who swear that their child ought to go to a special school, but on the other hand—and I have met both these categories in my own constituency—other parents say, "My child needs to go into a mainstream school and be integrated." Which parent is right, or wrong, and how key is the parental choice in the placement of the child?

Baroness Warnock: I think maybe both parents are right. It may well be two children and the two different sets of parents are actually both right because their children may be very different from one another. Down's Syndrome covers a huge spectrum. What we know is that a lot of Down's Syndrome children who are not terribly badly affected do extremely well in a mainstream school and there is no doubt about that at all but there are other Down's Syndrome children who actually have as well as Down's Syndrome a lot of behavioural problems and it is terribly difficult even in primary school to get them in the school.

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Q33 Jeff Ennis: You seem to be indicating to me, Baroness Warnock, that parental choice is very important in this process.

Baroness Warnock: I think it is particularly with these children. Actually, secretly, I do not think much of parental choice in the main body of schooling because my view is that schools are as good as the teachers and children in them, but when parents know the limitations and strengths of their own child then I think parental choice is important. I think what was said ages ago, and nobody probably denies it now, was if a parent wants a child to go into mainstream school and if it can be shown the mainstream school has the resources to spend on that child, then the child has the right to go there. But there is a second proviso which is very important because not all mainstream schools can have all the expertise and equipment. It would be a very expensive way of going about it if they should all have that.

Q34 Mr Wilson: Baroness Warnock, you have described inclusion as a disastrous legacy in your previous report.

Baroness Warnock: I thought this would be flagged up!

Q35 Mr Wilson: You said also that children are physically included but emotionally excluded. I would like to know whether you really believe it is that bad and, if it is, what is your evidence?

Baroness Warnock: To take your last point, one of the things I said in that pamphlet is that one person's hunch is not enough and actually what you need is a body of evidence properly collected to find out about children with specific disabilities and then I was talking about these autistic children. I think we need to find a way of collecting evidence to show how different disabilities affect different children. As far as my personal evidence goes, of course it is anecdotal because I have not carried out enough research, but I do know for example of one child with Asperger's who cannot make sensible social connections either with grown-ups or children unless he is very, very carefully taken through and people are told, "You have to look him in the face, you have to smile, pretend you find it funny". He cannot find anything funny, he takes everything literally, but the trouble is he has a very high IQ, he is very good at maths and therefore the local authority will not give him a statement because he has a high IQ but he is so miserable at school that he cannot be got to go to school, he lies at home saying, "I wish I were dead" and he is on anti-depressant drugs and that is the only way he can be got to school, and even then he has to be taken out of school one day every fortnight to have a rest and then he cries all day. It is a terrible thing and he is a clever little boy. I think that there could be evidence, which I do not have, that would demonstrate that he is not unique, that there are other children who are in a mainstream school and though they are under the same roof as everybody else they are completely isolated and shrivel up with misery. That is my evidence.

Q36 Mr Wilson: So you are saying it is a hunch and anecdotal evidence is all you have at the moment. You are not aware of any research or any university which is going to carry out research?

Baroness Warnock: I am sure the Autistic Society does collect a lot of research and therefore if there is research which is being done it would not be starting from an absolutely blank sheet by any manner of means. There is lots of research on autism. I think the agreed diagnosis of autism comes specifically from this inability to have normal relations with other people, grown-ups or children, without being taught to have them. I think a lot of people learnt about this from that book called—something about the dog in the night.

Q37 Mrs Dorries: "The Curious Incident of the Dog in the Night-Time."

Baroness Warnock: That is right.

Q38 Mr Wilson: There is some research which Ofsted are doing, are you aware of that research?

Baroness Warnock: Yes.

Q39 Mr Wilson: They make a number of criticisms about how challenging it is for schools and how often ill-defined needs are pitched to a lot of the children. There is a whole series of things. Would you make any comment on that?

Baroness Warnock: No. Ofsted reports have been, as far as I know, extremely fair because they were very critical of a lot of inclusion and I think they have on the whole, again for children with special needs, told it like they found it. One of the things which makes mainstream schools very hazardous I think for children with disabilities of one kind or another is that—I forget which but I think it was the 1993 Education Act—laid down the regulation that every school should have a special educational needs co-ordinator, or SENCO, and it was supposed at the time this SENCO would be a member of the senior management team in the school and would have considerable input into the general ethos of the school and the way these disabled children were being accepted by teachers and so on. They were at the beginning senior teachers, but I learned only the day before yesterday that there is now a very large number of schools where the SENCO is actually a teaching assistant and not a teacher at all, with no experience and they are no longer a member of the senior management team but someone with peripheral duties to see how many children there are in that school who are getting this, that and the other. That is nothing to do with this policy review but that is a way in which things have got worse now from how they were in the early days of integration.

Q40 Mr Wilson: A couple of very short questions, slightly switching focus. Is inclusion in mainstream schools being pursued at the expense of special schools, in your view? In particular, a number of special schools have been closing down, as you are probably aware.

Baroness Warnock: Yes. I think it was but I think quite a lot of local authorities are reversing their policy. For example, Newham, was tremendously in favour of integration and closed all their special schools except one which was on its last legs and now they are refurbishing it and supporting it again. These other schools which no one knows about, the special non-maintained schools, these are the special schools and they are being encouraged and, as I say, the ones I know are marvellous. They are small and very specialised and I keep coming back to them. I think there may be a trickle of special schools, perhaps under another name, coming back again and, if so, I would be all for it. But there is a contradiction in the presentation of government policy. I have never heard any minister speak up in favour of these schools but they do exist.

Q41 Mr Wilson: Currently, do you think that spending somewhere between £70 and £90 million on statementing process is good value for money for the taxpayer?

Baroness Warnock: No, is the short answer. It is absolutely awful value for money when I think what that money could do.

Q42 Chairman: Let us get this clear, Baroness Warnock, since your report and implementation have things got steadily worse or have they gone up and down? Are all governments a picture of decline of the provision of special education? Is it a domesday scenario?

Baroness Warnock: It is not for me to say. I think we were the least boastful about our report. We did make a huge difference and a lot of people said it has made a difference to the way mentally disabled children were thought of it. Suddenly, it became possible to think of them as not a race apart but like everybody else. There was a kind of great feeling of optimism in the late 1970s and the Education Bill of 1981, though it had the absolutely huge defect that it said that no extra money was going to be allowed to be implemented, nevertheless that was a very optimistic act. Then that was just the moment when the educational cuts were beginning to bite and the next thing was called the great Educational Reform Bill 1988, Baker's Bill, which instituted all of the competition, league tables, the National Curriculum, all of those things we take for granted which really, before the 1981 Act, were not possible. Those who were going to be in education in school were not going to help the league tables or help the school get more points on the other schools, and so, quite suddenly, things got far worse from 1988 onwards, that is when I can remember things were very bad.

Chairman: We have got time for just another two or three questions. Tim has been very patient.

Q43 Tim Farron: I have a question about the Government White Paper released last week. I am sure you have had plenty of time to go through the entries but this is a fairly general question. I wonder how you think the White Paper will contribute to the fair treatment of those children with special

educational needs who are in the mainstream school system given that the paper proposes to remove admissions control from LAs to independent schools in certain circumstances. Typically what do you say about SEN being a social disadvantage?

Baroness Warnock: I think it is very difficult. There was not one tiny paragraph, unless I missed it, which mentioned children with special needs in the recent White Paper. I think you have picked on the very bit of the White Paper which really alarms me because by far the largest numbers of children now with difficulties or special education needs are children with behaviour or social problems. They cannot learn, they obviously have learning problems as well because they cannot learn due to the way they react to school. They are not used to being maladjusted, they are not adapted to be taught, nor schools to them. With those children I guess that even more of them will end up in referral units, even more than they do now, and the numbers in the referral units are going up all the time. I do not think the schools have got it right when they include those kinds of children, understandably, because they would be a lot better in a special school, at least for part of their education.

Q44 Tim Farron: You have set me up quite nicely for my second question. It is just to read out something from the White Paper which states the Government does not believe that a major review of policy on SEN would be appropriate at present and what is needed now is change on the ground. Do you think they are right?

Baroness Warnock: No, I do not; I think what is needed is change up here really.

Q45 Mr Chaytor: In your original report you predicted about 2% of children would be eligible for statementing and the figure turned out to be 20%. My recollection of your original report was that you also suggested about 25% of children would be deemed to have special needs at some stage in their school career. Do you think you underestimated that figure as well?

Baroness Warnock: I do not know the answer to that question at all. Of course, the figures that we so confidently quote in our 9-13s report were presented to us by the Department. We had no reason to doubt nor did we have any way to set up any other research to see whether they were true or not. That has become a bit of my soul, whether it bears any relation, I have no idea. This has just been the sort of figure that everybody has accepted. It comes into the 1989 Act, it comes into all the acts. I do not know the answer at all whether the numbers have risen or fallen.

Q46 Mr Chaytor: The paper you published the other week argues for a much wider definition of special needs, does it not? Can I ask you specifically about this question of social disadvantage we touched on earlier, because you refer specifically to children in care, looked after children, and I just want to ask you about the practical consequences of your belief that small schools must play a major role in dealing

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with children suffering from social disadvantage and your emphasis on looked after children as a disadvantaged group. Are you really saying that looked after children should be educated separately in small schools?

Baroness Warnock: I find that very difficult. It seems immediately one's response is most certainly looked after children must be segregated from other children. They all need a proper, decent social life, but I do think that each one of those looked after children is different from each of the other ones and what we have got are these terrible figures of how badly they performed academically. It may well be that a lot of them, for the short-term perhaps, would be taught in small classes with people they could emotionally attach themselves to. I think this must be one of the difficulties for them going out, let us say, from local authority homes or even foster parents, where they do not get on terribly well, into a huge school. They really do need something small to attach themselves to like a teacher or a couple of teachers, someone who knows them and wants to help. Everybody, even the most advantaged people educationally, I certainly know, who have often

been persuaded by someone to think they are better off at university, thinks "Nobody here cares whether I live or die, I could die and nobody would know for months", and those are the people who must feel a desperate need for someone who does care for them, which is a function I think again of a small school. Maybe they ought to be one of these people, who even for part of that, go to one of these brilliant small schools that will teach them drama or whatever it is and really be appreciated.

Q47 Chairman: Baroness Warnock, I think that is a very good note to finish this first session on. You have given us a wonderful start into our inquiry. We are most grateful for not only your direct answers to all the questions but also the wisdom that you have sparkled right throughout so thank you. Can you, please, remain in conversation with the Committee and if you go away and think "Why didn't those terrible people in the lower House ask me this?", come back and say "Why didn't you". I would like to put your mind at rest, this is going to be a very thorough inquiry. I am absolutely determined to make it up to the Warnock standard.

Baroness Warnock: Thank you very much.

Supplementary memorandum submitted by Baroness Warnock

What is going wrong now?

a. There is a lack of clarity about what a Statement entails. It seems to be intended as a reassurance to parents that at least some support will be made available for their child (and it has often been referred to by Ministers as a "safety-net") but it does not tell them how much support there will be nor where it will be provided. Parents, understandably, generally want more than can be provided; but the patchiness and unpredictability of getting a statement, the bureaucracy attendant on the process, and the fact that all support may be withdrawn while a child's case is being investigated, are all factors that give rise to an adversarial attitude, and deep antagonism between parents and local authorities. This is not in the best interests of the child.

b. The presumption that all, or nearly all children will be educated in mainstream schools, even that it is their right to be so educated, has led to the habit (among Ministers and civil servants, not among teachers or parents) of speaking of children with special needs as if they formed a homogenous class of children all of whose needs can equally be met in mainstream schools, given a bit of adaptation of the school. This seems to me to be a profoundly mistaken assumption. The most severely disabled children, those with profound learning difficulties, extreme autism or multiple physical, sensory and congenitive disabilities that will merit a statement without question, are doubtless well catered for in that they will attend special schools or units within a mainstream school with expert and specialist teachers. Those, however, with less profound disabilities may, because of the nature of the disability, be unable to learn in a large comprehensive school, even if they have teacher assistants for a certain number of hours a week to support them. These are children with Asperger's Syndrome, who may or may not also have moderate learning difficulties, or those who have emotional and behavioural problems which essentially need time if they are to be brought into a position where they can learn. For many of these children a large school is never going to be a friendly or supportive environment, and their difficulties will be increased as long as they stay in the school. Many of them are in fact excluded, especially from secondary schools, and as they approach adolescence; many of them simply give up attending school. For these children I believe that small special schools are imperative, if they are to get education, to which they have a right. Many of these children do not benefit from any social interaction with their contemporaries. They are often unable to interact with others, either because they are autistic, or they have communication difficulties, or they are aggressive, or else totally withdrawn. It is sometimes argued that it is good for other children to learn to be tolerant of their contemporaries who are disabled. But I believe that this argument should not be used as an excuse for allowing children who genuinely suffer in the mainstream to be used as a kind of teaching aid for the rest. A child should not be thought to be getting the education he needs because, as parents are sometimes told, he can "cope" in a mainstream school. He should also have things to enjoy.

What might happen next

I would like to see statements only issued for children who would be educated in special schools. This would not exonerate mainstream schools from the duty of making special provisions and giving learning support for those children who have identifiable needs but do not have statements (eg for children with mobility difficulties, with dyslexia etc, or with impaired hearing or vision perhaps). Schools that failed in this duty might well be caught by the Disability Discrimination legislation, as it applies to schools. Such a policy would entail an increase in the number of Special Schools. But in some ways this appears to be part of the policy of Government at the present time, though they say little about it. But if there were more special schools that were Trailblazers, or that applied for Specialist status (Specialist Non-Mainstream schools, I believe they are called) then many of the children who now do not flourish in large mainstream schools might have their educational prospects transformed. And with the generous policy of rebuilding that now seems to have been embarked on, it might well be possible to build new special schools adjacent to mainstream. But, for my part, though I believe strongly in co-location, I also believe that it is extremely important that the two schools should be separate with each its own Head and Governing Body, otherwise I fear that the Special part of a single school would always draw the short straw when questions of resources arose.

Post script:

I cannot resist giving it as my considered opinion that the worst mistake that has been made in recent years was the rejection of the Tomlinson recommendations. If they had been properly accepted, I think that numbers of those we think of having special needs (eg the MLD population, among others) would no longer be so classified, but would pursue an accessible, intelligible and enjoyable curriculum with all the pleasures of success and inclusion in mainstream schools.

January 2006

Monday 14 November 2005

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods	Helen Jones
Mr David Chaytor	Mr Gordon Marsden
Mrs Nadine Dorries	Stephen Williams
Jeff Ennis	Mr Rob Wilson
Tim Farron	

Memorandum submitted by the Department for Education and Skills**SECTION 1: INTRODUCTION AND CONTEXT**

All children and young people have the right to a good education, with opportunities to realise their talents and learn the skills they will need for adult life—and this includes the one-in-six children with special educational needs and disabilities. The Government wants to give every child or young person the opportunity to fulfil their potential and to support their families in helping them to make the most of their education.

Three key principles underpin all the Government's policies for children and young people with SEN and disabilities, and for their families:

- Personalisation—services tailored to individual needs.
- Inclusion—access for all children and young people to a broad and relevant education, a full range of activities and maximum engagement with their peers and their local community.
- Partnership—agencies working together effectively with children and families to provide coordinated services organised around their needs.

In turning these principles into practice for children and young people with SEN, the Government's objective is that children and young people with SEN have the same opportunities as their peers to realise their potential.

1. The Children's Green Paper *Every Child Matters* sets out radical proposals for helping all children and young people to achieve the five outcomes identified in consultation as crucial to their well-being, in childhood and in later life:

- being healthy;
- staying safe;
- enjoying and achieving;
- making a positive contribution to society; and
- achieving economic well being.

2. The Government's ambition is to improve these outcomes for all children and to narrow the gaps between those who do well and those who do not. The five outcomes define the purpose of local planning and services for children and form the basis for measuring progress locally and nationally. The Department has developed an outcomes framework (Annex A) which breaks the five outcomes down into specific, meaningful aims; associates each outcome with measures of progress and links it to relevant criteria and standards in the national inspection framework. The Department is working with experts and stakeholders to identify more clearly what these outcomes mean for disabled children and young people and for those with SEN.

3. Children with SEN and disabilities and their families often need support from a range of different services if they are to overcome barriers to learning and participation. Too often those services are not responsive enough to their needs and not well coordinated. This works against improving outcomes. The Children Act 2004 and the associated guidance produced by the Department have introduced a number of important reforms to children's services directed towards personalising services for children with SEN and disabilities and their families and widening access and to a broader range of services through partnerships:

- The creation of Directors of Children's Services and Lead Council Members for children will bring together education and social services and provide better accountability for local authorities' work to improve outcomes for children.

- A Common Assessment Framework will help professionals to better identify children's needs earlier and new information sharing arrangements will help with multi-agency working and the provision of early support to children and families.
 - Lead professionals will coordinate action where children and families require support from a range of different services.
 - Children's Trust arrangements will pool budgets and commission services.
 - Sure Start Children's Centres and Extended Schools will extend the range of services to children and families and bring them together in single locations, enabling children and young people with SEN and disabilities and their families to have better access to the support they need, when they need it and where they need it.
4. The *Every Child Matters* change programme and the Department's *Five Year Strategy for Children and Learners* share the twin aims of improving children's well being and raising standards of achievement since a child who thrives is more likely to learn and a child who learns is likely to thrive and realise their potential through lifelong learning. The 14–19 Education and Skills White Paper sets out proposals to ensure that every young person masters functional English and maths before they leave education as an integral part of new general (GCSE) Diplomas and specialised Diplomas and to ensure a range of courses and qualifications to meet a range of needs. The Green Paper, *Youth Matters*, proposes a wide range of measures to give all young people access to places to go and things to do and high quality advice and guidance on education, employment, and training.
5. The SEN strategy *Removing Barriers to Achievement*, published in 2004, sets out the Government's long term vision for improving outcomes for children and young people with SEN and a 10 year programme of sustained action and review to "mainstream" SEN across all its policies and programmes. And the National Service Framework for Children sets national outcome standards for health and social services and the interface with education, including a standard for disabled children.
6. Taken together, these recent developments provide a strong policy context for improving provision for children with SEN and disabilities. The forthcoming Schools White Paper will include additional measures which will benefit children and young people with SEN, and their families. We will issue the Committee with a supplementary memorandum setting out these measures, once the White Paper is published.¹ In the meantime, this memorandum covers the specific issues raised by the Select Committee and:
- explains the statutory frameworks that underpin educational provision for children and young people with SEN and disabilities (section 2);
 - describes how support is provided to help these children and young people make progress with their learning (section 2);
 - outlines some of the continuing challenges (section 3);
 - sets out the Government's policies for tackling these challenges, and the significant additional resources it is making available to improve SEN provision nationwide (section 3); and
 - draws conclusions and answers some of the recent questions raised about SEN policy (section 4).

SECTION 2: THE CURRENT POSITION

A. THE STATUTORY FRAMEWORKS

What are special educational needs?

7. The statutory definition of special educational needs is broad and a significant number of children will have SEN at some point in their school lives. Under the Education Act 1996 a child has SEN² if they:
- have a significantly greater difficulty in learning than the majority of children of the same age; or,
 - have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local authority;
 - are under compulsory school age and fall within the above definitions or would do so if special educational provision were not made for them.
8. Special educational provision means:
- for children of two or over, educational provision which is additional to or different from, the educational provision made generally for children of their age in schools maintained by the local authority, other than special schools; or
 - for children under two, educational provision of any kind.

¹ Ev 45–50

² Children are not defined as having SEN simply because their first language is not English, though some such children may also have SEN.

9. Children with SEN have a range of needs such as physical or sensory difficulties, difficulties in thinking and understanding, difficulties with speech and language, behavioural and emotional difficulties or difficulties in the way they relate to others. Many children will have SEN of some kind at some time during their education and having SEN can affect children in different ways; for example, having SEN could mean that a child has difficulties with:

- All of the work in school.
- Reading, writing and number work or in understanding information.
- Expressing themselves or understanding what others are saying.
- Making friends or relating to adults.
- Behaving properly in school.
- Organising themselves.

10. Under the Disability Discrimination Act 1995 a child has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities. Disabled pupils often have SEN, for example some children with physical or sensory impairments require additional or different provision to access the curriculum. But this is not always the case. Children with severe asthma, arthritis or diabetes, for example, may not have SEN and may not need additional or different provision to enable them to access the curriculum and make progress in their learning. But these children will have rights under the Disability Discrimination Acts 1995 and 2005.

The 1996 Education Act and the SEN Code of Practice

11. The statutory framework for SEN is designed to ensure that children with SEN are identified, have their needs assessed, and receive support to help them make progress in their learning.

12. Under the Education Act 1996, maintained schools' governing bodies have a number of duties towards children with SEN (see Annex B). They must do their best to see that children with SEN get the support they need and maintained mainstream schools must appoint a person responsible for coordinating provision for children with SEN (usually known as the SEN Coordinator, or SENCO).

13. Local authorities have important and extensive duties to identify, assess and make provision for children with SEN and to keep their arrangements for doing so under review (see Annex B).

14. Schools, early education settings, LAs and others must have regard to the SEN Code of Practice, which gives guidance on carrying out their statutory duties under the 1996 Act. The Code recommends a graduated approach to school based support with two levels of intervention—*School Action* and *School Action Plus*. Under *School Action*, the SENCO and the child's teachers decide, with the child and their parents, what action to take to help the child make adequate progress in their learning. The child's progress is monitored and reviewed with their parents and if the child does not make adequate progress following interventions made under *School Action*, the school seeks help from external services; those services may provide additional advice and support to the school under *School Action Plus*.

15. If a child does not make adequate progress with the support provided at *School Action Plus*, the LA may propose a statutory SEN assessment, again involving the child's parents but also obtaining specialist reports from an education psychologist, health and social care professionals and others. If an LA carries out a statutory assessment and feels that the child's needs cannot be met from within the resources available to the school, they must issue a statement of SEN. A similar system of intervention applies in early education settings at *Early Years Action* and *Early Years Action Plus*.

16. A statement sets out in detail the child's SEN and the special educational provision to be made for them. Once a statement is made the LA has a duty to arrange the special educational provision specified in it.

The Special Educational Needs and Disability Act 2001

17. The Special Educational Needs and Disability Act 2001 built upon the 1996 Act. It strengthened parents' rights to seek a mainstream place for their child and preserved their right to ask for a special school. It also extended the scope of the Disability Discrimination Act 1995 to cover education from September 2002.

18. From that date it has been unlawful for schools to treat disabled pupils less favourably, without justification, than their non-disabled peers for a reason related to their disability. Schools must take reasonable steps to ensure that disabled pupils are not put at a substantial disadvantage compared to non-disabled pupils. The duty covers all areas of school life—school admissions, exclusions, and education and other services provided by a school for its pupils, including after school clubs and school trips.

19. In addition to the discrimination duties, the Act placed new duties on LAs and schools to plan strategically to progressively increase access to schools for disabled pupils over time. This covers access to the curriculum; physical improvements to premises and facilities and information in a range of alternative formats. The first plans were published in April 2003 and run for three years, after which they will be reviewed, revised and published afresh for a further three years.

20. The SEN and disability frameworks are designed to work together to improve access to education for children with SEN and disabilities. The SEN framework makes additional or different provision to meet individual pupils' special educational needs while the disability framework provides protection from discrimination on the grounds of disability and promotes planning to widen access to education for disabled pupils over time. Schools and LAs are not required, as part of the disability duties, to provide auxiliary aids and services for individual pupils since these are covered by the SEN framework.

21. From 2006 LAs and schools will have new duties under the Disability Act 2005 to promote equality of opportunity for disabled people, including disabled children and young people. The new duties will provide an impetus for schools and LAs to ensure that their planning and activities "in the round" improve opportunities for disabled people, including learners and staff.

B. PARTNERSHIP WITH PARENTS

22. Parents have a unique knowledge of their child and a personal and emotional investment in their child's education. A fundamental principle of Government policy is that schools and LAs should work in partnership with parents in meeting children's needs. The SEN Code of Practice makes clear that parents have a right to be advised when their child's school begins to make special educational provision for them and should be actively involved in discussions about provision and setting targets for their learning. It also sets out the rights they have to information and access to a means of resolving disagreements with LAs and schools.

23. A range of broader policy developments supports partnership with parents of children with SEN and disabilities. The Sure Start Programme, while not specifically for children with SEN and disabilities, has drawn on approaches that have been particularly effective with such children and their families, including speech and language programmes to improve communication skills and Portage Home Teaching Programmes. The Early Years Support Programme has developed practical tools for parents and professionals including a Family Service Plan and an audit tool for LAs to use to improve their services. But more importantly it has demonstrated how to build relationships of trust with parents, right from the start.

24. The Special Educational Needs and Disability Act (SENDA) 2001 amended Part IV of the 1996 Act to place a duty on LAs to establish Parent Partnership Services. Parent Partnership Services provide a range of activities including:

- information and advice for parents on the "SEN system";
- access to Independent Parental Supporters;
- learning activities for parents, for example, on behaviour management;
- support for local parent/carer groups; and
- support for families of children at risk of exclusion, families from the black and minority ethnic communities, and young people making the transition to adult services.

25. The Act also required LAs to make arrangements for resolving disagreements between parents and schools and parents and LAs. These arrangements can be used in addition to appeals to the SEN and Disability Tribunal and do not affect parents' rights to make such appeals.

26. In addition to these activities, many Parent Partnership Services and other local groups are working with LAs to encourage parents to become partners in policy making at a strategic level. Children's Trusts will be expected to involve parents as partners in the development of services for children and families and some are doing this very effectively already. There are also many examples of SEN Parent Partnership Services playing this vital role.

27. The forthcoming Schools White Paper will set out a range of measures which will strengthen the role of parents. These developments will benefit children with SEN and disabilities significantly and will build on the effective practice that is already in place. These will be set out in our supplementary memorandum, but will include:

- promoting parental choice, for example by increasing the support available to parents and by increasing the number of good school places;
- giving parents the opportunity and support to drive change in the education system; and
- engaging parents more effectively with their children's education.³

28. SEN is a difficult and emotive area and it is not surprising that disagreements can arise as to the nature of a child's difficulties and the appropriate ways of addressing them. The SEN system is set up to encourage and facilitate every effort to resolve these disagreements before they escalate. But in order to strengthen the rights of parents, the SEN and Disability Tribunal was established so that parents could challenge, through a body independent of LAs and central government, the decisions of their LA. Parents can appeal to the Tribunal if their LA:

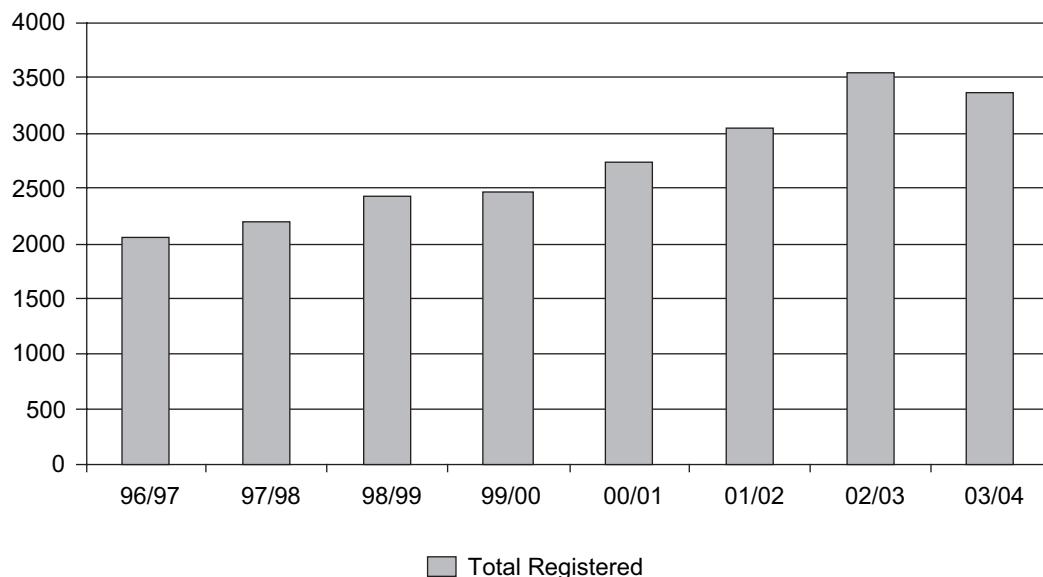
³ Ev 46–51

- refuses to carry out an assessment, or refuses to reassess if the LA has not made a new assessment for at least six months;
- refuses to issue a statement, or decides not to change the statement after reassessing the child;
- decides not to maintain the statement; or
- if they are unhappy with the description of the child's SEN, the description of the help they need, or the school named in the statement.

29. Parents of disabled children who believe that their child has been discriminated against can appeal to the Tribunal and through local admissions and exclusions appeals panels. The Disability Rights Commission has produced a Code of Practice for Schools explaining the new discrimination duties and runs a helpline for parents, schools and LAs.

30. Tribunal Orders are binding. They cannot award financial compensation to parents but they do order LAs to provide educational remedies.

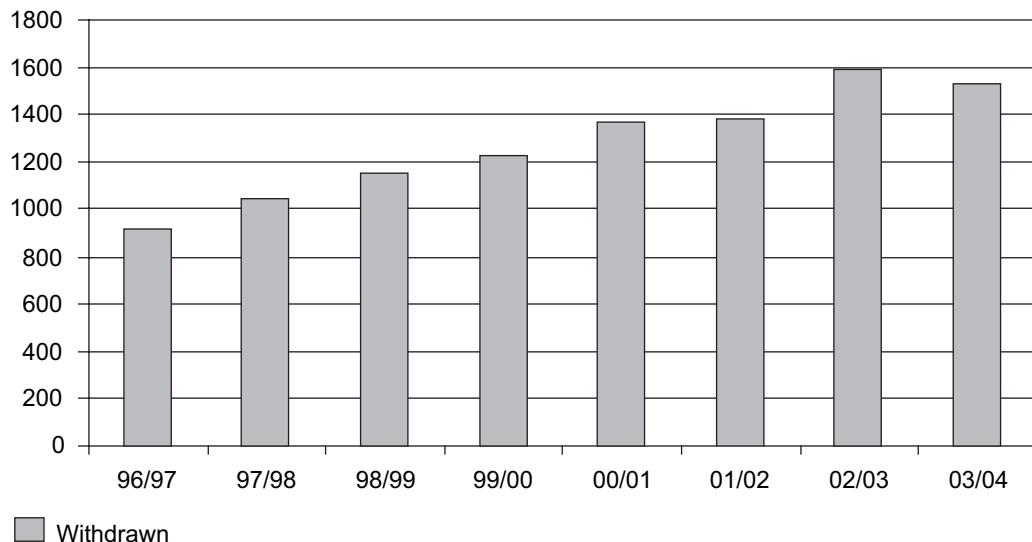
31. Details of the numbers and types of appeals and the outcomes are given below:



	96–97 %	97–98 %	98–99 %	99–00 %	00–01 %	01–02 %	02–03 %	03–04 %
Against refusal to assess	27.4	30.3	31	31.4	31.8	37.4	40.4	39.6
Against refusal to make a statement	14	12.7	10.7	10.7	8.4	8	7.9	7.2
Against refusal to re-assess	1.9	2.2	2.2	2.3	1.9	2.4	1.4	1.8
Against refusal to change name of school	2	1.5	1.8	1.5	2.7	1.6	1.5	1.4
Against decision to cease to maintain statement	4	2.7	3.7	2.5	1.8	2.1	2	2.1
Against failure to name a school	0.3	0.5	0.2	0.3	0.4	0.1	0.1	0.1
Against contents of the statement—parts 2 & 3	14.9	14.1	14.7	15.2	14.2	13.3	13.1	12.2
Against contents of the statement—parts 2, 3 & 4	23.1	23.9	22.8	24.5	23.9	24	21.9	25
Against contents of the statement—part 4	12.4	12.1	12.9	11.5	14.8	11.2	11.2	10.6
Total appeals registered	2,051	2,191	2,412	2,463	2,728	3,048	3,532	3,354

32. The volume of appeals to the Tribunal is one measure of the level of parental satisfaction. There were 3,354 appeals in 2003–04 compared with 1.4 million children with SEN—less than a quarter of 1%. Some 1,609 of those were against the contents of statements, compared with a total of 247,000 children with statements—just over one half of 1%. While the number of appeals registered increased each year until 2002–03, the 2003–04 was almost 200 appeals down on the previous year. These data indicate that, within existing capacity and resources, for the great majority of families the system is operating effectively to meet their children's needs. Furthermore, the Government has increased funding for schools significantly in recent years and local authorities are spending more on provision for children with SEN. When parents do appeal, the Tribunal is highly effective in responding to their concerns—of the 1,197 SEN appeals decided in 2003–04, 78% were partly or fully upheld.

33. Furthermore, it is important to note that about 45% of appeals are withdrawn before a hearing, which suggests that the Tribunal process also helps promote intensive engagement of parents in discussion with LAs to resolve issues and establish provision for individual children.



C. FUNDING FOR SEN

34. All children, including those with SEN, benefit from the significant increase in education funding since 1997–98; real terms funding will have increased by an estimated average of £1,000 per pupil by 2005–06 (from £2,940 to £4,110). By 2007–08 recurrent funding will have increased by about £1,300 per pupil (or 45%) in real terms since 1997–98.

35. According to information collected from local authorities, their planned spending on SEN nationally in 2004–05 was around £3.8 billion and spending of about £4.1 billion is planned for 2005–06 (an increase of 7.8%)—some 13% of all education spending. The figure of £4.1 billion includes about £1.4 billion for maintained special schools, £2.0 billion for mainstream schools, £481 million for placements at independent and non-maintained special schools and £264 million for LA duties such as Educational Psychologists, administration and monitoring, parent partnership and child protection.

36. Between 1997–98 and 2003–04 the Government allocated a total of £360 million through specific grants to support SEN. As part of the Government's drive to streamline funding for schools, the separate grant for SEN, worth £81 million per annum, ended in March 2004 and was added into a new School Development Grant. The School Development Grant is allocated to schools and LAs to spend on improving teaching and learning according to their own needs and priorities.

37. Funding for schools is a shared responsibility between central government and LAs. The majority of funding is provided by central government, with LAs providing the rest through the council tax. LAs decide how much to spend on education in their area and how to distribute that between schools and central education services.

38. To provide greater stability and predictability of funding for schools the Government is introducing new school funding arrangements from April 2006 which include:

- a new ring-fenced Dedicated School Grant from DfES to each local authority for school funding and other services for pupils provided by authorities like special education needs.
- Three year budgets for schools, geared to pupil numbers, and guaranteed minimum increases in per pupil funding each year for all schools.
- A new Single Standards Grant, streamlining current standards related funding for schools currently available through the Standards Fund and School Standards Grant.

39. The Government believes that schools are best placed to make decisions about support arrangements for pupils experiencing barriers to their learning. It is encouraging the delegation of more SEN resources to schools to enable head teachers and SENCOs to address the individual needs of pupils more quickly and without the need to "demonstrate need" to their LA before resources are made available. But the Department has always made clear that this must result in a better deal for children and not a reduced entitlement.

40. It is vital that parents have confidence that their child's school can meet their needs. There are safeguards in place. For example, schools have a legal duty to use their best endeavours to make suitable provision available for all pupils with SEN. LAs are required to publish details of their arrangements for

SEN including a statement of what they expect schools to provide from their budgets for children with SEN who do not have statements and what they expect to provide themselves. For children with statements LAs must ensure that the provision specified in the statement is delivered.

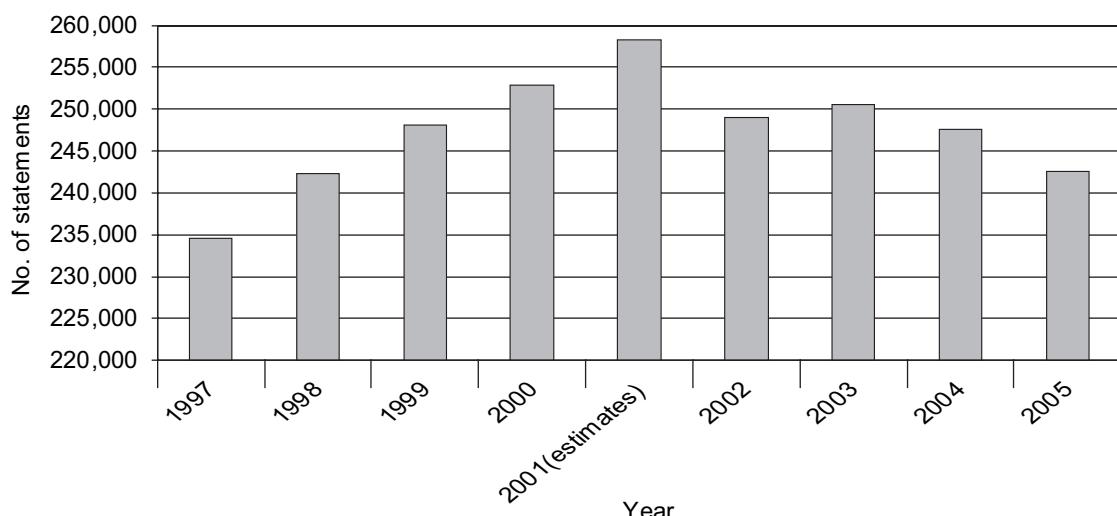
41. The Department has strongly encouraged LAs to work in partnership with schools and parents to ensure that respective responsibilities are clear and that there are appropriate accountability frameworks in place. In May 2004 new guidance to local authorities on The Management of SEN Expenditure made this clear.

D. CHILDREN WITH SPECIAL EDUCATIONAL NEEDS AND WHERE THEY ARE TAUGHT

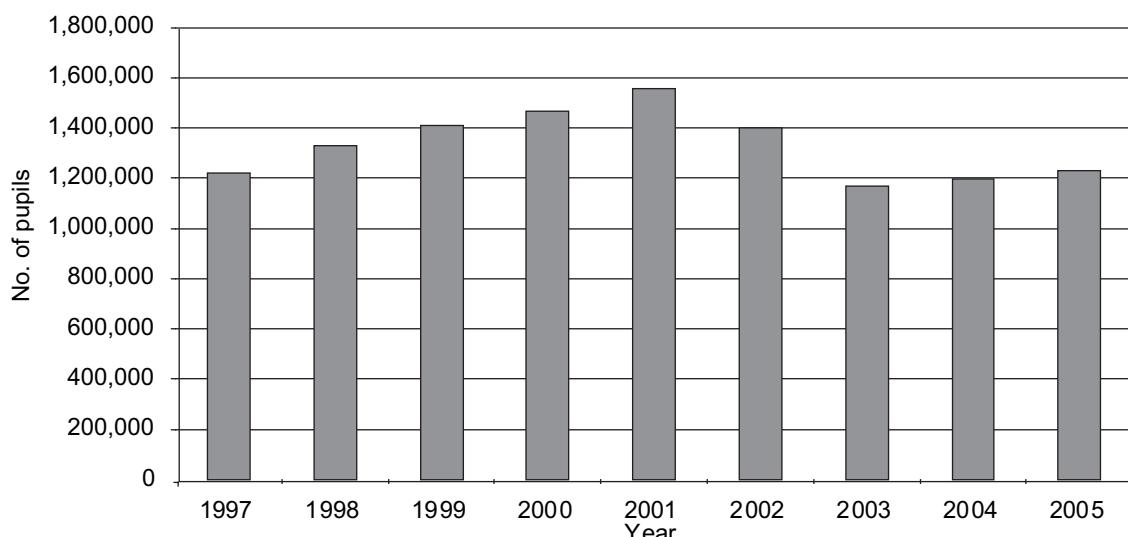
Children with SEN

42. The Department publishes data collected from schools, through its Pupil Level Annual Schools Census, on the number of pupils with SEN. Latest figures (January 2005) from the Census show that some 1.45 million children at school have SEN (17.8% of the school population). 242,600 have a statement of SEN (2.9%) and 1.2 million are at School Action or School Action Plus (14.9%) receiving provision made from within the resources available to their schools. The picture has changed in recent years; the number of children with statements rose between 1997 and 2003 but fell by 8,000 in the following two years. The number of children who have SEN but do not have statements has also fluctuated over recent years but in 2005 it is at broadly the same level as in 1997.

ALL SCHOOLS: NUMBER OF PUPILS WITH STATEMENTS OF SPECIAL EDUCATION NEEDS BASED ON WHERE THE PUPIL ATTENDS SCHOOL



ALL SCHOOLS: NUMBER OF PUPILS WITH SEN WITHOUT A STATEMENT

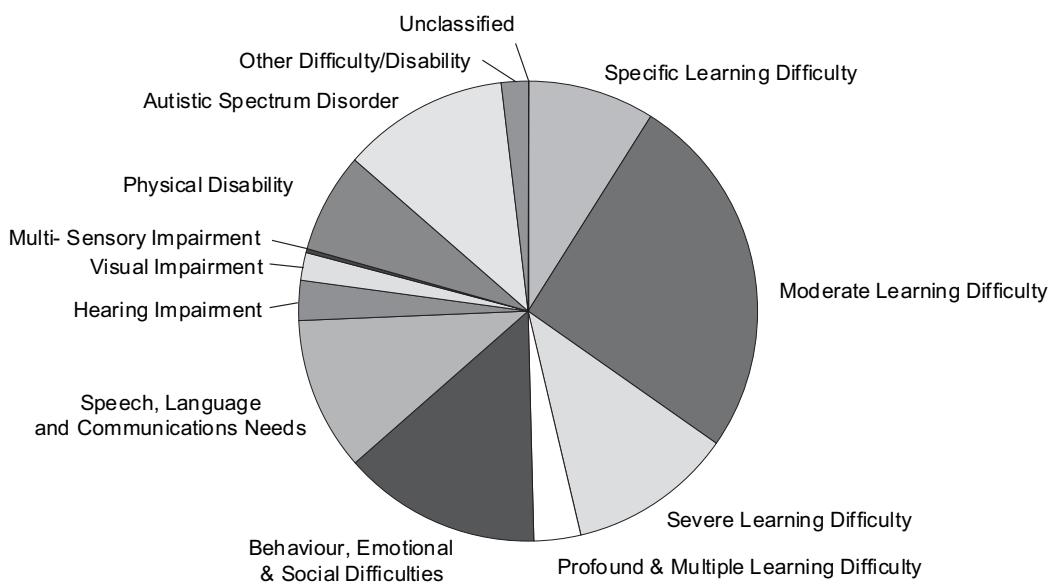


43. There are considerable variations between LAs and the percentage of pupils identified as having SEN ranges from 10%–30%. The percentage of pupils with statements of SEN varies by a factor of almost five to one—from 1%–4.8%.

44. Children have a wide range of needs and many children have more than one type of need. Data has been collected in England on the primary types of need of children with statements and at School Action Plus of the SEN Code of Practice since 2004. Latest figures (January 2005) show that the most prevalent types of need of those with statements and at School Action Plus are:

- moderate learning difficulty (30% of children at School Action Plus and 25% of those with statements);
- behaviour, emotional and social difficulties (26% and 14%);
- specific learning difficulty (17% and 9%);
- speech, language and communication difficulties (13% and 11%); and
- autistic spectrum disorders (2% and 12%).

MAINTAINED PRIMARY AND SECONDARY SCHOOLS AND SPECIAL SCHOOLS: NUMBER OF PUPILS WITH A STATEMENT OF SEN BY PRIMARY TYPE OF NEED - JANUARY 2005



45. Since data collection on type of need is relatively new, it needs to be interpreted cautiously. The Department is currently reviewing and refining the guidance given to schools on assigning primary and secondary types of need when they make their data returns.

How decisions are made about where children with SEN are taught

46. Pupils without statements are covered by the normal arrangements for admissions and their parents' preferences should be considered under schools' usual admissions criteria. Pupils with statements are covered by different arrangements under section 324 onwards and Schedule 27 to the Education Act 1996. Parents of pupils with statements may express a preference for the school in the maintained sector—mainstream or special, denominational or non-denominational—they wish their child to attend. The LA, which maintains the child's statement must comply with the parent's preference and name the school in the statement, unless:

- the school is unsuitable to the child's age, ability, aptitude, or special educational needs;
- the child's attendance at the school would be incompatible with the efficient education of the other children in the school; or
- the child's attendance would be incompatible with the efficient use of resources.

47. Before a school is named in a child's statement, the LA must consult the parents' preferred school and consider any representations made by the school against the admission of the child. Provided the LA is satisfied with regard to the criteria above, it may proceed to finalise the statement. Once a school is named in a statement the governing body is under a duty to admit the child.

48. Parents can also make representations to a local education authority for a non-maintained or independent school and the authority must consider their request with regard to the general principle that pupils must be educated in accordance with parents' wishes so far as this is compatible with the provision of efficient instruction and training, the avoidance of unreasonable public expenditure, and the need to arrange suitable special educational provision.

49. The SEN and Disability Act 2001 strengthened parents' rights to seek a mainstream school place for their child but preserved their right to seek a place at a special school. There is no block on parents expressing a preference for any maintained school, special or mainstream, and the decision as to which school the child attends is made by the LA according to the same criteria.

Where children with special educational needs are taught

50. Children and young people with SEN are taught in a range of settings. Below summarises the terminology commonly used for these different settings—including in the charts in this section.

Definitions of settings attended by children and young people with SEN

Registered early years education setting

Early years education is education provision for children between 3-years-old and compulsory school age in a funded early education Ofsted-registered establishment.

Non-maintained special schools

Non-maintained special schools are non-profit-making independent schools run by charitable trusts and approved by the Secretary of State as a special school under Section 342 of the Education Act 1996, as amended by the Schools Standards and Framework Act 1998. They may receive grants from the Department for capital work and equipment but funding is primarily from fees charged to local education authorities and parents for pupils placed there.

Independent special schools and other independent schools

An independent school is one which is neither maintained by a local education authority nor is in receipt of grants from the Department and funding is primarily from fees charged to local education authorities and parents for pupils placed there. While there is no legal category, independent special schools are approved under Section 347(1) of the Education Act 1996 for the education of pupils within the terms of their approval. LAs must obtain individual approval from the Secretary of State to place pupils with statements in any other independent school.

Pupil referral units

A pupil referral unit (PRU) is set up under the Education Act 1993 to make provision for pupils who are out of school for reasons such as exclusion or illness. Pupils who are dually registered in a PRU and a school should be recorded under their type of school.

Educated other than in school

Section 319 of the Education Act 1996 empowers an authority to provide education for children with special educational needs "other than in school". This may include education in centres run by social services or at home. Children would normally be on another school register. Under Section 7 of the Education Act 1996, the parent of every child of compulsory school age must ensure that she/he receives full-time education suitable to her/his age, ability and aptitude either by regular attendance at school or by means other than in school.

Awaiting provision

Pupils may not be in school for a range of reasons, including:

- the pupil has just moved into the local authority area;
- the pupil has been permanently excluded and the LA is seeking a suitable alternative placement; or
- the pupil is awaiting admission to a school.

Maintained special school

A school maintained by a local authority which is specially organised to make special educational provision for pupils with special educational needs. There are two categories of LA-maintained special school—community special and foundation special.

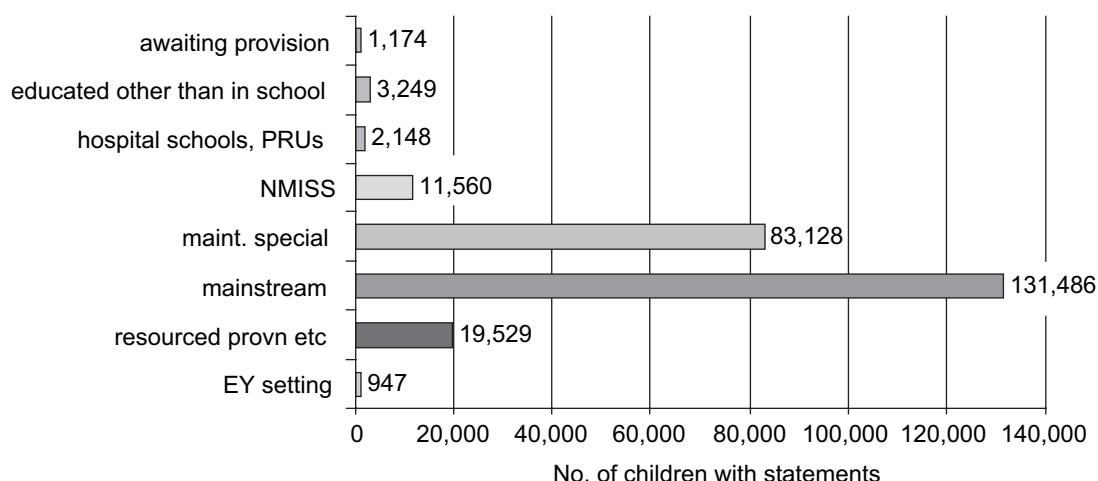
Maintained mainstream school

There are three types of LA-maintained mainstream school:

- Community schools;
- Foundation schools; and
- Voluntary schools, comprising voluntary aided schools and voluntary controlled schools.

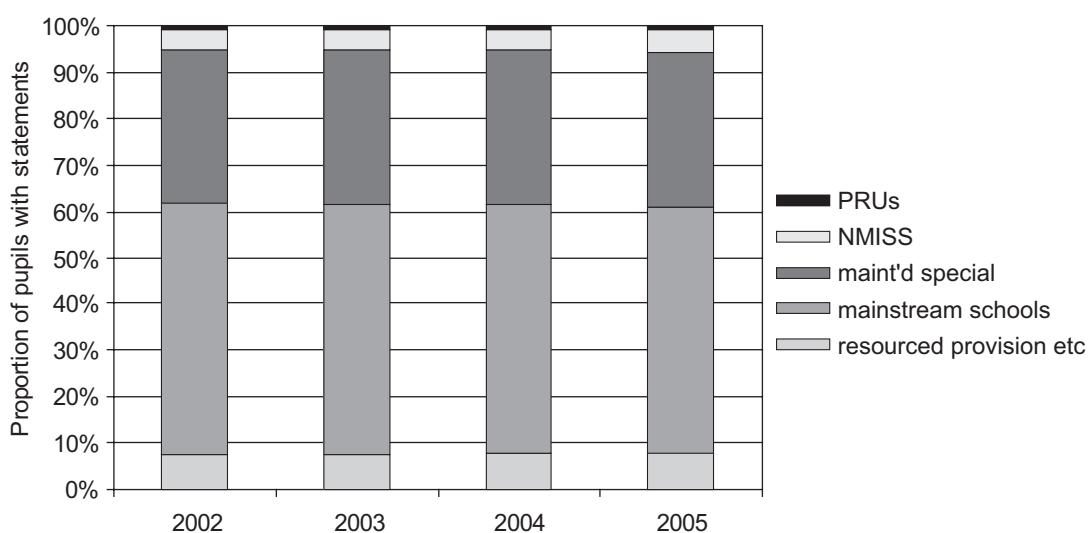
51. From data collected from local authorities in January 2005, around 60% of children and young people with statements of SEN were taught in mainstream schools and resourced provision⁴ (of that 60% some 8% were in resourced provision, units or special classes in mainstream schools). Some 34% were in maintained special schools, 5% were in non-maintained and independent schools and 0.9% were in Pupil Referral Units.

Provision made for pupils with statements, Jan 05



52. The balance of provision across maintained special, mainstream and resourced provision has been very stable over the past four years that data on the latter has been collected, even though the number of statements has fallen.

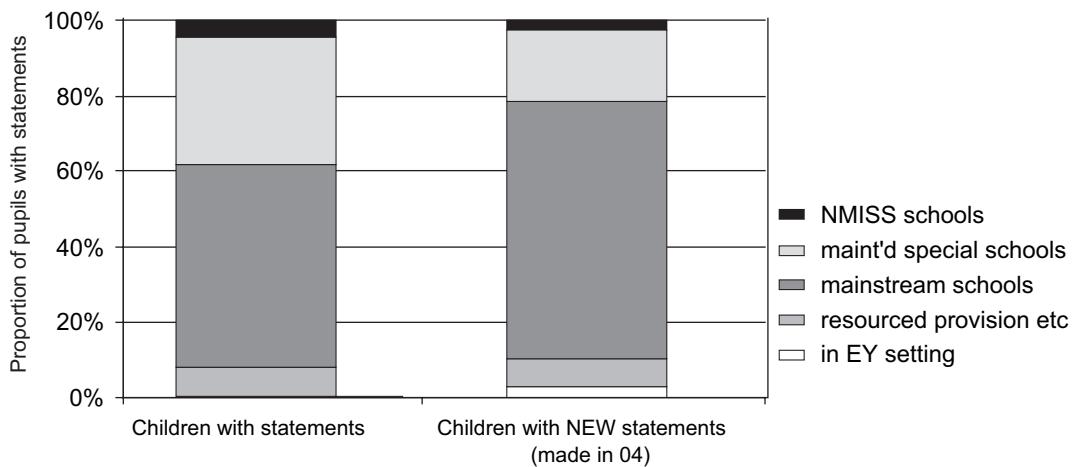
Provision made for pupils with statements, 2001-05



⁴ Resourced provision is where places are reserved at a mainstream school for pupils with a specific type of SEN, taught mainly within mainstream classes, who would require a base and some specialist facilities around the schools. A related concept is that of the SEN unit within a mainstream school, where the children are taught wholly or mainly within separate classes catering to particular types of need.

53. The picture for children for whom statements had been newly made in 2004 shows that some 66% named mainstream schools, 18% named local authority maintained special schools, 2.4% named non-maintained and independent schools. Overall, there has been a slight (less than 1%) rise in the proportion of pupils with new statements placed in special schools.

Where are children with statements educated? Jan 2005



Source: SEN2 survey of LEAs, provisional figures.

Excludes 2-3% of children with statements in other types of provision (PRUs, hospital schools, out of school)

54. There are variations between local authorities in the provision made for children with statements.

	Mainstream schools	Resourced provision, units and special classes in mainstream schools	Maintained special schools	Non-maintained and independant special schools
	%	%	%	%
ENGLAND (average)	51.9	7.7	32.8	4.6
In individual authorities				
Minimum	18.9	0.0	0.0	0.4
Median	51.8	6.5	32.0	4.2
Maximum	73.0	42.8	60.0	19.2

Source: SEN2 survey, January 2005.

Children in EY settings, hospital schools and PRUs, those out of school and/or awaiting provision not included.

55. The number of maintained special schools has reduced slightly from 1,171 in 1997 to 1,049 in 2005. The number of non-maintained special schools has risen from a low of 61 in 1999 to 73 in 2005. During the same period the number of independent schools approved specifically by the Department as suitable for the admission of pupils with statements has fallen from 99 to 93, while the number of independent schools registered with, but not approved by, the Department as catering wholly or mainly for children with statements has increased from 69 to 148. Although the total number of children at school with statements of SEN has fallen in the past two years from 250,500 in 2003 to 242,600 in 2005, the proportion of children with statements placed in maintained special schools has remained broadly constant at around 34% and in addition some 20,000 children are currently taught in resourced provision.

How decisions about the pattern of local special educational provision are made

56. Local authorities have a duty to secure sufficient schools for children in their area and in doing so must have particular regard to the need for special educational provision. The Government sets expectations as to the quality of this provision, as does Ofsted. But how these expectations are met is a matter for local decision, and for this reason, Government plays no role in relation to LA school reorganisations or in respect of decisions to close schools.

57. When a LA decides to take forward a special school reorganisation or closure, it must prepare and submit to a local School Organisation Committee for approval a School Organisation Plan setting out how it will ensure sufficient provision for pupils within the area. In doing so the LA must listen to what parents want. Where a local authority proposes to close a school it must consult on its proposals, including with parents; where there are objections and local agreement is not possible, an independent adjudicator makes the final decision.

Reorganising local provision to meet changing needs

58. There is evidence to suggest that the population of pupils with SEN is changing: advances in medicine are allowing children with complex health needs to survive well beyond school age; more children are being diagnosed with autistic spectrum disorders; and there is a growing number of children with severe behavioural, emotional and social difficulties. Set against this the screening of newborn children for visual and hearing impairment has allowed the relevant professionals to intervene earlier with these children which in turn has reduced the impact of these disabilities. All forms of provision—special schools, mainstream schools and additionally resourced provision or units attached to mainstream schools—have an important role to play in meeting children's needs.

59. It is important that there is a flexible range of provision in place and that LAs can reorganise their schools to respond most effectively to the wide and evolving range of needs. LA special school reorganisations are not therefore about closing schools but about providing better facilities for children with a more complex range of SEN in new and modern buildings, and reshaping overall SEN provision in ways that are more tailored to the changing pattern of needs. HMCI's annual report for 2003–04 notes that maintained special schools are gradually changing how they are organised, sometimes amalgamating into fewer but bigger schools, widening the range of disabilities individual schools serve, or relocating on to the sites of mainstream schools.

Approaches to the teaching children with different types of SEN

60. The SEN Code of Practice 2001 summarises categories of SEN into four broad areas of need:

- communication and interaction;
- cognition and learning;
- behavioural, emotional and social development; and
- sensory and/or physical needs.

61. But the Code of Practice recognises that children will have needs and requirements which may fall into at least one of the four areas and that many children will have a number of inter-related needs.

62. Children's SEN range from mild and temporary learning difficulties in one particular area of the curriculum to severe, complex and permanent impairments that will always affect learning across the curriculum. There is a continuum of needs that requires a continuum of special educational provision.

63. Children and young people have special educational needs if there are barriers to learning, and if they are unable to access the curriculum and make adequate progress without additional to or different from provision to that normally available in maintained mainstream schools in the local area.

64. The key test for taking SEN action is whether a child is making adequate progress. The measure of progress will be different for different children. It will depend on the child's starting point and on their particular needs. Progress for different children with SEN could range from progress that closes the attainment gap between the child and their peers or prevents the attainment gap growing wider to progress which demonstrates an improvement in self-help, social or personal skills.

65. Decisions about the provision necessary for children with different types of SEN are made locally by schools and LAs in line with the statutory framework, including the advice in the SEN Code of Practice and the SEN Toolkit. The Toolkit, which drew on research conducted by the University of Newcastle, identified four broad strands of action to meet children's SEN:

- assessment, planning and review;
- grouping for teaching purposes;
- additional human resources; and
- curriculum and teaching methods.

66. SEN provision could therefore take the form of further assessment, additional or different curriculum materials or a different way of teaching, or sometimes (but not always) additional adult support.

67. Teachers, in discussion with children and parents, decide which actions and combinations of actions are appropriate for each child taking account of their learning difficulties, their different learning styles and the school and class context. All teachers are required as part of the General Teaching Requirements of the National Curriculum, to differentiate their approach to meet the needs of individual children, to set suitable learning challenges and to help children overcome barriers to learning and assessment. The National Curriculum allows considerable flexibility for teachers in organising teaching to meet the different needs of learners.

68. The SEN Code of Practice emphasises the importance of consulting and involving children with SEN in decisions that affect them, including in relation to setting targets for their learning and reviewing their progress, in reviewing the provision made in their statement, and in making and keeping up to date transition plans. Involving children in decisions about their own learning is now a key feature of the drive towards personalised learning for all children (described in section 4).

69. Research published by the Department in February 2004, *Teaching Strategies and Approaches for Pupils with Special Educational Needs: A Scoping Study*, found a large degree of overlap between effective approaches for children with different types of SEN. There was no single model of learning that informed and justified one method of teaching for each type of SEN; rather, the teaching approaches and strategies effective with children with SEN were broadly similar to those that were effective in teaching all children. The research identified different access strategies for specific kinds of disability, such as visual and hearing impairments, but found the underlying teaching and learning approach was the same.

70. Data about the numbers of pupils in the country with different types of special educational need (SEN) as part of the Pupil Level Annual Schools Census (PLASC) is linked to the children's attainment. In time it will be possible to track cohorts of children with types of SEN with similar starting points and see how much progress they make over time. The longitudinal data can then be used to study trends in progress and thus help with planning and help with monitoring the outcomes of interventions for pupils with different types of SEN.

E. HOW CHILDREN WITH SEN ARE ACHIEVING

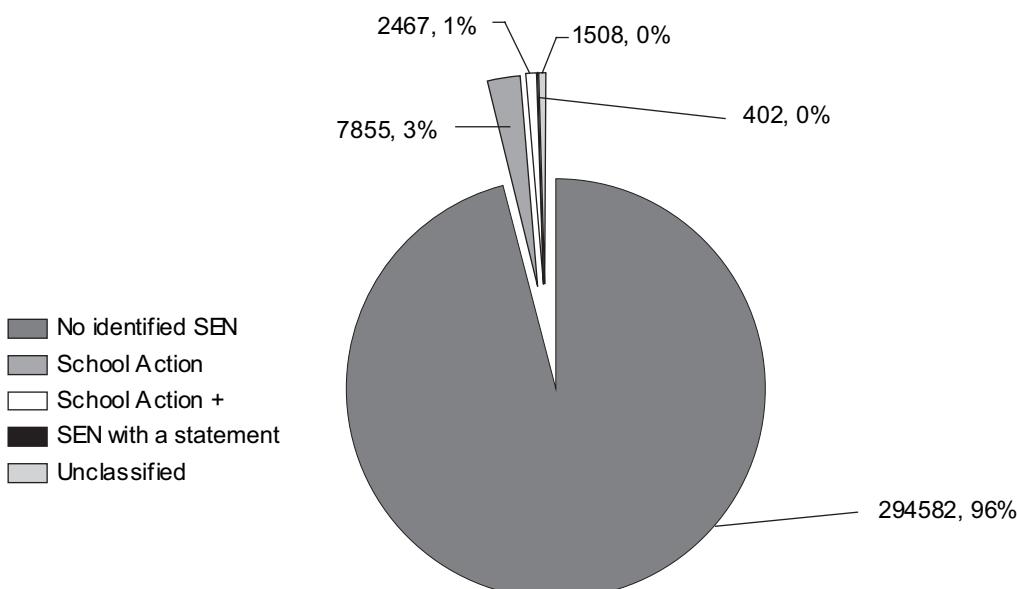
Attainment of pupils with SEN

71. A wide range of pupils is identified as having SEN. Children with special educational needs may often make less or slower progress than pupils without SEN. Pupils with SEN are represented across the attainment spectrum, but the %ages at the expected levels are significantly lower than for those without SEN.

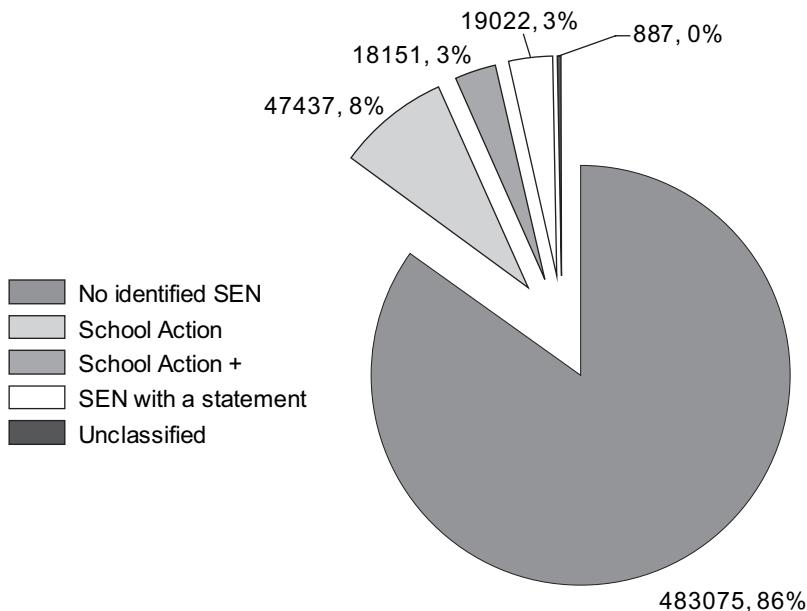
72. Around 25% of children at Key Stages 1—3 are low attaining and of those almost two thirds have SEN; 13% have statements. Some 33% of children attaining below level 3 at the end of Key Stage 2 (age 11) have statements. Only 10% of pupils at or above age related expectations in Key Stage tests have SEN, of which almost none have statements. However, the high numbers of children in primary schools identified as having SEN (some 18% of the total population) could also suggest that in some cases these children may be regarded as having SEN but in fact may simply be low attaining.

73. The charts below compare the split of pupils achieving any grade at GCSE and equivalent, compared with the split of pupils achieving 5 or more A*-C grades. The charts show that while the share of pupils with SEN achieving any grade at GCSE was 14%, the share with SEN achieving 5 or more A*-C grades was only 4%. This result at GCSE and equivalent reflects similar results at Key Stages 1, 2 and 3 of the National Curriculum.

**Breakdown of the Educational Needs of
307 130 children who obtained 5 or more
A*-C grades at GCSE in 2004**



Breakdown of the Educational Needs of 568 695 children who achieved any pass at GCSE in 2004



74. Another way of comparing attainment is to compare pass rates for those with and without SEN, as indicated in the table below. It is clear that at KS2, KS3 and GCSE and equivalent, pupils with SEN fare significantly less well, particularly when focusing on higher grades.

		<i>Achievement rates (% of all pupils entered for test or exam)</i>			
		<i>No identified SEN</i>	<i>School Action</i>	<i>School Action Plus</i>	<i>SEN with a statement</i>
Key Stage 2 (level 4+)	English	89%	44%	26%	15%
	Maths	85%	42%	30%	17%
	Science	93%	68%	56%	32%
Key Stage 3 (level 5+)	English	81%	33%	23%	11%
	Maths	83%	28%	30%	15%
	Science	76%	29%	23%	14%
GCSE/equivalent	Any pass	98%	93%	82%	78%
	5 A* – C	60%	15%	11%	6%

75. The data show some indication of improvements in the attainment of children and young people with SEN over time. But comparisons on a consistent basis are not possible, so this data should be treated with caution.

76. Some children and young people with SEN may never achieve higher levels of attainment. But there are many children with SEN who can and do make progress and improve attainment year on year—for example those working above level 1 but below level 2; those working on P scales⁵ below level 1, and children with SEN achieving level 3 at KS2.

77. Because of this, the Government believes it is important to focus on and recognise the progress made by all pupils and to recognise their wider achievements. To support this, the Department is promoting the use of sophisticated value-added methodology in Performance Tables, the School Profile, the Pupil Achievement Tracker (PAT) and Ofsted's PANDA. This contextual value-added information takes account of a range of pupil factors such as SEN and deprivation, in addition to pupils' prior attainment and, in secondary schools, school level factors. The PANDA reports issued to primary and secondary schools this autumn contain these new contextual value added measures, and also show value added scores separately for subgroups of pupils such as those with Special Educational Needs, and those with below-average prior attainment.

⁵ The P scales are a set of optional indicators for recording the achievements of children with SEN working towards level one in the national curriculum programmes of study.

78. For the School Achievement and Attainment tables, secondary school indicators (Key Stage 2–4) will be piloted in 2005 so that they can be in the published secondary Tables in 2006 and primary school indicators will be piloted in 2006 so they can be in the published primary Tables in 2007. Better use of data on achievement by schools and LAs is the key to raising expectations, setting appropriate targets, raising attainment and enabling children to enjoy and achieve. This is a key Government priority (see section 3). The Department is working closely with Ofsted to streamline the provision of data analysis to schools by merging the Performance and Assessment reports—the PANDA—with the Pupil Achievement Tracker. An interactive website (RAISEonline) is being developed with data already loaded, giving schools, LAs, School Improvement Partners (SIPs) and inspectors a common set of analyses as well as providing schools with a tool for reviewing their performance data in greater depth as part of their self-evaluation and target setting. The aim is for this to be available from summer 2006.

Inclusion and attainment

79. In 2003 research undertaken for DfES by the Universities of Newcastle and Manchester on the issue of Inclusion and Achievement found no evidence of a relationship between inclusion and attainment at local authority level although there appeared to be a very small negative correlation between inclusion and pupil attainment at individual pupil level (i.e. those with and without SEN). The possibility that this may be a causal relationship cannot be ruled out but seems unlikely because:

- there is a considerable variation in school-level performance, so other school-level factors appear to have more significance;
- highly inclusive schools manage inclusion in broadly similar ways but have widely differing attainment levels;
- more inclusive schools tend to serve more deprived communities which generally have lower attainment levels; and
- inclusivity is far less significant than other factors such as Free School Meals, month of birth, gender and mother tongue.

80. There was some evidence of the positive effects that inclusion can have on the wider achievements of all pupils, such as social skills and understanding (though it can also increase the risk of isolation and low self-esteem). The model of provision that the researchers found effective in including all children, and which emerged from the case studies, was one involving flexible grouping of pupils, customisation of provision to individual circumstances, careful individual monitoring and school-wide strategies for raising attainment which clearly link back to the strands of action set out in the SEN Code of Practice.

SECTION 3: GOVERNMENT PRIORITIES

A. CHALLENGES

81. SEN is one of the most challenging aspects of LAs' responsibilities. This has been acknowledged in recent reports from the Audit Commission and Ofsted, which note that despite a robust statutory framework and improvements in practice and provision in recent years there remains a number of continuing challenges to overcome in order to further improve outcomes for children with SEN and disabilities.

Audit Commission—Special Educational Needs—a mainstream issue

82. The Audit Commission's report *Special Educational Needs—a mainstream issue* (2002) identified these challenges as:

- Too many children waiting too long to have their needs met.
- Parents lacking confidence in the system, leading to pressure for statements.
- Some children who could be taught in a mainstream school being turned away.
- Teachers feeling ill equipped to meet the wide range of needs in today's classrooms.
- Special schools feeling uncertain of their role.
- Unacceptable variations in provision between different parts of the country.

Ofsted—Special educational needs and disability—towards inclusive schools

83. More recently the Ofsted report *Special educational needs and disability—towards inclusive schools* (October 2004) highlighted a growing awareness of the benefits of inclusive practice and some improvements in practice in schools. But it also found:

- for many schools, inclusion was a significant challenge;
- expectations of achievement were often ill-defined or pitched too low so that progress in learning was slower than it should be for a significant number of pupils;

- use of data on pupil outcomes was limited and schools under-used the potential for adapting the curriculum and teaching methods to give pupils suitable opportunities to improve key skills;
- few schools evaluated systematically their provision for pupils with SEN for effectiveness and value for money;
- effective collaboration between mainstream and special schools was the exception rather than the rule; and
- under 50% of schools visited had disability access plans.

Moving forward

84. The Government recognises these issues and challenges and that many of them can only be addressed by sustained, long-term action. This is why it developed *Removing Barriers to Achievement* (2004), its SEN strategy.

85. The strategy provides a clear national vision and a long-term programme of action and review. It was developed after wide consultation with pupils, parents, teachers and other staff, local authorities, the health services and voluntary sector on what they saw as the key priorities. The strategy has been welcomed widely. It reflects the contribution of the Department's wider policies and programmes to improving outcomes for children with SEN and disabilities and sets out the Government's priorities for action in four key areas:

- Early identification and intervention.
- Removing barriers to learning.
- Raising expectations and achievement.
- Delivering improvements in partnership.

The remainder of this section outlines action being taken under each of these areas.

B. EARLY IDENTIFICATION AND INTERVENTION

Early years

86. The strategy promotes a shift towards earlier identification and intervention, by strengthening support for SEN in early years settings and in schools, where some difficulties may not be picked up until a child has started school and begun to engage in learning. Since the Strategy was published:

- the effective approaches to working with babies and very young disabled children and their families established by the Early Years Support Programme are being mainstreamed and have been embedded in the national outcome standards for children's services in the National Service Framework for Children;
- in 2005–06 local authorities will be given £25.8 million (part of Sure Start general grant) to augment support for disabled children and those with SEN in early education and childcare settings. This can be used for staff training, equipment, minor building modifications, therapies (including speech and language), childminding subsidies or, *where necessary*, one to one support;
- a new 10 year strategy for childcare for children and families *Choice for Parents, the best start for children* has been published promoting an integrated approach to early education and childcare and improving information for parents;
- a Childcare action plan for children with SEN/disabilities, developed and implemented as part of *Removing Barriers to Achievement* has:
 - developed parents' information leaflets;
 - implemented workforce development contracts with specialist voluntary sector groups;
 - established good practice projects in four Children's Trusts and three SEN Regional Partnerships;
 - developed an award for best inclusive early years practice;
 - developed a Childcare Approval Scheme for home-based care;
 - extended Portage services to more local authority areas;
 - funded LAs to ensure provision of inclusion/SEN training for early years staff, including childminders and SENCOs; and
 - produced SENCO training materials for all early years settings and local authorities.
- a feasibility study for establishing a National Early Intervention Centre of Excellence to raise awareness of effective approaches and promote improvements in practice has been carried out.

87. The Government is encouraging local authorities to extend access to SEN advice and support the development of the skills and awareness of staff in early years settings. This builds on a number of improvements to provision for children with SEN in the early years in recent years:

-
- All early years settings in the private, voluntary and independent sector required to have a SENCO responsible for that setting's SEN policy.
 - LAs employ Area SENCOs to support and train early years settings on SEN/inclusion at a ratio of 1:20 settings.
 - *National Standards for under 8s Day Care and Childminding* require settings to take proactive steps to meet needs of children with SEN in cooperation with parents and other agencies. Ofsted inspects against this Standard (Standard 10).

Improving SEN advice and support to early years settings

In one London Borough a centre for pre-school children with SEN and disabilities and their families has led to more effective early intervention and a significant reduction in the need to statement children below reception age in order to secure appropriate support.

A joint agency Disability Strategy Group which includes senior members of staff from some of the 26 multi-agency services co-located at the Centre identified barriers to effective multi-agency family friendly working in practice and is taking action to overcome them. Their programme has developed new multi-agency referral criteria and panel processes to ensure families of young children with more complex needs and disabilities are offered a keyworker, multi-agency co-ordinated support, and a Family Service Plan. A multi-agency Internet accessible database has been established and joint assessment processes are being developed.

In recent years, Pre-School SEN Services and Primary Care Trust therapy services, working from the Centre, together with the local Autistic Trust, have established the National Autistic Society Early Bird Programme for families of children newly diagnosed with autistic spectrum disorder. They have also developed new centre class-based groups for children with complex language disorders, whereby the parents and their child attend together. Partnership initiatives have linked Portage, Speech and Language Therapy and Early Support, offering early intervention for children with severe social and communication difficulties.

The authority now has a clear panel referral process and criteria for all pre-school children with SEN and disabilities. Approximately 175 new children are followed up each year; support is not dependent on waiting for statutory assessment processes and no children below reception age require a statement. A pre-school audit has helped the authority to plan the pattern of provision and places that will be required at school age. All Early Support families are offered a key worker, multi-agency meetings, Family Service Plans and multi-agency information.

Early intervention in schools

88. The development of the Common Assessment Framework (CAF) under *Every Child Matters* will provide a tool for schools and other services to identify children's needs at an earlier stage and will link up professionals from different services. The CAF is currently being trialled in a number of local authorities. The evaluation of the trial will focus on the relationship of the CAF to more specialist assessments such as the SEN statutory assessment.

89. Delegating funding for SEN to schools can help to boost earlier intervention for children with SEN so that support can be provided, wherever appropriate, without the need for a statutory assessment or a statement. A number of LAs have worked with their schools and parents to develop their approach and secure the confidence of parents that their children's needs will be met, where appropriate without statutory assessment.

Parent partnerships

In the North West, one local authority's Parent Partnership Service (PPS) has made a significant contribution to removing barriers to learning for children with SEN. It provides an extensive range of services for parents, including information and advice on SEN matters, support in preparing for and attending meetings, help with writing letters and filling in forms; liaising with their child's school; signposting other services; and liaising with local mediation services. The PPS recruits and trains Independent Parental Supporters, and maintains an up-to-date register.

Direct support to parents has been successful in ensuring positive outcomes for individual children and their families. For example, a family of a four-year-old boy with cerebral palsy were struggling to come to terms with his disability and reluctant to send him to school. The PPS has supported the parents to improve the child's attendance at school by enabling them to work constructively as active partners in his education, while full physical access was provided to all areas of school. In another case, a secondary pupil with Asperger's Syndrome and ADHD was permanently excluded from secondary school because of his behaviour until the PPS worked with his mother and local authority staff to identify a new school. The child now follows a balanced curriculum involving academic, social and vocational activities and spends

increasing time in GCSE classes. The positive impact of this work is reflected in the number of appeals to the SEN and Disability Tribunal, which have reduced from 8.42 per 10,000 in 2000–01 to 3.03 per 10,000 in 2003–04.

Partnership with parents in policy making

In the south, one local authority has set up a Parents' SEN Forum to promote and sustain dialogue with parents of children with SEN. The forum enables the authority to listen to and take account of parental views as they develop SEN policy and provision and to provide parents with information on a wide range of issues associated with SEN.

The Parent Partnership holds the forum two to three times a year, focusing on issues suggested by parents. Each Forum, chaired by the Parent Partnership Co-ordinator, consists of a short presentation by speakers on the chosen theme and includes representation from schools, health services, social care, and education support staff. Parents are invited to contribute their views to policies as they are being developed. The Director of Education & Children's Services attends. Parents are also able to discuss individual concerns privately. Questions may be submitted in written form or voiced at the meeting. A Punjabi/Urdu speaker is available for translation and parents are asked before hand if they have other particular needs which require support. Issues raised by parents are followed up by the local authority officers concerned and are fed back either individually or at the next forum. Each forum brings parents up to date on how their views have been taken into account.

Feedback from parents shows they value the forum, enjoy meeting other parents, appreciate the availability of service local authority officers and recognise that issues they raise are being addressed. For example, as a result of issues raised at the Forum the local authority has implemented changes in the way speech and language therapy is provided in schools and provision for children on the autistic spectrum.

Building parental confidence in SEN provision in schools

In one local authority in the North of England funding for provision at *School Action Plus* has been delegated to schools for a few years. The Authority's SEN Strategy envisaged this process would continue and that, by April 2005, a small contingency would be retained, to be allocated on advice from its Provision Agreement Panel (PAP). The Panel was set up to help the Authority consider requests from schools for statutory assessments. It comprises representatives from schools, education officers and support agencies and meets every three weeks. It can recommend funding for early intervention, to enhance *School Action Plus* provision. The needs of children are considered against published criteria and allocated to one of five bands for additional funding support in order to secure greater consistency of decision making.

As schools' capacity to meet children's needs earlier has increased, the number of new statements has reduced from 110 in 2002 to 30 in 2004. One secondary and one primary school with a disproportionate number of pupils with complex difficulties have been provided with advanced funding to enable them to address the needs of such pupils at an early stage. The scheme has a number of benefits:

- the capacity of mainstream schools to meet a wider range of needs has improved, leading to a small reduction in parents seeking special school places (numbers attending special schools reduced from 350 in 2004 to 329 in 2005);
- a language support service has been established, enabling specialist support to be delivered across all mainstream schools;
- education, social care and health now have a joint funding protocol to support the needs of children and young people requiring physical adaptation of their school buildings, residential placement outside the authority or specialised facilities; and
- the number of appeals to SENDIST has reduced from six in 2002–03 to three in 2003–04 (1.03 per 10,000 school population)—significantly lower than the national and the averages of the Authority's statistical neighbour.

90. The Department is taking action to cut unnecessary paperwork and bureaucracy on SEN by helping schools and local authorities, schools and early years settings to focus on the essentials and make better use of ICT, enabling teaching staff to spend more time working directly with children with SEN to improve their learning, for example:

- promoting alternative approaches to Individual Education Plans (IEPs) for effective target setting, planning and monitoring of outcomes through the National Strategies, the SEN Regional Partnerships, and the team of DfES SEN Advisers;
- working with a number of local authorities and SEN Regional Partnerships to streamline the processes for annual reviews of children's statements so that schools have fewer tasks to do. The SEN Regional Partnerships will disseminate the results of this work in 2006; and
- improving coordination of SEN provision at school level. Sessions for SENCOs to identify effective and innovative practice and potential solutions to practical issues are being held in partnership with the National Association for Special Educational Needs (NASEN). NASEN will

publish articles in their journals highlighting the ideas to emerge from these sessions and the case studies gathered will inform the Secondary National Strategy's SEN Management Guide for School Leadership Teams, to be published in February 2006.

91. Local authorities are also being encouraged to develop their own schemes for reducing bureaucracy, to build on existing practice.

Reducing bureaucracy

In one local authority SENCOs from clusters of schools worked together with the local authority on the distribution of SEN resources between schools.

The authority worked with its schools to look for ways of reducing unnecessary bureaucracy and critically at the imposition of any "new tasks" on schools. A jointly developed financial system allows schools and clusters of schools to map their spending, analyse outcomes for pupils, and review the use of funds. An annual report is provided to all schools in a cluster showing the exact amount of targeted funding available in each school. The financial system also enables LA officers to track spending patterns and potential over or under spending.

The use of provision mapping enables schools, clusters and support services to track how resources are used, link them to pupil outcomes (currently attainment and sustainability of placement) and evaluate whether the organisation of staff can be improved to achieve greater efficiency and effectiveness in the use of resources. The Audit Commission found that schools reported "an improvement in the LA's effectiveness in monitoring the progress of pupils with SEN" and in "the clarity of the LEA's rationale for the deployment of SEN funding". Links between outcomes and SEN investment have led to a stronger joint approach between local school improvement and SEN support services.

There has been no significant increase in numbers of statutory assessments or appeals to the SEN and Disability Tribunal and no increase in statements or numbers placed in special schools.

C. REMOVING BARRIERS TO LEARNING

A continuum of provision to meet a spectrum of needs

92. *Removing Barriers to Achievement* reflects the Government's policy of including children with SEN and disabilities in mainstream schools where this is what parents want and it is compatible with the efficient education of other children whilst preserving parents' rights to seek a special school place. Central to the Government's policy is a drive to build the capacity of mainstream schools to meet children's SEN and maximise the best use of specialist provision so that inclusive practice is developed throughout local communities of schools.

93. The Government has made clear that special schools have a vital and new role educating children with the most severe and complex needs and working much more closely with mainstream schools to share expertise and extend the range of opportunities for learning for all children in all settings. Special schools have already been brought within the Department's mainstream leadership and diversity programmes; some 30 special schools have been awarded specialist school status and 12 special schools have been designated as Trailblazers to provide SEN expertise on outreach to mainstream schools.

94. The Building Schools for the Future (BSF) programme offers a real opportunity to develop new and better provision for children with SEN and disabilities and extend the range of choices open to parents. From 2004–05 the programme will radically transform the learning environment for secondary school pupils. The programme is currently worth over £2 billion a year in the current spending review period (2005–08); of that, some £300 million is estimated to be spent on provision for pupils with special needs and disabilities in the first three waves of the programme. It is being extended to primary schools. BSF builds on a period in which capital allocations for schools have risen from £1.1 billion in 1997–98 to £5.5 billion in 2004–05. The Schools Access Initiative has made over £600 million available since 1997–98 to help schools improve access for disabled pupils.

95. There is a simplistic but mistaken view that LA reorganisations involving special school closures inevitably mean a loss of specialist support and expertise and fewer good quality choices for parents. In practice, over the past 20 years, LAs have reconfigured their special schools to meet changing needs, developed specialist provision within or attached to mainstream schools and co-located special and mainstream schools. A key priority for the Government in taking forward the SEN strategy during this Parliamentary term will be to promote the development of a flexible continuum of provision to meet the wide spectrum of special educational needs in today's classrooms and extend choice for parents. This will build on local developments, make the most of unprecedented capital investment in schools through BSF, and include a range of options:

- school collaboratives—federations and other partnership arrangements;
- co-location of mainstream and special schools;
- specially resourced provision in mainstream or special schools;

- specialist units for different types of need;
- extended schools;
- dual placements;
- outreach from special to mainstream schools;
- better use of Pupil Referral Units;
- stronger links between other services, such as Child and Adolescent Mental Health Services, and schools; and
- action to reduce residential placements by supporting children locally or regionally.

96. These options are characterised by an approach that combines elements of mainstream and special education—a “third way”—to enhance specialist provision across mainstream and special schools and provide opportunities for pupils and staff from both to learn and work together. The Department is carrying out a study to identify the factors that need to be in place for the successful development of “third way” provision. The results of the study will shape work at a national level to promote such provision locally and regionally and extend choice for parents. We will provide a supplementary note to the Committee on this.

Communities of schools

One local authority in the East of England is developing a common brief for all its special schools to ensure consistency and quality in SEN specialist provision across the county. The aim is for children to be educated in their locality and have the opportunity to participate in mainstream activities as a result of special and mainstream schools working together in clusters. Special schools will be full partners in the multi-agency assessment, planning and review of pupils’ and families’ needs; they will participate in the development of outreach services to mainstream schools with other support services and will provide bases to support a multi-service response to complex needs.

A funding scheme is being devised to ensure that the needs of the most complex pupils can be met in-county. The funding will reflect the increasing complex needs of pupils in special schools and provide consistency so that schools can commit to new developments and provide training. The Authority is consulting with parents, school staff and others on their proposals.

The funding scheme has been welcomed by head teachers and it has been possible to target funding to ensure the provision for pupils with very complex needs. An audit of premises has been positively received by the council, with a commitment to bring all area special schools up to the standard of the two new area special schools. Special schools are actively seeking schools to cluster with joint training and two-way flow of pupils is happening. Examples of good practice include support for ASD pupils in mainstream schools by a special school.

Close collaboration and planning with the local Primary Care Trusts in particular is already having a positive knock-on effect on relationships between agencies and effective joint working.

Building local capacity

One London local authority has used resources to build provision within the authority to improve outcomes for all children and reduce reliance on out of authority placements.

In 1999–2000, 116 pupils were educated in independent schools out of the local area. In a number of cases the educational and social outcomes for the pupil were of concern to the authority and many students found it hard to return to the local area. The authority felt the need for young people to be included in their home area and supported local schools in meeting the needs of students with more complex needs.

Many of these pupils had been educated in residential schools for children with emotional and behavioural difficulties (EBD). The authority’s secondary EBD school was strengthened with speech and language therapy and experienced, qualified specific learning difficulties teachers. The school’s KS3 provision was expanded. KS4 was made smaller, and a course for disaffected learners aged 14–16 was set up at the local community college. The school also assisted KS4 students in accessing higher levels of work experience, college and project work.

The authority opened a primary EBD resource to offer outreach support for mainstream schools as well as full time placements and a resource for deaf students attached to a mainstream secondary school, to complement the primary resource. A secondary resource for VI students was also established. The support teams for sensory impairment were strengthened. More generally, the authority has established a purchased mainstream speech and language service as well as physiotherapy and occupational therapy intervention. A comprehensive training programme for teachers and non-teaching staff has been set up and is well subscribed.

As a result of its policy, the number of independent placements has reduced from 116 to 28; more pupils are included successfully in local mainstream schools, and local special schools now meet the needs of students with more complex needs.

School based resourced provision

At Kingsley College Able Autism Base (Worcestershire) students with an autism spectrum disorder participate as fully as possible in the life of a mainstream school, whilst having their individual and specific needs understood and met by staff with knowledge and experience in the field of autism. The local authority had found that an increasing number of students with Asperger's Syndrome were unable to access full-time mainstream schooling despite their academic ability, even with full-time teaching assistant support. It developed the base to overcome these difficulties. The base is situated in the Technology Block of Kingsley College, a 13–18 years high school in Redditch with a suite of four rooms: reception area, two large classrooms and an office with kitchen. One room is set up as a group working area and has bays for individual workstations and computers. Another has a leisure area as well as a teaching/individual working area. Kingsley was the first high school Base in Worcestershire. It opened in September 1999 with three students and was at full capacity by January 2001 with students in all year groups. It is staffed by a teacher, three full time teaching assistants and two part time teaching assistants. Two branches of the Access and Inclusion team of the local authority refer students for places.

Students have access to the National Curriculum at a level suited to their individual needs and extra lessons in the Base which address their particular needs, such as social skills. They have individually negotiated timetables and join mainstream classes, with or without support, or are taught in the Base. They attend the mainstream assemblies for their appropriate year group, but register as a vertical form in the Base. Children are able to use the Base at break and lunchtimes or they make use of the many college clubs and sporting facilities.

Students have found school life much easier being part of a group, rather than being a student with ASD on their own in a school. There are both sympathetic and supportive mainstream students and staff in the host school and the right environment and facilities in the Base. The location of the Base on the site of the mainstream school promotes greater inclusion.

Special schools of the 21st Century—outreach and beyond

Beaumont Hill Technology College in Darlington, a special school for children aged 2–19 is at the heart of developments to create a community of schools. The school is being rebuilt on a site alongside local mainstream schools and all schools will share facilities and expertise. The plans are for an education village offering a Children's Centre and full service extended provision, including access to a wide range of services for children and families.

An Advanced Skills Teacher supports inclusion for two days a week, one day working with pupils with statements in mainstream schools, and one day working as part of the local authority's Learning Support Team and as an advisory and support teacher. To support the Authority's wider inclusion drive, the school has developed provision for children with behavioural, social and emotional difficulties and autistic spectrum disorders. This has led to a significant reduction in out-of-authority placements and enabled children to stay in their local communities.

SPECIALIST PROVISION—IMPROVING LOCAL PLANNING

97. A national audit of specialist provision for children with the most severe and complex needs is underway. The audit will identify where the gaps are and enable the Department to support LAs in improving regional planning and provision to meet those needs.

National audit of specialist provision—findings to date

The study is due to be completed in December 2005. It will outline the major gaps in support, services and provision to have emerged through the audit and make recommendations as to how these might best be addressed. Options will also be presented with regard to the potential shape and form of the Regional Centres of Excellence proposed in the Government's strategy for SEN.

Although the focus group phase is yet to be completed and the analysis of overall findings is still at an early stage, evidence to date suggests that "gaps" are not at the level of specialist techniques or resources needed by groups of children with low incidence needs. While specialist training and a skilled workforce is needed, the priority is to improve the coordination and joint planning necessary in all local authority areas, in order to ensure that the needs of some of our more challenging young people can be properly addressed.

The main problem in providing for children with severe/complex low incidence needs seems to result from inflexibility in the ways in which provision and services are organised. Greater flexibility is needed, both in terms of the capacity of local mainstream and special schools, and in service access criteria, to ensure that children are better served.

Implementation of the *Every Child Matters* change programme and the SEN strategy are seen as key to addressing these key issues.

In particular, developments and improvements are needed in respect of:

- short break/respite and social/leisure opportunities; insufficient respite and social isolation can place significant burdens on families, who are already having to cope with a range of challenges themselves;
- support, provision and opportunities at the secondary and FE stages; some secondary mainstream schools, as they are currently organised are seen as particularly inaccessible for some children;
- proactive joint planning; more collaborative work is needed between local authorities, Learning and Skills Councils and the voluntary/independent sector in order to coordinate local improvements in post 16 provision and to develop a wider range of specialist foster placements/short break opportunities, with proper training, support and backup from relevant agencies; and
- therapy services and Child & Adolescent Mental Health services. However, focus group discussions so far suggest that this is less about staffing/capacity and more about changes in the ways in which services have traditionally been delivered.

A number of examples of positive practice are being identified through the audit and will be highlighted in the final report. We will provide a supplementary note to the Committee on the Audit when the work has been completed.

98. Following the recent Ofsted report *Inclusion, the impact of LEA support and outreach services (July 2005)* the Department will also be consulting on minimum standards for SEN advisory and support services to promote greater consistency in their quality, availability and cost effectiveness, however they are provided. The report provided positive information about the impact of current provision on supporting teaching staff in enabling children with SEN to make progress and/or access to the curriculum. It concluded that support and outreach services promoted inclusion and improved the life chances of many vulnerable pupils. Support service staff were particularly valued where they brought knowledge and skills usually unavailable in a mainstream school and were most effective when they demonstrated effective strategies for others to observe. These services can provide important information and a thorough understanding of particular special needs or disabilities, making a major contribution to pupils' progress. Support services can also form a key element in the development of a flexible continuum of provision for children with SEN.

99. Ofsted is currently carrying out a survey on choice and flexibility of provision for learners with learning difficulties and disabilities and the impact on achievement and enjoyment. It is expected to report in the summer 2006 and will provide further information to help local authorities in their planning.

Improving access to schools for disabled children

100. Schools have important duties under the Disability Discrimination Acts but these are not always well recognised. As a result disabled children may not be able to play their full part in the life of their school and community. The Department is working in partnership with the Disability Rights Commission and the Council for Disabled Children on practical tools to help schools and local authorities improve the quality of their accessibility plans and strategies. Work is also well underway to develop a DVD resource and accompanying material to help schools make reasonable adjustments to their policies and practice to remove the barriers to learning and participation that can prevent disabled children from achieving their potential. These resources will help schools to develop a whole school approach to promoting equality of opportunity for disabled people and fulfil their duties under the Disability Discrimination Act 2005.

101. Some children and young people need support with their health needs in school and early years settings and a significant number have complex health needs. Without appropriate support these children will not be able to attend school regularly and make the most of their education. The Department has also worked with the Council for Disabled Children, Mencap, the Royal College of Nursing and others to develop a resource for local authorities and schools on developing policies and protocols for managing complex health needs in schools and early years settings. The resource is based on good practice and contains a wealth of practical ideas. It will complement the joint DfES/Department of Health guidance on *Managing Medicines in Schools and Early Years Settings (2005)*.

Supporting children with difficulties in behavioural, emotional and social development

102. Parents and teachers are understandably concerned to improve behaviour in schools so that all children can learn. It is important to note that Ofsted report that behaviour is satisfactory or better in over 90% of schools and that most children with SEN do not present severe challenging behaviour. In any school, however, there may be individual pupils whose behaviour reflects serious social and emotional problems rather than disaffection. The SEN Code of Practice emphasises preventative work, to ensure that children's special educational needs are identified as quickly as possible and that early action is taken to meet those needs. It also advises a range of interventions for schools to use, in supporting pupils who are hyperactive and lack concentration and have BESD.

103. The Department has made additional resources available to schools in disadvantaged areas through the *Excellence in Cities* and the Behaviour Improvement Programme. These have been used to establish in-school learning support units, to appoint learning mentors to provide support for individual children and

to establish Behaviour and Education Support Teams (BESTs) to co-ordinate the work of a range of education, health and social care professionals for pupils with serious and complex problems. These are multi-agency teams bringing together a complementary mix of professionals from the fields of health, social care and education to promote emotional well-being, positive behaviour and school attendance, by identifying and supporting those with, or at risk of developing emotional and behavioural problems. There are now about 1,500 learning support units, mainly in secondary schools, about 12,000 learning mentors in schools and about 140 BESTs. The Department is also helping all schools to develop good practice in behaviour management through training materials and consultancy provided by the national strategies and more specialised training for school staff with a leadership role in managing behaviour and attendance.

104. In June 2005 the Government established a Practitioners' Group on School Behaviour and Discipline, comprising 13 head teachers and teachers, chaired by Sir Alan Steer. The Group's remit was to provide advice on how further to improve standards of pupil behaviour, including how to embed good practice more widely across schools and whether new powers for heads are needed to help enforce school discipline. Its report, to be published shortly, will go to a Ministerial Stakeholder Group on Behaviour and Attendance chaired by the Minister for schools and 14–19 learners. We will let the Committee have a copy of the Group's report as soon as it is published. The Department will consider the Group's recommendations carefully and take forward any appropriate action on pupils with Behavioural, Emotional and Social Difficulties in conjunction with the wider programme set out in *Removing Barriers to Achievement*. Commitments have already been made to:

- Clarify the role of PRUs, special schools and alternative provision in meeting the needs of pupils with BESD and promoting greater partnership working to avoid the need for permanent exclusions.
- Improve the quality of provision made for young people with BESD in all types of setting.
- Promote greater use of curriculum flexibilities to keep young people with significant BESD engaged in learning and working towards qualifications.
- Explore the scope for developing intensive, short-term interventions working in partnership with CAMHs, particularly for those children at risk of exclusion as well as ensuring longer-term support for those children with enduring needs.

Since *Removing Barriers to Achievement* was published we have:

- Increased the participation of special schools in the Specialist Schools Programme (SSP), including schools catering for pupils with BESD. This should help to drive up standards across the sector and lead to greater collaborative working with the mainstream sector.
- Encouraged special schools, PRUs and mainstream schools to work in collaboration with a view to ensuring managed moves between the sectors for pupils with BESD thereby reducing the need for permanent exclusions.
- Run a competition specifically targeted at institutions working with children with severe BESD to provide creative and innovative solutions for using staff in BESD settings to:
 - improve access to the curriculum for children with BESD and mental health difficulties; and
 - improve links between schools and CAMHs.
- It will complement BESD/CAMHs related work already underway or in the pipeline, including new development work funded via the CAMHs grant on services for young people with complex needs.
- Included senior staff in BESD special schools and PRUs in the National Programme for Specialist Leaders in Behaviour and Attendance. New support materials and courses for this will be available next year. This should provide more effective leadership for the sector which in turn should strengthen the running of BESD schools and the quality of teaching and learning they provide.

We are now looking at how we can support further weak and failing special schools for pupils with BESD. We will make a further announcement on this in the forthcoming Schools White Paper.

D. RAISING EXPECTATIONS AND ACHIEVEMENT

The starting point: Ofsted's assessment of SEN provision across the school system

In his annual report for 2003–04 Her Majesty's Chief Inspector of Schools notes that the provision for pupils with special educational needs (SEN) is good or better in most nursery and primary schools and very good in almost a third; most have a commitment to inclusion and providing equality of opportunity and in many there is close liaison between teachers, teaching assistants, SEN Coordinators and external specialists to ensure pupils receive the right support from the start. However, provision for pupils with SEN and disabilities is not evaluated consistently against the progress they make.

Most secondary schools have a clear commitment to meeting SEN, which is reflected in sound practical arrangements and adequate resourcing. But in general there is too little systematic evaluation of the link between provision and achievement and schools do not always appreciate the extent of progress that is possible for pupils with SEN.

Most special schools provide good quality education. In three quarters of special schools pupils achieve well in relation to their abilities and difficulties. The quality of teaching is good or better in most schools but assessment is still not being used well enough. Schools for pupils with emotional, behavioural and social difficulties continue to be less effective than other special schools.

At local authority level HMCI finds that provision for SEN has improved in significantly more of the LAs inspected than in those in which it has declined and that at best, strategies to support SEN are an integral part of LAs' overall programmes for school improvement and inclusion. Procedures to meet statutory requirements in respect of SEN are at least satisfactory in all but two authorities and in a number of LAs criteria for referral and making statutory assessments are clear and well understood. But the quality of statements is good in only a minority.

The picture is of an education system that is improving in its provision for children with SEN, though there are some areas where further improvement is necessary.

School self-evaluation, accountability and performance

105. Ofsted reports have shown that if children with SEN are to reach their potential, schools need to set expectations of what they can achieve pitched at an appropriate and suitably challenging level. To help schools to do this we have extended the information provided to schools in the Pupil Achievement Tracker to include data on pupils working below the level of the National Curriculum tests so that schools can identify those children who are not progressing. Data on the progress made by those pupils working below level 1 of the National Curriculum (the P Scales) is also being collected nationally from 2005.

106. As part of the New Relationship with Schools, all schools will carry out an annual self-evaluation and publish a single plan setting out their priorities for improvement in which they will need to show how all their pupils are achieving. This process will highlight any gaps in achievement between different groups of children, which will then be discussed with a locally appointed School Improvement Partner, who will provide support and challenge to schools in raising achievement and closing those gaps. Shorter, more focused Ofsted inspections will evaluate how well schools cater for children with SEN and disabilities and joint area reviews will pick up how well local children's services support improvements in the *Every Child Matters* outcomes. Information on schools' priorities and provision will be given in their school profiles. Information about SEN provision will be signposted.

Making better use of data

Each year, in one local authority in the North West, the Inclusion and School Improvement Service (ISIS) analyses individual pupil and school level SEN information in order to evaluate value added progress in relation to the additional SEN interventions made by both schools and external services. Additional intervention, support and challenge to schools are then targeted more appropriately.

Through an annual review of school performance a range of professionals (assessment advisers, SEN Advisers, school advisers, SEN support teachers, SEN, English and Mathematics consultants, locality managers and statutory assessment managers) analyse and evaluate the performance of children with SEN in the core subjects to consider the impact of interventions and additional SEN provision on pupil outcomes. The analysis is based on Fischer Family Trust (FFT) data (teacher assessment and test results), and qualitative evidence gathered from support teachers working with SEN pupils in schools.

The level of monitoring, intervention, challenge and support schools receive for SEN is based on the outcomes of this process. Where there is consensus based on secure evidence of underperformance of SEN pupils, the issue is explored with the school's head teacher and focused SEN monitoring is provided, based on the school self-evaluation process, which uses the Ofsted and *Every Child Matters* frameworks.

The local authority's approach has had a positive impact. Schools have raised their expectations about the progress of SEN pupils can make from one key stage to the next, and are focusing on the use of appropriate assessment for learning, eg P Scales, PIVATS, NC levels. Schools, in partnership with the local authority, are identifying the additional strategies and interventions that are most effective in raising SEN pupil attainment, learning outcomes and well being. The local authority is building up a profile of how pupils with different types of SEN progress across all key stages and across all localities and has a secure evidence base from which to target additional support and intervention to schools and match this to children's needs.

Supporting children with SEN through the national strategies

107. Practical teaching and learning resources to raise the achievement of children with SEN are being provided through the primary and secondary national strategies. Through the Primary National Strategy independent research commissioned by the Department has identified the 20 most effective reading approaches to literacy teaching so that schools could consider the most appropriate way to teach low attaining children and with Moderate Learning Difficulties to read. Further research has provided an overview of the effectiveness of early intervention schemes for children with mathematical difficulties and enabled schools to identify the most appropriate way to teach numeracy skills. In addition, a range of materials has been issued to schools on:

- Speaking, Listening, Learning: working with children who have special educational needs.
- Learning and teaching for children in the primary years.
- The effective management of teaching assistants to improve standards in literacy and mathematics.
- Leading on Inclusion, which covers school self-evaluation, understanding and using data, and guidance on how to plan for effective provision for children with additional needs.
- Wave 3 materials aimed at pupils with SEN—Supporting children with gaps in their mathematical understanding.
- Management for primary SENCOs.

108. Through the Secondary National Strategy documents have been issued on maximising progress of children at Key Stage 3 of the National Curriculum in relation to using data for target setting; approaches to teaching and learning in the mainstream classroom; and, managing the learning process for pupils with SEN. An SEN Management Guide for secondary schools is scheduled for publication in spring 2006.

109. Other relevant work is also underway. Jim Rose has been appointed to conduct a review of the teaching of early reading that encompasses consideration of the range of teaching practices needed to support children who face significant difficulties with literacy. The findings of the review are due early in 2006. The *Every Child a Reader* programme, in which the Department and the Primary National Strategy are working in partnership with the KPMG Foundation and the Institute of Education, was launched at the end of July 2005. It aims to cut dramatically the numbers of those who cannot read and has a two-fold aspiration: to deploy Reading Recovery teachers in intensive personalised teaching to help over 5,000 boys and girls learn to read in the initial three years of the programme; and to explore the potential for Reading Recovery teachers to support tailored literacy teaching more broadly within a school, ensuring an impact beyond those receiving intensive one-to-one support.

110. More generally, the move to personalised learning referred to in *Removing Barriers to Achievement* signals a commitment to ensuring that everything possible is done to tailor learning to the individual needs of children with SEN so that they get the most out of their education.

Improving staff skills—teacher training

111. The standards for Qualified Teacher Status require trainees to be aware of their responsibilities under the SEN Code of Practice and know where to seek advice to support pupils with SEN. In addition, the standards require trainees to differentiate their teaching to meet the needs of pupils, including those with special educational needs. Trainees can undertake a placement in a special school as part of their school practice during their training, although some practice in a mainstream setting is required to ensure that there is coverage of as wide a range of experiences as possible. In order to complete the induction period satisfactorily, a newly qualified teacher (NQT) must demonstrate that they plan effectively to meet the needs of pupils in their classes with special educational needs and contribute to the preparation, implementation, monitoring and review of plans for individual children. Part of a newly qualified teacher's induction can take place in a special school.

112. *Removing Barriers to Achievement* gave a commitment to improve staff skills. To take that commitment forward, the Department has commissioned the Teacher Development Agency to:

- develop optional, specialist SEN and disabilities modules within Initial Teacher Training (ITT) programmes;
- develop, implement and evaluate a small-scale programme for 4-week placements in special schools within ITT courses;
- produce guidance and exemplar materials to improve the knowledge, understanding and skills of NQTs for teaching pupils with SEN and disabilities;
- design an electronic portal to support networking of tutors involved in SEN and disabilities;
- develop resources to ensure greater consistency when assessing trainee and newly qualified teachers against those QTS and Induction Standards with particular relevance to inclusion and teaching pupils with SEN and disabilities;

- strengthen links between mainstream and special schools via LEA Induction Co-ordinators, to increase NQTs' experience of pupils with a range of needs; and
- develop a specialist SEN and Disabilities Post-Graduate Certificate and/or Diploma pilot programme, specifically designed to meet the professional development needs of teachers in mainstream schools.

113. Initial development work is scheduled to be completed by March 2006 and pilots for the modules, placements and programmes are due to start in September 2006. The impact of these projects will be carefully monitored to evaluate how successful they have been in raising the confidence and skills of trainees and serving teachers. We can then determine what action the TDA may usefully take to offer further support to teachers of pupils with SEN and disabilities.

114. In addition the TDA is developing a Teacher Training Resource Bank (TTRB)—a web-based resource covering a wide range of topics relevant to teacher training and of interest to trainee teachers and teacher trainers. The TTRB will be used to disseminate high quality materials on a range of special educational needs.

115. The focus in the *Every Child Matters* change programme on the provision of integrated services places a premium on staff from different disciplines and services, including teachers, working more closely together, often in co-located services, to ensure that children, young people and families are given access to the complementary skills of a wide range of people. The integration of planning, commissioning and organising services locally is being supported nationally by a Children's Workforce Unit within the Department. The Unit has published a Pay and Workforce Strategy and practical guidance on multi-agency working. It is also developing a Common Core of Skills and Knowledge for those working with children, young people and families and will build on that to create a climbing frame of qualifications to support coherent and flexible career pathways within and across children's services and help members of the children's workforce gain additional skills and specialisms where needed. This work will take account of the need to develop the skills in the children's workforce to meet the needs of children with SEN.

Supporting successful transitions from school to adult life

116. Making the transition from school to further education, training and employment can be difficult for young people with learning difficulties and disabilities, with new funding arrangements, different routes of progression and the transfer to adult services to be negotiated. The quality of transition planning varies and the range of opportunities open to young people can be narrower than at school. The Department is working with its partners across Government to improve the quality of transition planning and to ensure that all young people with SEN and disabilities benefit from person centred planning that meets their individual needs and high quality advice and guidance. A Transition Working Group involving a range of Government departments and other agencies, including voluntary sector organisations, has advised on this and the work is being taken forward as part of a broader programme of action to implement the report of the Prime Minister's Strategy Unit's report *Improving the Life Chances of Disabled People* (January 2005). This year the Department has funded work to develop person centred planning for young people with learning difficulties and disabilities in a number of local authorities. This builds on the work of local Learning Disability Partnership Boards and complements the focus on transition in Children's Trust pathfinders.

117. The Department is also working to expand educational, training and employment opportunities for young people with learning difficulties and disabilities. The 14–19 Education and Skills White Paper sets out proposals to build on the strengths of the current system, including GCSEs and A levels, ensuring that every young person masters functional English and maths before they leave education, putting achievement in English and maths at the heart of new general (GCSE) Diplomas and specialised Diplomas. The specialised diplomas in 14 broad sector areas, developed by Sector Skills Councils, will replace around 3,500 separate qualifications.

118. The LSC is currently undertaking a strategic review of its funding and planning of provision for learners with LDD across the post-16 sector, including those with SEN in schools. The review is due to report to LSC national council in September 2005. The Qualifications and Curriculum Authority and the Learning and Skills Council are currently working together to establish a Foundation Learning Tier (FLT) aimed at learners of all ages from 14 upwards who are working at Entry and level 1—to establish an inclusive and coherent curriculum offer at these levels with provision supported by units and qualifications at Entry level and level 1 in the Framework for Achievement (FfA) currently under development and in time set to replace the National Qualifications Framework. Entry level will be extended beyond its current parameters to include pre-Entry provision in order to ensure that the needs of learners working at this level can also be met through the FLT. Trials will be conducted from September 2006, with full implementation planned from September 2007. These developments will complement the Entry to Employment (E2E) work based learning programme, established across England in August 2003 to support young people in overcoming barriers that restrict their progress to apprenticeships, further education or employment.

E. DELIVERING IMPROVEMENTS IN PARTNERSHIP

Promoting consistency of provision

119. Many local authorities have made great progress in providing effectively for children with SEN in recent years but there are still variations in the availability and quality of planning and provision for children with SEN and disabilities. The Department is promoting more consistent practice through a team of national SEN advisers. The Advisers are providing support and challenge to LAs on key SEN issues, including strategic planning and management of provision for children with SEN and the use of statements. They are identifying and sharing good practice and tackling underperformance. Together with the Department's network of SEN Regional Partnerships, they are disseminating effective practice nationally and helping to lever up standards of provision across the country. The SEN Regional Partnerships bring together education, social care and health services and the voluntary sector and provide a network for sharing effective practice and exploring shared solutions to common problems.

Regional cooperation in transition planning

Transition planning should coordinate the contribution of a number of different professionals and agencies so as to support a young person with SEN in making the transition from school to adulthood. But making this happen effectively in practice is a challenge for local authorities.

Many of the SEN Regional Partnerships are working together to resolve practical issues and provide practical tools for local authorities to use in improving the quality of transition planning.

The East of England Partnership undertook a comprehensive mapping exercise of existing practice across all agencies in the region and followed this with good practice guidance; they developed a directory of transition services for young people with SEN leaving school and protocols for transition planning, both of which have been taken up by local authorities across the country.

The North East Partnership has produced a CD Rom, Transplan, containing guidance for schools and partner agencies on successful transition planning with an emphasis on involving young people and parents and carers effectively; the CD Rom contains sample forms and leaflets that can be tailored for local use. It has been used by local authorities across the country.

The work of these Regional Partnerships influenced the development of National Outcome Standards in the Children's National Service Framework and illustrate the contribution that cooperative working between local authorities within the SEN Regional Partnerships makes to promoting greater consistency in provision nationally.

Joining up services around the needs of children and families

120. We know that many children with SEN and disabilities require support from a range of agencies to enable them to access education, make progress in their learning, and make the transition to adult life. Better outcomes for these children depend on getting schools and other services to work together to remove the barriers to learning and participation they can face.

121. Children's Trust arrangements being developed through the *Every Child Matters* programme will be the vehicles for whole system change across children's services working in the context of local authorities' broader Local Strategic Partnerships. It is anticipated that most areas will have children's trusts by 2006 and that all areas will have them by 2008. Trust arrangements will:

- enable and encourage professionals to work together in integrated services built around the needs of children, young people and families and to a single Children and Young People's Plan;
- be supported by common processes designed to support joint working such as the Common Assessment Framework;
- bring agencies and their resources together, for example, by pooling budgets to deliver a commissioning strategy that is directed towards establishing services that meet local needs; and
- create strong inter-agency governance arrangements in which shared ownership is coupled with clear accountability through a Director of Children's Services and a Lead Council Member for Children.

122. Children's trust pathfinders were announced in 2003; many are focusing on disabled children as a specific client group. The Council for Disabled Children is working with the Pathfinder Children's Trusts to support them in developing new ways of working and to capture the learning from their work. The project is looking at what real difference the Trusts can make to the lives of disabled children and their families. Best practice from the pathfinders will be disseminated widely in 2006 and the Department is planning a workshop early next year to consider what the five *Every Child Matters* outcomes mean for disabled children and children with SEN to help local authorities assess their progress.

Improving multi-agency working through Children's Trust arrangements

In West Sussex there were previously three agencies with responsibility for children with disabilities and SEN. These agencies worked together where possible and there were some pockets of multi-agency working, but no inherent structure existed for resolving disagreements or multi-agency commissioning.

Although there were some examples of excellent multi-agency working, there was a lack of formalised decision-making, and good practice was not easily replicated over all the cases considered by each agency; nor was monitoring of provision conducted on a multi-agency basis.

Although three individual agencies remain they now operate within the structure of a Children's Trust. Where agreement was previously difficult to reach, the Trust has provided a forum for the three agencies to meet and discuss individual cases; it has also met the need for formalised accountability through a "Children's Multi-Agency Support Panel".

Excellent co-operation now exists between professionals and the impetus to greater co-operation has come from a Lead at the highest level: the Children's Multi-Agency Support Panel has a Revolving Chair, with a 6-month tenure that is swapped between the different agencies. The Panel is currently chaired by the Director of Education and the Arts, who has a high profile, and a real "can do" attitude.

Not everything is smooth sailing. Deciding which children should be included in a pooled budget has been problematic. There have been difficulties with establishing a coherent "one voice" for the five Primary Care Trusts who all operate in West Sussex. Developing financial structures is complex, and there is still work to do on protocols and criteria.

But many cases have been resolved through joint funding agreements, and in all cases resolution has been reached and negotiations have been pleasant, understanding and sensitive to the constraints on different services. The early structures of a joint budget are already in existence, targeting those children who are identified by the Child Disability Teams, and an early start has already been made on plans for a locally commissioned joint unit.

123. Schools play a central role in helping children to achieve the five *Every Child Matters* outcomes. By 2010 all children, young people and their families will have access to a range of extended services in and around schools including a core offer of:

- high-quality affordable childcare available from 8.00 am to 6.00 pm all year round;
- a varied menu of activities including sport, music and community activity;
- community access to sports, arts and ICT facilities, including adult learning;
- support for parents; and
- swift and easy referral to a range of specialised support services such as behaviour support and family support, health and social care.

124. Many schools are already offering extended services either directly themselves or in partnership with other schools or other providers and agencies.

Millfields Community School in Hackney caters for 600 children. It became a full service extended school in September 2003.

The school already had in place a wide range of additional provision including a breakfast club, Saturday school, play centre and many after school clubs from 7.00 am–8.30 pm throughout the year. It has built on this with new developments including crèche facilities and lifelong / family learning opportunities to help the local community in raising aspirations and making significant improvements in their lives.

The types of services provided at the school include:

- A Breakfast Club open at 7.00 am.
- Play centre provision open until 6.00 pm for all pupils including Foundation and Nursery pupils.
- Inclusion of pupils with autism and physical disabilities in the special needs resource base plus respite care for families and residential visits for pupils.
- A 10-week family learning course for families with children with autistic spectrum disorders.
- A Community Nursery and Community Toy Library.
- An Adult Learning Suite dedicated to lifelong learning—offering English as another language, ICT, literacy and numeracy classes for parents and local community groups.
- Family Learning courses in literacy, numeracy, and accelerated learning.
- An extensive programme of after school clubs that includes specialist teaching in Sports, Music and Modern Foreign Languages.
- A Saturday school from 10.00 am–3.00 pm for 100 Key Stage 2 pupils throughout the school year providing an accelerated learning curriculum and catering more recently for pupils from other schools in the local cluster arrangement.

The school works closely with a wide range of other institutions including a local day care nursery, the community college, sports facilitators, Learn Direct and health services.

The impact of new services has been significant. Local parents are keen to take on new courses at the Adult Learning Suite and short taster courses for Family Learning Weekends. A multi-sports facility is almost complete and links have been made with local sports providers to enhance what is on offer to pupils during and beyond the school day and provide a much needed community sports facility in the evenings and holidays. A school nurse is available in school one day each week and as the crèche takes off, health and social care services will be better targeted to meet specific needs.

Elm Court is an inner city special school for around 100 students aged 9–16 years with varied learning, medical and associated emotional and behavioural needs, offering a wide range of educational opportunities in a caring, disciplined environment.

The school offers students a range of academic, creative, sporting and social activities and endeavours to provide each student with a broad, balanced, high-quality education which meets their individual needs. It is set in pleasant surroundings on a shared site with the Norwood Secondary Centre, Michael Tippet Lancaster Centre 16–19, the Behaviour Education Support Team and Community Groups. The school is housed in a single-storey building, allowing easy access to all areas in the school.

The local authority has included the school within their Secondary Schools development plan and consulted on plans to rebuild Elm Court as a Special School on this site alongside a new Community School. This will enable the provision of specialist service within the community with strong curriculum linkage and outreach advisory services to mainstream colleagues. The development will provide a full service extended school which can meet the community's needs and:

- provide students with a broad, balanced and relevant curriculum, with equality of opportunity for all learners and a range of high-quality learning experiences within and beyond the formal curriculum;
- ensure that students develop essential literacy and numeracy skills;
- generate creativity;
- inspire and motivate students;
- offer a differentiated curriculum which meets the individual learning needs of students and enables them to progress; and
- help prepare students for adult life

Elm Court's learning community encourages a "can do" culture encouraging students to achieve their full potential. The curriculum is tailored to meet the needs of each student, taking account of their emotional, medical, physical, complex language needs and learning difficulties. A diverse programme is offered that goes beyond the classroom and incorporates study support, after and in school clubs, out of school activities, educational visits, residential experiences and other learning opportunities dependent on the needs of individual students. These include speech and language therapy, educational therapy, child guidance, physiotherapy, occupational therapy, emotional and behavioural support systems. The school received a School Achievement Award for excellence in 2001, was recently congratulated for its excellent value added results in achievement from Key Stage 3 to GCSE and was in the top 5% of schools in the UK 2003.

125. The Department is supporting the development of the core offer in all schools with start up funding of £840 million over the period 2003–08. The majority of this funding will go through LAs but £250 million will go direct to schools over the period 2006–08 as part of their School Standards Grant.

SECTION 4: LOOKING FORWARD

A. ISSUES

126. In recent months public debate has focused on a few specific issues. The Government's response to those issues (below) reflects its policy approach to improving outcomes for children with SEN and disabilities, and the significant progress that is already being made.

Is a major review of special educational needs policy needed?

127. The Government recognises the challenges to be faced in improving outcomes for children with SEN. But it does not believe that a major review of policy on SEN would be appropriate at present. The Audit Commission and Ofsted have recently carried out such reviews, and a working group established by the DfES has reviewed the role of special schools. Taken together, these reviews paint a clear picture of the issues that need to be tackled in improving provision for children with SEN.

128. Tackling those issues is at the heart of the Government's SEN strategy *Removing Barriers to Achievement*, which sets out a clear forward direction for action to improve outcomes for children and young people with SEN. The strategy was widely welcomed at the time of publication in February 2004 and progress on implementing it is summarised in Section 3 of this memorandum.

129. The Government believes that what is needed now is change on the ground. Any new review would simply delay progress in making this happen. Practical action is being taken, and substantial extra resources are being provided, to improve the capacity of the education service and its partners to meet the needs of children with SEN. This memorandum highlights how the Government's reforms are targeted on improving outcomes for children with SEN and disabled children and how they will address issues raised by Ofsted and the Audit Commission in their reports. Ofsted is currently carrying out a survey on choice and flexibility of provision for learners with learning difficulties and disabilities and the impact on achievement and enjoyment, which is expected in the summer 2006. Furthermore, Her Majesty's Chief Inspector of Schools has been asked to review progress on implementing the strategy. In the light of his findings we will consider what further action may be needed.

Should there be a moratorium on special school closures?

130. There have been calls for a moratorium on special school closures to allow for an extensive review of all existing special provision. The Government does not believe this is necessary or desirable. In its view, much of the recent debate has portrayed an inaccurate picture of the factors that have prompted the majority of special school reorganisations over a number of years (explored in depth in section 2 of this memorandum).

131. A moratorium would impose a planning blight on local authorities and prevent them from taking action to tackle special schools that are failing their pupils. A moratorium would also prevent local authorities from redeveloping their special educational needs provision to provide improved buildings and facilities for SEN as the existing schools estate becomes out of date and needs to be renewed. We do not believe this would be in the interests of children with SEN.

132. Furthermore, calls for a moratorium are based on a misunderstanding of, or on occasions, misinformation about, existing policy and practice. It is not Government policy to close special schools. The policy is to promote a continuum of provision to meet a wide range of SEN so that individual children's needs may be appropriately met in a range of settings. LA reorganisations of special schools have not led to a reduction in the proportion of pupils with statements placed in such schools. Although the total number of children at school with statements of SEN has fallen in the past two years from 250,500 in 2003 to 242,600 in 2005, the proportion of children with statements placed in maintained special schools has remained broadly constant at around 34% and in addition some 20,000 children are currently taught in resourced provision.

133. The recent reviews of SEN policy and provision carried out by Ofsted and the Audit Commission have endorsed the Government's policy on special schools, which is that they should cater for the small but growing population of children with the most severe and complex needs, and provide outreach support to mainstream schools to support inclusion. A targeted review of the role of special schools was carried out in 2003 which resulted in the Report of the Special Schools Working Group; the majority of the report's recommendations were subsequently embodied in the Department's SEN Strategy including the recommendation for an audit of specialist provision for low incidence needs that the Department is currently undertaking.

134. The Government has made clear that special schools have an important continuing role to play within the overall pattern of provision. Ofsted data shows that over three-quarters of the special schools in Ofsted's survey had links with local mainstream schools and the management of linked or shared provision was often good. We welcome this as it shows providers responding in flexible ways to the needs of children with SEN.

135. To take this further, we introduced incentives to enable the sector to develop better links with mainstream schools by creating a new SEN strand in the Specialist Schools Programme. The forthcoming Schools White Paper will set out significant proposals for more special schools to take on specialist status within this successful programme.

Should we replace the system of assessments and statements?

136. Most children with SEN have their needs met by their school, following guidance in the SEN Code of Practice. Children with the most severe and complex needs under the present arrangements will have those needs assessed carefully, and where necessary set out in statements of SEN along with appropriate special educational provision.

Andrew's story (as told by his mother)

Andrew attended his local mainstream primary school from the age of four. Problems were quickly apparent—in particular lack of concentration. By the age of seven he still could not read very well and I raised concerns with the school. At the age of eight Andrew was diagnosed by a clinical psychologist and a paediatrician as having ADHD and Asperger's Syndrome. The local authority provided a statement of SEN and advice was given to the school by the Autism Outreach team. Funding for children with statements was

two-fold with an expectation that the school would spend some of their own budget and the local authority directly financing some extra support. The arrangements with the school did not work smoothly but the support given from the local authority Autism Outreach team was critical to my sanity!

Things improved markedly when Andrew moved school. Planning with the local authority and the school started early. The local authority provided 20 hours' learning support assistant time and the school funded provision for the other lesson times and very importantly break periods. The Autism Outreach team provided training for all staff who were likely to have significant contact with Andrew and compiled a booklet especially for Andrew about the school's routines and rules. He had two support assistants that spent half the week each with him. Andrew did not stand out as his SEN provision was organised differently than in his previous school and enabled the support assistant to work with other children with Special Needs in that class; they did not sit with Andrew all the time but it was understood that if he became agitated then they would attempt to diffuse the situation and would on occasions take him to the Curriculum Support base. Because Andrew could not cope with high levels of disruption in the classroom, arrangements were sometimes made for him to attend the beginning of the lesson to pick up the work from the teacher and then spend the rest of the time with his support assistant in the Curriculum Support base completing the work that had been set under the direction of the teacher. The school phoned me every week and always managed to say something encouraging. I had termly meetings with school staff and the Autism Outreach team. Andrew was encouraged to attend the curriculum support base during break periods and was allowed to have two of his friends who did not have SEN with him. By the end of year nine Andrew did not require such high levels of support; he used the Curriculum Support base during breaks and the support assistants talked with me and Andrew weekly to ensure that problems were not building up.

Andrew left his secondary school this summer—he gained double A* in science, A in maths, B in Geography, double C in English, and Cs in Graphics and R.E. and a D in ICT. He is now attending a local 6th Form College studying A level Biology, Chemistry, Maths and Design and is planning to attend Leicester University.

Neither Andrew nor I wished him to be educated outside mainstream schools. The local authority specialist team, school staff and the family listened to each other and worked together problem solving, seeing Andrew as a student with extra issues that needed to be addressed.

137. The Government recognises that the current system is not working perfectly. The statutory processes for assessments and statements can be time consuming and costly and sometimes stressful for parents and difficult to manage for LAs. But the current system has brought great benefits. When considered in the context of what was in place beforehand, it is clear just how much progress has been made, and just how difficult it would be to identify a better alternative.

138. Until relatively recently access to special educational provision was not a systematic process, did not involve a multi-disciplinary assessment of individual needs and did not protect parental rights. Prior to 1944 most provision was in the charitable sector. The Education Act 1944 extended the range of needs for which local education authorities had to make specific educational provision for 11 categories of pupils. Children with profound or severe learning difficulties were considered ineducable, so local authorities were not required to provide such children with education.

139. The Education (Handicapped Children) Act 1970 made LEAs responsible for educating educationally sub-normal (severe) pupils, now described as severe and profound and multiple learning difficulties (SLD and PMLD). Access to special educational provision between 1944 and 1981 was dependent on local authority policies with parents having no rights to disagree. Most children were assessed by educational psychologists but some were identified by health professionals.

140. The 1978 Report of the Committee of Enquiry into the Education of Handicapped Children and Young People ("the Warnock Report") suggested that children should not be categorised into different sorts of learning difficulties but should be recognised as having "special educational needs" if they had a significantly greater difficulty in learning than the majority of children of that age; it recommended the classification from 1944 and 1970 Acts be removed and that local authorities should look at individual needs and the provision required to meet them.

141. The 1981 Education Act reflected the Warnock Report and defined SEN and set out processes for identification and multi-disciplinary assessment, including statements. However no time limits for assessments or making statements were set, there was a lack of clarity about what were special educational needs and no clarity around the respective roles and responsibilities of schools and local education authorities. The Act did give parental rights of appeal in respect of the statement, as a two-stage process; firstly to a local panel whose decisions were not binding on the local education authority and then to the Secretary of State with parents having to wait anything up to two years for a decision.

142. The 1993 Education Act and the subsequent 1994 SEN Code and the establishment of the SEN Tribunal produced a clearer framework for SEN provision, speeded up the assessment and statementing process and gave parents a more effective system through which to challenge local authority decisions. While some parental representatives criticise aspects of the statementing system, many parents greatly value the assessment and statementing process for the role it gives them in deciding the provision for their children and the guarantee it gives them that provision will be made.

143. The SEN and Disability Act 2001 further enhanced parental rights by making parent partnership and dispute resolution services statutory, and making a presumption of mainstream education for pupils with SEN unless this was against their parents' wishes or the efficient education of other children (and there were no reasonable steps that could be taken to prevent the incompatibility); it also preserved parents' rights to seek a special school place. The subsequent Special Educational Needs Code of Practice 2001 reflected these changes and made explicit the central role of parents as well as the necessity for seeking the views of the child.

144. The Government has considered whether wholesale change to the present system of assessments and statements would lead to improved outcomes for children with SEN but has concluded that it would not. There will always be a need to reconcile children's needs with appropriate provision; where those needs are severe and complex there will inevitably be a need for a significant assessment process in which parents, teachers and other professionals should be engaged in a systematic way and decisions can be made about appropriate provision. There should also be a means available by which parents who are dissatisfied with the outcome of that process can appeal to an independent tribunal. In the Government's view, a better alternative to replace the existing system has not been proposed—which is why the Government's focus is on improving the functioning of the system and promoting greater success with earlier identification and intervention.

145. Action is needed to build the capacity of schools, early years settings, local authorities and their partners to identify and meet children's needs earlier and in a more coordinated way, so that parents can have greater confidence that their children will get the support they need, wherever they are taught and wherever appropriate without the need for a statutory assessment. Parents have a key role to play in this, working with LAs and other agencies. This practical approach to improving outcomes is being taken forward through the SEN strategy and through the Government's wider policies for children.

B. NEXT STEPS

146. There has been good progress in improving provision for children with SEN since the work of Baroness Warnock's committee of enquiry in the late 1970s. The latest HMCI report provides evidence of this.

147. The statutory framework has provided assurance to parents that their children's needs will be identified and provision made for them. The Special Educational Needs and Disability Act 2001 strengthened that framework by providing parents with access to SEN information, advice and support and a means of resolving disputes with their local authority and extending the Disability Discrimination Act to education, including broadening the remit of the independent SEN and Disability Tribunal to hear disability discrimination claims.

148. The *Every Child Matters* change programme now establishes a broader national framework for:

- improving outcomes for all children;
- narrowing the gap between disadvantaged children and their peers;
- supporting parents, carers and families; and
- earlier, more effective intervention.

149. The 150 local change programmes being taken forward within this national framework will ensure that services focus more clearly on the needs of individual children and their families. Each local change programme provides a real opportunity to improve support for children and young people with SEN and disabilities and their families. New integrated inspections involving education and social care will assess the extent to which authorities are improving outcomes for children in practice, and how well they cooperating with others to achieve this.

150. Funding for SEN has increased significantly in recent years. Ofsted report that management of SEN has improved at local level and that a wider range of provision is being developed as authorities build their SEN and inclusion strategies and reconfigure their schools to cater for changing needs.

151. But more needs to be done. The Government's priorities, set out in section 4, demonstrate its commitment to building on these positive developments to improve outcomes for all children with SEN and disabilities and to meet the challenges identified by Ofsted and the Audit Commission. The case studies illustrate how the approaches championed in those priorities are already working effectively in practice.

152. The next phase of reform, already underway, focuses on bringing about change throughout the system in line with the three key principles, set out at the beginning of this memorandum: personalisation, inclusion, and partnership.

153. Personalisation is about putting children and families at the heart of making services, including education, more responsive to their individual needs. In schools, for example, it means:

- assessment for learning—recognising that every child has a different knowledge base, skills and aptitudes, learning style and needs;
- deploying a range of effective teaching and learning strategies—using Information and Communications Technology, whole class and individual teaching;

- a broad and flexible curriculum—using the curriculum in an imaginative way to engage all learners, working with other schools and colleges to extend choice and providing a range of activities beyond the classroom;
- using the school workforce creatively to support high quality teaching and learning—making the most of the benefits of workforce remodelling, including the increased planning, preparation and assessment time for teachers, to develop lessons and activities that met individual needs; and
- partnerships beyond the school—with parents and carers to involve them in their child’s learning and to support children’s well being and with other agencies to help remove barriers to learning.

154. Personalisation means deploying all the resources available for learning—teachers, teaching assistants, children themselves and their peers, technology, buildings and time—more flexibly. This is already happening in many schools.

ICT and outreach in personalised learning

Wilson Stuart Special School in Birmingham is working together to support children with SEN with a particular focus on the use of ICT to improve learning and teaching.

The school gained Beacon School status, with ICT being recognised as its area of expertise. Many of the staff work with and advise other schools and this outreach role is recognised by the local authority, which provides funding to support this. ICT has a key role to play in enabling children with SEN to access the curriculum and the physical environment and helping schools to tailor their approaches to individual needs. Wilson Stuart has carefully built up partnerships with a network of local schools and its specialist staff ensure that the needs of individual children with SEN placed in local mainstream schools are fully supported with appropriate ICT. The school has developed comprehensive in-service training packages on the use of ICT which it shares with the schools in its network, often following this up with professional development meetings to discuss the technology and the teaching strategies underpinning it. Information and support materials have also been made available to network schools online.

The arrangement maximises the potential of ICT to personalise learning. Teachers in the local network of mainstream schools have found that using technology such as keyboards with extra-large keys, tracker balls and key guards with individual children with SEN has enabled them to quickly identify other children who would benefit from using that technology, including children who do not have SEN.

As the arrangements have become established, schools supported by Wilson Stuart are now using that expertise they have gained to support other networks of schools.

155. Personalised learning for all children will require all schools to focus on educational inclusion and ask themselves how well they are meeting the needs of different groups of children, including those with SEN and disabilities. School self-evaluation and much better use of data provide the key; the involvement of a School Improvement Partner as part of the New Relationship with Schools will highlight gaps in achievement and prompt a discussion about what will be done to bring about improvements. The new duty to promote equality of opportunity for disabled people will provide a framework for improving opportunities for disabled children, many of whom will have SEN.

Assessment for learning

Seven Kings High School is a mixed comprehensive situated in the London Borough of Redbridge. There are 1,420 students on roll of whom 75% could be classified as EAL. The school has resourced provision for students with physical disabilities. The school has Leading Edge status and is a specialist school (Technology). Pupil achievement levels are high at all Key Stages.

The head teacher Sir Alan Steer says that the personalised learning journey started at Seven Kings some 15 years ago with the introduction of a teaching and learning policy built on the principle that the needs of children must determine the work of the school. Believing that every student could achieve success, mandatory guidelines were established for formative pupil interviews and assessment, the teaching of literacy and the management of the learning classroom.

Seven Kings is now one of the highest achieving schools in the country and nearly all students gain at least five GCSE passes. Alan is a strong supporter of the personalised learning agenda and sees *Assessment for Learning (AfL)* as being the most significant element. Since 2002 Seven Kings has been working as an AfL research school. Alan believes that participation has revolutionised teaching and learning at his school and has been a powerful motivational force for students and teachers: “The delightful thing about AfL is that it is accessible to all schools and to all teachers and is focused on the classroom.” Resources are not the issue, conservatism may be”.

Personalised learning gives students a voice in their learning and is basic to AfL. Students give constant feedback to teachers on how they are learning, enabling the teachers to focus on any difficulties. The school has high aspirations for all students and teachers, but now believes that through personalised learning both parties have the knowledge, skills and motivation to turn expectations into reality. The school defines the key features of AfL:

- ideas and practices are easily accessible to teachers and relate to their experiences in the classroom and pupils are taught in their normal setting and within the normal subject;
- it is not resource driven;
- it does not create any false division between teaching and learning. The two interrelate as they should, each supporting the other;
- it involves children in a way that is meaningful and which relates to the prime function of the school experience—learning and achievement; and
- achievement and inclusion are central to the AfL philosophy; all pupils gain from better teaching, but those with greater difficulty in learning gain most.

156. An inclusive system depends on partnerships. Increasingly, schools are working together in clusters, federations and in broader collaborations to share ideas and experience and pupils. Collaboration with other schools brings access to different expertise and skills, to new and different resources and facilities. It fosters a spirit of self-help and self-evaluation. In this context, collaboration between mainstream and special schools is particularly important in building local communities of schools that can support children with SEN and provide opportunities for all children to enjoy a range of inclusive experiences.

157. Partnerships between all agencies are vital to removing the barriers that can prevent some children with SEN and disabilities from making the most of their education and taking a full part in the life of their school and their local community. The *Every Child Matters* change programme will forge partnerships between education, social care, health and the voluntary sector to ensure that the needs of individual children and families are identified as early as possible and that services are coordinated around those needs. The development of Children's Centres and Extended Schools will bring personalised services together in one place and the Building Schools for the Future Programme offers a golden opportunity to reconfigure and renew local provision, including through campus developments, co-locations and resourced provision. This will significantly improve facilities, broaden access to education for children with SEN and disabilities and extend choice for parents.

158. Local authorities will play a vital part in these reforms as commissioners of services, responding to the views of parents, children and young people in securing services that best meet their needs and as facilitators of collaboration between services and among schools and other institutions. They have a key role in ensuring that parents from all backgrounds can be involved in this, not just in relation to schools but in the development of 14–19 provision, where authorities will work with local Learning and Skills Partnerships to ensure that all young people can benefit from the national entitlement set out in the recent 14–19 White Paper.

20 October 2005

Annex A

THE EVERY CHILD MATTERS OUTCOMES FRAMEWORK

The Outcomes Framework breaks down each of the five outcomes into five further specific aims, and associates with each aim the contribution that parents, carers and families can make.

- **Be healthy:** this means children and young people are:
 - physically healthy;
 - mentally and emotionally healthy;
 - sexually healthy;
 - living healthy lifestyles; and
 - choosing not to take illegal drugs.

Parents, carers and families promote healthy lifestyles.

- **Stay safe:** this means that children and young people are safe from:
 - accidental injury and death;
 - maltreatment, neglect, violence and sexual exploitation;
 - bullying and discrimination;
 - crime and antisocial behaviour in and out of school; and
 - have security, stability and are cared for.

Parents, carers and families provide safe homes and stability.

- **Enjoy and achieve:** this means that:
 - young children are ready for school;

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- school-age children attend and enjoy school;
 - children achieve stretching national educational standards at primary school;
 - children and young people achieve personal and social development and enjoy recreation; and
 - children and young people achieve stretching national educational standards at secondary school.

Parents, carers and families support learning.

- **Make a positive contribution:** this means that children and young people:
- engage in decision making and support the community and environment;
- engage in law-abiding and positive behaviour in and out of school;
- develop positive relationships and choose not to bully and discriminate;
- develop self-confidence and successfully deal with significant life changes and challenges; and
- develop enterprising behaviour.

Parents, carers and families promote positive behaviour.

- **Achieve economic well-being:** this means that:
- young people engage in further education, employment or training on leaving school;
- young people are ready for employment;
- children and young people live in decent homes and sustainable communities;
- children and young people have access to transport and material goods; and
- children and young people live in households free from low income.

Parents, carers and families are supported to be economically active.

Annex B

SPECIAL EDUCATIONAL NEEDS: STATUTORY DUTIES

SCHOOLS

The governing body of a community, voluntary or foundation school must:

- do its best to ensure that the necessary provision is made for any pupil who has special educational needs;
- ensure that, where the “responsible person”—the head teacher or the appropriate governor—has been informed by the LEA that a pupil has special educational needs, those needs are made known to all who are likely to teach them;
- ensure that teachers in the school are aware of the importance of identifying, and providing for, those pupils who have special educational needs;
- consult the LEA and the governing bodies of other schools, when it seems to be necessary or desirable in the interests of co-ordinated special educational provision in the area as a whole;
- ensure that a pupil with special educational needs joins in the activities of the school together with pupils who do not have special educational needs, so far as is reasonably practical and compatible with the child receiving the special educational provision their learning needs call for and the efficient education of the pupils with whom they are educated and the efficient use of resources;

(Section 317, Education Act 1996)

- publish information about its SEN provision and policies;

(The Education (Special Educational Needs) (Information) (England) Regulations 1999).

The governing body of a maintained school and early years setting in receipt of government funding for early education must

- have regard to the SEN Code of Practice when carrying out its duties toward all pupils with special educational needs (Section 313, Education Act 1996); and
- ensure that parents are notified of a decision by the school that SEN provision is being made for their child (Section 317A, Education Act 1996).

LOCAL AUTHORITIES

Local authorities must

- keep their arrangements for SEN provision under review (Section 315 Education Act 1996);
- identify children with SEN for whom they feel it may be necessary to make a statement of SEN (Section 321 Education Act 1996);
- consider a parent's request for a statutory assessment of their child's SEN (Section 329 Education Act 1996);
- consider a school's request for a statutory assessment of a child with SEN (Section 330 Education Act 1996);
- conduct a statutory assessment of a child for whom they think it may, or will, be necessary for them to make a statement of SEN (Section 323 Education Act 1996);
- arrange the special educational provision in a child's statement (Section 324 Education Act 1996);
- review children's statements annually (Section 328 Education Act 1996);
- publish their policies on SEN including information about how they are:
 - promoting high standards of education for children with SEN;
 - encouraging children with SEN to participate fully in their school and community and to take part in decisions about their education;
 - encouraging schools in their area to share their practice in providing for children with SEN;
 - working with other statutory and voluntary bodies to provide support for children with SEN.
- publish their general arrangements, including any plans setting out objectives, targets and timescales covering local arrangements for:
 - identifying children with SEN;
 - monitoring the admission of children with SEN (whether or not those children have a statement) to maintained schools in their area;
 - organising the assessment, making and maintaining of children's SEN including any local protocols for so doing;
 - providing support to schools with regard to making provision for children with SEN;
 - auditing, planning, monitoring and reviewing provision for children with SEN (generally and in relation to individual pupils);
 - supporting pupils with SEN through *School Action* and *School Action Plus*;
 - securing training, advice and support for staff working in SEN;
 - reviewing and updating the policy and development plans on a regular basis; and
 - explaining that element of provision for children with SEN (but without statements) which the LEA expects normally to be met from maintained schools' budget shares and that element of such provision that the authority expects normally to be met from funds which it holds centrally.

(The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001).

Supplementary memorandum submitted by the Department for Education and Skills

Children with special educational needs

INTRODUCTION

1. The Department's memorandum on special educational needs (SEN) promised a further note on the Government's white paper on schools *Higher Standards, Better Schools for All*, published on 25 October 2005.
2. This note sets out the main reforms in the White Paper and what they mean for children with SEN and their families; it also provides further information on the work the Department is doing to develop its plans for a flexible continuum of provision for special educational needs.

The White Paper reforms

3. A summary of the White Paper reforms is at Annex A. The reforms aim to secure better educational outcomes for children by improving the quality of education at all schools and giving parents a range of choices so that every child receives an excellent education whatever their background and wherever they live. Children with SEN will benefit from action to target help to those who need it most, engage and empower parents, and develop a school system that has the flexibility to respond to individual needs.

A flexible continuum of provision for SEN

4. The Department's memorandum sets out plans to develop a continuum of provision—one that combines elements of mainstream and specialist provision, builds on local developments, and makes the most of unprecedented capital investment in schools through the Building Schools for the Future programme.

5. The Schools White Paper sets out a range of measures for improving the quality of schools and the confidence of parents of children with SEN in the range of provision available; this builds on the approach of *Removing Barriers to Achievement*, the Government's SEN strategy. The Department has been working to identify how best to promote the successful development of a flexible continuum of SEN provision. This work has highlighted a wide range of models. Some of these are widespread and well-established, such as resourced units and classes in mainstream schools; and others, such as co-locations of special and mainstream schools, are fewer in number. Analysis carried out for the Department has also found that special and mainstream provision may be brought together at a number of levels, often in combination and including joint governance arrangements, shared buildings and facilities, staff and pupil movement, outreach from mainstream or special schools, resourced provision in mainstream schools and special units in both mainstream and special schools depending on children's needs. Underpinning all of these activities is a need for a common ethos shared throughout communities of schools and other service providers.

6. There are five core characteristics which our plans will seek to promote:

- More inclusive opportunities for pupils in mainstream and special provision—through shared grounds, buildings, learning and extra-curricular opportunities.
- More specialist input for pupils in mainstream schools—through outreach and increased access to specialist advice and support.
- Greater collaboration between schools, working in partnership with the local authority and other agencies, to make the most of the available skills and expertise and sharing ownership of more challenging pupils.
- Greater flexibility to respond to the diverse and changing needs of individual pupils—through the availability of different models of provision, responsive back-up for schools, more readily accessible advice and support and the use of part-time/short-term placements.
- More outward-facing partnership working between schools, the local authority and health services, to meet the needs of all local pupils.

7. In taking forward our plans we will focus on developing strong local planning and commissioning arrangements, improved skills, stronger partnerships, and improved accountability for the outcomes achieved by children with SEN. Much of the work being taken forward through *Removing Barriers to Achievement*, and described in its memorandum to the Select Committee, is designed to promote the key characteristics identified by the study. The reforms announced in the Schools White Paper will further strengthen this work. And we will work closely with a wide range of stakeholders and experts in order to secure the best possible way forward.

How the White Paper will improve outcomes for children with SEN

8. Children with SEN and their families will benefit in particular from the commitments in the White Paper to:

- ensure that local authorities are able to set specific requirements for SEN provision in new and existing schools within a school system that offers broader choice and more flexibility;
- expand significantly the role of special schools within the successful Specialist Schools Programme, emphasising their role within the wider community of schools;
- develop the skills of the school workforce so that they have the appropriate knowledge, awareness and confidence in working with children with SEN;
- promote better progress by children with SEN across a wide range of abilities—facilitating early intervention, promoting high expectations and engaging parents in their children's learning; and
- improve provision for children with behavioural, emotional and social difficulties.

Ensuring a range of appropriate SEN provision

9. Local authorities will play a new commissioning role in relation to a new schools system, at the heart of their local communities and responsive to the needs of parents and pupils. They will retain their duty to map what provision is required in their area, taking account of changes in population, the demand for children's services, and the need for diversity. They will ensure sufficient school places, letting successful schools expand, closing schools that are poor or fail to improve and running competitions to open new schools. They will have a new duty to promote choice, diversity and fair access to school places, specifying for new and replacement schools, what they should provide and how they should work in partnership with other schools and services.

10. A key part of local authorities' new role will be to specify what is required in terms of provision for children with SEN—they will be able to make proposals for adding specialist SEN provision to all categories of school, including the new Trust schools. Children with SEN who do not have statements stand to benefit from the facility for secondary schools to develop banding policies enabling them to keep a proportion of places for children from outside their catchment area, and from the extension of the right to free transport to the three nearest secondary schools. The White Paper makes clear that there are complex issues involved in special schools having a fast track to becoming self-governing foundation schools or acquiring Trust status. The Government will be considering those issues carefully with schools and other interested parties before reaching any conclusions about whether to extend those options to special schools.

Developing the role of special schools

11. Special schools have a key role to play in developing the continuum of provision to meet the diversity of children's individual needs and in driving up standards of achievement. The White Paper announces the Government's intention to designate 50 new specialist special schools with an SEN specialism within the next two years, building on the 12 trailblazers already established. The Department will also be working closely with the Specialist Schools and Academies Trust and the Youth Sport Trust to encourage more special schools to submit applications for a curriculum specialism, with a view to being able to designate a further 50 special schools by 2008. An evaluation will be commissioned to compare the respective strengths of special schools with an SEN or curriculum specialism. This will inform the roll out of programmes beyond 2008.

12. The Department announced earlier this year that high-performing specialist schools would be able to take on additional functions to promote system-wide reform. The Schools White Paper takes this policy further by asking whether mainstream specialist schools who wished to take on an additional SEN role should be encouraged to do so. We would welcome the Select Committee's views on this important issue before we decide what action to take.

Developing the skills of the school workforce

13. A well trained school workforce is vital in raising standards of achievement for all children. The Department is already taking forward with the Training and Development Agency a range of measures to improve staff skills in SEN within Initial Teacher Training; in induction for Newly Qualified Teachers and at Post-Graduate level; and is supporting better networking of tutors involved in SEN and disabilities.

14. The White Paper reforms will build on this through wider changes over the next three years to improve the quality of teaching of children with SEN including:

- The reform of teachers' professional standards—to set out what can be expected of teachers at each stage of their career; this will include the need to have good, up-to-date knowledge of their subject and a commitment to effective professional development.
- Training more staff to a high level in literacy and numeracy and vocational areas.
- Training Health and Welfare staff for the new roles they will play in full-service extended schools.
- Training more specialists to improve behaviour and pastoral support.
- Training more bursars and administrative staff to free up teachers to teach and ensure the best use of resources to improve outcomes for children. In addition, from September 2006 schools will have multi-year budgets so that they can plan and deploy resources more effectively. The quality of local support services for children will also be improved through extended schools and the development of national quality standards for SEN specialist support and outreach services.

Improving the progress made by children with SEN

15. The White Paper reinforces the Government's commitment to tailoring teaching and learning to children's individual needs with a particular focus on those who are falling behind. A range of measures will be put in place, starting from April 2006, to drive this forward that will benefit children with SEN, including:

- Providing all schools, via the National Strategies, with new resources and best practice guidance on tailoring teaching and learning for children with SEN.

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- A national training programme so that every school will have an expert leading professional to develop personalised learning across the whole school.
 - Targeted funding for schools with the highest proportion of underperforming pupils in English and Maths so that they can employ additional staff to deliver one to one and small group tuition.
 - Expert advice on how best to support children who face some of the greatest challenges—including those with SEN.
 - Best practice guidance on the most effective teaching and learning strategies, including the use of Information and Communication Technology for those who have fallen behind, and on how to best engage and support their parents.
 - Providing access to trained, expert leading teachers to consolidate and continuously improve the support available to pupils and make the best use of the new resources available.
 - Extra study support in extended schools.

£335 million from the Dedicated Schools Grant will be invested by 2007–08 in providing resources to secondary schools to deliver personalised learning for 11–14-year-olds. An extra £60 million in 2006–07 and in 2007–08 to be shared among the primary and secondary sectors will be targeted at those schools with the highest numbers of pupils who have fallen behind.

16. Schools need to set expectations of what children with SEN can achieve pitched at an appropriate and suitably challenging level. The Department's memorandum sets out what is being done to help schools in this area. The White Paper sets out broader details of the New Relationship with Schools accountability framework. Schools will need to show how all their pupils are achieving and School Improvement Partners appointed by local authorities will provide support and challenge to schools in raising achievement and closing achievement gaps between different groups. This will provide a clear impetus for continuous improvement in the outcomes achieved by children with SEN and better accountability to parents.

17. Alongside this the White Paper announces a range of measures for engaging parents in their children's learning, including:

- Requiring schools to give termly information to parents on how their child is progressing and regular opportunities for face to face discussion (new Regulations to be made by September 2006).
- Expecting schools to use Home-School Agreements to agree commitments on working together with parents (revised guidance to issue in September 2006).
- Requiring school governing bodies to seek and respond to the views of parents (regulations to be laid in 2006) and encouraging them to establish Parent Councils (to be included in forthcoming legislation).
- Making greater use of School Councils to hear children's views in mainstream and special schools. School Councils UK has been asked to create a network for schools and their school councils to share good practice, which will include special schools. School Councils UK has also recently produced *School Councils for All* a guide to inclusion within schools with advice on engaging pupils with SEN.
- Providing tailored information to parents when their children start primary and secondary education (this will be piloted in local authorities in 2006–08).
- Improving information to parents on choosing a school (the Code of Practice on Admissions will be revised and guidance issued in January 2006 and choice advisers should be in place from September 2006).
- Establishing a new right for parents to complain to Ofsted when they have concerns the school is failing to address (this will be included in forthcoming legislation).

Improving provision for children with behavioural, emotional and social difficulties

18. The White Paper welcomes the work of the Practitioners' Group on School Behaviour and Discipline led by Sir Alan Steer and gives a commitment to disseminate its findings on good practice to ensure they are embedded in every school. It sets a clear expectation that schools will form partnerships to improve behaviour and that every secondary school will be part of such a partnership by 2007.

19. The White Paper also recognises that there is a small group of children with severe and complex behavioural, emotional and social difficulties and accepts the Steer Group's recommendation that further investigation is required to determine how best to ensure that the underlying causes of their difficulties are identified as early as possible and that they can access appropriate multi-agency support.

Conclusion

20. Children and young people with SEN already benefit from the personalisation inherent in the SEN framework, which provides an individualised assessment of need and tailored provision, with access where appropriate to services that can best meet their particular needs. The White Paper reinforces this approach further to promote a fully personalised response to every child and builds on the programme of action being

taken forward through *Removing Barriers to Achievement*. It also seeks to intensify the links between mainstream and special schools and promote a flexible continuum of provision to meet children's individual needs. This system wide change should help all children, whatever their needs and wherever they are taught, to receive a good education and an opportunity to realise their potential.

21. The Department has communicated the key elements of the White Paper and its implications for children and young people with SEN to leading organisations in the SEN field.

5 November 2005

Annex A

**HIGHER STANDARDS, BETTER SCHOOLS FOR ALL—
MORE CHOICE FOR PARENTS AND PUPILS: SUMMARY OF KEY CHANGES**

A NEW SCHOOLS SYSTEM

- Schools will be able to acquire a self-governing trust—similar to those supporting Academies which will give them the freedom to work with new partners to help develop their ethos and raise standards.
- Academies will remain at the heart of the programme, with continued and new opportunities to develop them in schools and areas of real and historical underperformance and under achievement.
- Independent schools will find it easier to enter the new system.
- A national schools commissioner will drive change, matching schools and new partners, promoting the benefits of choice, access and diversity, and taking action where parental choices are being frustrated.

CHOICE AND ACCESS FOR ALL

- Choice will be more widely available to all within an increasingly specialist system, not just to those who can pay for it. Key to choice is the provision of more good places and more good schools. This will be supported by:
 - (a) Introducing better information for all parents when their children enter primary and secondary school, and dedicated choice advisers to help the least well-off parents to exercise their choices.
 - (b) Extending the rights to free school transport to children from poorer families to go to their three nearest secondary schools within six miles of their home (where they are outside walking distance) and piloting transport to support such choices for all parents, which will help the environment as well as school choice.
 - (c) Making it easier for schools to introduce fair admissions policies, including banding, so that they can keep a proportion of places for students who live outside traditional urban school catchment areas within a genuinely comprehensive intake. Some specialist schools and Academies already successfully use this approach.

PARENTS AND PUPILS FULLY ENGAGED IN IMPROVING STANDARDS

- Parents will receive regular, meaningful reports during the school year about how their child is doing with opportunities to discuss their child's them and their child's progress at school.
- Parents have the chance to form elected Parent Councils to influence school decisions on issues such as school meals, uniform and discipline (such councils will be required in Trust schools).
- Parents have better local complaints procedures and access to a new national complaints service from Ofsted.
- Parents have access to more and clearer information about local schools, how to get involved and how to lever change including the creation of new schools.
- Parents are able to set up new schools supported by a dedicated capital pot.

EDUCATION TAILORED TO THE INDIVIDUAL

- Improved knowledge about how different young people acquire knowledge and skills and increased resources in our schools, a reformed school workforce and the greater availability of ICT, gives teachers the opportunity to tailor lessons and support in schools to the individual needs of each pupil. So there will be:

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- (d) targeted one-to-one tuition in English and Maths in the schools with the most underperforming pupils, to help those falling behind to catch up with their peers;
 - (e) more stretching lessons and opportunities for gifted and talented pupils;
 - (f) extended schools, offering many new opportunities to learn and develop beyond the formal school day;
 - (g) more schools adopting grouping and setting of pupils in particular subjects according to ability; and
 - (h) a national training programme to enable each school to have one leading professional to help develop tailored lessons.

MEASURES TO TACKLE FAILURE AND UNDERPERFORMANCE

- Failing schools will be more quickly turned around; and where no progress is made after a year, a competition for new providers will be held. Coasting schools will put on notice to improve, and if progress is not made, will enter special measures within a year.
- Competitions will be required for new schools and the replacement of failing schools, for the first time providing a straightforward route to bring new providers into the system. All new schools will be self-governing foundation, voluntary aided church schools or Academies.
- Parents will be able to urge Ofsted action or request new providers, and where there is strong demand or dissatisfaction with existing choices, authorities will have to meet their concerns.

LIGHTER TOUCH FOR GOOD SCHOOLS

- Good schools will be able to expand or federate more easily with other schools to expand their influence and increase the supply of good places, improving choices for parents.
- The best specialist schools will be able to acquire extra specialism and funded for new responsibilities such as teacher training.
- Ofsted will consult on an even lighter touch inspection system for high-performing schools.

BETTER DISCIPLINE

- The key recommendations of the Steer Group will be implemented by:
 - (i) Introducing a clear and unambiguous legal right for teachers to discipline pupils backed by an expectation that every school has a clear set of rules and sanctions.
 - (j) Extending parenting contracts and orders, so that schools [individually or collectively] can use them to force parents to take responsibility for their children's bad behaviour in school.
 - (k) Requiring parents to take responsibility for excluded pupils in their first five days of a suspension (by ensuring they are properly supervised doing schoolwork at home) with fines for parents if excluded pupils are found unsupervised during school hours.
 - (l) Expecting headteachers to use their newly devolved powers and funding collectively to develop on and off-site provision for suspensions longer than five days (instead of 15 days at present) and insisting that all exclusions are properly recorded.

A NEW ROLE FOR LOCAL AUTHORITIES

- The role of the Local Education Authority will change from provider to commissioner.
 - As a part of their wider responsibilities for children and young people, local authorities will be expected to become parents' champions, commissioning rather than providing education. They will have a new duty to promote choice diversity and access to school places and school transport.
 - It will be easier for new schools to be established, where there is parental demand.
 - The school organisation committee will be abolished and their decision-making powers transferred to local authorities; disputes will continue to be resolved by the Schools Adjudicator.
 - Local authorities will work with the newly created Schools Commissioner to ensure more choice, greater diversity and better access for disadvantaged groups to good schools in every area.
 - Local authorities and Learning and Skills Councils will work more closely together to ensure real choice and higher standards in the provision of education for 14–19-year-olds in schools and colleges.
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Witnesses: Ms Althea Efunshile, Director, Safeguarding Children Group, Mr Andrew McCully, Delivery Director for School Standards Group, and Mr Ian Coates, Divisional Manager, Special Educational Needs and Disability, Department for Education and Skills, examined.

Q48 Chairman: Can I welcome Althea Efunshile, Ian Coates and Andrew McCully. It is wonderful to have a trio of heavyweights, in the best sense of that word, from the Department for Education and Skills. As I said prior to the meeting, we have only just set course on this inquiry and, as you know, we interviewed the Secretary of State very recently and also we have had what we call a navigational seminar with some of the experts, to give us some sense of what the main topics of debate are in special education. This is our first interview with the Department, apart from with the Secretary of State, and we have set course, but I believe that already we have had an enormous number of written submissions, over 180 written submissions. They said it was a difficult area to tackle when we did *Teaching Children to Read* and now people tell us that this is even more challenging, so this Committee likes to take on challenging topics. To open the questioning, there seem to be two voices around in respect of where we are going with special education. There is one voice which seems to suggest that everything is pretty satisfactory, it is “steady as we go” and there are not too many problems around. Then we have a Member of the Upper House who thinks that the policy with which she seemed to be associated a very long time ago, in 1979, needs radically reworking and looking at again, and the Prime Minister suggesting, it seemed, in Prime Minister’s Questions recently, that there is going to be a review on special education. Can you put our minds at rest about what is going on? Is everything fine and dandy and there is not much to look at, or is there a major review going on, or something in-between?

Ms Efunshile: I think there is something in-between. We would say that there is no need for a major review of special educational needs to be put in place at the moment. In fact, if you look at the memorandum it will have mentioned the SEN strategy, the Ofsted reports, Audit Commission reports and there has been quite a bit of attention paid over the last little while to the SEN system for the policies and to the framework. However, I do not think either that we would say that everything was dandy, and certainly those same reports that I have just mentioned pointed to improvements that have been made over the last few years but also they pointed to challenges that remain in the system. The SEN strategy is our major answer, if you like, to some of those challenges and set out in that strategy were certain reviews that we felt we would want to take place. For example, a review of low incidence special educational needs, which I thought was what perhaps was being referred to for that review and we could say something a little bit more about that in a while. There are aspects of the system that we are looking at but we are not having a “throw the whole thing up in the air and start again” review.

Q49 Chairman: Was there anything else, Althea that you wanted to say to the Committee before we get into the rest of the round of questioning?

Ms Efunshile: I do not think so. We have thought about this and we thought that probably you would want to go straight into questions.

Q50 Chairman: Civil servants do not want to make statements if they can answer questions. That is perfectly appropriate and acceptable. Andrew, what is your view, in terms of where we are? You must have been somewhere when you first heard the news of Baroness Warnock’s pamphlet and change of view. Were you shocked by what you read?

Mr McCully: I think what we are going to come back to again and again today is the way in which it is very difficult to see provision for SEN in a little box. The last time I was able to help the Committee was on the Reading Report which you have just mentioned, Mr Chairman, and there again we are looking at a range of needs. I think some of the comments that Baroness Warnock was talking about, and I have seen her evidence to this Committee, spoke about the very broad range in which some very different needs of some very different young people and children are being met in the education system and ways in which, right across that spectrum, we ought to be improving provision, depending on that need. I am sure that a word we are going to come back to again and again this afternoon is “personalisation”, which perhaps is particularly appropriate to the sorts of challenges and needs that many of the organisations and individuals who have been putting evidence to this Committee over recent days have constantly referred to. I think that many of the issues which Baroness Warnock was raising related to meeting individual needs better and I think much of the evidence I hope we are going to be able to give this afternoon will be about needing to do precisely that.

Q51 Chairman: Ian, you are one of these characters who has been almost everywhere. You have been in Number 10, you have been in policy units and you have been in the environmental area as well as education. What is your assessment of where we are in terms of how this is being treated, not only in the Department but in Number 10? What priority is this being given and how far up the scale is this, in terms of priority, in the education sector?

Mr Coates: I think special educational needs sits at the crossroads, if you like, between a number of different priorities. I think our view would be and my view would be certainly that it can benefit from the attention that is being given to those, so it sits very much in the education camp, and special educational needs, and those children’s special educational needs, stand to benefit from a lot of what is happening with the very high level of attention on education. It sits very much also at the interface with the broader social care and healthcare agendas, with a White Paper coming up from the Department of Health, on which we are working very closely with them, which we hope will

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improve both the wider set of care for disabled children, and we might come back to the SEN versus disability distinction, but many children with SEN are disabled children so there is a whole strand of work there. Then focusing in on disability itself, as you may have seen from my biography, I was involved in the Prime Minister's Strategy Unit report *Improving the Life Chances of Disabled People*, which has set in train a process and infrastructure of priority for improving the lives of disabled people of all ages, and disabled young people, children and young adults was very much a key part of that. Really special educational needs sits at the interface of all those issues, so I would see it as a great opportunity, there is a lot of potential there in those various initiatives really to improve outcomes for these children.

Q52 Chairman: Is not the truth, Althea, that, your Department, if you reflect on a bit, what the noble Baroness was saying was that great policies are fine, you can enunciate great policies but without the resources to deliver them properly they are pretty empty? There is a bit of her recent statements and publications and speeches that says that. Is there not something of that in her criticism?

Ms Efunshile: I too have seen the evidence that she gave to the Committee and certainly she does say that. One would have to set that alongside the additional resources to the education system over the last few years, and of course, I think this is important, there is not a pot of SEN money that is allocated to local authorities and then another pot of money that is for the rest, as it were. There used to be specific grants for special educational needs which now have been incorporated into the general FSS that is allocated to local authorities, so there was that specific money, but all of the resources that go to education one could say are for all of those children at the local level, so it is quite hard to discern the specific amount of money which is for special educational needs. We do have figures and local authorities tell us that they will be spending large amounts.

Q53 Chairman: The very good briefing document which you sent us includes the information that in some parts of the country you feel, particularly a certain kind of local authority, you get pretty scant resources devoted to special education, whereas you can live in another part of the country and do very well indeed. That seems an injustice. To the number of people who have written to us already it is somewhat of an injustice, that you have got a child with particular special educational needs and it depends on which part of the country you live in whether you get those taken seriously or not?

Ms Efunshile: That is a different matter from whether there are sufficient resources for special educational needs.

Q54 Chairman: In what sense?

Ms Efunshile: In the sense that the general proposition was whether or not there were sufficient resources nationally for special

educational needs and that was what I was addressing. However, if you are pointing to the variation across the country from local authority to local authority then certainly the evidence is that there are variations. There are variations in the level of people who are statemented, variations in the extent to which monies are delegated to schools for special educational needs, and so on and so forth. One of the issues that we are trying to tighten, in terms of the special educational needs strategy, is the extent to which we can disseminate best practice across local authorities. That is why we have our team of SEN advisers, for example, and it is why we fund the SEN regional partnerships, and they are slightly different bodies. The SEN partnerships are peer groups, if you like, of local authorities, whereas the SEN advisers are people appointed by us. Both of those are about trying to ensure that across the 150 authorities there is more consistency and more dissemination, more awareness of what can be done and what is being done in the very best local authorities. I certainly could not sit and argue with you that there is not variation across local authorities, that is absolutely right.

Q55 Chairman: Would you reject the allegation that people outside in the special education sector seem to think there is a degree of complacency in the Department about special education? Is that a familiar criticism?

Ms Efunshile: It is familiar from some quarters. I would not say that it is a generally held view. Certainly, again, if I think of the reception that the SEN strategy received a year or so ago, coming up to two years ago, I do not think there was any sense at that point that there was complacency. There was a real sense that here was a strategy which was taking on board where we needed to go and what the direction of travel over the next ten years needed to be. I have heard it but I do not agree that there is complacency within the Department.

Q56 Chairman: There is a view out there in the dyslexia lobby that the Department has a deep prejudice and does not really believe that dyslexia is a problem and you do not take them very seriously as a group of people very concerned about a particular condition which affects a lot of children. Is that right, to say that?

Ms Efunshile: No, it is not right.

Mr Coates: No. I am slightly surprised to hear that because we are working very closely with the British Dyslexia Association, the Dyslexia Institute, with a group called Xtraordinary People, which is bringing together some very high profile supporters of dyslexia, many of whom have dyslexia themselves, and we are working with them on a range of initiatives. For some years we have funded work by the BDA and the DI, we have got them involved in the work on Reading Recovery, there is an interest there in the Rose Review, which certainly Andrew could say more about, and we have got plans which we are developing with them at the moment. I met with the Chief Executives of

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the British Dyslexia Association and the Dyslexia Institute just a week or two ago and we are planning further meetings with them. It is an area we take very seriously and we have got quite a lot of work in train.

Mr McCully: Chairman, the National Strategies, and when I was last here you heard from Kevan Collins, the then Director, they are some of our most powerful initiatives, and they have provided support both in terms of training materials and guidance, direct to schools and to networks of SENCOs in local authorities, which have been targeted very much at exceptional reading difficulties, including the needs of dyslexic children. I am very confident that dyslexia is very much in our sights.

Chairman: Now we have relaxed you, Nadine will ask the next question.

Q57 Mrs Dorries: It states in your memorandum that the number of tribunals across the UK, standards appeals tribunals, is a measure of the level of parental satisfaction. We have heard from a witness in this inquiry that a tribunal costs between £2,000 and £10,000. I have not been able to find anybody who has paid less than £6,000. Given the cost of a tribunal, it means that the people who access them and can have them tend to be white, middle-class parents. How can you use something which is so skewed towards a group of people as a measure of satisfaction?

Ms Efunshile: I do not think that we would use the bald statistics of the tribunal as a measure of parental satisfaction.

Q58 Mrs Dorries: That is what your memorandum states?

Ms Efunshile: We should nuance that, because certainly the fact of the proportion of cases with a tribunal being so small as a proportion of the numbers of children with SEN is one measure, but that cannot be the only measure because, as you say, we would need to look at which sorts of parents would go to a tribunal. Because of the requirement that we have for parent partnership schemes, for example, at the local level, and we have evidence that parents welcome those schemes, they are satisfied with those, and because of the requirements that we will bring in as a result of the Schools White Paper for all parents, including those parents who have children with special educational needs or children who are disabled, there are fuller indicators that we need to take into account when we are measuring parental satisfaction.

Mr Coates: It is one measure and that is the phrase we used in the memorandum, it is one measure, it is certainly not the only one. There have been surveys carried out of parental satisfaction which show, as you would expect, a variety of experience, generally quite positive. One by the National Autistic Society, for example, showed that 70% of parents were satisfied, but you could also quote statistics which showed parents being not very satisfied. I think the key thing for us is to build up the opportunities for parents, whatever their socioeconomic background,

to get involved, to be engaged, to have their say, and that is what we are trying to do through parent partnership services and those kinds of measures and the wider measures in the White Paper.

Q59 Mrs Dorries: Just to come back to that question, you said you use it as one measure, you cannot use it as one measure when actually only a very small group of people, who have incredible resources, we are talking about £10,000, can access a tribunal. It should not even come into the equation. It cannot possibly be a measure. Also, a large number of parents of children with SEN have special educational needs themselves, so they cannot access a tribunal. I think really it needs to be looked at again. I wonder how you feel about looking at it again, because the measures you use obviously are not the right ones. You have said it is one measure. I think that many of us would disagree with that.

Ms Efunshile: It is a measure but it is a measure which needs to be looked at along with the qualifications that you have just suggested to us. I do not think we are disagreeing with that fact but neither would I think that you could just put it aside completely. If they go up or go down, that is a measure of something, it is a measure for those parents who have the resources and the time, the capacity, to go to the SEN tribunal.

Q60 Mrs Dorries: You could record it as a measure and this measure is applicable to parents who can afford between £2,000 and £10,000?

Ms Efunshile: It is a measure. In order to get a view as to parental satisfaction of the SEN system, one would have to have a much broader range and basket of measures than just who was going to the tribunal. There is no disagreement there.

Q61 Mrs Dorries: Baroness Warnock has almost disassociated herself from her original Report. Lord Adonis talks about identifying a “third way” and the Prime Minister said that SEN should be under review. The Chairman has just asked you this question, but if these three people, who have the authority and the knowledge on this subject, all want a review, why do you think one should not take place?

Ms Efunshile: I cannot speak for Baroness Warnock but certainly it is my understanding that ministers do not want a review of special educational needs.

Q62 Mrs Dorries: The Prime Minister said he thought it should be under review?

Ms Efunshile: Certainly Lord Adonis is looking for a review of certain aspects of special educational needs and ministers collectively want to look at a “third way” and to move away from whether we should be talking about special schools, on the one hand, as possible, or mainstream schools, on the other hand, as possible, and instead to be focusing on the needs of the child, the individual child’s, his or her, needs. It is going back to what Andrew said, that we needed to focus on the word “personalisation”, how the

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system can ensure that the individual needs of the individual child are personalised, be it in a special school or in a mainstream school.

Q63 Mrs Dorries: Do you not think that not having a full review is just a duck-out of facing the problems that are taking place in SEN? Looking at certain aspects, is it not easier to look at the certain aspects that you might think are going okay and ignore the ones that you think are going badly? To me it seems like a cop-out. Why not take SEN and do a full review?

Mr Coates: I think our concern would be that a full review would get in the way of making a difference on the ground, which we see as the priority now. We have had the report of the Special Schools Working Group, which reported in 2003, we have had a couple of Audit Commission reports, I think in 2002, and we have had Ofsted reports in 2004, which were picked up on in the annual review. They have been very comprehensive, in terms of their coverage. What they have said consistently is that the framework is not perfect but the framework is being used to great advantage in many places, but it is not being used to great advantage in all places, coming back to that sort of, to some extent, lottery of provision depending on where you live. That is not acceptable. The focus of our attention is within the framework, within the strategy that has been set out, within the context of the response to the Audit Commission and Ofsted reports, what needs to be fixed, what needs to change, what are the barriers that are preventing this good practice from being rolled out on a much more universal level. What we are trying to do is identify those barriers, work out how we overcome them, working with local partners, working with the voluntary sector, working with schools and then make the difference on the ground. Our view would be that if now we throw everything up in the air with a full review all that work is likely to stop and be put on hold while the big review goes on, with no guarantees of coming up with anything different from what has come up in the reviews that have been carried out over the last two or three years.

Q64 Mrs Dorries: The White Paper mentioned very little with regard to children with SEN. In fact, where it does mention it, the last sentence of the paragraph is always inconclusive, ie, it says "We are presently consulting on this," or "We are discussing this with parents," or various bodies, or whatever, whereas the rest of the White Paper is very definite except when it comes to SEN. In your memorandum you promised us another memorandum. It says: "We will issue the Committee with a supplementary memorandum setting out these measures, once the White Paper is published." Is there any sign of that memorandum arriving here?

Ms Efunshile: You should have it. I am sorry, if you do not have it.

Q65 Chairman: No, we have not had it.

Mr Coates: Apologies for that. That was submitted around a week ago, so somehow that has got lost somewhere. Apologies if you have not received it. We will resend it.¹ As far as we were aware, we sent it a week ago, so apologies if that has got lost.

Q66 Mrs Dorries: What confidence do you have that the proposals in the White Paper will bring about the long-held goals of the reviews that you have been talking about? That is your reason for not having another review. Do you think the White Paper is going to help you to implement the framework and the findings in the previous reports and make changes on the ground? I have to say that I have found it difficult understanding how the White Paper is going to do that. Perhaps you can explain how it will do it?

Mr McCully: I think the themes of the White Paper are central to the sorts of priorities that have already been set out. The themes of personalisation are a key central part of the White Paper about how best to tailor provision to the needs of the child. Themes of the new, challenging role for local authorities in terms of their strategic provision for all children and parents in their area, themes of meeting, through a greater diversity and confidence of the school sector, the different needs of children, themes of helping the workforce to meet the different needs of children and themes of ensuring we address better the parents' more central concepts of the White Paper, all central to the needs of special educational needs. I think, as the Secretary of State said in her introduction to the White Paper and has said right the way through, this is a White Paper about the needs of all children. As I have said before and certainly colleagues have said, SEN is not a little box, SEN is about meeting the needs of all children. That is very much what the White Paper is about.

Mr Coates: I wonder, Mr Chairman, if I can supplement that with a couple of specific things, which are very specific, on SEN within there that are new and are very concrete. One is that local authorities should be able to add SEN provision to any type of school. At the moment, I think that is limited to community schools but, as you will be aware, the White Paper opens up a series of new types of school and we are ensuring that local authorities are able to add special educational needs provision to those schools. The other specific thing which I think is very important, and which comes back to the evidence that Baroness Warnock presented to you, is around the Specialist Schools programme, which she highlighted as something which she saw as very positive. What we announced in the White Paper was that, from the initial 12 trail-blazer special schools that have got an SEN specialism, we would expand that by a further 50 over the next two years, but we would look in parallel to increase by another 50 the number of special schools with a curriculum specialism and that we would also seek views, including from the

¹ Ev 46–51

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Committee, as to whether mainstream schools should be allowed to take on an SEN specialism as part of that Specialist Schools programme. That is a programme which brings resources, support for outreach and it was one of the things that Baroness Warnock commended, and that it is going to expand was a specific announcement that we made in the White Paper.

Chairman: Those were very interesting answers. I hope the press were taking notice of the questions and answers. We have two: great interest in special needs in the education sector, we have two journalists here; jolly good.

Q67 Mr Marsden: I wonder if we could take you a bit further along the question of the difficulties and the challenges of definition of special educational needs. I want to refer in particular to your submission to the inquiry, where you said that the Government recognises that the current system of statementing is not working perfectly, and those of us who are devotees of "*Yes, Minister*" might think that is Civil Service speak for it is in a mess. Whether it is in a mess or not, a lot of the concern about statements with parents is about getting a definition for whatever condition or special need their child has got. I wonder whether you have any feelings as to whether, particularly for dyslexia, mentioned already, and I could mention autism as well, that is at the heart of the concern of many parents, that they should have some form of statement?

Mr Coates: The issue of defining different types of special educational need is not an easy one. They do not fall into neat categories. We tend to use neat categories, obviously, for statistical purposes and for information-gathering purposes and in order to record evidence of what is going on, but the reality is that we are talking about individual children and individual children's needs. What I think is important is that, whether it is through statementing or statutory assessment process, or whether it is before that, at *School Action* or *School Action Plus*, we have the people there with the right expertise to identify individual needs and then to identify the specific provision that those children need and hence deliver the outcomes that we are looking for. The key to that is having the appropriate expertise in place in the general workforce, teachers, teaching assistants, etc., making sure that they are sufficiently equipped to do the job that they are asked to do but also to have the expert advice available, educational psychologists, speech and language therapists, a range of other professions and experts who can be called in to provide that sort of advice. I think, again, we would acknowledge that progress needs to be made in making sure that we have got that expertise in place.

Q68 Mr Marsden: I think you will find we will be referring to that a bit later on. If I can press you a bit on your previous answer, I think we would accept, certainly having heard the evidence from the experts at the seminar which the Chairman

mentioned, that you cannot put these things into neat boxes, that there is overlapping. Does not that make it all the more reasonable that the Department either should be saying to parents, "Look, we're going to give you statements that fully reflect the complexity of your child's needs," or, alternatively, "The whole process of statementing is far too narrow and far too one-dimensional to suit the sort of assistance that you are talking about"?

Mr Coates: Two dimensions are right, perhaps. One is that statements do have to be specific. There are very clear, legal duties that statements must specifically set out for that individual what their needs are and how they are going to be met and the Government does police, if you like, local authorities, which on occasion do not do that. They are often brought to our attention.

Q69 Mr Marsden: I am sorry to laugh, but "on occasion." I think if you went round this room and talked to all of my colleagues, of whatever political party, they would all have horror stories to tell you about their local authorities resisting statementing. There are very good reasons possibly why local authorities do resist and they are financial, they will cut across the board in all parties, but surely you do not expect to sit there and tell us that there are just occasional problems. This is a major problem, is it not?

Mr Coates: I think I would draw out two different issues there. There is one issue around what goes into the statement and how specific it is and whether the appropriate experts are brought into play to write the statement appropriately for the child, which is what I was referring to. There is then perhaps a separate question around whether local authorities want to go through the statutory assessment process, and I can talk about that, if that is preferable.

Q70 Mr Marsden: On that point, why do you think they do not want to go through the process?

Mr Coates: The Department has said that we would look for all local authorities to reduce their reliance on statements, but that has to be caveated by a number of facts. The reason why we want them to reduce reliance on statements is that we believe, in many cases, earlier intervention, intervention at the level of the school, can reduce the need for statements. In some cases, if we are seeing a drop in the number of statements being issued, potentially that is a good thing because it could be an indicator of an earlier intervention and more effective intervention at school level, without going through what, to be honest, is a quite expensive process of writing a statement. What it could also be is an indicator that local authorities are resisting writing statements when they should, because they think it is too expensive, or whatever. I would not want to comment on that for specific authorities, or anything like that, but we are certainly working hard with authorities, in a kind of performance management role, through the SEN adviser team, to make sure that they are using

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statements appropriately and to make sure that they are not being resisted. We have also an individual level, sort of casework system, if you like, whereby we get very regular correspondence from parents, from parent lobbies, who write in to us and bring to our attention these cases, and the Secretary of State has the power to direct, if the local authority is behaving inappropriately, and we do use that power when necessary.

Q71 Mr Marsden: All of what you have said may be very detailed, complex and thoughtful, but does it not actually demonstrate the point that I made a few moments ago, that the system is hideously complex and one that is not well understood by most parents?

Ms Efunshile: The system is complex but special needs is complex. Special educational needs are complex and some of the needs of individual children are very, very complex indeed. I think one of the difficulties that we have when we are told that the system needs to be changed completely and wholeheartedly, even though the reviews that we have mentioned have not said that, is that no alternative is put forward, in terms of how the individual needs of children are matched with the provision at local level, and it is indeed complex. We must not get away with the sense that somehow there is a simple way of identifying the needs of these children.

Q72 Mr Marsden: I do not think that anyone on the Committee would suggest that. I think what we are suggesting perhaps is, however, that to say the Government recognises that the current system of statementing is not working perfectly is at best an understatement and at worst a piece of complacency?

Ms Efunshile: I think it recognises that it is a complex system, it recognises that it can be a bureaucratic system and there are steps that we are taking also to try to make it simpler, in terms of the bureaucracy of the system. It recognises that the statementing system can, in fact, where there is less trust between parents and the local authority than ideally one would want, of itself, seem to create more conflict in a local area. In effect, in some areas, the statement is a contract between the local authority and the parents. In some authorities, where they have managed, with the consent and contentment of parents, to reduce reliance on statements, that is because they have managed to build the trust of parents, the trust of parents that without the statement in fact there would be provision for their children within the school or within a local authority.

Q73 Mr Marsden: Can I press you on another aspect of the issue of definition, which I think again is one that many MPs will come across through their casework, and that is the whole issue of the use of Pupil Referral Units, which of course come under, as you explain in your memorandum, the area of special educational needs. Again, there is not a lot said in the memorandum about Pupil

Referral Units but in paragraph 95, which talks about the way in which you are going to move forward with the SEN strategy, there is the reference to "better use of Pupil Referral Units." To my mind, that begs several questions, better use for whom and better use of what? I think one of the concerns that many people will have is that the spectrum of children who are placed in Pupil Referral Units will vary enormously, certainly along the SEN spectrum, and possibly in some cases outside of it, because, possibly, in many cases, certainly in my own constituency, you will find people in there for absence or discipline reasons, not directly connected certainly with SEN. Why do Pupil Referral Units come fairly and squarely under SEN and what do you mean in your memorandum by saying that they should be used better?

Mr Coates: The first point I would make on that is that, yes, they are related to SEN but, again, in line with all the points that Andrew in particular has been making already, they are also part of the wider picture and this is where there is not a clear boundary between SEN and other things. Responsibility for Pupil Referral Units does not sit within my division, the SEN division, it sets within another part of the Department, so, just to clarify that, it is part of that bigger picture. What we mean by that reference in there is that we plan to take forward a piece of work which really identifies, within the whole sort of behavioural spectrum, if you like, how we can make the best use of a range of different interventions at the right time to prevent behaviour problems escalating and moving to what perhaps too often we see at the moment, which is very late, almost crisis intervention when behavioural problems have got very bad. For example, that might be earlier, that temporary use of Pupil Referral Units, in a way which provides a temporary breathing space, if you like, for the pupil, for their family, for the school, if things are not working out at the school. We want to work with local authorities so that they can consider the range of options they have got—out of school education, Pupil Referral Units, mainstream school, special schools, specialist units within mainstream schools—how can they brigade that set of resources most effectively and use them at the right time so that pupils are best off.

Q74 Mr Marsden: If you are a hard-pressed local authority, it all sounds rather complex to me. If you are looking more at the role of PRUs, are there financial implications in that for local authorities, and if so how will the Department support them?

Mr Coates: Potentially, it is too early to say, on that. We have not started the piece of work yet.

Mr McCully: A key part of this, and if you have not had a chance to look at the very thoughtful work of Sir Alan Steer, and at the report of his practitioners group making recommendations on a range of issues to do with behaviour in schools, he picks up on the need to look at the way in which schools working collectively can meet a range of needs, and PRUs are just part of a spectrum of

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specialised, often temporary, support for children with a range of needs. One of the pieces of action that is already under way is the encouragement of schools to work in collective arrangements and to enable local authorities to delegate to those groups of schools much of the funding and capacity for meeting a range of needs. It may well mean the schools greater owning the PRU activity, or it may well be schools with their learning support units, for instance, getting together to meet a range of needs. That was certainly the direction of travel that Sir Alan Steer thought was really powerful, in terms of the sorts of children receiving education in PRUs at the moment. We all know and Ofsted say regularly to us that perhaps the worst provision for individuals can often be found in these units which do not have necessarily the sophistication of the curriculum often and the sophistication of individual teaching abilities to meet the range of needs.

Q75 Stephen Williams: I want to move on to a slightly different point. I accept you do not want to have an entire investigation into special educational needs. One of the questions I asked Baroness Warnock when she was before the Committee was about widening the definition of SEN to include children's social background and she made clear that when Mrs Thatcher, as Education Secretary at the time, set up her inquiry in the early seventies she specifically was not allowed to look at the social background of children. I represent an urban constituency where children come from very complex backgrounds, and "complex" is a word which has been used many times today. Do you think there is a need to look at the definition of SEN to take in the social and environmental family conditions of the children?

Ms Efunshile: I do not, no. I think there is a fairly broad definition in any case of special educational needs. The precise definition is of children who have significant difficulty with learning when compared with the majority of children in their area at their age, I think that is a fairly broad definition in any case. Having said that, it is certainly clear that special educational needs can be associated with socioeconomic deprivation, it is correlated with poverty, and when we look at certain areas we can see that in terms of the correlation. I think it is probably more useful to take the definitions and then to look at how they are correlated with numbers of children who are looked after with socioeconomic deprivation, rather than to have an ever-widening definition. If we are talking about personalising a response, about being as accurate as we can be about the specific characteristics of the difficulty of a specific child, in fact, that is what becomes important, rather than just having a definition for a child and somehow seeking to apply a response to that definition.

Q76 Stephen Williams: Are you confident though that enough work is being done to identify children who have a learning difficulty because of their

home environment? Mrs Dorries referred earlier to the fact that middle-class parents, and I refer to what she was saying, are very successful at using the appeals system to make sure their children get statemented for what is often a medical condition, but children from deprived backgrounds will not have those pushy parents who are trying to get the best for their children. Are you confident that those children's needs are being spotted by the system?

Ms Efunshile: On another occasion this Committee has had a review about the *Every Child Matters* agenda and the importance there of what we are trying to do as we try to transform children's services across the piece, across the margins of the local authority areas, with the aim of making sure that there is better and more effective support for individual children and their parents, or carers and families, and looking at how we can ensure that we have a family strategy, a parent strategy, which in fact we have tended not to have in the Department before. We have tended not to think about how we make sure that we are supporting families so that those families can access services and so that they can have the capacity to know where they can go for assistance, to be assisted. We have talked about the importance of a lead professional in the memorandum, that we hope for the lead professional to support individual children and their families, sharing information across the piece, and so on. Those provisions taken together we believe will make it easier for families to be able to access those services, to be pressing the services in order that they can get the best for their children.

Mr Coates: I wonder if I could add just one specific piece of work which applies to one dimension of your question, I think, which is a piece of research that Warwick University is carrying out for us on the interface between special educational needs and ethnicity, which is one dimension, clearly, of the sort of area that you are talking about. That is due to report in March and we hope that will enable us to understand what the incidence of different forms of special educational needs is amongst black and minority ethnic groups and begin to understand why we are getting that pattern and hence how we need to intervene with those groups to support those children and young people. That is due in March of next year and I think it will help us in that particular aspect.

Chairman: We want to move on now to look at the consequences of the Schools White Paper for special education.

Q77 Tim Farron: The discussion we have had already this afternoon indicates that there is an emerging sense that there will be a "third way", apart from all the prejudices one has about phraseology. What I take from this is it is a combined approach involving clusters of schools. What does this mean; explain what a "third way" will look like?

Mr Coates: It is actually nothing new but we think it is something that is worth pushing and worth paying attention to. What we are looking for, the phrase that we are tending to use now, for the

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reasons that you might understand, rather than the “third way”, is a “flexible continuum of provision”. Catchy but neutral, is how I would describe it. What we mean by that is that we see the way forward as being an appropriate continuum which involves special schools, mainstream schools and the whole range in-between those two being provided at the appropriate level locally, sub-regionally and regionally across the country, hence to meet that very wide range of needs that we have already been talking about. We are seeing this happening already. For a number of years there have been specialist units in mainstream, we have seen resourced provision in mainstream schools whereby those schools are given a particular chunk of money to fund a number of places for, say, ten children with specific learning difficulties, for example, or ten children with autistic spectrum disorders. What we are seeing now increasingly is a range of other models, for example, co-location, particularly enabled by the *Building Schools for the Future* capital programme, which is enabling a number of schools to be sited on the same site. You have got maybe a special school and maybe a primary school and a secondary school all on the same site, with some shared facilities, some sharing of staff, some interaction between the children, spending different parts of the day in different parts of the campus, therefore drawing in together specialist expertise and specialist input whilst maximising the access of children with special educational needs to a range of facilities and a range of activities. That is really at the heart of what we are trying to do, to make sure that we have got that combination, specialist input but access to a full range of facilities and activities which broadly one might call a social inclusion type of goal. We think that is the way forward. We think there are some really good opportunities for that, through the capital investment of *Building Schools for the Future*, through the Specialist Schools programme, through federations of different types of schools together, so that they have got maybe one executive head teacher who is responsible for a special school and a mainstream school and maybe even a Pupil Referral Unit. There are some really good opportunities to push this agenda. It is nothing new, it is already out there on the ground but what we are trying to do is, as I mentioned earlier, work out what are the barriers, what helps this and how can we drive it forward and make sure that we are improving outcomes.

Q78 Tim Farron: If we look at an area where, for example, because of the practice of LEAs, or a series of LEAs which happen to be close to each other, there is closure of special schools and the clusters do not have any special schools in them, that means we could have some new special schools, does it?

Mr Coates: Essentially, but in a number of local authorities what we are seeing is old special schools being closed, which perhaps were catering for a type of need that is not so prevalent now and which can be met in mainstream schools with appropriate

investment. What they are doing then maybe is opening new schools which are catering for the type of need that they have now got in the area, or perhaps they are taking advantage of the options open to them and co-locating, building new facilities, and so forth. I think I would want to make that point, that special schools are being opened as well as closed, I think that is really important. One that springs to mind is Beaumont Hill, up in Darlington, which is one of these campus-type approaches, where a special school has been located onto the same site as mainstream schools and that has been driven very much by the special school rather than the other way round. Special schools are being opened, so, yes, potentially we could see this as part of that agenda, we would expect to. Our estimates are that, of the initial £2 billion investment in *Building Schools for the Future*, we are expecting £300 million of that to go towards children with special educational needs, or special schools, so inevitably that is going to deliver new build.

Q79 Tim Farron: Do I take it, therefore, that the targeting of that investment will be in areas where you have got a special school and fewer clusters?

Mr Coates: At local level it is for local authorities to fulfil their statutory duty to make available a range of SEN provision and we would expect to work with them to work out what that should be, but ultimately it is their decision. What we are doing also is looking at sub-regional and regional level, recognising that particularly for some relatively less common special educational needs what is available at local level might not actually be sufficient, so then we are looking at whether there is a gap at sub-regional and regional level that we might need to fill through some sort of regional centres of excellence, for example.

Q80 Tim Farron: Given that having a large percentage of your students having special educational needs does not tend to do your league table position an awful lot of good and given the reliance of the Government on clusters, I am not saying necessarily that is a bad thing, and given the emphasis on school autonomy in the White Paper, how are you going to coerce those successful schools which do not want to get involved in such a cluster to do so?

Mr McCully: Can I just pick up again perhaps, because you have not been able to see the memorandum, that one important commitment set out in the White Paper is the further steps we are making to look at the progress of all pupils and to recognise the progress of pupils within the accountability arrangement for schools. We are already along that path, in the sense that school performance is already measured in value added terms, by which I mean the improvements given the prior attainment of the individual children. We are moving to the next stage by—and apologies for these technicalities—contextual value added, which specifically takes account of some key factors which influence the child's progress, and SEN is certainly

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one of those factors in the contextual value added calculations. All of that data for the performance arrangements feeds into the work that the accountability regime, as assessed by Ofsted in their inspections, will be looking at, therefore the improvements for all pupils will be a key part of what Ofsted will be inspecting when it goes into schools. There is also work of the new addition to the accountability regime, the school improvement partner, a skilled, normally serving headteacher, or in some instances headteachers with recent experience but perhaps now retired from their posts, who will be working with all schools, in terms of the progress towards their own objectives and targets. Again they will have the data that I have just been talking about, which looks at the performance of those schools, or those groups of schools, compared with schools in similar circumstances and they will see whether those schools are making progress compared with the expectations that may be put on those schools. There is a whole range of changes to the accountability regime that progressively looks at the performance for all pupils and the progress for all pupils. Like you, I am sure, I have heard of schools which are worried about their relative position in so-called performance tables, because of issues with SEN. That has been a constant issue which headteachers always raise with me and my colleagues, but I think, as the White Paper sets out, we are progressively looking at a changing system which picks up on the progress of all pupils.

Q81 Tim Farron: We have been used to responding, for the last hour or so and for the last 25 years, to things that Baroness Warnock has said, so I will throw in as well. She said at the meeting when she was here that she was extremely worried, when I asked her a question she agreed, in the context of admission of special educational needs children to mainstream schools, about the provisions in the White Paper with regard to the growth of independent state schools and a freeing up of the admissions process. Is she right to be considering that to be extremely worrying?

Mr McCully: I do not think so. I think the proposals in the White Paper very much support, and I think we can point her to some very powerful parts in the White Paper that meet many of the concerns that she was raising. From the point of view of admissions, all schools continue to sit within the law for admissions, so even those schools I think she was referring to particularly, in terms of the new status of Trust schools, they sit within the law of admissions and have regard to the Code of Admissions. I do not think she has any need to be concerned about that.

Q82 Tim Farron: In that case, why are we not making the Admissions Code of Practice compulsory?

Mr McCully: I think we have yet to see the evidence that the range of issues covered by the Code of Admissions and the flexibility within that Code require that full statutory background.

Q83 Helen Jones: Can I follow up from what you have just said. I think it must be so nice to be within the DfES and believe that everyone is going to do all these wonderful things. Let us imagine for a moment that you are running an independent Trust school, you do not have a lot of children with SEN and particularly perhaps those whose special needs lead to behavioural difficulties. What is going to make you want to change your admissions policy in order to admit more of those children under the proposals in the White Paper?

Mr McCully: For all proposals on new schools and therefore for any school moving to Trust status, these will be new proposals published, the local authority will have the power to set the community that the school should cover.

Q84 Helen Jones: It may well do that, but the whole point that the White Paper is trying to tell us is that good schools, that are well-performing schools, might well, it says, change their admission criteria to admit more children from deprived areas, more children with special needs, is what is being said in the White Paper. How are you going to make them do that if they have control over their own admissions? If the local authority sets the community, the community can be very narrowly defined.

Ms Efunshile: The White Paper says that it will have a responsibility for setting a local admissions framework and that the Trust schools, when they are setting their own admissions criteria, will need to demonstrate that their admissions criteria fit within that local framework, so that is one of the points made in the Schools White Paper. That is along with the point to which Andrew was just referring, that there is also a new requirement, as it were, for new schools when they are being established, that the local authority can set a requirement in terms of the SEN intake for that school. The White Paper, in fact, is not setting out a free for all, where there would be a number of different schools with their own separate admissions criteria, and which would mean that they are all considered completely unattached. There is a framework at the local level.

Q85 Helen Jones: Firstly, the White Paper does say that schools will have control over their own admissions, it says that very clearly. Secondly, this Select Committee found, when it investigated admissions, that the Code of Practice did not work well, because it does not have statutory force. What information have you got for us to show that it will work better when all schools become independent schools with control over their own admissions, particularly with regard to SEN, which is what we are considering here?

Mr McCully: It might help if I clarified one important point about SEN. You referred to independent schools. Of course, Trust schools and Foundation schools will be maintained schools.

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Q86 Helen Jones: They are described, in the White Paper, I think, they talk about having schools that are independent, non-fee paying schools, "our aim is the creation of a system of independent non-fee paying schools."

Mr McCully: Independent of ethos, independent of some of the direct relationships with the local authority, but they will be maintained schools, and therefore all Foundation and Trust schools, since they are maintained, will have to take, for instance, statemented pupils if they are named in the statement. These are maintained schools, they are not independent schools outside the maintained system.

Q87 Helen Jones: Indeed. If they have a statement that may well be right, but what we are talking about here is how you deal with pupils who have special educational needs, who are not perhaps going to a special school but have special educational needs which need to be dealt with within a mainstream school. My question to you is, which still I have not been given an answer to, why those schools, which now do not take their fair share of those pupils, will be taking any more of them under the proposals in the White Paper? If they set their own admissions criteria, how will more of those children with special needs get into the better-performing schools?

Mr McCully: No school can set criteria which could possibly prevent children with special educational needs being educated there.

Q88 Chairman: Can you say that again?

Mr McCully: If you set criteria which exclude children with special educational needs, that would be demonstrably unfair and would be directly in contravention to the law and indeed certainly would not be having regard to the Code of Admissions.

Q89 Helen Jones: When we looked at this, we found that many schools have regard to the Code of Practice on admissions and then ignore it, and it is only if a complaint is made to the Schools Adjudicator that anything happens. We were discussing earlier the relationship between deprivation and SEN which sometimes exists. Are you confident that the most deprived families, or those who are already under an awful lot of pressure because they are dealing with a child with special educational needs, are going to make these complaints to the Adjudicator?

Mr McCully: I am very confident about the support for parents to take advantage of the growing diversity of schools. The White Paper set out a number of ways in which the choice of parents would be supported, that the information for parents would be improved and that the outreach, especially towards groups of parents who are often most distant from the education system in their area, would be supported. The White Paper talked about choice advisers being the responsibility of local authorities to help parents in that respect, so I am confident that parents will

have increased support about the choices they can make and that there should be real choices. Again, perhaps we might talk about other provisions, such as the provisions on transport in the White Paper, all of which are about improving the choices available to parents.

Ms Efunshile: We commissioned some work from the National Foundation for Educational Research, which we published earlier this year, which found that there was no evidence of any systematic discrimination in terms of schools and admissions against children with SEN and no statement. I am sure we can send that to you. They did find that children with SEN who were seeking admission to schools outside of the normal admissions process, sort of casual admissions, in fact for those children there could be difficulties. We can think of anecdotes here but we have not found evidence of the systematic discrimination against children with SEN. This is one of the things we will send you.

Helen Jones: We will come back to that because, having done our work on admissions, I do not think we are terribly convinced about that as a Committee.

Q90 Chairman: Before you finish, Helen, can we have a note on that because some of us have not interpreted what you have just said about the White Paper in quite the same way? If we had a note on that it would be very useful for the Committee.

Ms Efunshile: Yes.

Mr McCully: Certainly we can do that. Although the memorandum which we thought had been sent to you does touch on those, we will expand on the written memorandum.

Q91 Helen Jones: Can I go back to the personalisation agenda, which is in the White Paper. Perhaps you can clarify for the Committee how much money currently is going to schools to drive the personalisation agenda? Also, what assessment have you made for how that will work for children with special educational needs, bearing in mind two things, that contractually teachers are entitled to non-contact time, and if you are going to have a lot more personalised learning therefore you are going to need a lot more staff time, also in terms of the training of the teaching staff and teaching assistants to deal with different types of special needs?

Mr McCully: I think it would be misleading if I were to put an overall figure on personalisation. Personalisation is about the whole way in which the school uses all its resources to meet the needs of an individual child. Having said that, there are a number of new commitments that the White Paper makes to support the objectives which are set out and for personalisation in a number of ways. There is support already announced, given your point about non-contact time and meeting children's needs outside the normal school day, there is funding already announced for extended schools, and extended schools have a key part to play in

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meeting the range of needs of children in the personalisation agenda. In the new Dedicated School Budget, after the pupil guarantee has been met, there is some headroom for local authorities from the overall totals already announced. The Secretary of State set out, just before the publication of the White Paper, that £335 million of that overall headroom available to local authorities would be targeted at meeting the personalisation agenda, with the specific focus of improving the small group provision, from which children with specific needs often would benefit more than just in whole-class, excellent teaching. In addition, the School Standards Fund, which is used to target particular local authorities with problems of low attainment, we will be looking through that to help schools which have difficulties perhaps with managing a range of interventions for individual children. Again, when I was last before the Committee we talked about different interventions to help with reading. Those extra funds of £60 million, for both primary and secondary schools, will be used to help train teachers to manage those interventions better, to have better access to the range of materials available and therefore contribute very significantly to the personalisation agenda. Some specific extra sums of money are announced, but that is only to advance key parts of the agenda, it is not a total for personalisation.

Q92 Helen Jones: Do you accept that to deliver personalised learning in schools really it is going to require a lot more staff? Are we supposed to deliver it with the existing staff?

Mr McCully: Certainly a continuing development of the workforce is needed. Personalisation is about looking at the curriculum and the curriculum offer and ensuring that the curriculum is not unnecessarily prescriptive so that teachers and schools can plan their curriculum offer in a way that meets the needs of the children. It is about the access to provision in and beyond the school day. It is about the relationship with other agencies outside the school. It is not just about extra hours in the day or extra time from teachers and skilled teaching assistants to add further lessons or smaller classes.

Q93 Helen Jones: I am not sure whether that is a yes or a no. Do you think it requires more staff, or not?

Mr McCully: I am saying it requires a different use of staff from the one we have been dedicated to.

Q94 Helen Jones: It is to be delivered without more staff, is that what you are saying?

Mr McCully: The White Paper talked about the considerable increase in staff that we have seen over recent years, and certainly the funding in the headroom of the DSG was on the assumption that schools would be able to recruit additional staff, either schoolteachers or teaching assistants, to help with that personalisation agenda.

Mr Wilson: Just trying to look at that from another direction, why should a headmaster who is worried about resourcing and funding and discipline be forced to take pupils with special educational needs?

Chairman: Could you rephrase it because you have stumped them?

Q95 Mr Wilson: Why should schools be forced to take more children with special educational needs if they felt it would affect the education of others within the school?

Mr Coates: They would not be forced to take children with special educational needs.

Q96 Mr Wilson: If there was a statutory code of practice, for example, which currently there is not, they would be forced to, would they not?

Mr Coates: As it works at present, again there is a distinction between children with a statement of SEN and children without. For children with a statement, a local authority must name the maintained school that the child's parents require, unless they can demonstrate that it would be inappropriate for the educational needs of that child, or they can demonstrate that it would be inconsistent with the efficient education of other children, your point, or that it would be inconsistent with the efficient use of resources. That is the checklist, if you like, for a child with a statement. There is the protection there that, yes, the parent has the first say, but it is important that a school is named on a statement only if those conditions are met appropriately and not inappropriately. For a child without a statement of SEN then it will be for the local authority to delegate appropriate funding to schools to meet, using Andrew's word, the community of intake that they are meant to be meeting. The local authority may need to consider, if there is a particular influx of children with special educational needs or maybe a small number of children with higher needs who are going to be attending that school, changing the funding arrangement accordingly. That then would be very much for the school and the local authority to determine appropriately.

Q97 Mr Wilson: I understand that. If, for example, the Government made the admissions system a statutory requirement on a school, presumably that would mean they would have to take a certain number of special educational needs pupils into their school?

Ms Efunshile: First of all, there is no plan to have a statutory admissions code in that way.

Q98 Mr Wilson: I know, but in the past this Committee has advised that would be a good thing.

Ms Efunshile: The conditions as set out would have to be in place, so that what one could not imagine doing is setting out a quota, for example, that there needed to be X number of pupils with special educational needs in each school. It would need, again, to start with the needs of the child, that the child's needs could be met in that school so the

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right provision was available at that school, that by placing the child at that school it would not prejudice the education of other children at the school and, taking account of the resources available in the local area, that it would not be a prejudicial use of the resources either.

Q99 Mr Wilson: One of the things which concerns schools at the moment is that it can take seven months to go through a statementing process. There are no resources given to that school while they are going through that process. Would not one of the ways be to encourage more schools to take more special educational needs pupils to provide the funding and the resources to go through that process, so that they do not have to take existing resources from elsewhere?

Mr Coates: Certainly we are working continually, particularly through the SEN adviser team, with local authorities to speed up the statutory assessment process whilst at the same time, of course, maintaining its rigour and maintaining the expert input that is required. Yes, we should streamline the process as much as is reasonable, given the need for it to be a very rigorous process. Certainly what we have encouraged local authorities to do in their management of SEN expenditure is, where appropriate, to increase the delegation of funding to schools so that schools have got the funding there to meet the special educational needs of their children, potentially either without even going through the statutory assessment and statementing process, if they can do that, or indeed they have got the resources there in parallel with the statutory assessment process. That whole issue of increased delegation of funding is I think exactly meeting the point that you are making.

Q100 Mr Wilson: Just one, flag in the ground sort of broad question, and you do not have to give me a lengthy answer. Will there be more special educational needs schools opened or closed as a result of this White Paper?

Ms Efunshile: It is impossible to say.

Q101 Mr Wilson: You have not run through your own White Paper and worked out the implications of it then?

Ms Efunshile: No, because (a) we do not open or close special schools at a national level, that is the first thing. Secondly, because this is a local decision in terms of how the local area determines the provision required at that local area, what it needs to do and what it does is decide, in consultation with its school community and with parents, what sort of pattern of need is required in that local area. Again, if I refer back to the point that Ian was making earlier, that may mean in some areas that some special schools are closed, but largely that is because local areas are seeking to modernise special school provision, to re-open those schools in newer, more modern buildings. Also, there are patterns where we have seen campuses being developed, and so on. There are different, more flexible patterns of

provision being developed which I think make it very difficult for us to predict numbers of special schools which may be opened or closed.

Q102 Mr Wilson: Would you agree that the trend in recent years has been towards closure of special schools, overall?

Mr Coates: Yes, there has been a downward trend.

Q103 Mr Wilson: We could see a reverse of that, are you saying, depending on what happens locally?

Mr McCully: I doubt whether there has been a trend to the closure of special schools, certainly there has been a reduction in the number of special schools but the proportion of pupils educated in special schools has remained pretty constant.

Ms Efunshile: I have got some figures in front of me, a slight reduction, 1,405 maintained special schools in 1986 to 1,171 in 1997 and 1,049 in 2005. That is not a drastic, radical reduction. I think, again, as Andrew says, the interesting point is that the proportion of children with statements placed in special schools has been constant over that time. Also we need to match this with the way in which special educational needs themselves are changing over time, and certainly local authorities should look at the changing needs in their local area and make decisions as to whether or not the provision in their local area is matching those changes.

Q104 Chairman: Can we be just a little bit more blunt on one section of the questioning we have just had and that is, you must sit there in the Department and read the Sutton Trust Report on the number of 200 state schools and how many people from a background of free school meals are attending them, the comparison between that and how many would naturally be in the community that school serves. When we took evidence on admissions, what was depressing from the heads that we interviewed, sitting where you are sitting, was that they said "We'd love to be a community school, we'd love to have a fair proportion of special educational needs children and a fair proportion of free school meals children so that we

had a fighting chance to deliver high quality education for that community, but actually we find out that we are the dumping ground for all the difficult pupils and all the kids from poorer backgrounds." Have we anything in the White Paper to address that situation, where two heads at Wakefield, a head at Slough and others who have given evidence to this Committee have said that all they need is a fair chance of a proportionate number of special educational needs students and those with free school meals? Is there anything in the White Paper that is going to address this?

Ms Efunshile: There is encouragement in the White Paper to banding, for example, in schools, so an admissions system of banding, with the idea there being that is likely to lead to more equitable distributions of pupils with different attainment levels or from different particular geographical areas in each of a local area's schools. Again, it goes back to the point we were making about

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having the local authority setting a general admissions framework in a local area and agreeing it and it will need to agree it with its schools.

Q105 Chairman: Has it got teeth, Althea; has it got teeth? That is what this Committee is asking you. Can it make this happen or will it just wring its hands, as it has in the past, and say "We would have liked them to have a fairer system, but they've taken note of what the Government says, in terms of their advice on admissions, and they've chosen to ignore it"?

Mr McCully: I may have misunderstood you, Mr Chairman. I thought you were saying that the headteachers were up for the opportunity and just hoping for the opportunities to be given them.

Q106 Chairman: These are possibilities, are they not, they are not statutory?

Mr McCully: They are more than possibilities, in that where there are some barriers to the sorts of arrangements Althea has mentioned, banding, where there may be any barriers either through lack of understanding or through the particular way in which the provisions for admissions work, we shall look carefully at the provisions which may get in the way of those admissions.

Mr Coates: A particular area that we are pushing as well is the whole issue of collaboration and partnership between schools and, if you like, joint ownership of children with SEN, and in particular children with behavioural problems. In the White Paper there is very specific work in there on schools forming partnerships with other local schools to improve behaviour and reduce persistent truancy, to take joint responsibility. The phrasing there, in paragraph 7.20, is: "We expect every secondary school to be part of such a partnership by September 2007. With those responsibilities, secondary schools will also be required to make arrangements for 'hard to place' pupils, ensuring that no school takes an unreasonable share of children with challenging behaviour, including pupils who have been excluded from other schools." That is a very specific thing that we have put a date on in that particular context of behaviour which should meet that.

Mr McCully: That is happening already, that progressive movement. In my answer to Mr Marsden earlier, that was the movement I was talking about. The first wave of those local authorities delegating their particular provisions for meeting the needs of those children who may have behavioural difficulties is already under way. We have already got the first wave of those local authorities which have encouraged the schools to have a partnership for precisely that effect.

Q107 Helen Jones: Do you accept that using banding, if you use the national normal distribution curve of ability, you can use it actually to exclude pupils from an area, can you not, if your usual catchment area does not reflect that national normal distribution curve?

Mr McCully: One of the reasons why it would be foolish to go down the simple road and say banding for all schools is precisely for some of those reasons. Hence the sort of strong statements of support in the White Paper which ask schools to investigate a range of approaches for precisely that mix.

Chairman: This is all good stuff but we are running out of time.

Q108 Jeff Ennis: First of all, can I follow on your line of questioning with regard to the current top-performing 200 state schools, and as the Secretary of State pointed out to the Committee there are 160-odd grammar schools in the 200 top-performing state schools at the present time, all of which have very low levels of children on free school meals and children with special educational needs. Will grammar schools be required to take their fair share of children with special educational needs?

Ms Efunshile: My initial response there is that not all children with special educational needs in fact have low levels of attainment, so there will be children with special educational needs in grammar schools.

Q109 Jeff Ennis: For example, a Down's syndrome child could not go to a grammar school?

Ms Efunshile: If it is based purely on attainment then probably not, but there will be other types of special educational need where a child who has that need will be perfectly able to go to a grammar school.

Q110 Jeff Ennis: What about someone with Asperger's syndrome who is very bright and has quite difficult emotional or behavioural problems?

Mr Coates: Certainly what is in place is the fact that under the Disability Discrimination Act 1995 and 2005, in its application to education, in the Special Educational Needs and Disability Act 2001, it is illegal to discriminate against any individual child on the ground of their disability.

Q111 Jeff Ennis: If a parent with a Down's syndrome child in a two-tier education authority, like Kent, or somewhere like that, said "I want my child to go to Canterbury Grammar School," or wherever, and there was provision there, that child would be able to go and that school would be forced to take that child?

Mr Coates: As long as they met the criteria and were on a level playing-field with any other child, they could not discriminate on the grounds of the child's disability. That would be illegal.

Q112 Jeff Ennis: You seemed to be indicating in an earlier answer that it is only the brighter children with special educational needs who can go to a grammar school. Which is it?

Ms Efunshile: It would be illegal for a school to discriminate against a child purely on the basis of their disability. They would need to look at the

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range of children applying for entry to that school and apply their criteria fairly and equitably across the children who were applying to that school.

Q113 Jeff Ennis: In a two-tier area, where grammar schools are operating, if a parent has a Down's syndrome child who is not particularly bright, could that child go to a grammar school?

Mr McCully: Under the current arrangements, grammar schools certainly have selection by academic ability and of course that is something that the White Paper again raises.

Q114 Jeff Ennis: In effect then the grammar schools will not take their fair share of children with special educational needs?

Mr McCully: Clearly, the Government is resolutely opposed to selection by academic ability and therefore those few remaining grammar schools—

Q115 Jeff Ennis: Are we going to scrap the grammar schools then? No, we are not, are we?

Mr McCully: I do not think it can be achieved.

Q116 Jeff Ennis: To have an answer to my question, it was a very simple question, to start with, and it is going back to what Baroness Warnock said, she said, in evidence to this Committee, that she was in despair that the DfES was not going to review the SEN process, she said it was a matter to do with the distribution of resources rather than the quantity of resources. We seem to have had a lot of responses in terms of the collaboration with schools, you point to the fact that schools are going to have to take part in this great collaboration to accommodate all special educational needs pupils. Given that scenario, is she not right, that we do need to have an overall review, given that we are in a completely new ball-game now of schools collaborating, that it is the distribution of special educational needs resource that we need to sort out, based on this collaboration model?

Mr Coates: The system is evolving all the time and it is right that we keep our eyes permanently very firmly on how the different provisions of the SEN framework are working. For example, we have asked Her Majesty's Chief Inspector of Schools to report back to us on the effectiveness of the SEN strategy and how that is working and we are expecting him to report back, I think it is, next year. Yes, as the wider education system evolves, we need to keep under review the SEN dimensions of that, I think we would accept that, but that is different from a root and branch review at this stage.

Q117 Jeff Ennis: I am sure that the DfES will have examples of good practice and best-case models, etc, best-practice models. Just north of the border we have got a country called Scotland, which, generally speaking, I suppose, has a better education system than we have, in terms of their record of academic achievement. They are ditching the statementing process in Scotland. How does

that appear to you? They have got a more successful model than we have got, they are ditching the statementing process, why do we not follow Scotland's example, why are we so dogmatic in saying we do not need to review it to a great extent?

Mr Coates: We will certainly watch the Scotland experience very closely. My understanding is that it is launched today, it comes into effect today, so it is certainly too early, from our perspective, to say that it is better than the system we have got here.

Q118 Jeff Ennis: Have you any idea why Scotland has ditched the system then, in your own opinion, Mr Coates?

Mr Coates: I would not want to answer for Scotland.

Q119 Jeff Ennis: You do not have any liaison with the Scottish education people?

Mr Coates: Yes, we have contact with colleagues there. I do not know if others know the answer.

Q120 Jeff Ennis: Why have they changed their system, if you have got contact with them? I presume you will run this issue past them?

Ms Efunshile: Certainly we will want to keep in touch with colleagues in Scotland. Certainly we will want to see what the outcome is of the system that they are introducing as from today.

Q121 Jeff Ennis: Going back to the duty of LEAs, the new enabling or commissioning role, it says that their newly-defined duty is to promote choice, diversity and fair access. It appears to me that fair access is coming behind choice and diversity. Is it not a question in terms of, from an LEA point of view, their number one priority after those three examples being that schools will promote the choice, the schools will promote diversity? Surely it is the LEAs' main function under the new system to promote fair access?

Mr McCully: I would not say you should read an order of priority into that phrase and I do not think any lawyer would say that in that phrase appearing in the bill, as I am sure it will, there is an order of priority there.

Q122 Jeff Ennis: If we look at the three aspects, access, diversity and choice, which is the most important of those three issues which the LEA ought to be performing?

Mr McCully: They all would have to be considered together.

Q123 Jeff Ennis: There is no conflict there?

Mr McCully: I do not believe there is a conflict, no.

Q124 Mr Marsden: Mr McCully, you referred earlier on to new opportunities for SEN coming out of the White Paper. I think particularly you referred to school transport. The Secretary of State, when she came before this Committee, confirmed to us, and we are awaiting the written details of that, that more money would be made available for

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school transport. Can you characterise for us how that is going to help local authorities in respect of special educational needs?

Mr McCully: I do not have it, I am afraid. Perhaps we should write to the Committee afterwards, but I do not have the figures about the money available for transport. Indeed, I believe that there are still discussions going on about the extent to which the pilots which the Secretary of State will have referred to will be supported. What the White Paper does commit itself to is the change in the requirements on local authorities to ensure that parents will have a choice of three secondary schools within up to six miles, and that is an extension of the legal provisions in place at the moment.

Q125 Mr Marsden: I understand that and that was what the Secretary of State confirmed when she came, but I am asking you specifically about, and I am not asking you for figures at this stage, although we would like to see them in written form in due course, how you think this is going to impact on local authorities? Will this provision mean that they are going to have to invest a great deal more money in school transport for children with special educational needs?

Mr McCully: The very reason why the Secretary of State has talked about the pilots starting very quickly with local authorities was because there is more modelling to be done about the range of different financial commitments on local authorities.

Q126 Mr Marsden: You have slightly imposed a duty on local authorities without considering the financial consequences?

Mr McCully: I think the provisions in the White Paper talked about the way in which the duty would be introduced alongside and taking account of the pilots that the Secretary of State was talking about.

Q127 Mr Marsden: I want to ask you a little bit more about the clusters you referred to earlier, because it is an interesting idea and, in fact, by chance, in my own patch in Blackpool I have a mainstream secondary school and I have a whole age special needs school literally cheek by jowl, so I am familiar with that. I am interested to see that there is no reference, so far as I am aware, either in your memorandum or in the White Paper, to the pros and cons of whole age special educational needs schools, and that is going to be particularly important in relation to trying to include them in clusters with mainstream. Does the Department have a view on whole age special educational needs schools and how they are going to be affected by the clusters proposal?

Ms Efunshile: I do not think we have a view.

Q128 Mr Marsden: Have you got evidence as to whether they are more successful or less successful than differentiated age SEN schools?

Mr Coates: No. We do not have strong evidence on this at the moment. We are expecting that we will have some light shed on this by a review that Ofsted is doing at the moment, which is looking at 12 local authorities and 60 different schools to try to see how effective that range of authorities and schools has been for children with SEN. We are looking forward to that.

Q129 Mr Marsden: I asked the question specifically because it will have, will it not, a very distinct bearing on the whole issue of whether special educational needs schools can operate effectively within clusters, and with what sorts of schools in those clusters they then operate?

Mr Coates: Possibly, but not necessarily. The reason I am thumbing through this is that I am trying to remember the Beaumont Hill example that I mentioned earlier, and I think I am right in saying that Beaumont Hill specialist school is a 2-18 setting, which is co-located with, I think it is, a secondary mainstream. Just because the age range of the special school is different from that of the mainstream partners with which it is co-locating, that is not necessarily a barrier between what we are seeing there.

Mr Marsden: I was not suggesting that. It was an open question. I was just wondering what evidence you had taken on it.

Q130 Chairman: Can we have a note on that?

Ms Efunshile: Yes, you can. It is also going to depend presumably on how the school itself is organised and the extent to which it is organised in age groups within the school.

Q131 Mr Chaytor: Can I pursue the point that Jeff Ennis raised about discrimination and selection by ability. In the history of discrimination legislation there are many examples where discrimination directly was not proven, but where particular criteria for access to a service or benefit were in place which resulted in indirect discrimination being proven because the proportion of people in a particular category who were not able to access that benefit or service was so huge. Has the argument ever been put that selection by ability to secondary schools is such a criterion that inevitably results in indirect discrimination?

Ms Efunshile: The Government is not in favour of selection by ability.

Q132 Mr Chaytor: No, I am not talking about the Government's policy. What I am saying is do you believe that there is an argument to be made which says that selection by ability to a school, as an admissions criterion in its own right, means inevitably that the intake to that school is skewed away from children with special educational needs or children having free school meals as a form of indirect discrimination?

Mr McCully: I do not think we are aware of that argument having been pursued under the Disability Discrimination legislation. If someone were to pursue that we would watch it with great interest

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in the courts. It would be something of great interest to us and I suspect to everyone, but I am not aware that it has been pursued.

Q133 Mr Chaytor: Of course. Do you know if anybody has pursued that?

Mr McCully: I do not think so.

Mr Chaytor: Do you think there is merit in pursuing that?

Q134 Chairman: Let Ian take that, as he has had a lot of experience in this.

Mr Coates: Thank you, Mr Chairman. I am not sure that it will be for us necessarily to comment on that. As Andrew said, if somebody tried to pursue that, if the Disability Rights Commission, for example, chose to pursue that or any other external body then certainly we would watch that carefully. It is not something that I think has featured in our plans.

Q135 Mr Chaytor: Can I move on. For many parents what happens at 16 is even more problematic than what happens at five or 11 and your memorandum does not really say anything at all about post-16?

Mr Coates: Hopefully, the memorandum addresses the whole issue of transition and certainly the planning process which goes into that. There are a number of dimensions to that. I think probably the key thing for us is that person-centred planning must take place from an appropriate time and involving the appropriate people and organisations and service providers, and if that is all in place then everything else should fit together.

Q136 Mr Chaytor: The reality is that the provision post-16 for children with special needs is hugely unpredictable and fragmented and does not have the same high profile that provision from five to 16 has?

Mr Coates: Certainly we would agree that there are too many children and young people who have SEN who then go on to be not in education, employment or training post-16. One thing to note is that the Learning and Skills Council has recently been carrying out a review of its provision for young people with learning difficulties and disabilities, so we will be working with them closely on what that finds and the implementation of it.

Q137 Mr Chaytor: In your memorandum you described it as a strategic review but also you say that there is no case for a major review of special needs. What is the difference between a strategic review and a major review? They are doing a strategic review of 16 to 19 but there is no case for a major review, you think?

Mr Coates: They are separate frameworks. The system up until age 16, with the exception of children who remain in schools post-16, is governed by one system. The system which operates otherwise for further education and indeed higher education is a different system entirely, actually. Statements do not apply.

Q138 Mr Chaytor: I understand that, but are we saying actually there is a major review of post-16 even if there is not going to be a major review of pre-16?

Mr Coates: Certainly the Learning and Skills Council review is a significant review, yes.

Q139 Mr Chaytor: Is it major? It is strategically significant; is it major?

Mr Coates: I am sure, under an appropriate definition of the word "major", it is a major review.

Q140 Mr Chaytor: Parents are frequently frustrated at the promises they believe have been made, insofar as they believe they have rights to ask for exactly the kind of education that their child needs and the statement requires, and yet the local authority cannot provide that. Have we got this relationship right between what the parents expect and the parents' rights and what the local authorities are required to provide? Should there not be a rebalancing of this so that parents are clearly led to believe that what they think are rights are not absolute legal rights at all but they are a set of ideals which have got to be constrained by reality? Do you think this whole idea of parents' rights has gone just too far?

Ms Efunshile: No. I do not think we would want to say that the ideal of parents' rights has gone too far. Indeed, one of the themes running through the White Paper is about trying to look at ways in which parents can be engaged better and more in the education of their child and indeed in the education system at a local area. In the field of SEN we would still want to see that. I think it is important and hence the importance that we attach to schemes like the parent partnership schemes, and so on, particularly bearing in mind the discussions we were having earlier about SEN tribunals. There is a tension in the system if parents feel that there is an absolute right to anything that they would wish for then to be provided.

Q141 Mr Chaytor: Would it be more honest to say specifically there is no absolute right?

Ms Efunshile: Where local authorities are engaging well with parents I think there is an understanding of the need to balance priorities at the local area and an understanding of the complexities and the difficulties therein of so doing. We do have examples in evidence of areas where in fact that seems to be working fairly well, and those are areas where, as I think we have said earlier, there tends to be less reliance, for example, on statements because parents are not feeling that they have to fight for the statement in order to secure the provision for their child, there is more of a sense of trust there. This is a difficult area.

Q142 Dr Blackman-Woods: I think the Committee have got a number of concerns about how teachers are being equipped to teach special educational needs pupils in schools. A recent survey in the TES showed a third had no specific preparation in their initial teacher training and a further 23% had one

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day only. Your own memorandum has got just over a page on equipping the workforce. Really I think we want to know why teacher training and improving it have such a low priority for you?

Mr Coates: I think actually it has an increasingly high priority for us, I think also that it is certainly an area in which we would very much welcome the Committee's views, in as much as we do have an opportunity at the moment with the imminent revision to teacher standards that the Teacher Development Agency is undertaking. These are the standards which set what is required through initial teacher training, induction, to be a senior teacher, to be an advanced skills teacher, etc. We are already in conversation with the TDA as to what should be in there about SEN because I think we recognise that there needs to be more. We are already doing some work with the TDA. We are investing over £1 million with them over the next couple of years to develop the materials, the guidance, the opportunities for trainee teachers to get experience of SEN, to have access to specialist training and then also to be able to move on through their continuing professional development and to specialise in SEN, but I think we are aware that it is only a starting-point. The other area that is worth mentioning, I think, is that it is not just about teacher training, it is also about the materials and guidance that is made available to teachers. Certainly, through the primary and secondary national strategies, on which Andrew could say many things, we are increasingly making materials available to teachers which are supporting them to do a better job. We have got the groundwork in place. All trainee teachers have to understand the SEN Code of Practice, they have to know where to go for advice, they have to be able to identify and support certain types of need, but we recognise there is more to be done and that is potentially an area where the Committee's views may be very interesting.

Q143 Dr Blackman-Woods: I will come back to CPD in just a moment. It is clear from what you have written that you expect teachers to be able to differentiate the curriculum in order to be able to address special needs, but it is not clear to us how they ever get those skills in the first place and I think I need to hear more from you about how that should and how that will happen. *Removing Barriers to Achievement*, which I think is what you are referring to, is saying merely that there should be a development by the TDA of optional specialist SEN modules, so that is no guarantee whatsoever that all teachers who are training are going to take those modules. If you can say something about that first and then I will ask about CPD?

Mr Coates: The work we are doing at the moment, yes, is around optional things that could be included within initial teacher training. The TDA revision of the standards of course will be far more significant and that is happening over the next few months, so that actually when that comes through it will have far more teeth to it.

Mr McCully: I was wondering whether it might be helpful for the Committee if we made available a number of some of the most fundamental pieces of support, in terms of training materials, guidance materials, that the national strategies have made available to a range of different focal points in the school, particularly SENCOs but also those leading on literacy and numeracy in the school, or in secondary schools, on those leading in the core subjects. Many of them do precisely what you said was so important, which is about trying to design the curriculum offer more appropriately to the young people. That is particularly the case when perhaps children may need to be taken out of the main class provision for short periods of time, perhaps with the particular support of a teaching assistant trained for those purposes, to add to or differentiate accordingly, according to the needs of the child. We have got a lot of experience now through the national strategies of programmes that really work. Much of the emphasis in the White Paper on the personalisation is about building on some of that experience and helping schools to make sense of that. In terms of timetabling provision, in terms of ways in which those children can be reintroduced back into mainstream, into main classes, it can be quite difficult to manage and I think we can do more to help schools in that difficult management process. I think we will make some of those materials available to the Committee, if it will be helpful.

Chairman: That will be fine.

Q144 Dr Blackman-Woods: I think the concern is that with mainstreaming all teachers are expected to teach children with special educational needs and it simply is not clear at the moment how teachers are being equipped to take on that role, so you might want to come back on that. I think we were also quite shocked to find out that there is not a specialised graduate diploma, it is only being developed, and again, to take your point about CPD, you would expect that such a diploma would be in place already, in fact, I think I am really shocked that there is not one in place and obviously there should be. I think you have not made it clear to us how teachers get the space to take on board the CPD, how they are encouraged to do that, who measures, who records whether they do it or whether they do not do it and what are the penalties for not doing it?

Mr McCully: The phrase that you may hear is the "new professionalism", which is the way in which, as set out in the earlier document from the Department, the five-year strategy talked about the way in which the training CPD is an essential part of the progression of teachers and that will be measured against the performance arrangements in schools.

Q145 Mr Chaytor: Just thinking of what we were saying earlier about choice and access and parents' rights, do parents have an absolute right to choose a special school if the local authority merely offers them mainstream?

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Mr Coates: Parents have a right to choose a special school and the local authority must meet that wish, if it is a maintained special school, unless they can demonstrate that the criteria which I set out earlier with regard to a statement of special educational needs and the efficient education of that child, other children, etc, they must meet that request from the parent, unless those criteria are not being met.

Chairman: I am afraid that is it. We have bitten into the division and we will not be returning, so can I thank Andrew, Althea and Ian for their very full answers to our questions and we hope that the notes they promised will be forthcoming and thank you for getting us set on our inquiry. Thank you.

Wednesday 11 January 2006

Members present:

Mr Barry Sheerman, in the Chair

Mr David Chaytor
Mrs Nadine Dorries
Jeff Ennis

Helen Jones
Mr Gordon Marsden
Stephen Williams

Memorandum submitted by Network 81

1. Network 81 is a charity which still seeks to fulfil our initial aim which is:—"A national network of parents working towards properly resourced inclusive education for children with special needs." To this aim we train volunteers ("Befrienders"), who are usually parents, to then go on to support other parents, as they wade through the mine-field of bureaucracy and emotional turmoil which having a child with special needs engenders.
2. Network 81 also runs a helpline, including email service, for parents, other voluntary organisations, parent-led groups and professionals. These services are very extensively used and field a huge range of questions and queries: these could, for example, be from a parent who has just learnt from a school that their child has special educational needs and knows nothing of the policies or procedures, or a request to review in depth case paperwork and provide suggestions for amendments. We work with other agencies in the same field such as IPSEA, ACE and CSIE as well as NPPN (National Parent Partnership Network) and charities providing support for specific syndromes. In addition we work with LEAs and LAs to support them in their roles.
3. Through working closely with parents, the compilation of subsequent statistical information from the helpline and feedback from training days it is apparent that SEN provision in England and Wales is not all sunshine and roses so a new look at the present arrangements is welcomed.
4. We have endeavoured to deal with each topic as far as we understand it.

Provision for SEN pupils in "mainstream" schools: availability of resources and expertise; different models of provision

RESOURCES

5. Resource availability is variable and too often led by the funding available from the LEA/LA and not applicable to the needs of the child/ren. Also, the resources are allocated to each individual school to do with as they see fit. This may then not be allocated to the individual needs of the child. We can give many examples of individual schools where resources are provided but the individual children receive very little of the provision. As there is no "ring fencing" of SEN funding it can easily be used in other ways by schools. There is also often no effective monitoring of these resources by LEA/LAs.
6. This is why many parents fight for a statement of Special Educational Needs so that the funding is specific and allocated to their son/daughter and even then it is often not applied for their sole use.

EXPERTISE

7. Many schools do not have anyone qualified in the general area of Special Educational Needs, let alone a specific area. This in itself is not a problem if they are aware of this lack and avail themselves of all the expertise available within the LEA. However if you are dealing with a pupil you need help to hand not via sixteen phone calls and advice over the phone if you can get it or perhaps even worse "an expert" in the wrong discipline giving you advice. Some experts are very difficult to access and will visit only when dealing with School Action Plus or Statements so "Early Intervention" is impossible. Is this really what was envisioned by the law on Special Educational Needs or the Special Educational Needs Code of Practice?

8. The use of Learning Support Assistants/Teaching Assistant to support the young people is common place and usually works well with a very special relationship being built between support staff and the young people. However, is it appropriate for these LSAs to be placed in this position without having in many instances relevant experience or training and a decent pay structure to attract the right level of candidate? They are often paid at just above the minimum wage and yet expected to deliver the curriculum and differentiate it appropriately for the individual/group with, too often, very little input from the qualified teacher. Do we/you really value the work done by these highly motivated and committed people?

PROVISION

9. Across England and Wales provision is variable and what is more not uniform to the needs of the child. A child in LEA "A" can be provided with "XYZ" and the same child in another LEA say "B" can be provided with "LMN" which are not even similar. This anomaly is confirmed as true so often as children move from area to area their provision changes. Also there are many parents that move their children completely away from state education and home educate because they "give up" on trying to secure the provision required for their child.

Provision for SEN pupils in Special Schools

10. Many Special Schools are being downsized and some closed/amalgamated. Whilst we agree with the inclusion agenda this is being forced through by some LEAs/LAs with limited thought for the individual needs. In our experience it is apparent that there are some children for whom a school of less than 300 is preferable and for some where the class size is just too big even when they are supported. For many of our more vulnerable children class size and school size is important.

11. Through our experience of working with parents we know that some children do not have their needs met in the mainstream sector. Some parents initially agree to a placement in a mainstream school because they are promised provision and support for their child which subsequently is not forthcoming and the child is unable to cope. This is especially true in secondary schools where there are large numbers of pupils and staff have little time, training or support to be able to cope with children who have particular needs or behaviour difficulties. Parents then request a move to a "special school" either in the maintained or private sector.

Raising standards of achievement for SEN pupils

12. This is not being achieved in many schools. The achievements of many have been more closely monitored since the introduction of the P Scales which have allowed better measurement of progress. For many children however the extra input needed by staff to ensure progress has not been forthcoming. The use of IEPs (Individual Education Plans) does not ensure access to the level of basic skills needed to achieve economic well being. The use of a limited curriculum concentrating more on basic skills for a limited period would enable more pupils with Special Educational Needs to achieve more in the long term. Access arrangements for all examinations including SATs are difficult to interpret for individuals and many schools fail to obtain the necessary "extra time" allocations due to lack of knowledge and understanding of the system and in some cases lack of understanding of how the extra time can be of benefit to the individual.

The system of statements of need for SEN pupils ("the statementing process")

13. This system is still hampered by the bureaucracy involved which is, we believe, a tourniquet effect placed by LEAs/LAs. This is due to in part the financial constraints of the authority but still a restrictive factor. This is then limiting on the needs of the individuals who happen to live in that area. It bears little or no relation to the needs of the individual for access to education by whatever means. Too many parents fall at this first hurdle not because their child does not meet the criteria or does not need a statement but because the parent does not know how to proceed and/or thinks "the LEA know best". We are very aware of the time taken to produce the final statement and the reasons behind this but we do feel that there needs to be an option for a shortened version for those who have urgent needs such as medical/behavioural needs which should be dealt with in the short term to prevent further "disadvantage".

14. The present system does not allow schools to put in early intervention but forces them to wait for the process to conclude before accessing funding. This can take up to one year (sometimes more) before provision is in place and in the life of a child that may be too long and therefore too large a price to pay. Playing "catch-up" which is what they will then be doing disadvantages them. Some would argue that delegation to school of all funding for SEN obviates this problem but we feel very strongly that this funding would not be ring fenced or applied accurately to the specific needs of the individuals.

15. The majority of the parents we work with want a legal document so that they have a legal right to challenge the LEA when they are not in receipt of provision that has been detailed on the Statement of Need. However many parents, with our help or help from other organisations, have to completely re-write badly written statements. This can lengthen the process even more than is necessary. Provision is sometimes "blanketed" because LEAs do not have the resources to provide the provision stated. Banding is used to place children with apparently similar needs together and provide similar quantities of resources. Individuality is not permissible.

16. Direct Payments to parents are also a cause for concern as most parents seem unaware that they can access these or how to access them.

The role of parents in decisions about their children's education

17. As an organisation which deals with parents on a daily basis it is very concerning to us about the level of involvement, or should we say non-involvement, of parent in the education of their child and the lack of understanding of professionals as to the skills of these parents, many of whom have become experts in the educational/medical/physical/mental/emotional needs of their child. Their knowledge is often disregarded by the teachers who “having been on a course know all there is to know about . . .” (however long that course is). This arrogance does not allow the parties to work together to do the best for the child.

18. Many other parents abdicate their role and hand over total responsibility for educating their child to the professionals and assume that this role will be carried out with no input from them. Both of these scenarios need more support to aid both groups to interact with professionals as equals, in partnership.

19. There is limited opportunity for parents to actively participate in the decision making for their son/daughter. Those who try to do so are regarded by many as “interfering”, “over anxious”, “busy bodies”, “fussy”; whereas there are also parents who do not attend any review meetings nor parent evenings and fail to communicate with the school on many issues and are seen as “uncaring” and “unsupportive” and therefore “bad” parents.

20. We have evidence of parents being told in a playground that their child has been placed on the SEN Register, with no opportunity for a detailed discussion or explanation of why and what this means.

21. We also have evidence of young people who have had their Special Educational Needs provision ceased without recourse to the parent.

22. In the role of our helpline we speak to many parents who want to be involved in the day to day care of their son/daughter but their offers are spurned by the very people they are trying to help. This treatment seems to be wide spread and national with some areas of England more affected than others. However the parent who contact the helpline are the ones who have bothered to seek more advice, how many more are there who just suffer in silence. There is little evidence of initiatives to bring parents and school staff together to promote a greater understand about SEN.

How special educational needs are defined

23. The basic definitions within the Special Educational Needs Code of Practice are sound and when applied uniformly can be a basis for provision. They do however need to be revisited for the many conditions now being found in schools in particular, for those children with emotional and behavioural needs. Placing emotionally damaged “withdrawn” children in the same category as those with overt “acting out” behavioural needs can lead to confusion and mismanagement. It is suggested therefore that additional categories of need be considered.

Provision for different types and levels of SEN, including emotional, behavioural and social difficulties (EBSD)

24. This “provision” is left to individual schools.

25. Quantities of provision should be specified; eg how much support does a child get at School Action one hour per week in a group of four with a TA or one hour per week 1:1 with TA. There is no specific provision for those with emotional needs who may well require more 1:1 work to defuse situations so may require a TA to be “on call” all day. .

26. Dyslexia or Specific Learning Difficulty is a specifically difficult syndrome for parents to get recognised, and if recognised, get provision for, and yet specific programmes of learning for this group can raise standards in a short time and enable these children to achieve.

27. The lack of understanding of conduct disorders, behavioural and emotional needs is quite unbelievable. Many children are labelled as “naughty”, “badly brought up”, “defiant” by teaching staff who lump all “bad” behaviour together and fail to separate the “disabled” and “disadvantaged” from those who are just plain “bored”. A headteacher colleague mentioned recently if we have enjoyment we will attain excellence. So just giving detention does not alleviate the problem of emotional instability. Neither is anything a “quick fix” it takes time and money and one size definitely does not “fit all”.

28. It would seem that provision for EBSD in Secondary schools is less obvious than in primary settings. Many pupils are “excluded” because they cannot conform to the social norms set by the society. This may be due to the fact that despite intervention for individuals the actual structure of the schools themselves is “too big” for some pupils. Pupils have often moved from a school of less than 200 to a school of over 200 in each year group. The feeling of being lost in the crowd is often mentioned by individual pupils as a primary cause of truancy; “no—one cares if I’m there or not!!”

The legislative framework for SEN provision and the effects of the Disability Act 2001, which extended the Disability Discrimination Act to education

29. The full implications of the change are still to become clear. Recent high court decisions are allowing greater understanding but the actual improvements for the young people in our care are not yet apparent. More guidance needs to be produced to enable parents and educational professionals to gain a clearer understanding of the nuances of the changes as they apply to education.

30. Many parents are unaware of this Act and therefore not aware of their children's rights not to be discriminated against by schools. Parents need information and support.

31. Having been involved recently in work with two families with "exclusion" issues where both children had obvious special educational needs but had still been excluded, our only recourse was to appeal to the Tribunal (Disability Section), and that decision is not something taken lightly, but then having to fight to prove that the Special Educational Needs was also a disability. Despite the reissuing of "Circular 10/99: The Secretary of State's Guidance on pupil behaviour and attendance", guidance in the Disability Code of Practice and SENDA 2001 regarding exclusion many children with SEN are still being excluded either "fixed term or permanently" and should be being offered alternatives within the system but are being "failed".

We are willing to supply additional oral evidence if required.

This statement was prepared by Mrs Eirwen Grenfell-Essam, Chair of Network 81.

My day job is as SENCO/Inclusion Manager in a Junior school where over 70% of pupils are placed on the SEN Register.

We would also like to ask two questions of the committee:

Why are parents of children with SEN not empowered in the decisions which are made regarding their sons/daughters education?

and from this

How can more be done to educate/support parents?

October 2005

Memorandum submitted by Kids First

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

Kids First is a group of over 100 parents or carers of children with disabilities and/or special needs in the London Borough of Merton. It was formed in January 2004 and acts as a platform for the monitoring and improving of local services, whilst offering opportunities for personal contact and exchange of information to individuals who often feel isolated by their experience and in need of support from those who can empathise with their situation.

Education, and special educational needs in particular, has accounted for a substantial amount of debate and lobbying in the first year and a half of Kids First's existence. Members have engaged in discussions with officers and councillors from the London Borough of Merton with a view to ameliorating provision and the lives of these children and their families, but there has been friction.

Consultations have been limited in their scope and reach, with obstacles placed in the way of true dialogue. For instance, consultation on the LEA's draft SEN Policy was only notified to a small minority of SEN parents in the borough over the summer holidays 2004. Kids First, upon the chance hearing of these proposals, lobbied successfully for wider community participation. However, despite meetings with councillors and officers, the draft policy looked set to be passed by Council, especially as Ofsted in its September 2004 inspection had advised the LEA to hurry up and implement it. It was only when IPSEA (Independent Panel for Special Education Advice) challenged the SEN policy on its unlawful content that the policy was amended satisfactorily. Even so, parents continue to be deeply concerned about the LEA's ambitions to significantly reduce the number of statements issued when parental confidence is low and early interventions and specialist provision are not yet sufficiently robust.

A SEN Policy Implementation Group was set up by the London Borough of Merton. Initially, Kids First was not invited to participate and had to request involvement in the five meetings. In an effort to ensure that parents' views were taken into consideration it was necessary to point to the DfES guidelines on improving transparency and accountability to parents, but there is yet room for improvement.

In the London Borough of Merton, there is a history of overspending on special educational needs and therefore those who work within the authority or schools may have different priorities. Currently the London Borough of Merton is determined to drive down the costs of SEN transport. We appreciate that this is a large expense but believe that this is in part due to the paucity of good provision across and within the borough.

Merton's current Inclusion and Learning Continuum Review is headlined as a review of all the borough's special schools and bases, but some parents at Merton's special schools and bases have not been kept informed of this review and its progress. Indeed, the findings of the review have a *fait accompli* air about them, rather than resulting from genuine review of specialist SEN provision in the borough by all parties.

The Ofsted inspection report of September 2004 highlighted some of the problems with the administration and handling of special educational needs in Merton, especially over budgeting. Kids First would welcome even more stringent monitoring of services so that parents realise a reduction in stress and workload, with less reliance on securing appropriate provision through the legal services or SENDIST.

Generally speaking, there is a desire by parents to be given a greater voice in decisions surrounding their children's education. For this to happen in Merton, Kids First is seeking to build bridges with the LEA, schools and councillors. We also believe the Parent Partnership Service should operate independently from the LEA.

Kids First welcomes the London Borough of Merton's recently renewed working relationship with Contact-a-Family with its regular newsletter and part-time worker who is able to signpost parents and carers to appropriate services or contacts. It is hoped that this service will be expanded to offer even greater assistance to families of children with disabilities and/or special needs in the borough. We are also lobbying Merton for better information to be made available to families through its schools, literature and website so that there is less ignorance of parent's rights and barriers are brought down for the good of our children.

January 2006

Memorandum submitted by Wiltshire Dyslexia Association (WDA)

The WDA is a registered charity formed 21 years ago. The association assists parents of children with Special Educational Needs for all types of difficulties and degree of difficulty. This support is provided on a purely voluntary basis by parents who themselves have engaged with the system.

OVERVIEW

Since the Warnock Report there has been a significant change in Special Educational Needs. The results today for the child with SEN are very mixed.

The legal framework and subsequent versions of the Code of Practice have resulted, across the country, in a more uniform definition of Special Educational Needs and the different categories of difficulties. Many more children are rightly recognised to have SEN.

While the Code of Practice leaves too much latitude or scope for individual interpretation, the quality principles are sound.

THE ISSUES:

- The whole system is resource led and not needs led.
- The whole system has developed mechanisms and a prevention culture that results in the system failing to deliver against the Code of Practice and frequently the legal framework.
- While more children are recognised to have SEN, and today many benefit whereas previously they would not have done so, the whole system is still systematically failing a very large number of SEN children. It is an environment of conflict between parents and the professionals with whom they engage when seeking to get the necessary help for their child. It is extremely difficult for the small minority of informed, articulate and determined parents to secure appropriate and effective provision for their SEN child. This is not an acceptable position! For the majority of children the system is failing them.

1. Provision for SEN pupils in "mainstream" schools: availability of resources and expertise; different models of provision

What is going wrong:

- Provision varies greatly between authorities. There is not equality of opportunity for children. Broadly this reflects the variance in resources made available to authorities. This is compounded overtime because those authorities with lower resources are less able to fund changes and improve availability of skilled resources. Thus the difference between areas increases. This postal code variation is by central government design as it is the result of the systems funding policies.

- The Code of Practice promotes the quality principle of an incremental approach to provision. Frequently and increasingly, this is capped by a resource led policy where the provision available is a one fit all. Often this is set at a mild or moderate level with no facilities available when the provision has proven to be ineffective.
- There are inadequate skilled resources available at all levels to meet the demand.
- Too often the system relies upon resources that have limited skills.
- Expectations set by professionals in schools and the authorities are set at an exceptionally low level based upon the outcomes of ineffective, inappropriate or inadequate resources
- The system systematically fails to respect the individual needs of the child. Setting criteria based upon averages is a policy that is specifically failing to function on an individual basis which by design is disregarding the individual pupils abilities and potential.
- Many mainstream schools cannot provide adequate or purposeful education for children with a mild level of difficulty, although others can.
- There is huge variation of the ability of mainstream schools to provide adequately for children with a moderate level of difficulty.
- Rarely does the mainstream environment prove to be suitable for those children with the greatest level of need.
- Ineffective provision results in a far too high incident level of children with emotional and behaviour difficulty. There is the obvious cohort who are disruptive but there is another hidden cohort of damaged children who suffer high levels of anxiety and depression. The combined cohort is a national scandal.

2. Provision for SEN pupils in Special Schools

- This response is made on the basis considering the cohort of children with the greatest degree of difficulty. Typically for these children the mainstream schools rarely provide adequately at all.
- Generally, the provision is far more tailored to the specific needs of the child.
- The availability of skilled resource is far higher in this type of learning environment.
- The adult to child ratio is far higher.
- The provision generally is significantly more effective and purposeful to the individual child's needs.
- Generally this educational environment results in the child being more prepared for adult life than could be achieved within the mainstream.
- Generally the system requires the child to continually fail through the trend of children receiving inadequate and ineffective provision over a large number of years in mainstream. This results in the need for a special school not just for educational purposes but increasingly to recover from the results of the long term stressful setting of the mainstream class and school environment.

3. Raising standards of achievement for SEN pupils

- The National curriculum is an 11-year busy agenda for every child. Arguably an SEN child will require more time but that is not how the system works. Early identification and effective intervention is key to raising standards.
- The whole process by design currently takes so long that the SEN child generally is hugely disadvantaged as they do not have the opportunity for 11 years of effective education.

Thus this requires:

- Significant increase in the resources delivered to the SEN services.
- Significant increase in the skills for SEN delivery at all levels from the classroom, SENCO's specialist teachers, Educational Physiologists.
- A child still at P scales in year-two must be entitled to a teacher assistant funded from central funds. This will save significant costs to the system and the child than the current practice of waiting for the child to fail within local authority guidelines in year-six.
- SENCO's should be a teacher with a specialist qualification.
- During teacher training all teachers should receive several modules of training on the identification of special education needs and the delivery of teaching to children with SEN. A target of 30% of teacher training should be for SEN, reflecting the percentage of children with SEN.
- Teachers should receive regular in service update training for SEN.
- Significant increase in the availability of speech and language provision.
- Significant increase in the availability of Occupational Therapy.

- Establish a regime for setting expectations based upon the child rather than shameful expectations resulting from grossly ineffective and inadequate provision.
- Establish national standards to determine appropriate expectations for children based upon appropriate provision that benefits the child rather than the resource led inadequate provisions. This is a very complex area but essential!
- Require professionals to clearly specify the prescription of provision for a child. Make it a breach of law for an authority or organisation to prevent professionals undertaking their duty of care to the child. This should be for education and health professionals.
- Closely and purposefully monitor every education authority on an annual basis for systematic contempt of the law, and take action.
- Respond purposely to parents when they raise issues, establish an independent body to gather information from parents for all authorities on an annual basis.
- Parent Partnership services are sound principle but they are extremely variable and most are operated by the authority themselves and therefore an extension of it. As such their purpose is constrained. Other authorities have contracts that limit the scope and independence of a PPS.
- Establish the funding of Parent Partnership Services to be from a central agency and wholly independent of the authority within which they operate.
- Schools and authorities should have targets for Value added specifically for SEN children.
- Schools should not be able to refuse admittance to Excluded Children. Generally the system does not look at the root causes for the child who is excluded.
- All children adopted post abuse must be automatically entitled to “CatchPoint Counselling”. This would circumvent many subsequent issues requiring significant later intervention.

4. The system of statements of need for SEN pupils (“the statementing process”)

- The framework is fine, the delivery by authorities is systematically abusing the framework.
- It is proven time and time again to be resource led and not needs led.
- Statements are generally written for both needs and provision based upon resources and not the needs of the child.
- Professionals are inhibited from undertaking their duty of care and frequently prevented from specifying the provision necessary for the child.
- Statements systematically fall far short of the legal requirement.
- Authorities pay lip service to taking responsibility for the child, in fact it is as if they do not understand their duty.
- Authorities do not specify the provision and therefore fail to undertake their duty to make arrangements at a school suitable for the child. They systematically determine a school based on resources and fail to specify the necessary provisions leaving the school to determine the provisions, as best they can. Significant numbers of children are systematically damaged.
- Annual Reviews rarely monitor effectively if the child is progressing at a rate that is appropriate and purposeful for the individual child. The expectations are scandalously low. A high proportion of children make grossly inadequate progress and continue to do so through a systematic regime of monitoring that does not undertake the qualitative purpose. The resources applied to these procedures are costly but not effective.
- Each child with SEN should have a named person at their school who is responsible for that child’s outcomes.
- Far too many cases result in a tribunal. Of those parents that go to tribunal a far higher proportion fall by the way disillusioned and overwhelmed by the whole experience of engaging with the education system. Maybe a ratio of 1–100 is realistic. It reflects an under-resourced SEN environment.
- Generally through the whole system there is a lack of accountability.
- Because of all the above systematic failings statements generally fail to be of appropriate value to the already disadvantaged child.

5. The role of parents in decisions about their children’s education

- Yes, an interesting concept rarely happening in practice.
- There is a significant difference between the formalities of requesting a parent views and having due regard for them.
- The system is resource constrained. As a result the facilities available at the point of delivery are inadequate to meet the needs.

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- Parents generally recognise that their SEN child is having difficulties, but are unhappy with the situation of their child not receiving effective provision due to the frequently quoted reason of “lack of resources”.
 - Parent Partnership services may in some case enable a parent to articulate more clearly and purposefully their concerns and wishes. Where a parents expectations are different from a school or authority then this exacerbates an already difficult situation.
 - The experience of parents engaging with the system is very variable between schools. In some schools the experience is routinely good. But for many others it is routinely poor. The issues are the ability of teachers to converse with parents in an empathetic way in a resource constrained system. Clearly if there was not a pressure on the system for resources then parents would be able to engage more effectively with schools and more often parents would have a positive input.
 - With respect to Local Education Authorities—it is not at all obvious that there exists a culture for parents to have a role in decision making, unless it so happens to coincide with the decisions of the authority. Yes, formally the authority request the views from parents but there is little evidence to show that the authority actually takes active regard.

6. How special needs are defined

- This is clear in the legal framework.
- The Code of Practice from 1993–94 was far clearly defined and therefore of value to the child than its current counterpart. Most individuals involved with supporting parents believed at the time and continue to believe that the current Code of Practice is a devalued framework for providing and protecting the needs of the child. It supports and encourages the resource led environment.
- The criteria set out by authorities is one of extremely low expectations.
- It should be national based upon the interest of the individual child.
- The argument that an authority may have local factors is not an acceptable argument. There may be some very localised situations but these should be exceptions rather than the norm.
- The basis of a child being five years behind their chronological age before additional resources are engaged is disgraceful—simply shameful. The law is clear—each child is an individual. The delivery of the system should be to the spirit and letter of the law.

7. Provision for different types and levels of SEN, including emotional, behavioural and social difficulties (EBSD)

- Extremely variable between areas and sometimes between schools within the same authority.
- There is a general trend towards a one size provision fits all—where the one size is based on exceptionally low expectations and barely suitable for mild levels of difficulty.
- For children with disruptive EBD some schools are beginning to have withdrawal facilities and sometimes a teacher with skills in anger management.
- There appears little development to address the causes rather the outcomes.
- ASD spectrum—Asperger and Autism is very poorly provided for in mainstream settings.
- SPLD—dyslexia is poorly catered for in mainstream with scant understanding of the ways of supporting a child within a classroom. Frequently this includes schools with an SPLD unit where they have yet to understand the needs within the majority of the school timetable of a conventional class. In some areas the policy is resulting in a demonstrable lowering of the standards of provision.
- Speech and Language is good in a very few areas but in most areas the provision is grossly inadequate. Frequently delivered by somebody who is unqualified and received just minimal guidance. Frequently, the monitoring is non-existent and reports are rarely written in a way that informs the parent of the impact to their child.
- Occupational Therapy—is the same as Speech and Language.

STRATEGIES FOR VISUAL IMPAIRMENT AND SPEECH TO TEXT

- Visual Impairment: recent research examining children aged seven–11 in two primary schools has found that 50% of children reported improvements in the perception of text when using colour overlays. It is known as “Meares-Irlen Syndrome” or visual stress. (www.essex.ac.uk/psychology/overlays/reading). It is also been called visual dyslexia, Scoptic Sensitivity Syndrome and Asfedia. Other research suggests that 20% of the population can improve their reading significantly by the use of colour. A percentage of these will be dyslexic. The circumvention is simple and very low cost. The cost to benefit the likely 20% of children is minimal (if any) by the use of colour paper instead of white. Alternatively colour overlays are at a cost of less than £1 per sheet.

- Text to speech: computer suites should make reasonable adjustments for those pupils that need text to be presented in an auditable form. Given that the Code of Practice requires providers to be pre-emptive then it is reasonable to expect each computer suite of 30 to have at least one work station with text to speech facilities. Obviously a computer facility specifically for SEN can be expected to have such capability on every workstation.

STRATEGIES FOR READING DEVELOPMENT

- There is abundant research on the phonetic approaches to learning to read and need to be deployed in the system at an early age to be effective for all children
- The better the strategy in the early years results in fewer children requiring intervention or remedial support in later years. This is a benefit to the children as well as enabling the resources to be focused upon the lower number of children with delayed development.

8. *The legislative framework for SEN provision and the effects of the Disability Act 2001, which extended the Disability Discrimination Act to education*

- Generally the legislative framework is of a good standard and positioned to act in the interests of the child.
- Overwhelmingly the law is systematically ignored throughout the education environment.
- At every point the system introduces various mechanisms to inhibit the legal framework from being delivered.
- The managers are accountable for budgets and not the actual child that they make decisions for.
- Accountability is principally non-existent.
- The legislative framework requires a commensurate level of resource to enable a quality delivery of SEN that one can expect for the fourth economy in the world.
- The legal framework is not effectively enforced.
- The system exploits the vagueness of the Code of Practice, the lack of knowledge of parents, the lack of abilities in some parents and most of all the lack of accountability.

January 2006

Memorandum submitted by SPINN

1. The committee seeks evidence about SEN in mainstream schools. I write in my capacity as the founder chair and trustee of a voluntary organisation (Newham Parents' Support Network, now SPINN) which we set up in 1984 for parents of children with special needs in the local area. This was the original from which the DfES derived its model for parent partnership, now statutory for all local authorities.

2. Newham adopted an inclusion policy in 1986, with a long-term aim of full inclusion and an immediate series of small practical steps which developed over the years. As a result, almost all its disabled children now attend mainstream classes in mainstream schools, using resources and expertise transferred over from special schools. This really does include the most severe degrees of disability, covering all categories (physical disability, sensory disability, autism, severe learning disability, profound and multiple disabilities). We have responded to various government consultations pointing to this concrete example as evidence that the inclusion of every type and severity of disability is already being practised somewhere, but we find that the terms of debate never seem to catch up with this fact.

3. At first, our Network spent a lot of time supporting parents who were anxious about special school closures. Now that the schools have closed, however, we encounter almost no anxiety from parents about their children being in mainstream, even about children with the most profound disabilities of all. In our caseload we sometimes come across a lack of welcome or appropriate support in this or that mainstream school. From our point of view the system is thus evidently not some sort of utopia, since it is we who deal with the fall-out. However, solutions in such cases are almost always found, if not in that school then in another mainstream school, and so disabled and non-disabled children are still able to share each other's lives.

4. Ofsted gave Newham an extremely rare Grade 1 for its SEN provision. We take this to mean that disabled children have not suffered as a result of full inclusion. Newham has been one of a small handful of authorities where A*-C grades have risen every single year since the inception of league tables, and is now close to the national average despite being at or near the bottom by indices of social deprivation; its five A*-G grades are close to the top of the national averages. We take this to mean that the presence of disabled children in mainstream has not been to the detriment of others.

5. We as parents, plus staff from the schools, get invited to speak around the country by parents wanting mainstream for their children, who cannot even begin to think how they might get it in their area. In Newham, on the other hand, a family with a school-age child is always referred by the local authority to a mainstream school in the first instance, however severe the degree of disability involved. This contrast is striking. The work of your committee was partly prompted by current anxiety about special school closures. However, DfES statistics themselves show that the number of children in separate special schools in England has barely decreased in the last 20 years. It is just that in an era of choice, some parents are anxious because they cannot always choose the particular special school they want. But the de facto position is that they will always be able to get a special school of some sort.

6. This is not the case for the parent or pupil who wants mainstream. Two High Court cases have ruled in favour of local authorities (North Tyneside, 1997 and Lancashire, 1998) which refused to name a mainstream school on the child's statement. This suggests that local authorities are legally entitled to enforce the segregation of a disabled child from its peers. There is a potential conflict here with the Disability Discrimination Act.

SUGGESTED STEPS

There seems to be general agreement that current policy and legislation are a mess, and that it is necessary to cut through the contradictions. We suggest the following:

1. Change the law so that a child with any disability is able to attend a mainstream school if the pupil or the family so wish, and remove the power of local authorities to prevent this. This will help rectify the inequity between those who want a special school place and those want a mainstream one. It will also avoid potential conflict between education policy and disability discrimination law.
2. Continue as before, in policy statements, to refer to inclusion as a long-term aim, but remove contradictory caveats about some children's disabilities requiring them to be excluded, eg "Of course, there will always be some children who will need special school". Actual evidence from the local authority areas which have advanced furthest towards inclusion shows this not to be true. Practice in these areas is thus ahead of policy as it is currently worded, and should be used as a model.
3. Having an aim that is unambiguous, as above, does not necessarily mean wholesale structural changes overnight. However, it does mean that smaller-scale changes will be achievable and effective because they are compatible with that clear aim. For example, the Government could focus attention on inclusion in Early Years.
4. Make sure that education policy aims are compatible with adult disability policy aims. This applies particularly to learning disability. The Government's policy document Valuing People aims at enabling these people to fulfil their lives in the mainstream community. Segregating them at the age of three is not going to lead to this.

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Witnesses: **Mrs Eirwen Grenfell-Essam**, Network 81, **Ms Paula Jewes**, Kids First Group, **Mr Hugh Payton**, Wiltshire Dyslexia Association, and **Mr Chris Goodey**, SPINN, gave evidence,

Q146 Chairman: May I welcome our witnesses to this session. You will know that this is a major inquiry into special education. It is a pleasure to have had so many pieces of written evidence given to the Committee and also to have many people who are active in and know the sector very well to give oral evidence. Thank you, again, this morning for coming to join us. We are hoping to learn a great deal from this session. I know that all of you represent parents' organisations which have a very important role in the sector. In a session where we have four witnesses, and a double session because there is so much pressure to get as much oral evidence as we can, I am conscious that we have to be pretty firm on reasonably short questions from our team and reasonably short answers from your team. There is a temptation for everybody to give an answer to every question but we would not get many questions answered that way, so I will ask you by name to answer on a particular issue. You will not be called on every answer, but we should get a balance. Perhaps Paula Jewes (as I happen to be catching her

eye) would like to start. Would you be able to tell us a bit about your organisation and your concerns. We understand that everything is not tickety-boo, as they say, in this sector.

Ms Jewes: No. Kids First represent about 100 parents in Merton. We are a project in Merton Mencap and we are funded by the Children's Fund in Merton. We would not say that all children are not educated successfully but too many of our special needs children are severely let down by the system as implemented in our borough—and in fact we do not believe our borough is any different from most of the other boroughs in the UK. We have a large number of concerns but one of the main concerns is the statementing process which is thoroughly undermined by our local authority and others. We believe that all children with special needs should have a right to have their needs assessed by a professional who is an expert in the field and who is independent of budgetary constraints. We also believe that, for many reasons, special needs children have to have their rights

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legally enforced. One is because schools themselves have other pressures, as you know, for targets of academic excellence and also for meeting national curriculum standards, but not least because special needs families are not the best advocates, for lots of reasons, including the fact that, as you know, a lot of special needs families are themselves from special educational needs parents but are also socially disadvantaged. You may not have understood up to now that there are a lot of families who do not understand their own children's needs but there are also a lot of parents who are in denial about their children's needs: there is still a lot of stigma in society about statementing, disability registers, and having a child with special needs. A lot of families are not the best advocates for their own children and much more so than in what one might call the typical population. If we do not have this legal right to our children being educated, their needs will be eroded. This is the only way to make sure that schools are forced to have the right expertise and the correct provision to educate these children, instead of just managing them. We also believe that the current policies of undermining statementing to spread cost give a very, very poor long-term outcome for society. We think there is incredible evidence to show that by educating our children properly we will reduce crime, exclusions from school and mental health cases, and increase the number of tax-paying independent adults—which would give an enormous benefit to society as a whole. We are hoping that the Committee will have the courage to accept that not all is well and we need to tackle the issue.

Q147 Helen Jones: I was very interested in what you have just said. The evidence we have received so far clearly indicates that parents are often trying to negotiate their way through some sort of jungle to try to get provision for their children. We know that all is not well. It was also interesting to hear you say that parents do not always understand their children's needs. Although quite often they do; you cannot rely on that. How would you change the system to get the best education for children with special needs, but also resolve this dilemma of it being so complicated and where there are constant clashes between what the local authority wants and what the parents want, between what the professionals recommend and what the parents think is appropriate? How would you simplify it to make it easier for everyone and to provide the best outcomes?

Ms Jewes: In the end it boils down to expertise on the ground. First of all, the so-called jungle and bureaucracy, I have to tell you, is created by the local authorities. I do not believe that parents really see it as a jungle; the jungle occurs when the local authorities refuse assessments or do not meet the targets for responding; when local authorities produce lies, effectively, to avoid meeting their legal rights; when the local authorities require you to take them to tribunal to delay implementing costly statements. It is the local authorities—and to some extent the DfES supports them in this—which make the system that is fairly straightforward into a

jungle. If, as opposed to being done by the local authorities, statementing was brought into schools and was done by experts that were available at schools—which there should be—then the procedure would be extremely straightforward and should be extended to all pupils with special needs. That would guarantee that teachers had the expertise and SENCOs had the expertise to carry out these assessments without extreme bureaucracy and cost. I think extending the system would reduce the complexity and the bureaucracy.

Chairman: Could we bring Eirwen in.

Q148 Helen Jones: I was going to ask Eirwen, because she is shaking her head, and she may have picked up on something I wanted to pick up on. Is it possible within a school to have expertise on the whole range of special needs? What you are asking for seems to me to require a range of expertise within one school which it is not possible to have in one school.

Mrs Grenfell-Essam: I work in a school: I am a SENCO in a school. No, it is not possible to have all the expertise. I have some expertise—I have been doing it for 11 years—but, no, not across the whole range. But schools themselves choose not to pick up children with special educational needs and move them forward for assessment. I have had dealings with several parents recently where the schools have themselves refused to admit this child has a need at all, even though they are putting in extra hours for this child.

Q149 Mrs Dorries: What are the reasons for that? What would you do to improve that?

Ms Jewes: I am presuming it is the head teacher, who does not want special needs children in their school or the stigma that is attached to that. I do not think there is personally, but some heads do believe that, and they move children on who are unsuitable for their criteria.

Q150 Helen Jones: What about those parents who have children with a whole complex range of needs, not just educational needs but health needs as well? Talking to some of the parents in my area, they find difficulty in getting one point of contact which can lead them to all the different services that they need to access. Do you have any experience of that? Do you have any suggestions to put to the Committee which would help resolve that dilemma?

Mrs Grenfell-Essam: Under *Every Child Matters* there is supposed to be now one point of contact for all the agencies. It does not seem to be working in my area—or across the country, as I see it.

Q151 Helen Jones: I do not think it is working in mine.

Mrs Grenfell-Essam: Health do their own thing, the medical profession do their own thing, Child and Family Consultation Services/Child Guidance do their own thing, and they all talk amongst themselves but not to education necessarily. We often see the child every day, all day; they see them for half an hour once a month maybe.

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Ms Jewes: There are initiatives in lots of areas to try to tackle it. One we have heard about in Surrey is called something like *Team Around the Child*, where the case worker is entitled to call all the expertise together in one room about the child. But that is only a pilot, and it is only for early years. It is only for severely complex children. In our area it was agreed that we would have a specialist health visitor for special needs who would have a similar role—but all these things are constrained by budget and are never rolled out and are never consistently applied—even though there is a moratorium on employing new health visitors in our area *per se* now, so we cannot have that expert special needs health visitor at the moment. There is a lot of talk, but at the moment it is still quite diverse, I think.

Q152 Helen Jones: How do you resolve this dilemma which quite often occurs, to which I referred earlier, where what the parent thinks is the appropriate provision for their child and what the professionals think is the appropriate provision are not the same. The parents may be right or wrong, but there is still a dilemma there that has to be resolved, and it needs to be resolved simply and effectively, it seems to us. Do you have any suggestions for dealing with those kinds of situation?

Ms Jewes: What do you mean by professional? Do you mean a local authority officer or doctor?

Q153 Helen Jones: I mean teachers. I mean health workers.

Ms Jewes: A lot of the problem arises from budgetary constraints. Although it is difficult to believe, it is true that educational psychologists, employed, for example, by local authorities, will under-diagnose and under-recommend because they know there are pressures on them from their employers to do so. At the moment, the only independent people who have a view on their children's needs are the parents; the others are not really independent. If we had more, what I would call, independent experts around . . . For example, if SENCOs were full-time special needs employees and experts, and not part-time teachers or part-time assistants or bureaucrats, they might, if it was part of their targets, part of their job description to further the needs of the special needs children in their schools, be able to operate as an independent person, but at the moment there is no independent expert. As parents we have to go and find doctors, who appear to be the only ones who will offer a medical diagnosis. Everybody else who is employed by the local authority appears not to be independent.

Q154 Helen Jones: What evidence can you give the Committee of what you said of educational psychologists deliberately under-diagnosing and under-recommending (if we could put it in shorthand terms)?

Ms Jewes: It is not that they do it in a kind of illegal fashion; it is just that the pressures are on them because they know of the incredible lengths to which the local authorities will go to reduce statementing and reduce the level of statutory assistance. You

would have to be not human not to feel those pressures from your employer. It may be subconscious.

Mrs Grenfell-Essam: I know of guidance that has been given to educational psychologists that they must not diagnose people. They have been given targets for it—such as no more than 10 in one year.

Helen Jones: Could you perhaps pass that to the Committee? It would be very interesting to look at that.

Q155 Mr Marsden: I would like, if I may, to put this series of questions to Chris and Hugh, again drawing on your own personal experiences of the sector and via your groups. I would like to explore some of these questions which have already been raised around statementing and the obstacles that parents subsequently have. In my capacity as a constituency MP, when parents come to see me about a problem with special educational needs, statementing is almost the first thing that comes to mind, but one of the things I have observed—and I would be interested in your comments on this—is that statementing does not always help. Is statementing a gesture for all concerned that: once you have your statement, that is it, you know where you are going? Or is it a recipe which then enables the school, the parents and the child to navigate the system and get the sort of bespoke help that they need?

Mr Goodey: I find it quite difficult to respond to that question, because, as you can see from my memorandum, I am coming from somewhere slightly different. I am coming from a borough which has closed its special schools. Virtually all special needs education goes on in mainstream schools. I will answer your question directly, but I have some things to say about the human rights aspect of inclusion, which we support and are totally in favour of. To answer your question directly about statementing, we find that in a borough where there is a more or less fully inclusive system, schools are funded to be fully inclusive schools. There is then no battle between the mainstream budget and a separate special school budget over where the resources are going to go. For us, statements are less important. We do get parents who insist on statements—and we support them, that is our job—but from our perspective in our particular local authority there is no real advantage to the child of a statement.

Q156 Mr Marsden: That assumes, of course, that you and your colleagues—and I simply do not know the situation in your borough, so I am not making a particular comment on your borough but you have mentioned that there is the funding there for full inclusion—are satisfied that that the money, even if it is not in a formal way but in some informal way, is ring-fenced to provide the sorts of facilities across the various schools. Paula Jewes has already talked about pressures within the system, and whether they are pressures on special schools or whether they are pressures across a system that is entirely inclusive,

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are there not necessarily financial pressures that bear down on provision for children with special educational needs?

Mr Goodey: These pressures are not evident at the level of local authority organisation. They are sometimes evident within schools. In other words, schools having received a budget to be an inclusive school, hypothetically, could buy a grand piano instead of supplying support to a particular child. In fact, in our local authority area the whole culture has changed. Because there are children with very severe and complex disabilities, as well as children with less severe disabilities in mainstream schools, there is a culture in which, on the whole, that does not happen—and, when it does happen, of course, we negotiate it, we fight it, et cetera, et cetera.

Q157 Mr Marsden: Hugh, could I ask you for your perspective.

Mr Payton: Your question was: Is getting a statement a panacea to special educational needs for those in greatest difficulty. The answer, from my point of view, is that it should be but unfortunately it is often not the case. I would put it into two profiles. If a child through the statement is going to a specialist facility (very often an independent specialist facility) then very often that statement is very worthwhile. Unfortunately, for children with the greatest level of difficulty, if that does not happen and at the right time, then the statement is not really worth a great deal. I think that is the crux of the matter. The underlying bit of that is “providing the right facilities for a child at the right time”. The statement may be a mechanism for that or it may not, but if you do not get that at the end of the day then the statement is not worth the paper it is written on.

Q158 Mr Marsden: What about the situation where there is a conflict—as Paula Jewes has commented on already—between local authorities and parents as to the need or the value or extensiveness of the statement? Ultimately that conflict has to be resolved. It is either resolved informally or it is resolved formally by some form of tribunal. Do parents get enough assistance in those early stages, before they might decide, “I’m fed up with the local authority; I am going to try to take this to a tribunal”?

Mr Payton: Could I take that on two levels? I agree with people that the openness of the nature of the diagnostic information provided by professionals is wanting. Often the appropriate direction is not given for the child’s needs and a provision. That is the starting point. That causes conflict within the structure and parents are therefore looking for alternative information from which to find the information to support their child. The second point is: Is a tribunal mechanism a suitable way of proceeding? It is a heavy-handed way, it is a bureaucratic way, and it is extremely stressful on parents.

Q159 Mr Marsden: And expensive.

Mr Payton: I would imagine it would be an expensive process, yes, indeed. Is it effective? For the majority of parents who go to tribunal, I think the records show that it is successful: based upon the fact that the majority come out with a decision that is in their favour, therefore that process is effective in a majority of cases. Is it the best way of doing it? I would go back to the fact that we should have openness in terms of diagnostic information and sorting it out at a base level.

Q160 Mr Marsden: That is very valuable and it raises two other areas that I would like to explore briefly with Eirwen, if I may. Paula Jewes has already referred to the situation of educational psychologists employed by the local authority, and, if you like, their inevitable Party pre-position. My experience, and I think the experience of other colleagues, is that when people come to us wanting their own independent diagnosis, or, indeed, wanting the process to go further, it is not just a question of resources applied by local authorities or anything else, it is a question of a severe shortage of child psychologists in the area. Is that your experience?

Mrs Grenfell-Essam: Yes—and obviously it is costs. These are people who have limited funding themselves. £400 for a psychologist is extremely dear—How can they meet that cost when they are living on benefits?—so their child does not get assessed.

Q161 Mr Marsden: Given that most parents who wish to proceed to tribunal contest what the local authority is saying and are going to need the evidence of an independent psychologist, do you think the system as it stands at the moment—and if you do not, then please say so—inevitably privileges those parents not just who are articulate and have very strong views about what their child needs but also have the finances to back it up.

Mrs Grenfell-Essam: Very, very heavily biased that way.

Q162 Mr Marsden: I have a final question—and anyone from the panel can pick this one up: Are there things that might be done either via government or via the voluntary sector to strengthen the support that is given to parents in those early stages, in terms of advice and in terms of access to advice that would be helpful in taking them through that process?

Mr Payton: I think your question is hinting at parent partnership schemes. Personally I think they are very important. Unfortunately, however, I think they are generally ineffective because of their tight link with the authorities. I really do feel that they should be budgeted completely independently of authorities, such that they are truly independent.

Q163 Mr Marsden: Chris, I do not want to put words into your mouth, and I know you have said that these issues to do with special educational needs and statementing and tribunals have not been a

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major issue in Newham because of the situation, but there must be times, even within Newham, where even within an inclusive system parents feel they would like to have access to another perspective, another piece of advice about how their child is working in that inclusive system. Do they have that?

Mr Goodey: We are part of the parent partnership scheme in Newham. If a placement breaks down and a parent decides they want special school provision, then we help them through that process. That is not a problem—if I get the drift of your question right.

Q164 Mr Marsden: You do not feel that your inevitable close association and relationship with the local authority through the system compromises the advice that you give?

Mr Goodey: Some of our staff are paid by the local authority but not all, so we have a mixture of staff who are dependent on local authority funding and others who are not. But, if I could just pick up on a point that you suggested about parents who are not happy with a mainstream placement of any kind, it does happen but it is quite unusual. Our concern is that genuine choice is not available in some other parts of the country—people do not actively choose segregation or separation. The fact is that local authorities do not advertise or even provide mainstream provision in many cases. The courts so far have supported local authorities in this, the High Court has supported local authorities in this, so when parents have wanted mainstream provision and local authorities have insisted on separate special provision, a High Court judge has upheld this, even though we have the Disability Discrimination Act.

Q165 Mrs Dorries: Chris, you said all the special schools are closed in Newham. Is that right?

Mr Goodey: Yes.

Q166 Mrs Dorries: How does that fit with the 1976 Education Act and the 2001 SENDA Act which say that a parent has a right to choice? If there are no special schools, how does the parent exercise that right?

Mr Goodey: I am not speaking for the authority because, of course, when I am in Newham we are often in conflict with the authority over this or that issue. My concern is really what is going on in the rest of the country. In Newham, certainly, if a parent insists—and sometimes they have to go to tribunal and we help them, but they do not always—then they would get a placement in a special school in an adjacent borough.

Q167 Mrs Dorries: How many children from Newham are educated outside of Newham in special schools?

Mr Goodey: I cannot give you a precise figure, but it is not above the national average. I suspect it is below.

Q168 Mrs Dorries: But you do not know that.

Mr Goodey: I do not know for sure, but figures are available.

Q169 Mrs Dorries: If a parent wants special school provision and wants to exercise their right as is upheld in the law, they have to send their children away to a special school out of the area because there is no provision available within the area.

Mr Goodey: Yes.

Q170 Mrs Dorries: In answer to a question from Gordon you were talking about statementing children, and I found that quite interesting because you implied that the number of statemented children was low in Newham. Is that right?

Mr Goodey: Relatively low, yes.

Q171 Mrs Dorries: Does Newham have a higher proportion than other areas of families from lower socio-economic groupings, would you say?

Mr Goodey: Yes, absolutely.

Q172 Mrs Dorries: And does it have many parents who have English as a second language?

Mr Goodey: Yes.

Q173 Mrs Dorries: If you look at, say, Richmond, which has the highest number of statemented children and appeals to SENDA tribunals, which also has an affluent population and parents who are able to take their child's case to a tribunal, would you not say that one of the reasons why there is a low number of statemented children and the reason why Newham has been able to close all its special schools is because the highest proportion of parents come from lower socio-economic groups, with English as a second language, who are unable to articulate the fact that they do not want their special schools to close, or, even worse, are unable to access a SENDA tribunal?

Mr Goodey: All I can say is that, in our experience, when parents are given a genuine choice, when there is inclusive provision available, and when there is a culture of inclusion among teaching staff in the borough, parents do not want something else. If the placement is working, why would they want something separate?

Q174 Mrs Dorries: I do not want to waste my question time answering that, but I can tell you that it is because 27% of children with autism are excluded from school at any one time when they are in mainstream. That is one answer to that. Could I go on to your submission. You have said that you encounter almost no anxiety from parents about their children being in mainstream. I find that a really difficult statement to accept, particularly knowing what we know about children on the high autistic continuum. Are you including those children in that statement?

Mr Goodey: Yes, I am. The National Autistic Society has a good opinion of Newham's provision.

Q175 Mrs Dorries: Hugh, you have been through the system, have you not?

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Mr Payton: Yes, I have.

Q176 Mrs Dorries: Would you say the SENDA Act 2001 has made the lot of children with special educational needs better or worse? How has it impacted?

Mr Payton: That is quite a difficult one. I would suggest it has probably made it more difficult. Looking at the types of situations of helping parents through the system, I think it is more difficult now than it was, say, five years ago. There is no science in that; it is just a gut feeling. I would say it is more difficult now than it used to be.

Q177 Mrs Dorries: Can you clarify how it has made it more difficult. Is it more difficult to statement? It is more difficult to access tribunals?

Mr Payton: I think it is more that the thresholds of special educational needs have become lower, and therefore it has become a more challenging environment. I think it is more that that is the case, if that makes sense.

Q178 Mrs Dorries: Okay. I am not sure if I should ask this, but I will be rebuked if not. David Cameron has commissioned a Special Needs Commission. You say that your vision is that special educational needs should be properly resourced. The interim findings of this Special Needs Commission have found something similar, that the whole of special needs provisions should be taken outside the system and stand alone and be resourced and managed separately. Would you agree with the interim findings in that statement? Eirwen, could you just elaborate on what you mean by properly resourced?

Ms Jewes: That is a big question. Properly resourced means that there should be experts who have been trained in the special needs that the children have in the schools, placed in the schools to look after them and to educate them. At the moment there are many, especially on the autistic spectrum, in classes where teachers and helpers and LSAs and SENCOs have no understanding of autism or what the child might be thinking and why they behave as they do. If the system were properly resourced, there would be people in schools and speech therapists and occupational therapists visiting schools regularly who understood what these children need and why they are failing in the classrooms. The problem we have been talking about sits on vested interests. I do not blame teachers, but teachers do not want to have the pressures that they have with their other 29 children in a classroom and then to have two others whom they do not understand. They do not know what they are thinking, they do not really know what they are supposed to do with them, and they know that they could potentially be more disruptive than the other children—partly because they will not be provided for properly. Teachers, not surprisingly, just do not want these children there. There has to be a resource which allows these children to be educated and the other children in the class also to be educated. I think specialists in special educational needs being more prevalent in schools would be the major resource that would be needed. I think

SENCOS being professionals would be a great first starting point for that. On tribunals, could I say that the issue of tribunals being effective or not is a little bit of a red herring, because many tribunal cases should not be heard. The reason that local authorities take the same cases over and over again, very similar cases over and over again, to tribunal or to tribunal door is in order to delay the commitment of the final statement and that is when their costs start rolling out of their budget. Actually it is a scandal that most cases even get to tribunal in the first place. Local authorities know that they will be giving in.

Q179 Chairman: Eirwen, would you like to answer the question?

Mrs Grenfell-Essam: Most SEN children are taught by the LSA, who is paid something like £4.50 an hour, maybe for five hours a day. The child's primary teaching focus is through that person. They are normally not qualified in any way, other than having been a parent themselves or just interested in children. Should that really be what we are providing for our most needy children, their educational needs, their health needs?

Q180 Mrs Dorries: Going back to the tribunal situation again and the choice for parents, we have heard evidence in this Committee that it costs between, I think, £2,000 to £10,000 to take a child to the tribunal. Chris, I suppose this question is again for you in Newham. Is it not a barrier to parents in Newham? I have just thought that it goes one step further, does it not, in that parents in Newham do not have the special schools to send their children to? If they wanted to access the system and access their choice as in law to send their children to a special school, they would have to go to a tribunal possibly—and that would cost between £2,000 and £10,000, and Newham parents do not have that. Are Newham in fact not just denying parents any choice in their children's special needs?

Mr Goodey: I think there might be an element of truth in the idea that parents who want separate special school provision have been hard done-by over the last few years because there has been a rationalisation of special schools. There are less of them, and so they might have to send their children further away. On the other hand, parents who want mainstream know that in the last resort the court can legally enforce the separation of their child, which we see as discriminatory. Replying to your question about the tribunal, the number of cases going to tribunal from Newham is no greater than in any other borough, and they are usually concerned not at the levels of provision, which is where you would possibly require paying an independent educational psychologist or something like that, but the issue of one mainstream school as against another which does not require—

Q181 Chairman: What we are not getting from this is what other people think of a borough where there is no special school provision. We know, for

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example, that Scotland is getting rid of statementing. We know that in one particular borough there are no special schools.

Ms Jewes: It fills me with horror.

Mrs Grenfell-Essam: We have a helpline and we receive lots of calls from Newham, from the parents who are trying to find out: What can we do? Who can we ask? Where can we go to?

Q182 Chairman: You would not like to see a situation where there were no special schools?

Mrs Grenfell-Essam: Definitely not.

Ms Jewes: I can give you a number of case studies, and send them into you, if you wish, of children, especially on the autistic spectrum, who are very anxious—it is part of their condition to be anxious, and, once they are anxious, to retain the anxiety at a level that the anxiety started at is part of their condition. There are so many cases of autistic spectrum pupils who start in mainstream, or even in units attached to mainstream, who cannot cope and become depressed, suicidal, anorexic, who are necessarily going to fail from the day they go into the mainstream school because of the nature of their condition, because they need protection.

Mr Payton: I would say it is an ideology that is seriously flawed. It is as simple as that. All special educational needs have a spectrum of needs. As my compatriot has said, there are children who will not fit in a busy mainstream environment, so it is seriously flawed.

Mr Goodey: Personally, I am not against choice in principle, but the fact is that the legal situation is that parents who want special school have a choice that can be fulfilled; parents who want an inclusive placement, can be denied it.

Q183 Helen Jones: Could I ask Chris, bearing in mind what has been said, how does Newham train its teachers to cope with the vast range of special needs they must encounter? It is extremely difficult, as we have heard, to deal with children who have autistic spectrum, who have a whole range of behavioural disorders in a classroom when you have a lot of other children. It takes highly skilled teaching. What training has been put in for the teachers in your borough to deal with all this?

Mr Goodey: There is a historical aspect to this question, which is that, when the special schools were closed, the specialist staff were transferred from those schools into mainstream, so that created a culture where it was expected that there would be specialist expertise in mainstream schools. That has continued. This is not always a question of the child going to its local school. There are certain mainstream schools which are specially resourced for children with severe autism: they do not exist in a separate unit in the school but they do spend some time being withdrawn from mainstream classes, but they spend quite a lot of time in mainstream classes as well, and they are on the roll of a mainstream school. It is not necessarily the child's local school because there are, I think, two primary schools and

one secondary school which take a substantial number of those children so that the expertise can be concentrated. The same is true of deaf children.

Q184 Helen Jones: I am just trying to clarify. Even though you have former teachers in special schools in mainstream schools, there must still be a number of teachers having to deal with children with a whole range of difficulties—it may be severe physical difficulties in their classes. How are they trained to deal with that?

Mr Goodey: There are various forms of in-service training in the borough. It is a culture change, as I have said before. Teachers arriving from previous jobs outside the borough are sometimes surprised, but, generally speaking, a culture has been in place over the last 15 years where it is expected that you will have the whole spectrum of humanity in the classroom.

Q185 Chairman: I want to go on to provision now, but, Chris, you said in your earlier answers to Nadine and others that you think Newham is average in terms of the number of children who are applying for and getting a statement.

Mr Goodey: Yes.

Q186 Chairman: In another question you have answered, you have suggested that, because of the social characteristics of your borough, there will be a higher level of children with special educational needs than in a more affluent borough like Richmond. Is that right?

Mr Goodey: No.

Helen Jones: Chairman, it is actually lower. The number of children requiring statements in Newham is lower than in Richmond.

Q187 Chairman: We would like to get the details of how many there are, but what is not coming through from what people have been saying is, in a particular borough, if they do not have special schools, are they being parasitic? Is the system coping, or, in the London context, are they just living parasitically and are they going to special schools in surrounding boroughs or some distance across London? Is that happening?

Mr Goodey: I have already partly answered that question. Unfortunately, I cannot give you the exact figures.

Q188 Chairman: What do you think? Are lots of parents opting for special schools outside the borough?

Mr Goodey: No. Absolutely not.

Ms Jewes: What I would like to know about their borough is: Are all the special needs children being successfully diagnosed and are they being educated or are they being contained? The statistics are difficult, because there are so many special needs children who, if you just leave it, for example, to local authorities to do, would not be diagnosed with special needs, who will go apparently successfully through primary and when they get to secondary will fail or become excluded or become depressed and so

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on. I doubt whether we can get those figures for a specific borough at this stage, but that is what I would like to do.

Chairman: We will come back to some of these issues, but, Stephen, you have been very patient.

Q189 Stephen Williams: Yes. I want to ask some more questions about provision and choice. Some of the issues have been touched on already, so maybe we will be going over familiar ground. First of all, we have a range of authorities here. We have heard quite a bit about Newham but we also have the completely different borough of Merton, and Wiltshire and Essex are quite different counties as well. Do you think there is consistency as between the authorities as to the provision for special needs or are there wide variations in between different LEAs, depending on where you are in different parts of the country?

Mrs Grenfell-Essam: We work nationally, and, yes, there is a wide provision. Some countries, a bit like Newham, do not do any statementing at all, like Nottingham.

Q190 Stephen Williams: How common is that? How typical is the Newham “no special schools at all” experience? How many LEAs would follow that?

Mrs Grenfell-Essam: I think there are five in the country.

Q191 Stephen Williams: A small minority really.

Mrs Grenfell-Essam: Very small who have done away with them completely. Essex are lowering theirs as quickly as they can into none but have decided at the end, “Well, perhaps we ought to have some.” But they have substantially reduced them. Specialist provision—for people like the deaf, the hearing impaired and the visually impaired—is becoming less and less and less for specific needs, autism being one of them.

Q192 Stephen Williams: I think Paula, in answer to an earlier question, also alluded to the fact that heads might not be keen to admit that a child has special educational needs, so is there also a danger within an LEA that, despite what their policy might be, there is variation between different schools within the LEA?

Mrs Grenfell-Essam: Yes.

Q193 Stephen Williams: Which is down to the whim of the governing body or the heads.

Mrs Grenfell-Essam: Widely.

Mr Goodey: There is only one answer to that, and that is yes.

Q194 Stephen Williams: That is quite a significant point, I think. On the question of funding, the Department promoted delegated funding to schools for SEN. They think that promotes early intervention to detect SEN needs without the need later on to go to a formal statement. Do you think delegated funding has actually been successful in that aspiration?

Ms Jewes: In our borough it is only just being implemented now. I doubt whether it will be successful because the Government advice was that you should do an audit of need first, meet that need with your extra resources first, build up parental confidence, and then the delegated funding may work and may result, as an end result, in less requests for statements because the children’s needs were being met. Our authority, like many, has just interpreted this as a green light to remove statements first and delegate the funding, not giving really much consideration to whether the needs will be met. It makes them happy because their budgets are now predictable. They have passed off all the parental complaints basically to the schools. So the jury is out but I very much doubt whether this will work.

Mrs Grenfell-Essam: There is no ring-fencing of funding in any shape or form. In my particular school, we have over 60% on the SEN register and there is no ring-fencing of that money whatsoever from county. It could be spent on watering the garden or building a new tarmac playground. There is nothing to say where it has to go and there is nobody who comes to check. Ofsted do not check; nobody checks.

Q195 Stephen Williams: The fact that there is no ring-fencing of the funding that is delegated, you have evidence that that means schools are choosing to spend the money on other things.

Mrs Grenfell-Essam: Yes.

Ms Jewes: There is nobody in school whose job depends on making this work. There are people with part-time responsibilities. There is nobody, including the head, whose job it is to make the children’s outcomes better.

Q196 Chairman: Are you talking about all the schools in Essex?

Mrs Grenfell-Essam: Across the country.

Q197 Chairman: What is the basis of your evidence?

Mrs Grenfell-Essam: All schools I have dealt with—and I have dealt with quite a few across the country. There is no ring-fencing of funding and the head can spend it anyway he likes.

Q198 Chairman: This is very important to this Committee. Are you saying that there are no good examples of local authorities doing this job excellently that you would like everyone to share with and to emulate?

Mrs Grenfell-Essam: I would have to say there are very few who get very close to being excellent. There are some who try very hard to make the provision for every child the best they can, but, because it is delegated down—

Q199 Chairman: There is poor performance right across the board. There are no exemplars?

Mr Payton: I would counter that a bit, because I think it is a bit too hard. There are some schools that do far, far better than the majority of schools with the same resources. I would suggest that is not so much to do with budget management, but that is to

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do with the skills and the motivations within the schools that are doing better. It is very much to do with having a leader in special educational needs within a school. There are improvements that could be achieved with the same amount of money, by improvement of knowledge and understanding within schools. I think there is clear evidence that they could do a lot more with what is already available, but there is not enough funding and resources available at that time.

Mrs Grenfell-Essam: There is no audit of any sort of SEN amounts.

Mr Payton: That is true as well. Schools can use the money however they wish, and there are examples of where they use it in the wrong way.

Q200 Stephen Williams: On the question of audit, there is some evidence. In the Ofsted report of 2004. They found some instances of schools doing what was just described. Presumably, if a recommendation of this Committee's final report was that this funding should be ring-fenced, that is something across the piece that you would all think was a sound recommendation.

Mrs Grenfell-Essam: Yes.

Mr Payton: Indeed.

Q201 Stephen Williams: You are all nodding.

Mr Payton: Yes.

Mrs Grenfell-Essam: A SENCO can be just a class teacher who has half an hour a week to do that role.

Ms Jewes: If the SENCO was to have the sort of expertise in the school and could disseminate good practice, that would be an incredible improvement.

Q202 Stephen Williams: So it is not just ring-fencing the money.

Ms Jewes: No.

Q203 Stephen Williams: Obviously everybody wants more money, but it is making sure that the SENCO who is responsible for this early intervention work has sufficient resources in time.

Ms Jewes: Yes, somebody who has the job to do that.

Mrs Grenfell-Essam: One of the recommendations is that the SENCO is senior management. That can only happen in some schools. In some schools they are not, and there is no funding specifically saying that SENCO must be senior management, must have management points or

Q204 Stephen Williams: I think that point was made by earlier witnesses as well at this inquiry, that the SENCO is often a junior member of staff.

Mrs Grenfell-Essam: Yes.

Ms Jewes: Or part-time.

Mrs Grenfell-Essam: Yes, somebody who comes in two days a week.

Ms Jewes: We have some excellent head teachers and excellent heads of units in our schools who produce fantastic results, and the common factor amongst these individuals who produce excellent

results is that it is their job to look after and educate special needs children. They do not have another job: that is their job. That is the common thread.

Q205 Stephen Williams: Could we move on to admission. The Committee is just coming to the end of looking at the White Paper and diversity in schools is clearly an issue there: the Government has an aspiration for more diversity. Do you think this increase in the types of school is going to increase the choices available to parents with special educational needs?

Ms Jewes: Could I highlight and put a big flag on parents again. It is fine to say parents have choice but special educational needs parents are not as good advocates for their children. Many do not have parents, many are looked after. Many parents are in denial, many parents would not really even support the best service for their own children because of the special educational need that their children has.

Q206 Chairman: Are we not shifting around here? Some of you, not all of you, are saying that we tend to get more evidence of special educational needs in a more affluent borough like Richmond because parents are more articulate. There I thought you were describing pretty articulate parents, who know what they want, who are determined go get a statement for their child. All these parents are not unable to—

Ms Jewes: No, but it is amazing how often you see a large number of parents who are willing to pull their children into an independent school, rather than have them stigmatised with a statement, or there are parents who have them diagnosed with milder things, rather than have an autistic stamp on their head. I have seen a lot of children fail as a result of parents refusing to acknowledge their children's real problems or what really will affect them. There is the other end of the spectrum that we know about as well, of there being a lot of socially disadvantaged families with special needs, so those children do not have a voice either, generally. I just want the Committee to be very cautious of going down this road of: If the parent can decide, everything gets resolved.

Mrs Grenfell-Essam: We have parents in Essex who are making choices for secondary school and they do not know how to fill the form in, let alone make the choice. If they have to have a choice between lots of schools in the area and they themselves have problems filling the form in, let alone making the choice, are they really having a choice or will they be the ones who get the leftovers?

Q207 Stephen Williams: Aside from the White Paper, the Government had a programme anyway with expanding academies, particularly in cities. In my city we have had evidence that academies may not have a good reputation on admitting children who are SEN. Is that an experience that you have witnessed?

Mr Payton: Can I make a different point, representing a rural county? Many towns only have one school and that one choice must be a very, very

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good school which caters for the majority of things, but where it is not able to cater for then you require additional facilities elsewhere. Having a choice in a city is one thing but having a choice in a town with one school is no choice, and therefore it has to be good.

Q208 Stephen Williams: Indeed, if my colleague, Tim Farron, who represents a large rural constituency in England, were here he would be making that point rather better than I.

Mr Goodey: I am sure that is the case but that is a *de facto* lack of choice. Could I just reiterate that parents who want mainstream lack choice *de jure*?

Q209 Stephen Williams: No one actually picked up on academies. Is there any national evidence on academies?

Mrs Grenfell-Essam: We have not heard anything about them, really. I do not think they have been in situ long enough for us to—

Chairman: That is what we like: when people honestly say, “We do not know”.

Q210 Jeff Ennis: On the parent's rights issue, do you believe that local authorities uphold a parent's right to seek a special school place or does it vary?

Ms Jewes: No, the local authorities—I think all of them—pursue a blanket inclusion policy.

Q211 Jeff Ennis: We have already said that we thought it was a good idea that we should ring-fence special educational needs funding. The Chairman touched on the point earlier in the session that many of our neighbouring countries—Wales, Scotland and Ireland—are moving away from the formal statementing process, and we seem to be digging our heels in, as it were, in wanting to retain it. Do you think we now ought to be moving on and abandoning the statementing process, given all the caveats you have put down in your earlier evidence?

Ms Jewes: I believe we should change the statementing process to be brought into schools so that it is quicker and less of a going to an outside authority with a big, expensive procedure. I also believe that some of the assessments could be done by expert SENCOs combined with visiting speech therapists, occupational therapists and other experts, without having always to resort to educational psychologists. Also if GPs were more expert in special needs they would be able to help. A very quick, efficient bread-and-butter process of assessing with a ring-fenced provision following is a form of statement but is not as formal as we have now, and, really, every child should have that right when they have a special need in school. That would be, to me, the way forward and our group agree; it is not that we want the current statementing, where you have to fight and you have to go to tribunal, to be extended, we think it should be a bread-and-butter procedure, day-to-day within a school, with expert resources.

Q212 Jeff Ennis: So, effectively, we need to slim-line and localise the system?

Ms Jewes: Yes, but have the legal right of the child to have their needs met still protected.

Mrs Grenfell-Essam: The problem with localising is would my authority give one child a statement and the authority down the road would not, so when that child moves house they start all over again and may not get a provision. We were meant to have, under the 1981 Education Act, an across-the-board system that actually is not—every authority does its own thing.

Q213 Jeff Ennis: So you are happier with the current statementing process?

Mrs Grenfell-Essam: I would like to slim it down a lot from what it is now.

Q214 Chairman: You would like to retain it?

Mrs Grenfell-Essam: I would like to retain something similar to it, where there is a legal provision that has to be met.

Mr Payton: The statement process is very heavy-handed. Something is needed—whether you call it a statement or something else—to protect the interests of most children in need. The process is very bureaucratic and heavy-handed, and that is the fundamental problem. A lighter weight system, whether you call it a statement or whatever, is necessary.

Ms Jewes: The fundamental thing is that the child is properly assessed at the beginning and then quickly the resources they need are allocated and protected. It is very simple and, actually, the statementing process does that, it is just made long-winded because of the conflict built into it. That is the fundamental thing: they need their needs assessed straightforwardly, properly, and then met, properly, and ring-fenced.

Q215 Jeff Ennis: The current tribunal system comes in for a lot of criticism, rightly so, from parents, being too legalistic and cumbersome, and you have got the issue of not qualifying for Legal Aid, and all that sort of thing. Would it not be better and would it not cause less friction between parents and LAs if we had more of an arbitration-type service or conciliation-type service to agree the problems rather than a formal tribunal system?

Mr Payton: That exists today. I imagine there would be mixed receptions to the effectiveness of those conciliation services. My experience has been that you go through another layer to continue disagreement—and there seems little purpose.

Ms Jewes: Beside the fact that we are forced through the extra layers because that is the way the authorities delay committing the budgets to the statement.

Q216 Chairman: How do you get through this problem that any constituency MP has picked up on, that is that you get parents that are passionate in their view of what is right for their child but you get the heads and the teachers who might have a different view on that. Who makes that decision? Must it always be the parents that are right? Who is the best arbitrator here?

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Ms Jewes: If the professionals were acting properly then there would not be as much disagreement. The parents only have their strong opinions because they have been advised by other professionals. Parents of, for example, an autistic child, do not overnight become an expert in provision for autistic children; it takes years and years to understand your own autistic child's needs. So parents rely on information they read, information from the doctors that they see that they find to be most professional, and they only become passionate because they have a reason to be passionate about what they believe is needed. What they encounter is a barrier to their child's needs being met from day one under the current system, the way the local authorities implement the statementing law. It is not just a question of the parents unreasonably wanting one thing and the others saying this is what is right.

Q217 Jeff Ennis: My authority still has special schools, in both Barnsley and Doncaster, both doing a great job. In many respects, I think the linkages that currently exist between mainstream schools and special schools need to be developed a lot more, for obvious reasons. How high a priority do you think it is, that where we do retain special schools that are doing a good job, it is not just about educating the children within their own particular four walls, it is about getting out into the wider school community and building bridges?

Mr Payton: I can answer your question from experience. Some years ago I sought in my rural county to achieve a close relationship between independent specialist schools and the mainstream schools in their areas. The independent schools were all for that but none of the mainstream schools or the education authority were. It is an interesting thing. It was a negative experience but I tried very hard.

Mrs Grenfell-Essam: We have tried to liaise with our local special school, and it is time constraints. Our children in mainstream have to meet the National Curriculum guidelines for two hours of this, three hours of this and four hours of this. When is the time to do something else? We have tried having lessons with their children coming to our school and our children going to their school and having more links with the staff, but it is time constraints as well as resourcing.

Q218 Mr Marsden: I have a quick question, aimed at Eirwen and your previous comments about what happens to their statement when children move. There seems to be a general consensus that people would like to see the statementing process changed in some shape or form but can I just ask would you be in favour of a statementing process, however it is changed or revised, which actually travelled with the child if that child moves, admitting that there may be different mechanisms between local authorities for judging on that statement? Could that not be policed in some way through a sort of arbitration process?

Mrs Grenfell-Essam: It would be very good. It does not at the moment. Every statement is rewritten. When a child moves county or moves LA the statement is rewritten; there is reassessment and

thousands of pounds go into writing a statement which has already been written. So why can it not just go with the child?

Q219 Mr Marsden: So you would agree with my suggestion?

Mrs Grenfell-Essam: Absolutely.

Q220 Mrs Dorries: You have spoken a lot about the jungle and the difficulty that the system is quite simple, it is just when it comes to the LA. Do you think that is because the LA is both the commissioner and the provider—it commissions what is available in the statement and then provides it—so there is that conflict of interest? The conciliation service that Jeff has spoken about is Parent Partnership (I think it is called), and the first line management of Parent Partnership is the LA also. So you have got the LA which commissions and provides and runs the Parent Partnership also, so there is no autonomy. Do you think that is where the conflict—

Ms Jewes: There is a conflict in the Parent Partnership independence. We find our Parent Partnership is not always independent. It is difficult for the Parent Partnership because he will sometimes make recommendations on which we can say: "That was not in the best interests of the child; he is not independent", but perhaps it was with all good grace that he did that.

Q221 Mrs Dorries: Are you saying that the Parent Partnerships that you are aware of make recommendations? Under their code of practice they are specifically—

Ms Jewes: They do advise parents on specific issues regarding statementing. So, for example, I know our Parent Partnership officer advised a parent not to ask for quantification in part three of his statement, for speech therapy I think it was, and that was basically illegal. He would probably say that there was a reason for it, but the problem with us knowing that he is reporting to the head of special needs means parents are suspicious of him and we tend to leave him outside the door sometimes of the meetings with the local authority because we feel he may not represent our best interests. It is a conflict and there is not much more I can say about Parent Partnership.

Q222 Mrs Dorries: Do you know how much has been spent on that Partnership?

Ms Jewes: I do not know. It is one individual full-time in Merton, so whatever his salary is and his costs.

Q223 Mrs Dorries: In my constituency we have three, who work well. I think they actually exercise the code of practice very well; they do not make recommendations whatsoever, but I cannot see that kind of integrity being carried across the country.

Ms Jewes: It varies and I think it is just one of those inbuilt potential problems that if he was independent, and we knew he was independent, it would sort that out.

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Q224 Mrs Dorries: Would you like to see the LAs not being their commissioner and the provider?

Ms Jewes: The thing about statementing is there is that conflict too, but what LAs see is their two% of statemented children costing them, sometimes, up to 65% of their SEN budgets (it varies); they see a child on School Action getting £200 a year's worth of provision and in the next seat a statemented child with, perhaps, slightly more needs but not that different, getting £8,000 worth, potentially, or more—with residential and overseas statements it can cost £60,000, £70,000 or £80,000 on a single statement. The local authority also knows that the law could entail them to have unlimited costs; if enough people demanded their rights and got to tribunal, got a statement, and there were a few more autistic children diagnosed in the borough, their costs could shoot through the roof. So there is, in theory a limitless cost of statements; they see an inequity in the way there might be a learning support assistant “Velcro-ed”, as they call it, to one child in a classroom and not allowed to support others in need, and there are lots of reasons why they resist the statementing process apart from being the commissioner versus the adjudicator, and so on. I think their worries and their perceptions are misguided. Parents do not want money, they want provision and if that provision is an expert provision and is shared, that is better than having a learning support assistant, who does not know what they are doing, Velcro-ed to your child. So the whole thing is misguided and there are lots of reasons why there is this inbuilt conflict.

Stephen Williams: I do not think we picked this up earlier. In the Department's written submission to this inquiry they said that their policy was to preserve a parent's right to seek a special school place—not the right to have a special school place. Do you think parents widely appreciate that they have a right to shop around but they do not necessarily have a right to find what they are looking for?

Mrs Dorries: They do have a right in law, do they not?

Q225 Stephen Williams: That is not what their evidence says.

Mrs Grenfell-Essam: The right to seek; as long as they give them the right to seek. Most authorities would actually say: “These are the schools I will provide you with. This is your local school”. They may provide a list of all the specialist schools in the area but they will actually give a lot of clauses, such as “subject to budgetary constraints”. They will argue that: “The mainstream school is cheaper for us”—they will not actually tell you that; they will say “It is the best provision”.

Q226 Chairman: We are coming to the end of this session. We want to remain in communication with you, so do not think this is the only time you will be able to communicate with us, but I will run across from Chris through to Eirwen: what one thing do you think we need to hear from you that we have not heard?

Mr Goodey: Something you have not heard yet? The Government White Paper on adults with learning disabilities, *Valuing People*, aims to give adults with learning disabilities a full life in the community. It is an extremely radical measure and I just wonder what we are doing—I realise I am in an isolated position out of this group of four—segregating children at the age of three if we want adults to be full members of the community.

Q227 Chairman: Thank you for that, Chris. Hugh Payton?

Mr Payton: I would say two factors, which I think are critical. One is transform the level of skill within the mainstream schools sector for special educational needs, and I do mean transform it. I think that will make the biggest impact you could possibly do. The second aspect is look at the thresholds that are set for special educational needs across the country—setting such low policy levels that it is not beneficial to children. So two messages from me.

Q228 Chairman: Thank you for that, Hugh. Paula Jewes?

Ms Jewes: The two messages from me are that children with special educational needs rights to education will be lost and eroded if there is not a continuing form of legal protection in the form of a document like a statement or a provision document that is legally protected. The second thing I would like to say is that the potential effects of getting this policy right are of enormous benefit to society but, also, the costs of getting it wrong, which we see today, are disastrous and life threatening.

Q229 Chairman: Eirwen?

Mrs Grenfell-Essam: Tony Blair was talking about his inclusion project for actually chucking out the dregs of society back into education, but the actual fact is lots of children are being excluded from school because schools cannot educate them. I would like the answer to that question. Why can they not?

Chairman: Thank you very much for this session. We have learnt a lot. As you think about this after this meeting, if you think of things you should have said to the Committee or would like to reinforce those views, do e-mail us or communicate with us in any way you like. Thank you very much.

Supplementary memorandum submitted by Kids First Group

1. The committee expressed surprise that no-one had spoken against inclusion.

I do believe that inclusion should be rolled back, it has gone too far:

- A class should have one basic curriculum albeit with some children needing extra help to keep up or catch up. Would you be able to teach many different lesson plans simultaneously?
- As you know, inclusion doesn't work as well for emotionally vulnerable, language sensitive and hyper or hypo-sensory children such as ASD, some ADHD, obsessive compulsive, PDD-NOS, DAMP and others.
- How would you develop a child's self esteem when they can see that they are always going to be the poorest performer in your class?
- Many SEN children have; strong interests and obsessions, special skills (computing, good memory), spiky abilities (1st percentile in some things, 99th in others); need constant sensory input to focus (wobbling, chewing, squeezing); different thought processes and reactions. Could you as a mainstream teacher make full use of these to impart information as opposed to coping with these characteristics?
- Expertise develops amongst full time specialists—special schools and units will generate expertise: less special schools and units, less genuine expertise.
- Some SEN conditions necessarily result in emotional and behavioural challenges (although most arise from poor management). In mainstream schools this not conducive to the teaching of other children.
- Much of the time an SEN child spends in mainstream is actually spent segregated in a corner, in another room for special teaching or "in their own world". Is this the ideal of inclusion?
- The argument that children should face the same people and challenges in school as they will face in grown up life is clearly misguided.
- Special school does not mean segregation, it should mean specialisation.
- Team and field sports exclude many SEN children either through inability to take turns and follow rules or through physical, sensory and motor difficulties. Differentiating this curriculum is one of the most pressing matters.

Strong links between mainstream and special schools, ideally supported by physical proximity, would better protect the mental health of SEN children.

2. The committee expressed interest in real life case studies and examples.

CASE 1

My own daughter, Maddy, was assessed at age 4 with severe expressive communication delay (unclear and very little speech) and PDD-NOS (on the autistic spectrum). She was extremely fragile and emotionally vulnerable.

Her occupational therapy report (privately commissioned) stated that "running tests were not performed in case of physical injury". She wore glasses for squint and astigmatism and was on the 10th percentile for height and weight. She required help toileting, dressing and eating.

The LEA's educational psychologist's report showed a very spiky profile but, despite this being known to be poor practice, they averaged her scores out to a "normal" intelligence score (perhaps to facilitate a mainstream solution). The LEA did not carry out a speech therapy assessment. Merton LA recommended the speech and language hub in a primary school 45 minutes away from our home plus about two hours of non-specialised LSA support per day.

This school was busy, cluttered noisy and cramped. Children were physically bumping into us in the playground and corridors. The speech language hub was empty during our visit. The head teacher could not guarantee any specific level of speech therapy—it would be "as resources allowed" and in a group. (The school sometimes did not have access to a speech and language therapist).

No occupational therapy or physical therapy was available at this school (despite many speech affected children also having motor skills issues).

My child would have been traumatised from day one. She could not have survived break and lunch times or PE lessons (in any case she couldn't change clothes or shoes independently). She would have cried and resisted going to school (as she had done at her temporary placement in a moderate learning difficulties school).

I employed a lawyer. Merton withdrew and offered to fund a place at the independent special speech and language school in Wimbledon. Finally, after agreeing to drop legal action, I forced them to specify an amount of speech therapy and OT in the statement.

She didn't speak at school for about a year (selective mutism is a common psychiatric disorder resulting from stress) and as she couldn't write, her new school had difficulty assessing her real needs. Eventually, through intensive adult support, therapy and a protected environment, her skills and confidence have developed. She is now eight, swims, goes to riding for the disabled and dances enthusiastically in school concerts. She is learning to write, has a reading age above her chronological age and is only one to two years behind in maths. With continuing support we now know she could become an independent, working adult. What future would Merton have provided for her if she came from a different socio-economic background?

I have full documentation to support the above if necessary.

CASE 2

A boy was diagnosed with Aspergers at the end of primary school. He went to the secondary school in Merton which has an autistic unit. In the unit and with support he became settled and happy. However, the unit does NOT give children access to the full GCSE curriculum; they have to attend the mainstream classes. He is a bright boy with specific talents in maths, science and computing. A number of attempts have been made to place Mark in mainstream classrooms with LSAs. Each time they have failed—for example, he was upset by a teacher saying “everyone gets detention if the noise level doesn’t go down”. He feels a sense of unfairness to quiet children like himself very personally and becomes distressed. He has been allocated three different LSAs in one year, one had no induction and had to be trained by the mother. Mark’s psychology report specifically mentions change of personnel causing great anxiety.

When his classes upset him, he becomes anorexic, depressed, suicidal and distressed at going to school. Each time, his mother and teacher bring him slowly back to the unit where he settles again. Finally, after his mother saw his secondary education disappearing in this way, she asked Merton to reopen the statement. They refused to consider a change of provision and were willing to go to SENDIST. The argument lasted nearly two years at which time Mark was nearly 16 and due to leave having missed out many years of education. He will now attend a special 6th form college in Kingston but his mother will have to fight with Merton for transport.

Merton cannot handle such cases because their special schools and units are for moderate or severe learning difficulties, not for intellectually capable children.

We have full documentation for this case.

We can provide documentation to support endless cases of children being poorly served because of budget considerations in all spheres of special needs if you have an interest.

SEN is de facto defined by the system as “academically failing”. Is this correct?

3. The committee expressed an interest in teacher training.

Please bear in mind the statistics:

Seven million people in the UK of working age are estimated to be disabled with 49% economically inactive (compared with 15% inactive amongst non-disabled). Disabled people have the highest inactivity rate of any disadvantaged group. Autistic people have an employment rate of 6% and 12% for Aspergers whilst more than 50% of this group are of normal intelligence.

Source: Office for National Statistics and National Autistic Society

18.5% of school children are estimated to have special educational needs (I believe this an underestimate). 60% are in mainstream schools but with some LEAs reaching 75%+ inclusion. Therefore, you would expect that initial teacher training would have a significant, compulsory module for special needs—perhaps as much as 20% of the curriculum but at least 10 to 15%.

Source: DFES

4. The committee were interested in whether statements resolve educational issues for students.

I believe the answer is no because of the way statements are written and enforced. Statemented children are nine times more likely to be excluded from school than others.

- See inclusion above, the setting itself often prevents learning.
- The provision of expertise solves the problems, not the allocation of money. Most statements allocate resource, not expertise, such as LSAs who are not directed or trained. This is by far the biggest wastage in the system.
- Sometimes LSAs are prevented from being effective by negative attitudes of teachers. (I have examples). SENCOs have a mainly bureaucratic function and often do not progress the attainment of these pupils even with specifically allocated resources in a statement.
- Head teachers resist taking SEN pupils irrespective of whether they have a statement. Two primary school head teachers accepted my normal daughter but resisted my SEN daughter saying they were full and they had no budget to really meet SEN needs. If SEN pupils were excluded from SAT statistics and league tables, head teachers would perhaps be more positive. Separate tables (p-scales, value-added) for SEN pupils could be published alongside to help parents of SEN children to choose a school.

-
- Good education cannot be achieved by writing that it must be so in a legal document. Positive culture, real expertise, targets and rewards must be in place as well. (Legal protection must be there as well because this is a disadvantaged and non-vocal social group and pure prejudice still exists).

January 2006

Further supplementary submitted by Kids First Group

I attach a number of items which back-up our oral evidence to the Committee on 11 January.

1. We attach an excerpt from Merton's draft 2005 SEN Policy. Banding illustrates that the LEA thinks of statements in terms of "pots of money" not individual, expert provision. The banding approach is illegal as is the idea of an upper limit (£12,000) of support. This section was removed after Kids First, supported by IPSEA, threatened Merton councillors with legal action.

2. This SEN Policy is the basis for devolved funding to schools in Merton. Parent consultation was originally limited to 10% of parents of statemented children and 5% of parents of School Action/School Action Plus parents. As usual in Merton, the consultation was launched during the summer holidays in the hope that everyone hostile to the policy would be away. Kids First eventually forced the LEA to extend the consultation.

3. There is a strong consensus among parents in Kids First and parents in neighbouring boroughs that SATs and other league tables should exclude SEN children thereby removing this source of hostility to SEN children by Head Teachers (possibly one table including and one excluding SEN to avoid total segregation). These academic measures are in any case not relevant to those on a differentiated curriculum. Parallel published data specific to SEN children may give Head Teachers an incentive to actively promote good practise and improve SEN provision.

4. We attach an internal memo written by the Head of SEN with authority over the Educational Psychology team in Merton regarding protocol for tribunals. This shows a distinctly hostile stance which sums up the culture that parents endure during the whole statementing process, not just Tribunal cases.

5. We attach details of an autistic boy assessed by a Merton educational psychologist who recommended a school which she knew little about. It was wholly unsuitable to his needs. The parents considered that the educational psychologist under-assessed his level of need so that LEA's standard provision could be made to fit. An independent Consultant Paediatrician and Ed Psych recommended a home-based programme and one to one support. The cost was the same as the out of borough provision proposed. Eventually tribunal found in favour of the parents but at a cost to the family of £18,000.

6. We draw your attention to a Merton case involving a child whom the parents believed needed residential care. This case was taken to tribunal and the High Court with Merton finally giving in because it was discovered that their officers had manipulated some key evidence. Merton paid costs of over £40,000 to the lawyers on both sides!

7. Ofsted inspected our borough in 2004. The inspection did not seek the views of parents and relied mainly on self-evaluation by the LEA. We alerted Ofsted to Merton's suggested banding approach and yet they continued to say in their report that the SEN Policy fell within statutory guidance. Their final report was generally positive towards the LEA although most parents would not have agreed with this. Even those whose children are successfully schooled here cannot attribute this to a positive LEA policy but more to the dedication and professionalism of specific teaching professionals. We believe that Ofsted generally identifies success as a high level of mainstream inclusion and does little to find gaps in actual provision.

January 2006

Memorandum submitted by Special Education Consortium

The Special Educational Consortium (SEC) is convened under the auspices of the Council for Disabled Children to protect and promote the interests of children and young people with special educational needs and disabilities. SEC provides a policy forum on issues affecting children and young people with special educational needs and disabilities. SEC is a broad consortium consisting mainly of voluntary organisations but including professional associations and local government organisations as well. SEC defines its policies by identifying areas of consensus that exist among the wide range of groups represented within it.

SEC welcomes the opportunity to submit evidence to the Select Committee to inform their inquiry into special educational needs and disability. SEC would welcome the opportunity to clarify any aspect of this submission and to supplement written evidence with oral evidence.

SEC presents its evidence in the following sections:

1. Provision for SEN pupils in “mainstream” schools.
2. Raising standards of achievement for SEN pupils:
 - Training; and
 - Access to specialist support in a delegated system.
3. Improving transparency and accountability:
 - at the LEA level; and
 - at the school level.
4. The system of statements of need for SEN pupils.
5. The legislative framework for SEN provision and the effects of the Disability Act 2001, which extended the Disability Discrimination Act to education.
6. SEN and disability in every policy.

1. PROVISION FOR SEN PUPILS IN “MAINSTREAM” SCHOOLS

1.1 SEC recognises that the Select Committee is taking evidence in the wake of a series of high profile debates over this summer. These debates have generated more heat than light, more polarisation of views than consensus.

1.2 SEC recognises that the majority of parents of disabled children or children with special educational needs want their child to be educated in their local mainstream school with their brothers and sisters and other children who live locally. Until recently there were significant limitations on parents’ entitlement to a mainstream place for their child. With the implementation of the SEN and Disability Act in September 2002 parents secured an increased right to a mainstream place. SEC supports the current position that enables parents to express a preference for a mainstream school and to have a reasonable expectation that their preference will be met.

1.3 Inclusion is not about placing disabled children and children with special educational needs in mainstream schools, ignoring difference and “treating all pupils the same”. It is about making appropriate provision to meet each pupil’s needs and reasonable adjustments to enable each pupil to access the whole life of the school. The provision and the adjustments may be different for each pupil. This is the essence of inclusion.

1.4 SEC celebrates the fact that many disabled children and children with special educational needs are now educated with their peers in mainstream schools. Schools that are working hard to include all children attest to the benefits for all children of working in the way that they do.

1.5 Some parents seek a special school place for their child, some as a matter of principle, but many of these parents do so because of poor experiences of mainstream, including:

- a lack of ready welcome for their child;
- a lack of understanding of their child’s impairment and their child’s educational needs;
- difficulty in securing the necessary expertise in schools;
- difficulty in securing appropriate provision within the school; or
- difficulty in securing the appropriate support from elsewhere.

1.6 Perhaps because of some of these difficulties, progress on inclusion has been slow. Ofsted¹ reports that there has been little change in the overall numbers of pupils included into mainstream schools over the last four to five years. Whilst a number of special schools have closed, there has been no overall reduction in the proportion of the school population placed outside mainstream schools. In this context it is hard to give credence to the voices claiming that inclusion has gone too far.

1.7 SEC recognises the genuine challenges in developing appropriate mainstream provision. SEC has welcomed the significant government commitments to improving opportunities for disabled children and children with special educational needs, as set out in the 10-year strategy, *Removing barriers to achievement*.² SEC believes that there will be significant benefits arising from the implementation of the Strategy and that these will be important in developing the capacity of mainstream schools to provide for disabled pupils and pupils with special educational needs. Particularly important to this are:

- the proposals on training for staff, both initial training and continuing professional development;
- the increased emphasis on outcomes for disabled children and children with special educational needs; and
- a focus on ensuring a range of appropriate forms of support for pupils and for their teachers.

¹ Ofsted (2004) Special Educational Needs and Disability: Towards inclusive schools.

² DfES (2004) Removing barriers to achievement: The Government’s strategy for SEN.

1.8 SEC is concerned about the quality of provision made for disabled children and children with special educational needs, whether it is made in mainstream or special schools. There are some excellent special schools, but they are not all small, well-ordered communities, havens from bullying and better able to engender a sense of belonging than mainstream schools. A recent paper by Baroness Warnock³ proposes that special schools are the appropriate place for a much greater number of pupils than are currently placed in them. SEC does not support this view.

1.9 SEC's position can be summarised as follows:

SEC supports the inclusion of disabled children and children with special educational needs into mainstream schools and settings.

1.10 SEC believes that inclusion only happens where:

- adjustments are made to enable disabled children and young people to access the whole life of the school or setting; and
- special educational provision is made to meet the needs of children and young people with special educational needs.

1.11 SEC recognises that parents will make what they see as the best choice for their child and some will continue to choose special schools, especially when mainstream provision fails to address their child's needs.

1.12 Progress on inclusion depends on the development of:

- the capacity of schools and settings to make adjustments; and
- the capacity of schools, settings and LEAs to make the appropriate provision available in mainstream settings.

2. RAISING STANDARDS OF ACHIEVEMENT FOR PUPILS WITH SEN

2.1 SEC has concerns about the continuing evidence of the underachievement and the under-expectation of disabled pupils and pupils with special educational needs in the school system. Ofsted identifies the difficulty in their recent report:

"Expectations of achievement are often neither well enough defined, nor pitched high enough. Progress in learning remains slower than it should be for a significant number of pupils."

Ofsted (2004)

Special educational needs and disability: towards inclusive schools

2.2 SEC's concerns are highlighted at a time of improving outcomes and positive international comparisons more generally. The Five Year Strategy for Children and Learners indicates that:

"Behind these headlines is a fundamental weakness in equality of opportunity."

DfES (2004)

Five Year Strategy for Children and Learners

2.3 A report from the Prime Minister's Strategy Unit highlights the links between poor educational outcomes and subsequent life chances for disabled young people:

There are particular concerns around labour market inactivity amongst disabled young people. Disabled young people are considerably more likely than non-disabled people to be not in education, employment or training (NEET), particularly from age 19 when many will first transfer out of special school . . .

Education is a key driver of opportunity. High levels of education lead to higher employment and income levels and also to better social networks and improved life satisfaction. Low levels of education are associated with the opposite—increasing the probability that disabled people will experience poverty and social exclusion...

Disabled people often do not achieve the qualifications that they could at school owing to a range of factors—including negative experiences of schooling, low expectations from teachers, special schools lacking an academic orientation, and a lack of education provision during hospital and other absences.

Prime Minister's Strategy Unit (2005)
Improving the life chances of disabled people

2.4 High levels of exclusions are both a cause of and the result of poor outcomes for disabled pupils and pupils with SEN. In their study, Special educational needs: a mainstream issue,⁴ the Audit Commission found that the vast majority of permanent exclusions in the 22 LEAs surveyed related to pupils with SEN: 87% of exclusions in primary schools and 60% of exclusions in secondary related to pupils with SEN.

³ Baroness Warnock (2005) paper on inclusion for the Philosophy of Education Society of Great Britain, Special Educational Needs: a new look.

⁴ Audit Commission (2002) Special educational needs: a mainstream issue.

2.5 In 2004 the Advisory Centre for Education (ACE) found that about three-quarters of their exclusions calls related to pupils with special educational needs. Pupils with ADHD, autistic behaviour and mental health problems made up a significant proportion of these pupils. Between a third and a half of ACE's SEN/exclusions calls blamed lack of support or inadequate support as the reason for the exclusion and in nearly a sixth of these calls it appeared that the school had not made any "reasonable adjustments" and that this was a factor in the exclusion.

2.6 In a recent Office for National Statistics report⁵, 27% of children with autism in the sample had been excluded and the vast majority of these on more than one occasion. Exclusions also start young:

"My son was permanently excluded from nursery and from two schools by time he was seven years old. He has now been out of school for 15 months."

Parent of an autistic pupil, ringing helpline organisation

2.7 It is quite inappropriate that there is such over-reliance on the disciplinary route for disabled pupils and pupils with SEN, particularly when there is evidence of lack of support and of a failure to make reasonable adjustments which may amount to disability discrimination. There is a clear need to put in place appropriate provision and make reasonable adjustments. This depends on all the appropriate training and support being in place.

TRAINING

2.8 Training is needed across different roles and at different levels in the service: curriculum managers, teachers in initial training, subject specialists in institutes of higher education, newly qualified teachers in their induction year, so that all teachers understand their duties towards disabled pupils and pupils with SEN.

2.9 SEC welcomes the work commissioned by the Training and Development Agency for Schools (TDA) which is now getting under way at the Institute for Education, London University. SEC understands that this work will lead to new programmes in initial teacher training that should ensure that teachers start their career with a better understanding of SEN and disability. However, SEC understands that this work will only affect the three and four-year initial teacher training courses, and not the one-year Postgraduate Certificate in Education (PGCE). SEC considers it is essential that all trainee teachers have access to initial training on SEN and disability. Post-experience training can then build on this.

ACCESS TO SPECIALIST SUPPORT IN A DELEGATED SYSTEM

2.10 The provision of support services can significantly enhance the capacity of schools to respond to a range of needs. Ofsted identifies the important contribution of support services:

"Support and outreach services promoted inclusion and improved the life chances of many vulnerable pupils."

Ofsted (2005) Inclusion: the impact of LEA support and outreach services

2.11 The report by the Audit Commission,⁶ in 2002, identified concerns about a "shortfall of specialist support" and Ofsted identified delegation as undermining the LEA's ability to target support for pupils with SEN:

"The delegation of funding for support services had a negative effect on the provision for some pupils with SEN. It diminished the capacity of many LEAs to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support."

Ofsted (2005) Inclusion: the impact of LEA support and outreach services

2.12 SEC argues strongly in favour of the proposal, in Removing Barriers to Achievement, to draw up generic minimum standards for SEN support services, to ensure that this crucial source of advice and support is not further eroded. At the same time it is important that there is clarity about delegated funds: what is delegated, what for and how it is being used.

3. IMPROVING TRANSPARENCY AND ACCOUNTABILITY

3.1 An important element in improving outcomes for disabled pupils and pupils with SEN is that schools are held to account for their progress. It is particularly important that the new frameworks for school improvement, that rely on schools working with a school improvement partner, make full use of the data on pupil progress to inform supported self-review in this area.

3.2 Regulations⁷ require local authorities to publish information about how they meet the needs of pupils with SEN. In particular local authorities are required to set out, in their policies, the respective responsibilities of schools and themselves in respect of the use of delegated and centrally retained funds.

⁵ Office of National Statistics (2005) Mental Health of children and young people in Great Britain. London: Palgrave Macmillan.

⁶ Audit Commission (2002) Special educational needs: a mainstream issue.

⁷ The Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001.

Clarity about this aspect of local authority policy has a strategic importance: it should make clear what parents can expect schools to provide and what they can expect the LEA to provide. This can also be a tool for showing schools what approaches they can be expected to have provided for pupils with different types of need. Schools and parents can see what it is that the school can be expected to have provided before considering approaching the local authority for additional resources.

3.3 The LEA is required to publish its policy on its website. Not all LEAs comply with this requirement, but, following a survey by the Advisory Centre of Education, and revised guidance to Ofsted inspectors, more LEAs are now publishing their policies on their websites. It is important that there is continuing pressure to make this information available to parents and to schools.

3.4. Equally important is the information that schools are required to make available to parents. Schools are required to make available their SEN policies and their accessibility plans, and are required to report on these annually. However, parents regularly report to member organisations the unwillingness of schools to give them this information. In a small-scale unpublished survey of 20 parents by Centre 404 and the National Autistic Society, parents identified real difficulties in getting hold of information from schools on admissions, exclusions, and policies on SEN, accessibility and bullying:

"I had to fight for every piece of information above from school, LEA and in the end I had to go to independent bodies or charities to receive information. I never did receive school policies . . ."

"I was given a copy of the bullying policy but very begrudgingly!"

"[We should be given] all policies regarding the handling of disabled pupils—these should be given automatically without you having to ask."

3.5 The significance of these difficulties is that it undermines parents' confidence that the school will be able to meet their child's needs and it puts them at a disadvantage in accessing schools. Difficulty in getting hold of information can fuel demand for a statement, simply because parents may not know what the school should be making available.

4. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS

4.1 SEC dislikes the confrontation surrounding statements. However, parents do not start out wanting or needing a statement for their child. Statutory assessments and statements are necessary to secure the appropriate provision to meet the needs of the child. As statements provide access to additional resources there will always be a need to use some form of assessment in order to determine entitlement to those resources, and indeed such assessment systems existed well before the publication of the Warnock report and the passage of the 1981 Act. While access to additional resources is always important in meeting special educational needs, some of the confrontation around statements arises from a lack of clarity about the respective responsibilities of schools and local authorities.

4.2 It is the allocation of resources through statements that has enabled disabled pupils and pupils with SEN to be included into mainstream schools and to access support and resources there.

5. THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

5.1 The DDA duties are less well known than the SEN framework, both to schools and to parents. The DDA duties have been in force for a shorter time and they require a different way of thinking: rather than focusing on the needs of the child, the duties in the DDA require us to consider the changes we can make in the environment to better enable a disabled pupil to access provision and to participate fully in the life of the school.

5.2 Organisations in membership of SEC occasionally report parents' positive experiences of visiting schools and finding a ready welcome, but they also report the negative messages parents receive, some of which may amount to discrimination:

"Try the school down the road. It has a much better SEN department."

"[School X] has more experience of children with SEN."

"I cant imagine anyone anywhere having anything good to say about your son"

"We can't take your child unless he stops having fits" (of a child with epilepsy)

5.3 Only a small number of claims of discrimination has been brought to the SEN and Disability Tribunal. Between September 2002 and January 2005, 188 claims were made. Commenting, in 2003, on the slow rate of claims to the SENDIST, Trevor Aldridge, the outgoing President of the Tribunal commented:

"Of the total of 3,610 cases registered by the Tribunal during the year only 78 were claims for disability discrimination, just over 2% of the total workload. It seems likely that this small number results from ignorance of the role which the Tribunal can now play, rather than a near-absence of discrimination."

5.4 Schools have also been slow to respond to the requirement to publish an accessibility plan:

"Over half the schools visited had no disability access plans and, of those that did exist, the majority focused on accommodation."

Ofsted (2004)

Special educational needs and disability: towards inclusive schools

5.5 It is a matter of urgency that schools develop a greater awareness of the DDA duties and operate in the light of these duties. The new duties in the DDA 2005 place schools under a more active requirement to promote equality of opportunity between disabled and non-disabled pupils.

6. SEN AND DISABILITY IN EVERY POLICY

6.1 SEC has welcomed the Government's SEN Strategy, Removing Barriers to Achievement, and would argue that the Strategy needs to be given a higher profile across the DfES and in other Government policies. There are instances of the SEN and disability dimensions being omitted from other initiatives through an oversight, as with the original publication of the National Literacy Strategy and, more recently, the guidance on Speaking and Listening. Disabled children and children with SEN are also absent from the Five Year Strategy for Children and Learners DfES (2004), where the strong emphasis on equal opportunities and outcomes might have argued that they should have a key focus.

6.2 There are other instances where SEN and disability perspectives run counter to the prevailing culture, for example:

- the abolition of the annual report of the governing body to parents. For parents of disabled children and children with SEN, this removed an important point of access to information in a document that was widely circulated and no one had to ask for. The proposed school profile does not contain the SEN and disability information that was in the annual report. It is proposed that the SEN and disability information, which is required annually, should be reported in the prospectus;
- when proposals on school transport were published in autumn 2004, they took little account of disabled children and children with SEN;
- Academies: there has been a small number of difficulties reported by members of SEC in relation to admissions and exclusions from academies. SEC members are monitoring evidence from helplines. There is also a matter of principle. SEC is concerned that children with a statement of SEN have a lesser right of access than their peers and a lesser right of access to an Academy than to a maintained school. There is concern that this may amount to discrimination.

January 2006

Memorandum submitted by Focus Learning Trust

INTRODUCTION

1. This document is submitted to the Education and Skills Committee from Focus Learning Trust in view of offering the benefits of experiences in developing a suitable SEN programme in 37 UK schools to remedy the backlog of many undiscovered or unrecognised SEN conditions, some of which have been inherited from the lack of suitable provisions in state primary schools.

THIS SUBMISSION

2. In this submission, a pupil is considered to have special educational needs if one or more of his education attainments fall significantly below that of his peers, or some of his educational attainments are considerably below what you would expect from his other achievements—for example, a child with very high reasoning ability but only average reading skills.

3. Able, gifted and talented pupils also have special educational requirements, but this submission deals only with learning difficulties.

4. It is not the purpose of this submission to plead for extra funds, but rather to suggest practical ways in which available funds could be used more effectively.

CAUSES OF SEN

5. There seem to be at least three main sources of SEN:

- Medical, such as deafness or Downs.
- Lifestyle, such as diet or social pressure.
- Specific learning difficulties.

SPECIFIC LEARNING DIFFICULTIES

6. As a result of years of work by pioneers such as Beve Hornsby of the Hornsby Institute, it is now generally accepted that a pupil can be healthy and intelligent, and yet genuinely have a specific difficulty with reading or spelling, etc.
7. Unfortunately, few have then asked the vital question—WHY?
8. Instead, a lot of effort has been expended, trying to group SpLD pupils into a few global categories such as dyslexia and ADHD.
9. Limitations of this approach are shown by the existence of more than a dozen official definitions of dyslexia in the UK alone.
10. As a result, diagnostic tests tend to be so complicated that only experienced professionals can administer them, while many teachers are not allowed to. This makes it difficult for schools to conduct even a preliminary assessment of a pupil.

REASONS FOR SPLD

11. It has now become clear that there are specific physiological conditions underlying SpLD, such as:
 - retained birth reflexes;
 - retained birth stresses, especially in the skull;
 - auditory processing difficulties;
 - poor eye muscle control; and
 - impairment from ailments such as ear infections.
12. The incidence, intensity and combination of these conditions varies from child to child, that is why it is so difficult to put SpLD into global classifications, and also, sadly explains why some professionals insist there is no treatment to alleviate SpLD.

VARIETY OF SYMPTOMS

13. Just by way of illustration, consider some of the possible causes, medical, lifestyle and physiological, that could lie behind a case of chronic inattentiveness:
 - An undetected medical condition such as diabetes.
 - An allergic reaction to fizzy drinks such as colas.
 - Utter boredom with an able pupil whose lessons do not stretch him properly.
 - Social stress.
 - Auditory processing delay.
 - Difficulty hearing against background noise.
 - Retained moulding compression of the skull.
 - Weak or stressed ocular muscles, disturbing eye co-ordination and focusing.
 - Poor balance/eye motor control co-ordination.
 - Retained birth reflexes. For example, with spinal Galant reflex, the lower back is very sensitive, making it very hard to sit still.
14. Each underlying symptom needs its own particular treatment. This can easily be overlooked when working with one global diagnosis.

THERAPIES FOR SPLD

15. What is encouraging is that proven therapies (as distinct from enhanced teaching systems) are available to treat many of these conditions. Some examples follow.

PAEDIATRIC CRANIAL OSTEOPATHY

16. A difficult birth can leave a baby with retained moulding and distortion of the skull, leading to restricted brain function, hyperactivity, and learning difficulties in later years.
17. It is increasingly common practise here, and on the Continent, for maternity units to recommend treatment, specially to reduce the likelihood of SpLD in later years.

ARROW

18. The ARROW self-voice dictation system was originally developed for special educational needs children. It was found they responded and learned far better from their own voices than any others.

ARROW is now used with pupils of all ages and abilities not only in the UK but elsewhere in Europe, the West Indies and the Middle East. It is particularly useful for those with specific hearing difficulties.

19. ARROW has discovered that students with literacy problems cannot listen with background noise and has introduced specialised listening programmes within its national literacy strategy material.

20. Evidence from hundreds of SEN pupils shows it is reasonable to expect nearly 12 months progress in reading and in spelling after less than 10 hours work. The key to its success being the use of the self-voice linked to carefully graded CD ROM programmes. The Parliamentary e-Diary acknowledges that ARROW is a leader in its field which delivers a high standard of service aiming to produce excellence in education.

RETAINED PRIMARY REFLEXES

21. Pioneering work by the Institute of Neuro-Physiological Psychology in Chester showed that children with SpLD are apt to have retained birth reflexes.

22. These automatic reflexes are essential for a baby's survival in the early months. However, if they are still present in later years, they can interfere with the higher brain functions involved in learning.

23. Further work at the INPP showed that retained reflexes could be suppressed by special patterning exercises, with a corresponding reduction in SpLD. This can be seen in the results of a double blind trial conducted by Queens University, Belfast, published in *The Lancet*.

AUDITORY THERAPY

24. Auditory therapy re-tunes the inner ear by a programme of selected acoustic frequencies. This can improve hearing and balance, and also the functioning of those parts of the brain linked to the auditory system.

25. There are several effective systems available. The Listening Program from America, supplied in this country by Learning Solutions in Bradford, is one of the easiest to use. It helps with auditory problems, retained reflexes, balance, movement, social interaction, and some autistic spectrum disorders.

TEACHING METHODS

26. Some old-fashioned teaching practices appear to have a beneficial therapeutic effect on SpLD. Examples include:

- chanting in class—multiplication tables, etc;
- class singing—folk songs etc; and
- physical exercises involving left/right co-ordination.

27. In addition there is often a big improvement in educational outcome, when a pupil realises that he does have a genuine problem, and his teachers are sympathetic with him.

ASSESSMENT OF SEN

28. At present, many cases of SEN go undetected all through primary school, and even secondary school. There are at least two reasons for this.

29. Firstly, social pressures have led to a lot more behavioural problems, which must be a teacher's first priority. Well-behaved SEN pupils are all too easily overlooked.

30. Secondly, because the assessments procedure is so complicated, requiring the input of professionals who are in relatively short supply, teachers cannot always be sure if a pupil has SEN or not.

31. Hull University recognised this problem, and have developed a SEN assessment package, Lucid. Using laptops, with scores calibrated against the results of thousands of tests, Lucid allows laymen to conduct accurate tests for SEN.

32. Lucid is cheap and easy to operate, giving reliable results. It is increasingly used by education professionals themselves.

SEN LEGISLATION

33. The intention of SEN legislation is good, and if widely practised, would be beneficial to SEN pupils.

34. Unfortunately there are several major drawbacks. Firstly, the system lacks:

- effective enforcement procedures;

-
- reporting systems to show how well an LEA is carrying out its SEN responsibilities; and
 - an easy way for parents to know if they are given the help envisaged by SEN legislation.

35. Secondly, there is no mechanism in place for ensuring that available funds go to the pupils who need them. For instance, a Local Education Authority may allocate all its SEN provision direct to each school. If then a school has an exceptional SEN case requiring costly support, the school may not have enough SEN funds, and the LEA has none left to help the school.

36. Alternatively, an LEA may attempt to ration the number of SEN Statements, to keep within budget.

37. The end result is that trying to obtain SEN “statement funding” places a heavy time and cost burden on schools, with no certainty of securing SEN funds, however deserving the case.

38. The system almost forces LEAs, schools and parents to adopt an adversarial stance. Although suitable for a criminal court, it seems quite inappropriate for deciding how best to help an SEN child.

POSSIBLE IMPROVEMENTS

39. All schools, particularly primaries, could be given the means of conducting their own preliminary SEN assessments, using Lucid or similar.

40. They could be encouraged to identify SEN as young as possible. The earlier help can be brought to bear, the better it is for the child, its parents, its teachers, and not least, the Exchequer.

41. To reduce the adversarial element of SEN, would it be better to put responsibility for full SEN assessment to a body operating at arm's length from both schools and LEAs?

42. This body, working closely with teachers and parents, could be responsible for:

- full SEN assessments;
- recommending special teaching;
- recommending proven therapies;
- issuing statements of Special Needs; and
- reviewing and reporting on the results of its recommendations.

43. Any school pupil could be referred to this body, provided there has been a preliminary SEN assessment, and there is simple evidence to show why a full assessment is needed.

44. This service, could be free at the point of use, and a recommendation from the independent body could be a trigger for the release of the necessary SEN funding from an LEA to the school in question.

45. There seems to be a case for better co-ordination of research into the best ways of treating SEN, including making use of properly validated SEN therapies.

January 2006

Memorandum submitted by the National Association of Independent Schools and Non-Maintained Special Schools (NASS)

1. INTRODUCTION

This document forms NASS's written evidence to the Parliamentary Select Committee on Education and Skills Inquiry into Special Educational Needs. NASS is an umbrella organisation, representing all 72 Non-Maintained Special Schools and 50 Independent Schools catering wholly or mainly for children with SEN, most of which have approved status through the Department for Education and Skills.

NASS schools provide education, social care and health care for children with the most complex, severe and low-incidence special educational needs. As a result of these needs and the subsequent vulnerability of these children and young people, the cost of individual placements can be high. This frequently results in assumptions that our schools are “too expensive”. In this evidence, NASS will seek to set out the value of the Non-Maintained and Independent Special School (NMISS) sector in cost and expertise terms. There are also responses to the specific areas to be addressed by the Select Committee.

Given the needs of the children and young people that NMISS cater for and the inaccuracies that exist in the understanding many public sector bodies have of our sector, NASS would particularly welcome the opportunity to give oral evidence to the Committee.

2. NMISS—A VITAL ELEMENT IN THE CONTINUUM OF SEN PROVISION

In 2003, the DfES Special Schools Working Group Report highlighted the essential role special schools play in meeting the needs of children with SEN. Within special school provision, NMISS play a particularly specialist role. Whilst many Local Authority-maintained special schools cater for children with a broad range of SEN, each NMISS tends to specialise in only one or two types of SEN. This gives schools experience that most mainstream and maintained special schools will not have and allows for the development of very specialist skills and expertise.

In recent years, Government policy has led to an increasing number of children with SEN being educated in mainstream provision. For many children, this has been appropriate and successful. However, for children with very complex or severe SEN, there is a risk that attending a mainstream school does not represent real inclusion. Many mainstream school staff do not have the experience of working with children with high levels of need or the associated skills that come from such experience. For some children with complex or severe SEN, attending a NMISS has been the first time that they have had a sense of belonging and of being fully involved in the whole educational experience from teaching and learning to peer group relationships. NASS strongly believes that inclusion must be about more than where a child received education and that special schools can, and do, provide excellent inclusive educational experiences.

The trend towards inclusion has led to a correlated trend towards NMISS catering for children with the most complex and severe SEN. Medical advances have meant that children who may not have previously survived, are now living into adolescence and beyond. Many children will have highly specialised health and social care needs, which smaller Local Authorities struggle to meet. The specialist nature of NMISS makes them an essential element in the provision of services for such children.

Where possible, it is appropriate that children should not have to leave their home and families to receive the education, social care and health care that they need. It is appropriate that Local Authorities should be reviewing and developing their own provision and considering regional provision. NASS argues that NMISS are ideally placed to be part of that regional picture of provision. Whilst school places form the core business of NMISS and allow for the development of expertise and innovative practice, there are many opportunities for that expertise to be shared with children and young people, parents and Local Authority-based professionals. As the evidence will detail at a later stage, many schools are already engaged in innovative partnership work.

3. COST AND VALUE FOR MONEY

Although the cost of comprehensive, high quality provision is not cheap, NASS strongly argues against accusations that our schools are “too expensive”. A review of Ofsted and Estyn inspections of NASS schools (available on the NASS website at www.nassschools.org.uk) reveals that of the 119 schools surveyed, 100% achieved “sound” or better judgements for value for money, 75% were “good” or better and 27% were “very good” or “excellent”. These findings are better than many maintained special schools.

To date, there has been no comprehensive research that conclusively demonstrates that NASS schools are more expensive when comparing like with like and taking into account the full range of education, care and health services that NASS schools are able to deliver on site. Despite this, there is mounting pressure on Local Authorities from central government not to make “out of authority” placements and a reduction in the funding available to authorities to make such placements. This threatens the choice of parents and children to opt for specialist educational provision and leaves many to have to fight for their wishes to be heard through the SEN and Disability Tribunal. Whilst NASS supports the mainstream education of children with SEN, with the proper support, we are very concerned about “inclusion” being promoted as a cost-cutting exercise.

NASS argues for some level of central government funding of places in NMISS to remove these financial pressures from Local Authorities. This would ensure that vital specialist provision is not lost through the closure of schools where parental demand for places outstrips supply but the number of placements made by authorities is falling year on year.

4. HIGH QUALITY PROVISION

For two years running, Mary Hare School in Berkshire and RNIB New College in Worcester (both NMSS) have topped the DfES Value Added tables, achieving educational outcomes for children with hearing and visual impairments far in excess of what might be expected. However, because they are small schools, these figures are not widely published.

The sector has struggled against unwarranted accusations that provision in NMISS is of poor quality. In the review of Ofsted and Estyn inspection reports detailed above, we found that there is nothing to suggest that the quality of education and of leadership and management in NMSS and Approved Independent Special Schools (AISS) are weaker than in maintained special schools. Indeed, the percentage of NMSS and AISS where leadership and management are sound or better is 99% compared with HMCI's figures for all special schools in 2002–03 of 89%. In the same report HMCI stated: “pupils' achievement in approved independent schools is similar to that in LEA-maintained special schools” (Standards and Quality 2002–03).

The Annual Report of HMCI, p 53). This was reiterated in a letter to the NASS Chief Executive by David Bell, dated 5/02/04: "I hope you will . . . take comfort from the fact that my Annual Report 2002–03, published on 4 February 2004, draws attention to the good quality of provision in approved independent schools."

The safety of children with SEN, particularly those living away from home, is paramount. Children and young people are often particularly vulnerable as a result of communication or emotional needs. The emotional health needs of children with SEN are often poorly understood or neglected. Schools like Westwood in Kent are addressing this by employing a full-time school counsellor, who liaises with the local CAMHS team. This work makes a major contribution to ensuring that children in school are safe. Despite criticism of some residential special schools in the recent Safeguarding Children report, there are numerous examples of excellent practice in Child Protection in NASS schools. Chailey Heritage School in East Sussex is nationally recognised for its good practice guidance on intimate care for disabled children and is represented on its local Joint Child Protection Forum. Peterhouse School in Southport recently shared their expertise in working with children with Autistic Spectrum Disorders at a national conference, "Protecting Those Who Cannot Tell" and Pegasus School in Derbyshire was the first school to be awarded a maximum five star audit by the British Safety Council.

5. INNOVATIVE PRACTICE

NMISS are perfectly placed to develop innovative practice in teaching and learning and "hidden curriculum" activities for children and young people with low-incidence SEN. The Loddon School has introduced the PLLUSS programme—Personalised Learning for Life Using Supportive Strategies—which offers tailor-made education for each child, drawing on preferences for activity, location and staff. This supports children previously excluded or rejected from previous schools to access education fully. Sunfield School near Stourbridge has used its research centre to develop innovative practice with children with Autistic Spectrum Disorders ranging from classroom activity to the building design and decoration of their new residential unit.

Mary Hare School, New College Worcester and Royal West of England School for the Deaf, are all pathfinders in the DfES's new programme of Specialist Special Schools, helping to ensure that their expertise can benefit a wider range of children and staff.

6. WORKING IN PARTNERSHIP

Although there are some tensions between NMISS and Local Authorities surrounding funding, there are also many examples of strong partnerships. The development of the 11 SEN Regional Partnerships has created opportunities for NMISS to work closely with authorities in their area. The Old School in Nuneaton now works intensively with therapeutic, social and medical services in each student's locality to ensure that gains made at school can be sustained and built upon when they leave. In Exeter, the Royal School for the Deaf provides professional management of Torbay's Hearing Impairment Service and advises on ICT for pupils with SEN, reaching a far greater number of children than those attending the school. St Vincent's School in Liverpool provides a similar Visual Impairment service for one of its Local Authorities.

Relationships between NMISS and local mainstream schools are often particularly strong. Many schools have arrangements in place to share teaching and learning and recreational facilities and in many cases this means that children with SEN are learning alongside their peers, whilst still receiving the benefits of specialised educational support. There are also benefits for staff with many schools offering opportunities for mainstream staff to spend time in NMISS or making specialist training courses available.

SUMMARY

NMISS are an essential element of the continuum of provision for children and young people with SEN, particularly those with severe and complex disabilities. Funding constraints and an unwillingness to acknowledge the real cost of fully meeting the educational, social care and health needs of these children and young people creates tensions between Local Authorities and schools and parents. These tensions are often expressed as objections to NMISS in cost, value for money and quality terms, which are not borne out by available evidence.

NASS'S RESPONSE TO SPECIFIC AREAS IDENTIFIED BY THE INQUIRY

(a) *Provision for SEN pupils in "mainstream" schools: availability of resources and expertise; different models of provision*

The majority of children with SEN are educated in mainstream schools. For many children this is appropriate and primary schools in particular are often able to meet children's needs effectively. The experience of children and young people with SEN in secondary schools is often less successful. Difficulties which may have been contained within a small primary school can become manifest in larger secondary

schools, where staff are likely to have less detailed knowledge of individual children and young people. For children with particular types of SEN, particularly Social, Emotional and Behavioural Difficulties (BESD) and Autistic Spectrum Disorders, this lack of containment can lead to the breakdown of the educational placement.

The mode age for placement in NMISS is 15. Frequently placements are made at a point of crisis, where mainstream school placements have broken down and Local Authorities have exhausted their own resources. These types of arrangement are far from ideal for the young people involved and do not provide a good starting point for NMISS in working effectively with them. NASS welcomes the focus in Every Child Matters and Removing Barriers to Achievement on early intervention. From the perspective of NMISS, the opportunity to provide specialist input to children at an early stage increases the possibility of that child or young person returning to mainstream schooling at some point in their education.

As noted in our earlier evidence, a number of NMISS provide or manage Local Authority support services. This is an excellent use of their expertise and NASS would seek further developments of this nature within the Change for Children programme. The exchange of staff and training mentioned earlier would also contribute to developing expertise in mainstream school staff. The Special Schools Working Report and current Audit into Low-Incidence SEN have both mentioned the possible development of “Regional Centres of Expertise”. NMISS should be an integral part of these, whether in terms of providing a bricks and mortar base and/or being viewed as a significant source of the expertise.

(b) *Provision for SEN pupils in Special Schools*

Special schools must continue to be recognised as a vital part of the continuum of provision for children with SEN. Inclusion is not simply about where a child is educated but about how they are educated. As noted earlier, children in NASS schools report positive educational experiences and a sense of belonging and of having their needs understood and met. It is inaccurate to assume that a special school placement cannot, by definition, offer an inclusive educational experience. The use of dual placements and closer links between special and mainstream schools have reduced the “either/or” distinction and reduce the potential for isolation.

The funding of placements in NMISS would benefit from review. Until the late 1990s despite successful fundraising activities for particular projects funding for the sector was primarily pupil placement based. Although individual schools were able to bid annually for some aspects of capital funding this source of funding was very limited. A few schools were sometimes able to receive specific grants to support a portion of specialist staff training costs through arrangements with their local education authorities but again this was both limited and inconsistent across the country.

Through the work of NASS a number of direct funding streams to the sector have been established in recent years. These have included several year-on-year allocations (eg Standards Fund, School Standards Grant, Devolved Capital Funding), various funds to support specific arrangements (eg Threshold Funding to UPS1, some aspects of leadership training) and some indirect grants to fund particular initiatives (eg ICT training, Laptops for Teachers, PLASC). The amount of Capital Grant available for bids from the sector has also increased.

These new funding arrangements have been welcome but there remain inconsistencies and anomalies eg payment for progression to UPS2, Pension contribution arrangements. The restriction of these funds to NMSS while AISS continue to provide very similar services also remains a concern. Only through the fees charged for placements can AISS fund the same initiatives for the benefit of their pupils.

Funding arrangements based almost entirely on annual placement costs for pupils with statements have significant disadvantages for NMISS which constantly strive to keep placement costs to a minimum in accordance with their charitable objects and operating principles:

- schools are extremely vulnerable to short-term changes in placement patterns and significantly reduced numbers in a particular year or two-year period can threaten and sometimes irreversibly undermine the viability of some NMISS jeopardising their viability or future existence at a point in time when, due to health or demographic trends, demand will rise again and their services will again be required;
- where schools make provision for pupils from several LEAs viability is dependent on total intake and one or two LEAs changing their placement arrangements can have an adverse impact on provision for pupils from other LEAs placed in the school;
- uncertainty about pupil numbers and intake can undermine the stability of employment of established expert staff and encourage them to seek careers elsewhere;
- maintaining high quality provision and curriculum breadth can be seriously challenged where highly specialised staff are lost to less specialist but more secure employment;
- working within a narrow income and expenditure margin leaves few opportunities for long-term planning and very little funding for new initiatives and developments (eg outreach work);
- existing funding arrangements allow for very little more than a maintenance of the status quo; and

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- inconsistencies in funding streams for NMSS and AISS put the latter at a significant disadvantage when it comes to determining fee levels.

LSC funding of placements at specialist colleges has for some time now been based on an annually pre-determined fee matrix system. Through this identified individual student needs and agreed levels of support and provision automatically allocate the level of fee to be paid for the placement of each student. Application of this type of model to NMISS or a new model of core funding for the sector warrants further investigation.

(c) Raising standards of achievement for SEN pupils

Despite the introduction of PLASC and P Scale benchmarking there is still no solid research that makes comparisons between pupils with SEN in different forms of education provision. Looking beyond educational achievement, there are very limited mechanisms for evaluating how well children with SEN are meeting the five outcomes set out in the Children Act 2004. There is a real need for large scale longitudinal research studies to track children and young people through education and beyond to provide evidence on the impact different education experiences have on life chances. Such evidence is essential for making valid comparisons between different types of education provision, including those of cost-effectiveness, and both purchasers and providers are hampered by its lack.

(d) The system of statements of need for SEN pupils (“the statementing process”)

There are valid concerns about the length of time the statementing process takes and the amount of resources tied up in the process. NASS supports a review of the process but is cautious about simply ending statementing in the absence of a wider review of parental wishes and access to specialist support. For many parents, the statement becomes the only vehicle by which they can assert their wish for a specialist placement in a NMISS. This situation becomes more frequent with increasing pressures on Local Authority funding of “out of authority placements” and many of these cases result in a tribunal. NASS would seek reassurance that any change to the statementing process would not result in children and young people who require specialist support being denied access to a place in a NMISS.

(e) The role of parents in decisions about their children’s education

The right of parents to choose a mainstream or special school education is often a struggle in practice. As detailed above, the wish of parents for a NMISS placement for their child is not always acknowledged by Local Authorities. Parents are often not made aware that such placements exist or are forced to go through the lengthy and stressful tribunal process to secure a place. Some NMISS find themselves placed in a difficult position whereby offering support to parents through the tribunal process puts them in direct conflict with the Local Authority who does not wish to place the child there. This does nothing to enhance relationships between NMISS and Local Authorities and is detrimental to future partnership working. However, there is very little support for parents in this position, who often feel that the NMISS are the first people to listen to and attend to their needs. Some NMISS have responded to this by developing family support services, notably Sunfield, who have run a number of successful events for families, including fathers’ and siblings’ days.

(f) How special educational needs are defined

The four bands set out in the SEN Code of Practice do not adequately categorise the range of needs that children might have. This becomes a particular issue when funding is attached to this banding and when there are a range of professionals working with a child or young person. Professionals from education, health and social care backgrounds tend to define needs differently and this is likely to be problematic as we move towards Children’s Trusts and pooled budgets.

(g) Provision for different types and levels of SEN, including emotional, behavioural and social difficulties (EBSD)

Given that NASS schools cater for the full range of SEN, a full exploration of each type, in each region of the country, would be too lengthy for this submission. However, we would be able and pleased to provide oral evidence about the position relating to each specialism. As a brief introduction to the subject we would offer the following observations:

Sensory Impairment—although many children with visual or hearing impairments have good experiences in mainstream schools there are still many who benefit from special school provision or support. Many authorities have reduced or cut their central support services at the same time that NMISS catering for sensory impairment have noted falling pupil numbers. Our experience that this is not related to falling demand from children and families but an increased reluctance from placing authorities to use this provision.

Behavioural, Emotional and Social Difficulties—as noted earlier, the pattern of referral to NMISS is of referral at age 15, only when other placements have broken down irreparably. This is a particular case where earlier intervention is greatly needed.

Autistic Spectrum Disorders—the number of children and young people with ASD who are out of school is a serious concern. Estimates are likely to be the tip of an iceberg with other children—especially those in mainstream—on part time programmes (half day) or not allowed to stay for lunch. There is an argument that this is the result of including children with Autism and AS in mainstream settings without adequate skilled support and without the school making sufficient adaptations to the way it operates. Parents in particular report a lack of specialist education places and the difficulty in securing such a place for their child.

(h) *The legislative framework for SEN provision and the effects of the Disability Act 2001, which extended the Disability Discrimination Act to education*

NASS would note potential tensions between SEN legislation and the new Children Act 2004 and subsequent Change for Children programme. Change for Children has a holistic focus on children and young people that has the potential to make real changes for Children with SEN. Given that the focus is on all children, it offers a real opportunity to do away with the sometimes artificial distinction between those children and young people with SEN and those without. This could be adversely affected by a continued reliance on the SEN Code of Practice. At the same time, balances need to be in place to ensure that budgetary pressures do not lead to a reduced service for children and young people with additional needs and their families.

The extension of the Disability Act 2001 to education has been appropriate but has focused largely on schools, both mainstream and special, making material changes to buildings. This does not fully address the real process of inclusion in terms of educational experience as well as location.

January 2006

Witnesses: **Mr Brian Lamb**, Chair, Special Education Needs Consortium; **Mr John Hayward**, Focus Learning Trust, and **Ms Claire Dorer**, NASS, gave evidence.

Q230 Chairman: Can I welcome Brian Lamb, from the SEN Consortium, John Hayward from Focus Learning and Claire Dorer from NASS. Thank you, again, for coming here and welcome to the Committee. I notice all of you have been sitting there listening to the first session so you are all primed to the sorts of questions we might be asking. You are in a rather different position because you are provider representatives. Let us get started by asking you for just a thumbnail sketch of your organisation. Shall I start with Claire Dorer, as she is sitting in the centre?

Ms Dorer: NASS actually stands for the National Association of Independent Schools and Non-Maintained Special Schools. We represent about 120 schools: all of the 73 non-maintained special schools and about 50 independent schools. They provide for children with, perhaps, the most severe and complex forms of SEN in the country, much of the provision is residential and places in the schools tend to be funded by local authorities making placements because they do not have that provision within their own authority.

Q231 Chairman: I have seen the very excellent work of one of your members in Huddersfield. John Hayward?

Mr Hayward: Thank you. We appreciate being asked to take part in the work you are doing and we fully agree that the SEN procedures need considerable review. We just hope that we can say something to you that will help. Focus Learning Trust is a support and liaison charity to help more than 30 independent, small schools set up around the country. There are about 1,800 secondary school children, and professional teachers at all of them.

My involvement may just help you a little bit. Four of our children needed statements. The experience was a nightmare that I would not wish on anyone. So we have had a little practical experience and, as a result, I have kept in touch with special needs ever since and got drafted on to the Focus SEN team. One or two things we found—

Q232 Chairman: Can we hold that for the questioning? I just wanted a thumbnail sketch. Brian Lamb?

Mr Lamb: Good morning. The Special Education Consortium is convened under the Council for Disabled children and we are a very broad coalition that represents everybody from small parents' groups dealing with special education at the front line through many of the major disability organisations that do, indeed, provide specialist services from special schools through to support, through to some of the teacher unions. Our main aim is to try and bring together everybody with an interest in special needs to represent the interests of disabled children within the education system and to try, where possible, to seek consensus across the sector and represent, as far as possible, a co-ordinated view which is often helpful to committees such as yourselves and, indeed, to government. We were very involved in both the SENDA legislation, as one example of the kind of work we do.

Q233 Chairman: Thank you for that, all three of you. You have heard the evidence we have just taken in the last hour, what is your view on the big questions that were emerging? Can we start with the big question of: are statements useful? Are they not

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useful? There seemed to be an interesting division of opinion on the whole role and status of the statementing process. What is your view.

Ms Dorer: I think we feel that there are problems with statements in terms of parents and children actually getting them in the first place and then how the provision coming out of them is actually organised and, eventually, provided. At the same time, I think we would have a lot of anxieties about there being nothing there that would guarantee provision for children with SEN.

Q234 Chairman: How are they doing it in Scotland then? Do you know?

Ms Dorer: It is very new, is it not? It was really only November that it was launched, so I think it is too early to tell how that is working.

Q235 Chairman: You do not know the methodology there—what they aim to replace it with?

Ms Dorer: They are talking about additional needs now, are they not, rather than special educational needs. However, as I say, it is too early on for me to be able to say to you I know anything about what is happening.

Q236 Chairman: Would you like to see us following that path, though, Claire?

Ms Dorer: For the schools that I represent I think that would be difficult because children are only admitted because they have got a statement of special educational needs. Some local authorities are very happy to place children in our schools, for others it is a real struggle and it is only the fact that the statement is there that eventually is the lever that allows that placement to happen. So we feel we would need something that means that children who need that specialist provision would still have a right to it.

Q237 Chairman: Brian, some people would suggest that it is not just that there are some specific problems in special education; some of the evidence we have taken this morning might be construed as saying there is nothing very much good about special education in England today. Is that right?

Mr Lamb: I think, in terms of statements, what we have to look at is that for a long time there has been concern, and I think we have all been aware within the sector of the various problems that parents face in relation to statements, but I would go back to the theme that seems to have come through this morning that you need some means to assess the particular needs of children's learning. We have School Action and School Action Plus but when you have got to a stage where the child is not making progress once you have gone through that process within the school, what do you do? You need something that is going to be able to be triggered by parents where parents are going to be able to be involved in that process, and if they do not like the outcomes of that process to be able to challenge that. That process we currently call "statements" and, indeed, the whole issue of needing to follow that kind of process predates even some of the Warnock work and the

growth after the Warnock report. So there is clearly a need to have that kind of process. Whether the current one is absolutely the right one is clearly open to much more debate. I think the moves that have been made to try to simplify the bureaucracy, which you have heard about already this morning, are absolutely right. For example, IP statements and the fact that they are completely rewritten when a child transfers from one authority to another—why can the statement not go with them?—I think I am right in saying it does for the first six months but what happens after that? I think in all those areas we could look very much at how you might simplify, but the crucial element of identifying the needs of the child and making sure there is appropriate provision for the child, making sure the parent can trigger that process and it is transparent, are all crucial. If we do not have the current system, I suggest that any other system we devise would have those similar elements in it. The other element you have already talked about this morning is how far that should remain vested with the local authority or go into a more national body as the Cameron Commission looked at. I think the obvious advantage of the national body is it takes it outside the immediate remit of the education authority so you can perhaps worry less about that purchaser/provider issue. I think one of the major problems is that if you move away from the estimation of local need, you are still going to be using probably most of the same people in the same kind of areas, and if you say it is going to be absolutely on need without any reference to the ability to deliver, I do not think the sector would have much problem with that but I think, as legislators, you need to be aware you are probably writing an open-ended cheque, and I do not know any government that has been willing to do that yet.

Q238 Chairman: Is this at the heart of the problem? What was surprising about the first session was that people said, on the one hand, the system was not very good; it was pretty awful and not delivering to those students and parents who needed this kind of specific help. Indeed, when I pressed the four of them on: "Are there any good examples of local authorities whom we could emulate?" they were almost quite reticent to give any at all. Is it as bad as that?

Mr Lamb: I think it is mixed, and I think what you were getting was, obviously, the mixture of the people's particular local authority examples. I think we have within SENC come across examples of where parents have been happy about the outcomes with local authorities and I think the key elements where that has been true—and SEC, obviously, could write with some of those more positive examples—is where parents are involved in the process from the beginning, where there is less conflict then about the level of provision and where parents can, to some extent, with the local authority, negotiate the provision and where there is a lot of clarity about expectations and what can be provided. Where things go wrong is where you have a conflict situation where there is a feeling that the local authority are holding back and not delivering,

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and there is no actual negotiation between parents and local authorities. So I think there are good examples and there are also very bad examples. I think we have to recognise there is that mixture.

Q239 Chairman: Is not the local authority always in the rather unenviable position of being the gatekeeper for resources and everyone knows that there are not sufficient resources, so local authority is always going to be unpopular because it is telling people, whatever the need out there, there is only a limited resource that has to be shared in some way, and people have to be prioritised. There is not an open-ended amount of resource.

Mr Lamb: I think you are right there is always going to be an inevitable level of conflict because there is never, probably, going to be enough resources in the system for everything that we in the special needs movement would actually like to see. Having said that, I think the more transparency there is and the more flexibility there is about the way those resources are used and the more that parents are actually involved in the process of deciding those, then the more chance there is of at least getting some equilibrium in the system where, I am sure, you will not have parents saying: "That is great, I have got everything I need for my child", but perhaps: "I have a good enough service for my child". I think that is what we can provide some examples of as well, but that involves a lot of work from the authority, the parents and the school all working together to deliver that. Typically, I think, where conflict most occurs is where you have got the situation that was illustrated in the earlier evidence, where there is potentially a very large bill for a special school placement that a local authority, for one reason or another, thinks it either cannot afford, or it is not the right placement, and there is often a dispute about both of those. It is often in those cases where you get the more bitter legal disputes and where it goes to a tribunal and you get into the kind of situations we have been looking at.

Q240 Mr Marsden: Just going back, again, to the first session, one of the things that I took away from that session, and indeed, again, it reinforced things that come to my constituency surgery, is the sense of the gap and the frustration that many parents feel between the jargon and the rhetoric (if I can put it that way) that litters this system and what we actually experience on the ground. I think that is nowhere truer than in the area of inclusion. I suspect I would find it difficult to find someone who was against inclusion but you might want to say something, but the more interesting question, I think, is: what does inclusion mean in practical terms for the parents of children with special educational needs, or for the children themselves? I wonder if, John, you might like to kick off.

Mr Hayward: My views are a bit heretical, I think.

Q241 Mr Marsden: A bit of heresy never did any harm, so fire away!

Mr Hayward: I cannot quite see the point of inclusion as a blanket policy. It is a good thing to aim for but there are some children for whom it is not suitable. I will give you a very simplistic example: in our own case we decided our children would be better off at mainstream schools—they are registered blind. We went to the local primary school where we already had a girl, we got on well with them and said: "Would you take our other children?" They said "Oh". They had obviously got loads of problems and we could see that if we forced our children in there they would do worse. We went to a neighbouring school where some of their cousins went and they said: "We would love to have them", and we got on fine. So even in a simple thing like that, inclusion only works if it is workable for all the parties concerned, including the school. I am sorry if that is contrary to current thinking.

Q242 Mr Marsden: No, that is extremely helpful. It is an actual experience. Claire, what is your view?

Ms Dorer: I think our concerns are that too often inclusion is just about where a child is educated rather than how they are educated, and the idea that by nature a mainstream school place must be inclusive and a special school place must be exclusive when, in fact, we believe very strongly that special schools can provide very good inclusive experiences by working more closely with mainstream schools and thinking about equipping children and young people with independent life skills so that when they leave school their adult chances are actually greater. So we do not see inclusion as being a bad thing which, coming from a special schools association, might sound surprising, but we would like to think more about how it is actually defined and think about what that means in terms of education practice, rather than simply location.

Q243 Mr Marsden: Brian, you have the unenviable task of chairing a consortium and any consortium obviously has a spectrum of views. Can you try and step out of the spectrum of views and give us not a consensus response but a very specific response, in practical terms, in terms of what inclusion means, for parents, to be beneficial?

Mr Lamb: In terms of the practical response to what does inclusion mean for the parents to be beneficial, what is very interesting is when we were on the special schools working group, and research that SEC has also done amongst its members (research with parents—and you can see the report that Dr Philippa Russell did in the back of the Special Schools Report and also SEC can provide our research) most parents, when asked would they want an inclusive setting (which broadly means a mainstream setting, but I will come back to that, and Claire's point on that) they are very much in favour of that. In terms of whether the placement is mainstream or special, often parents will then choose a special setting, or fight hard through the statementing process to get a specialist school setting, at the point at which mainstream setting is perceived to have failed for their child—and we can debate what that looks like. Therefore, the benefit of

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inclusion for most parents is that most are in favour of inclusive education until the point where it fails. To come to the second point I would like to make, and it follows on from Claire's, we are bedevilled by this whole debate about what inclusion really means. I think there are two senses that might be helpful. The first is the sense that Claire has referred to, that, within whatever setting a child is in, the needs of the child are met, whether it is mainstream or special school, and are met in a way that allows that child to function in society and within their school to the fullest of their capacity and get the education that meets their needs. There is a second sense I would like to introduce, which is that I do not think there is the cliff-face that people often assume between mainstream over here and special school over there, and a wasteland between. If you look at the way the system is actually developing (and I think is going to develop much more), the whole idea of mainstream as "one particular school over there" is falling apart, because what you have is specialist support services, you have co-location of specialist support within mainstream schools—and I believe that is partly what Newham has got, for example—and you have children moving between those different kinds of support. More and more, with federated schools and with clustering of schools and clustering of resources, that whole distinction between, somehow, mainstream being about bricks and mortar over here and special schools being something that sits in the countryside over there is breaking down. Therefore, the range of what we call inclusion is becoming vastly more complex.

Q244 Mr Marsden: I accept that but, as we have heard in the previous session, and as I think Hugh made the point, the ability to have that flexibility of children from special schools attending some classes in mainstream, and there being some linkage, is very much dependent on geographical proximity which is much easier to address in an urban rather than a rural setting. Is it not?

Mr Lamb: I agree it is, and if you look at the current structure and location of where we have special schools which we want to use much more as specialist support and resource to mainstream schools, to the extent that they are often located in country locations anyway, that does not help. What you are often seeing—and I think this partly explains the figures around special school closures—is you can get some special school closures in areas where schools are not particularly well-placed but you get new ones opening where they often are in areas where they can be co-located with other schools.

Q245 Mr Marsden: You referred to the problems of defining inclusion and attitudes, is there a marked difference that you can see from your own experience between the attitudes of parents with—how can I put it—disabilities that are more easily and traditionally recognised or the ones that are inevitably more complex, particularly the ones across the autism spectrum? Is there a difference between, to be blunt, the attitude of someone who

has children who are visually impaired towards being educated in mainstream, and someone who may have a child with Asperger's?

Mr Lamb: I think that is difficult to answer. You are right in that there is a shift in the school population, that with much better support for some of the physical access needs and needs of children with sensory disabilities they are more easily being accommodated within the mainstream system. What you are seeing within the special school system more are issues around behaviour and profound disability. I think most of the research, and I think NASS has some interesting research on this, shows that what is more important is the access to specialist provision, whether that comes within a mainstream setting or a special school setting. That is what makes the crucial difference for their experience of how satisfied they are with what is provided, rather than, particularly, the location of the provision.

Q246 Mr Marsden: Can I bring Claire in on that then and ask whether you share the perception Brian has of that shift of the population in non-mainstream, independent special schools? That carries the implication, I suspect, of increasing costs because of increasing complexities and difficulties, and that then raises the question of how we justify the cost of non-mainstream, independent special schools.

Ms Dorer: Certainly we have seen a changing school population and our schools are now catering for children with far more complex forms of SEN than previously. I think, picking up on something Brian said, I would guard against the view that because a child has a particular type of SEN it makes it easier or more difficult for them to be included in mainstream schooling. Certainly there are children with sensory impairment who would have considerable additional learning needs, and there is a danger that local authorities might see a child who has a sensory impairment as being suitable for mainstream, without thinking through all of the issues that might be involved for that child, about additional learning needs. In terms of cost, to provide high-quality education and care for children with very complex needs is not cheap. So there are issues about increasing costs; there are issues about making school premises suitable. A number of our schools would have set up for a particular group of students and that has changed very much over the last 10 to 20 years.

Q247 Mr Marsden: Is the funding system that is currently in place hindering or helping the ability of special schools to interact, if I can put it that way, with mainstream provision provided by LAs? Would a solution to that—because we have heard various witnesses talk about the financial pressures on local authorities—be, as it were, a reserve pot of central government funding which could be used either to increase that flexible access or, indeed, to fund some of the places at independent, special schools?

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Ms Dorer: I think I can break my response into two levels. In terms of funding specifically for independent and non-maintained special schools to be working with mainstream schools, there is very little funding that could be used specifically for that purpose, and that makes it very difficult for our schools, because if you are going to work intensively with a mainstream school, or a child in mainstream schooling, you have to actually release that member of staff, and there is a cost attached to that. There is some funding attached to the new specialist programme for schools with an SEN specialism. My understanding from the pilot schools is that the outreach component to that is not really adequate at present. In terms of the wider picture, our schools are reliant on pupil placements for their general funding, and we are seeing that numbers in our schools are falling, not necessarily because there is reduced need for our schools but there is an increased reluctance to place, and that has an overall effect on the schools and their ability to provide not just for the children in the school but wider work, such as outreach with mainstream schools.

Q248 Mr Marsden: Are those two issues, which I have just raised and which you have just responded to—the ability to fund the interaction and the actual funding—given the SEN pronouncements by the Government, are those situations that officials in DfES have sought your advice or your comments on?

Ms Dorer: We do enjoy a good relationship with the DfES.

Q249 Mr Marsden: That was not what I asked.

Ms Dorer: We have discussed the topic and we have made our view clear: we think there need to be greater levers to encourage work between special schools and mainstream schools. However, there is not funding attached to that at present and that is something we would like to see investigated.

Q250 Mr Marsden: Brian, in your experience of your discussions with the Department, are the Department reluctant to move down the route that I am suggesting?

Mr Lamb: It has certainly been difficult, because of the way the funding is split between mainstream and special school provision, to fund cross-working between the specialist sector and the mainstream sector. Indeed, that was one of the issues the Ofsted report raised when they looked at special schools. So it was very supportive of the idea of trying to find more ways to fund more interaction between mainstream and specialist schools to start unlocking some of the support that is in the specialism into mainstream, because what is very clear from all the evidence is that inclusion stands more chance of working the more schools and teachers have access to specialist support, and the more we can make that available the more chance there is for the inclusion policy to work. I would agree with Claire's reflection that the specialist element of SEN specialism, the great hope around that was that it would allow special schools, that cannot obviously invest money

in that because they have to look after the pupils they have got, to do more outreach. I am rather sad to hear that that is not working very well.

Q251 Mr Marsden: So these are issues we could usefully explore with Ministers and officials in our later evidence session?

Mr Lamb: Absolutely.

Q252 Mrs Dorries: My question is to Claire. Claire, I have been to see two schools in the independent sector who cater for children with special educational needs; one was Kingham Hill, the Greens Unit (actually, my daughter attended that unit), and I could not see anything that was being done in the independent sector in the two schools—one that I have experience of and one that I visited—in the way that they cater for children with special educational needs, including autistic children, that could not be done in mainstream. I do not believe that mainstream is right for huge groups of children with SEN, particularly autistic children. However, if what was done in the independent sector in some of the schools was transferred into the state sector—and I cannot see any reason why it cannot be—then we could have an inclusion agenda. Why do you think that the state system cannot adopt some of the policies and the practices, more importantly, that are put in place by the independent sector?

Ms Dorer: I think, sometimes, it is a matter of the specialism and, particularly working with children with very complex forms of SEN, there is something about being in a school where your day-in, day-out experiences as a teacher or a member of staff is working and developing your practice with that particular pupil group that allows you not just to do good practice for a certain time but actually to develop and innovate. I think it is something about that that makes our schools special. I think if you translated that into those children in mainstream settings, whether you would have that degree of specialism, whether you would be able to maintain that and, particularly, whether you would be able to develop that over time, would be my concern. I do not think it is as simple as saying you can transfer the expertise from one sector to another and have the same outcome.

Q253 Mrs Dorries: No, but some of the practices could be transferred. Not the activities but the way they handle—I am thinking of the Greens Unit, in particular, which actually makes the children in that special unit feel very special indeed, not that they have a disadvantage. Those kinds of practices could be transferred to the state system. Do you think the teachers in the independent sector—and I wish I had explored this more when I was there—who deal with the specialisms tend to have better qualifications than those in the state sector? Is that because—because the funding levels are the same—the head teacher sources and gives more revenue to that particular area, i.e. looks for teachers who are better qualified, rather than spreading it into other areas of the school like they do in the state sector?

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Ms Dorer: That is quite a lot of questions!

Q254 Mrs Dorries: I am sorry.

Ms Dorer: In terms of level of qualification, I think there would be a fair amount of variation across the sector. People who have a particular interest in working in a particular field would naturally gravitate towards a school where that practice can be really developed. At the same time, there is a shortage of such people and a lot of our schools find it very difficult to recruit very experienced staff, so a lot of that development of practice is done as part of continuing professional development within our schools, and then some teachers might choose to take that expertise into mainstream.

Mrs Dorries: I suppose what I am trying to query is that we have heard evidence about the fact that the funding which follows a child does not stay with a child, and only a portion or a fraction of that funding may stay with the child as it is spread into other areas of the school. However, in the independent sector it is Velcro-ed to the child and stays with the child. That is the point I was trying to make.

Q255 Chairman: What is your reaction to that, Brian?

Mr Lamb: I think, in a way, it illustrates one of the reasons we would like to see more funding to make sure that that specialism can indeed be transferred into mainstream and, again, why there is not necessarily this cliff-face between mainstream and special, not least because in a lot of special schools that I am very aware of there will often be movement of staff from the special schools to specialist support services within the LA. In fact, the specialist support services will often do exactly the kind of role you are talking about, which is transferring some of innovations from within the special school sector and some of the very specialist support. Indeed, some special schools actually train particular specialisms as well. That is where I would like to see much more inter-relationship between the mainstream and the special sector, to make sure some of that could happen. The other part of the answer to your question is I think it could; I think there is no doubt if mainstream had the resources to do so. Indeed, there often are resource units within mainstream that will provide the same kind of support within mainstream settings as you can get in special schools as well.

Q256 Chairman: What about the question about is the quality of teaching and teachers in the independent sector better than in the state sector? Longley School, in my constituency, has just had a very good Ofsted, I visited it and I was very impressed by the quality of dedication of the staff. That is in the local authority sector. Can we get to the bottom of this? What is your view?

Mr Lamb: I think there is a danger of comparing apples with pears. We should celebrate that the schools that are doing well in developing inclusion have very good standards and a very good school ethos. The issue is that if you compare the teacher of

a mainstream class, they are having to deal with a whole number of different needs within that classroom. If you are looking at a teacher in a very specialist school that is, say, for the vision-impaired or the deaf, and that is what they have actually got within their classroom, they have a very particular specialism—and so it is comparing someone with a very particular specialism with someone that will not have those specialisms. It is not possible to say that one over here is good and one over there is not so good; what we need is a system in which you can escalate the level of specialism to meet the needs of the child, and that is the crucial point. You cannot invest that in every mainstream school teacher, if that is what is underlying your question; that is precisely why, within *Breaking Barriers*, you have that escalation between mainstream with some knowledge of dealing with SEN issues through to very specialist support for those children that need it.

Q257 Chairman: John, you have a very good reputation in your schools for delivery in special education. Is it because you are able to seek out particularly well-qualified staff? Why do you have this reputation?

Mr Hayward: Our policy is to take everyone, but there are still some children we cannot take. We do treat each child individually and we try and get to the root of the problem, which means that we alleviate special needs rather than just grind on with them. Even so, we cannot take everyone that we would like to. Another thing that has not been mentioned is if the child has a condition that is totally disruptive to the learning of the other children. It is a good ideal, but it has to be tempered by the actual needs of the persons involved.

Mr Chaytor: The current renewal of interest in the SEN debate was largely triggered by the article by Mary Warnock some months ago, and in that article, as I recall, she made a distinction between physical inclusion and emotional inclusion. Do you think that is a valid distinction? If there are children who are physically included but emotionally excluded, what conclusions do you draw from that?

Q258 Chairman: Who wants to take that? You are nodding, Claire.

Ms Dorer: I absolutely agree that there is a real difference between physical inclusion and emotional inclusion. One of the most striking things, for me in my job, is hearing young people who are in our school saying: "This is the first time I have felt like I belong somewhere; that I am part of a school; that I am learning". If that is not the experience that a young person is getting in a mainstream school you have to ask is that real inclusion? We agree very strongly it has got to be more than just where that child is being educated, and inclusion has got to be about that sense of belonging.

Q259 Mr Chaytor: So the conclusion you are drawing from Professor Warnock's distinction is that more children should be taken out of mainstream and put into special schools?

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Ms Dorer: For some children who are currently in mainstream places but are not experiencing inclusion in terms of access to education and emotional inclusion that might well be the conclusion. I think what it also says is that inclusion for children in mainstream schools as a policy needs to go some way further to make inclusion beyond just location.

Q260 Mr Chaytor: Is it either/or? Earlier, Brian talked about co-location, and you have talked about strengthening links between special schools and mainstream. What are the intermediate options?

Ms Dorer: There is a continuum, I think, as Brian says, ranging from children who are entirely in mainstream placements, at one end, to children who are exclusively in a special school placement at the other. In between, as Brian said, it may well be that you have a special school and a mainstream school on the same site and children will spend sessions in both schools; it could be children who are in a special school for part of a week and also registered with a mainstream school for the other part of the week. There is a whole range. It could be about support services going in, or the children coming out for specific sessions. It is a broad continuum. We would like to see a whole range of activities that removes the debate for saying that it is either mainstream or it is a special school.

Q261 Mr Chaytor: Can you quote some really good examples of schools that you represent that have this intermediate relationship with mainstream schools but are not co-located? I am interested in children who are registered in mainstream but spend half the week or a core part of the week in a special school. Where are the best examples for us to look at?

Ms Dorer: There are a number. Recently I visited a school called Mulberry Bush in Oxfordshire which caters for children with severe emotional difficulties, and it is a primary school. As the children reach the age at which they are likely to be moving to secondary school they spend part of the week at the local primary school and, also, then going on to the local secondary school to get a sense of what it is going to be like, to think about what sorts of things they will be learning and where they will be learning. That is particularly helpful in making that transition from primary to secondary, less stressful for the child and less stressful for the school that is receiving the child. There are numerous examples of that sort of practice. I have seen other schools where, because maybe one of our schools has got particularly good sports facilities or particularly good science facilities, children from the local mainstream school will come in and use those facilities for a session a week or several sessions. It is those sorts of activities that, at the moment, are happening largely due to goodwill between the two sets of schools that we would like to see strengthened and funding being made available for that sort of activity.

Q262 Chairman: Can we push you a little bit more on what you think the barriers are to improving special education delivery to parents and families?

What are the main issues, Brian? What would you put as your two or three priorities here? We are taking this inquiry very seriously; we have not done, under my Chairmanship, an inquiry into special education. What would we be missing if we did not tackle head on? What are the three big issues for you?

Mr Lamb: The first would be the availability of specialist support services. The local management of schools and delegation of budgets has been around since 1998 but has been gathering pace, and one of the major problems we see in terms of the ability to make inclusion a success is teachers' access to specialist support. We have evidence across a whole number of disability groups that specialist support services are under pressure or being cut back, partly in relation to the behaviour issue, that a lot of local authority support services, as they have been contracted out, and that schools have to buy in the services, what schools will buy back in are behaviour management programmes and behaviour management specialisms because that is one of the major other issues they face in the classroom. What is being squeezed around all that is specialist support; everything from language through sensory disability, through autism—all the specialisms around that—we all have evidence that they are being squeezed. That is a major barrier then to improving mainstream provision because you cannot, as was being said earlier, expect mainstream teachers to be experts in all areas of disability and all areas of differentiating the curriculum and supporting children that they will need. As a child moves towards School Action and School Action Plus, maybe with a statement within the school, we need to make sure, when those statements specify specialist support, that that specialist support is available. The more we have had local management and delegation of budgets, especially for low-incidence groups where a school may not have anybody, or only one or two children, with a particular disability in that school at any one time, the evidence is that the schools will not contract back in for that specialist support, so it is actually disappearing at specialist level, where it is not now within the purview of the LA any more. That would be one area. The second area would be teacher training, and to make sure that there is much better teacher training from initial teacher training, where there have now been some improvements, but it is still a relatively low amount of input, through to the whole role of then SENCOs and the position of SENCOs within the school. I was horrified to hear the evidence earlier because if you look at the code of practice there it recommends that SENCOs are a member of the senior management team. So, therefore, the whole role and support for the role of SENCOs would perhaps be my third big pitch, with teacher training and specialist support services.

Q263 Chairman: Have you a shopping list, Claire?

Ms Dorer: I would endorse Brian's shopping list. I think, for our sector, although there are some very good working relationships between local authorities and our schools there are still cases where

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because most local authorities' dealings with our schools have been where they have had to stump up what they would feel is a large amount of money to place a child there, there is still a certain amount of tension and hostility between local authorities and independent, non-maintained schools, which makes it difficult to have a foundation for working more closely together and for the expertise that is in our sector to be shared with mainstream schools, like most of our schools would want to be doing very actively. So attitudes and historical disputes, really, do get in the way of the sectors working together.

Q264 Chairman: John, have you got a shopping list for me? What would you like to see changed in the whole area of special education provision?

Mr Hayward: The whole provision of special education, to my ignorant view, is totally swamped with bureaucratic processes and departmental, or whatever, infighting, and the needs of the child are right at the bottom of the pile. I expect this is a very simplistic example. If your child had a broken leg and you took it to casualty, you would expect it to be attended to, you would not expect a ten-month wait, a tribunal, another row and a few other things, you would want it fixed. Special needs children have disabilities that need fixing, help, whatever it is. Somehow, I could not tell you how to do it, the whole bureaucracy has got to be cut through so that the interests of the child and, of course, the parents because they have to cope with the child, are helped.

Chairman: Are there any more questions from my side?

Q265 Mr Chaytor: Can I pick up the last point there. My observation and experience from my constituency work is that there is still a significant number of children whose special needs are, I do not say ignored but not accurately identified until several years into their school career. I am interested in the whole question of assessment. It is picking up John's point, why is it so difficult to assess certain well understood conditions at an earlier age? Is there not a simpler process we should go through for assessment?

Mr Lamb: I would totally agree. I think one of the areas the sector would most like to see more work done on—I could easily add it to my shopping list of three, as you would imagine—which was in the government document *Removing Barriers*, is early assessment. We have been very involved in the Early Support Programme which was looking at how you can bring together education, health and social services in the very early years and get a very early assessment of the child's needs, very early intervention. All the evidence is that the earlier the intervention is the more successful we are going to be able to meet the child's needs and the more co-ordinated way that is met, the better the outcomes are going to be for the child. For less, we would be getting into the whole bureaucratic process of trying to assess later. To that extent I absolutely agree with what is behind your question, that the more we have early assessment, early intervention and early provision, the more we are going to improve educational outcomes for disabled children within the system.

Q266 Mr Chaytor: Can I ask one other thing on a completely different point. This picks up on a comment from the previous set of witnesses, in fact it was the final comment from Chris Goodey, not about SEN in schools, but about what happens to young people with SEN once they leave school and their integration into adult life and the provision of further training opportunities. How high in your priorities does that issue figure, ie the post-16 or post-19 question? Is this something we should be giving more attention to rather than simply focusing on what happens in schools?

Ms Dorer: I think it is hugely important, particularly for our sector, if you are thinking about what are the outcomes for children who have attended an independent or non-maintained special school. If you are thinking about all of the input, the specialist service a child has received up until the age of 16 or 19, and you then look at what happens at transition into adult services and if there is a void for that young person to move into, which unfortunately there often is, is all that good work undone, so transitions are a big concern for us. We have had a lot of research which tells us all of the things that should be happening at transition. I do not think it is a case of people not knowing what needs to happen, but it is not happening in various places and it is certainly not happening at the level at which it needs to. I think there are still a lot of problems in what happens after education.

Q267 Jeff Ennis: Briefly, to return to the issue of better training methods and getting the staff prepared. Last year I think *The Times* carried out the inclusion study which involved several hundred teachers. I think 40-odd% of the teachers had either had no training, one days' training or two days' training in the whole of their initial teacher training period. Obviously we need to beef up the initial teacher training period, but also in terms of CPD. Going back to what you said earlier, Claire, in terms of the level of resistance that you sometimes find with local authorities because of the placement costs in independent specialist schools in particular, do we need to have more linkages in terms of training opportunity from a CPD, not just between mainstream schools and independent specialist schools, but also between independent specialist schools and local authority maintained specialist schools, to try and break down this lack of training, shall we say?

Ms Dorer: There are some examples of good practice. There are certainly some local authorities who do invite our schools to their training and come on our schools' training. A number of the SEN regional partnerships are making big strides in developing training brokerage services, which are looking at who has got the expertise across all sectors and making sure that everyone can access that, so there is some good practice. As with all things SEN it seems, unfortunately, there is still a lot of geographical variation.

Q268 Jeff Ennis: Do we need to have a certain amount of SEN training contained within the ITT part of the teacher's development as well as that being topped up by CPD or should it be one or the other?

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Ms Dorer: Brian referred earlier to the Special Schools Working Group, which I was also a member of, and it was one of the group's concerns that there should be more time in initial teacher training for SEN issues. We hit a brick wall with that one, but certainly it was something that as a group we wanted to see happen and we still want to see happen.

Mr Lamb: I think the situation has improved and there is going to be a more specific amount of training from next year, but it still would not be enough from our point of view. In that sense, the more initial training and then training within the job we would see as absolutely essential.

Q269 Mr Marsden: It is just a quick supplementary, Brian, to your response to David Chaytor's question when you said you thought that early assessment would be particularly helpful. I want to ask you whether you feel that historically the problems of accurate early assessment have been compounded by a lack of links at local authority level between assessments done in the education and social service areas and what improvements, if any, you are expecting to see in this from *Every Child Matters* in the establishment of children's trusts.

Mr Lamb: I would absolutely agree with that. There have simply been mountains of evidence over the last 20 years that one of the major problems for disabled children, either within education or in terms of their general development, has been the total lack of co-ordinated assessment in the early years and the complicated arrangements which exist between education, health and social services. Our hope and aim is that through the work which has been done by the Early Support Programme, which has been looking at joint standards for assessment across different ranges of disability, joint working between authorities, the whole notion of a key worker as a central point of reference for those families, the aim through *Every Child Matters* and government strategy to roll that out within children's centres, should substantially address this issue. Having said that, there have to be concerns with any programme, when it goes from ring-fenced funding into generalist funding, that there truly is the assessment and focus on that. I would be concerned that if there is not some central resource within the Department to monitor, how that is going to work on the ground once the Early Support Programme is finished and has been rolled out. In principle, I think we have the right strategy to address it, it is how it is going to work as we start to roll it out.

Q270 Chairman: Early assessment: why do people not use a simple and, I understand, relatively cheap method like the one developed by the University of Hull, Lucid? Are there lots of those kind of assessment materials or is Lucid just one of them that most people use or could use?

Mr Lamb: I am not particularly familiar with that assessment method. I think one of the complications is, depending on which disability group you are looking at, there are going to be specific elements to that framework. For example, for hearing impairment there is a very specific one and for autism there is another specific one. One of the things the Early Support Programme is doing is developing common standards around some of those assessment programmes. I agree with you in principle that there ought to be at least a number of common frameworks—that is what we are working towards—which will allow much more simple assessment in the early years.

Q271 Chairman: You are not familiar with this particular Lucid programme?

Mr Lamb: No, not personally.

Q272 Chairman: Claire, are you?

Ms Dorer: No, I am not familiar with that.

Q273 Chairman: John, are you?

Mr Hayward: Yes, we are.

Q274 Chairman: Do you use it?

Mr Hayward: Yes, we do. We found two major problems. Firstly, a lot of children seem to go right through school without their particular specific learning difficulties ever being detected. We have married people coming to us and saying: "I have realised I had a problem and no one found it". The second problem we found—again, I am sorry, this is heresy—was we could not find anyone who could provide for us with a decent working definition what dyslexia is and what attention deficit disorder is. There are that many definitions that we gave up counting. No two experts ever seem to agree and we thought we had had it. Then we came across the Lucid laptop SEN assessment package, which can be administered by any school, almost any person, because the kids know how to work it, and it gives you a very good pointer as to whether you have got learning difficulties. We do not use it as an absolute determinant, but we screen the children out and if they show up badly on that assessment, then we take the whole thing further. It is very cheap, very effective and even we can work it.

Chairman: John, that is a very good choice of words.

Mr Marsden: Perhaps the Select Committee should be given that.

Q275 Chairman: Like the new hearing test that we can all now have through the Royal National Institute for the Deaf. We can all phone up and get it, so it is a good commercial for the RNID's hearing test. I do not know the number. Brian, do you know the number?

Mr Lamb: Yes, 0845 600 5555.

Chairman: I think all my team need that because they do not always hear me when I say, "It is your last question", but that was the last question. Thank you very much for your attendance, we have got a lot out of it. Keep in touch with us.

Supplementary memorandum submitted by Focus Learning Trust

1. In the oral evidence session on 11 January, you asked witnesses to keep in touch, hence this note, which also supplements our written submission of 3 October 2005.
2. On 11 January, the Committee expressed interest in Lucid computer SEN screening tests, developed at Hull University. Unfortunately, there was no time to discuss the crucial question:
 - how could Lucid results be used?
3. Focus uses them:
 - to help teachers prepare IEPs; and
 - as one step in trying to identify the underlying causes of a learning difficulty.
4. The next step is to observe the pupil carry out some simple physical exercises.
5. We also ask the pupil's mother to complete the questionnaire shown in Appendix 1. (Contents largely courtesy of INPP, Chester).
6. Surprising though it may seem, every question has a bearing on learning difficulties. SpLD can often be traced to problems during pregnancy, the birth process itself and infancy.
7. Focus may recommend referral to:
 - a doctor, if there is any suggestion of an undetected medical condition;
 - a cranial osteopath;
 - a behavioural optometrist;
 - a practitioner in exercises for retained birth reflexes and bilateral integration; and
 - a food allergy clinic.
8. Focus may suggest:
 - taking a dietary supplement such as EyeQ;
 - ARROW therapy; or
 - auditory therapy via The Listening Program (TLP).
9. We find there is often an appreciable alleviation of SEN, for relatively little cost. Not all educationalists are acquainted with SEN therapies, although teachers are usually quite impressed with the results. Some examples are shown in Appendix 2.
10. These therapies complement, rather than replace the work of SENCOs and teachers. A word of caution—not every therapy works as advertised, so great care must be taken when selecting them.

SUGGESTION

11. The Committee may feel that these therapies are worth further consideration. If so, Focus would be glad to attend an informal meeting with Members to explain more fully the way we work, and discuss how SEN therapies might be used more widely.

March 2006

Wednesday 18 January 2006

Members present:

Mr Barry Sheerman, in the Chair

Mr Douglas Carswell
Mr David Chaytor
Mrs Nadine Dorries

Jeff Ennis
Stephen Williams
Mr Rob Wilson

Memorandum submitted by the Disability Rights Commission

EXECUTIVE SUMMARY

The Disability Rights Commission (DRC) was created by the Disability Rights Commission Act (DRCA) 1999.

The DRC is uniquely placed to comment on the provisions of the DDA as the statutory body responsible for the legislation and we would encourage the Committee to invite DRC to give evidence when considering its provisions.

- The DRC has set itself a vision of; “A society where all disabled persons can participate fully as equal citizens”.
- The DRC believes that any discussion on the education of disabled children should begin from the point of how our schools can improve the quality of experience and the outcomes achieved by disabled young people.
- Central to achieving this goal will be the successful implementation of the Disability Equality Duty, as set out in the Disability Discrimination Act 2005, which has introduced a duty on all public authorities to promote equality for disabled people.
- It is necessary to address the shortfalls and problems in mainstream provision to improve the quality of experience and outcomes for disabled young people. It is not sufficient to accept low quality outcomes from mainstream schools as the basis for supporting special schools.
- Successful delivery of the SEN process should be measured by the effect it has on the participation and progress of children with SEN and disabled children. This is more than appraising whether the system is “meeting needs”, it is about promoting full participation and supporting children to reach their potential.
- There are a number of concerns about the quality of education provision in special schools. The DRC believes that inclusive schooling is key to tackling the roots of discrimination in society.
- The DRC supports the presumption contained within SENDA that a mainstream placement should remain the preference for all children unless it is against the parents or child’s wishes or the effective education of other children.

1. BACKGROUND

1.1 *The Disability Rights Commission (DRC) was created by the Disability Rights Commission Act (DRCA) 1999. Section II of the DRC Act imposes the following duties on the Commission:*

- to work towards the elimination of discrimination against disabled persons;
- to promote the equalisation of opportunities for disabled persons;
- to take such steps as is considered appropriate with a view to encouraging good practice in the treatment of disabled persons; and
- to keep under review the workings of the Disability Discrimination Act (DDA) 1995.

The DRC has set itself the vision:

“A society where all disabled persons can participate fully as equal citizens.”

As part of our strategy to achieve this vision, the DRC has two core expectations for education. By 2014 we want to see:

Objective 1: Increased educational attainment amongst disabled people aged 16–24: a narrower in between disabled and non-disabled people.

Objective 2: Disabled people’s full participation in school and college life and across the curriculum.

2. THE EXTENT AND NATURE OF THE EXCLUSION OF DISABLED PEOPLE FROM EDUCATION—KEY FACTS

- 21% of disabled people aged 16–24 have no qualifications whatsoever, compared to 9% of non-disabled people of the same age—an 11% gap (*Labour Force Survey, Autumn 2004*)
- Disabled young people are 40% as likely to go into higher education aged 18 as non-disabled 18-year-olds. (National Audit Office, *Widening Access to Higher Education*, January 2002)
- The Labour Force Survey in 2000–01 found one in 20 disabled people were at a college of further or higher education or university, compared to one in 10 of the rest of the population. Although the number of disabled pupils participating in higher education has since increased year on year—the gap has continued to widen as participation by non-disabled people has grown much more rapidly over the same period. (HESA 2004.)
- Disabled 16-year-olds are twice as likely to be out of work, education or training as their non-disabled peers (15% compared to 7%) (DfES, *Youth Cohort Study: The Activities and Experiences of 16-Year-Olds: England and Wales 2004*.)
- 55% of families with a disabled child are living at or on the margins of poverty (Gordon and Parker 2000). 29% of people with a disabled child in the household live in poverty, compared with 21% of households with no disabled children. (*Households below average income* DWP 2003.)
- Over a third (38%) of children questioned in a DRC survey said they'd been bullied, with one in 20 saying they'd been bullied by teachers (NOP, *Young Disabled People: a survey of the views and experiences of young disabled people in Great Britain* DRC, 2002.)
- 74% of disabled young people interviewed in a survey said they did not feel they were “active citizens” in their local communities and felt the Government had a limited awareness of their needs and rarely listened to their views (PMSU, *Improving the life Chances of Disabled People*, 2005.)
- Data for 2001–02 showed that children with SEN were 13 times more likely to be permanently excluded than those without SEN. (*Removing Barriers to Achievement*, DfES 2004.)

2.1.1 The DRC funded and won a case in 2003 on behalf of Lee Buniak, a six-year-old boy, who was excluded from school activities including assembly, singing, computers, numeracy and literacy work and the school play and school photograph. Despite the school being given funding for a full time learning support assistant (LSA), for most of the time he attended the school it failed to appoint a suitable full time support worker. The Tribunal upheld that the school had discriminated against Lee by treating him “less favourably” because of his disability and that the school failed to adopt a practice of recruiting or retaining support staff for Lee.

2.1.2 *PPC v DS and CAS and SENDIST* was an appeal to the High Court against a SENDIST DDA decision. The case involved a 17-year-old boy attending an independent school, who had been reprimanded by the school for issues relating to his behaviour. Two educational psychologists assessed the boy and they wrote to the school confirming the diagnosis of Asperger’s Syndrome, stating that a more detailed report would follow. After receiving the letter, the headteacher contacted the boy’s parents and asked them to remove him from the school. The judgement of the court confirmed that schools cannot justify excluding disabled pupils if there were reasonable adjustments that they could have made but did not make.

3. THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

3.1 *Background*

3.1.1 The DRC is uniquely placed to comment on the provisions of the DDA as the statutory body responsible for the legislation and we would encourage the Committee to invite the DRC to give evidence when considering its provisions.

3.1.2 *From Exclusion to Inclusion: Final Report of the Disability Rights Task Force* suggested that the provisions of the Disability Discrimination Act (DDA) should extend to education. The report suggested that “The right to inclusion is not sufficient in itself. Disabled people must have the right to pursue their education without unfair discrimination.”

3.1.3 It was intended that the existing provisions of the SEN Framework would continue to provide the basis for assistance for disabled children in accessing the curriculum. In addition, though, the Task Force recommended that the legislation should:

- Strengthen the rights of parents of children with statements of SEN to a mainstream placement, unless they want a special school and a mainstream school would not meet the needs of the child or the wishes of either the parent or child.
- Place providers of school education under a statutory duty not to discriminate unfairly against a disabled pupil, for a reason relating to his or her disability, in the provision of education.

- Place providers of school education under a statutory duty to review their policies, practices and procedures and make reasonable adjustments to any that discriminate against disabled pupils for a reason relating to their disability.
- Place providers of school education under a statutory duty to take reasonable steps to provide education using an alternative method, so that the disabled person is no longer at a substantial disadvantage, where a physical feature places an individual disabled pupil at a substantial disadvantage in comparison with pupils who are not disabled.
- Place providers of school education under a statutory duty to plan to increase accessibility for disabled children to schools. This duty should cover both adjustments for physical access, including those for children with sensory impairments, and for access to the curriculum.
- Extend the jurisdiction of the SEN Tribunal to hear cases brought in relation to the new rights.
- Secure comprehensive and enforceable rights for disabled people in further, higher and LEA-secured adult education and include access to services provisions of voluntary organisations providing education, social, cultural and recreational activities and facilities for physical education and training.

3.1.4 The rights conferred by education legislation for pupils to have their special educational needs identified and met, and in England and Wales, the right to appeal to the Special Educational Needs Tribunal, were maintained.

3.1.5 These recommendations became legislation under The Special Educational Needs and Disability Act 2001 (SENDA), which amended legislation in Part 4 of the Education Act 1996 (EA) for children with SEN and Part 4 of the Disability Discrimination Act 1995 (DDA) to introduce rights for disabled people in education. In summary, the disability discrimination legislation sets out:

In England, Scotland and Wales:

- a duty not to treat disabled pupils less favourably, without justification, for a reason which relates to their disability;
- a duty to make reasonable adjustments so that disabled pupils are not put at a substantial disadvantage compared to pupils who are not disabled (but there is no duty to remove or alter physical features or provide auxiliary aids and services);

In England and Wales only:

- a duty to plan strategically and make progress in increasing accessibility to schools' premises and to the curriculum, and in improving the ways in which written information provided to pupils who are not disabled is provided to disabled pupils.

3.1.6 From September 2002, it has been unlawful for schools to discriminate against a child for a reason related to their disability in:

- Admissions.
- Education and associated services, such as: school trips, the curriculum, teaching and learning, school sports and the serving of school meals.
- Exclusions.

3.2 Definitions

3.2.1 A number of DDA cases taken to the High Court have featured the difference between the definitions of disability and SEN. The difference in definitions of Special Educational Needs and Disability, and the different legislative frameworks in which they operate, have caused some difficulties. The DfES emphasised the role of the DDA in their SEN Strategy *Removing Barriers to Achievement*, however, in schools the emphasis remains firmly on SEN.

3.2.2 Not all disabled pupils and students have "learning difficulties" or "SEN". Similarly, pupils and students deemed to have learning difficulties or SEN are not all disabled. The DDA has a specific definition of disability, which can be much broader than the definition of "learning difficulty" within the SEN Framework. Yet policy, regulatory and funding frameworks frequently address the two areas interchangeably because the "groups" overlap. Understandable though this might be, it is important to recognise that the underpinning theory, direction of legislation, and actions required of providers to comply are significantly different.

3.3 Coverage of the different legislation

3.3.1 The intention of SENDA was for Part 4 of the DDA to sit alongside the SEN Framework and the Planning Duty for schools and local education authorities as a "jigsaw" of provision. The disability duties for schools under Part 4 of the DDA extend to "education and associated services" and hence schools have broader responsibility for ensuring access and opportunity for disabled pupils across the whole life of the

school. Unlike the DDA provisions in relation to employment and service provision, there is no duty in the pre-16 education provisions for schools to provide auxiliary aids or services or to alter physical features (these being the elements, which are intended to be covered by the SEN Framework and the planning duty).

3.3.2 However, some evidence suggests that the two systems have not been working alongside each other effectively and there are those whose needs are falling between the gap between the DDA duties and the provisions of the SEN Framework. A fundamental problem is the difference between the thinking behind the two systems, with the SEN Framework emphasising “meeting needs” and the DDA emphasising making reasonable adjustments.

3.3.3 Disabled children who experience discrimination in school only have rights of redress under the DDA where the school treats them less favourably or fails to make an adjustment to policies, practices or procedures that as a consequence place them at a substantial disadvantage. Should a disabled child require auxiliary aids or services, they would need to access SEN provision. Similarly, duties to increase access to the curriculum, adjustments to physical features and accessible information have been developed separately with LEAs under the accessibility planning duties. Although these plans were expected to be in place by April 2003, the Ofsted report *Special educational needs and disability: towards inclusive schools* found that over half of the schools they surveyed did not have access plans in place. Only four out of 10 schools surveyed in the same report had satisfactory planning for improved access to buildings and few had planned access to the curriculum.

3.3.4 Parents and schools can be confused as to which law applies in which circumstances. The DRC Helpline is having to signpost many callers to other sources of advice and support as their enquiries concern the SEN Framework, rather than the provisions of the DDA. In the area of mediation, the DRC's conciliation service can only handle DDA related issues, with LEA mediation services handling SEN cases. It is also difficult to ascertain either from certain SENDIST decisions or some of those reaching appeal where the line is drawn between what is and what is not an auxiliary aid or service (see for example McCauley Catholic High School & CC, PC & SENDIST CO/4281/2003).

3.4 Awareness

3.4.1 Although the various strands of legislation are all aimed at promoting inclusive practice, the relatively recent development of the DDA means that awareness of the DDA duties in schools is low. Many schools and other education providers indicate that they need assistance in fully addressing disability as an equalities issue across all aspects of their provision. Schools have welcomed the possibility of training on both the DDA and disability equality generally. In response to this, the DfES and have been working with the DRC and a number of other agencies to develop a resource for schools on making reasonable adjustments and accessibility planning.

3.5 Difficulties with enforcement—The SENDIST

3.5.1 The Special Educational Needs Tribunal was set up by the Education Act 1993 and was extended to cover both SEN and disability duties appeals by SENDA. It considers parents' appeals against the decisions of Local Education Authorities (LEAs) about a child's special educational needs, where the parents cannot reach agreement with the LEA. However, SENDIST is limited to hearing cases that relate to educational provision.

3.5.2 Between September 2002 and November 2004, the SENDIST had 175 claims brought in relation to the DDA. These claims have concerned matters such as refusals to administer medication; exclusions of pupils with emotional and behavioural difficulties (EBD), attention deficit / hyperactivity disorder (ADHD), and similar conditions; failures to properly implement identified provision in a statement of SEN; and refusals to allow disabled pupils to go on school trips.¹

3.5.3 There have been concerns relating to the level of awareness of the SENDIST (and Independent Admissions and Exclusions Appeals Panels) of Part 4 and the established case law in relation to other provisions of the DDA.

3.5.4 The DRC has difficulty in tracking the case law developments from SENDIST because we do not automatically receive copies of the decisions made, unlike the employment tribunal where there is such a duty. This leaves the DRC dependent upon parents informing us about their individual cases, and leaves us with an incomplete picture of how the system is working and where the case law is evolving. The DRC feel that it would be highly beneficial to have better sharing of knowledge between SENDIST and the DRC (with appropriate safeguards made to ensure the protection of sensitive information).

3.5.5 Furthermore, there is an issue around the responsibility to follow up SEN recommendations. SENDISTS do not have the power to award compensation for breach of the DDA. However, they do have the power to make recommendations as to the schools conduct and to order, for example, an apology. This is a very potent power, but at present, there is no single agency responsible for enforcement or follow up

¹ Douglas Silas and David Wolfe *Four years in the life of the Special Educational Needs and Disability Act 2001*.

of the recommendations made, such as Ofsted. It is therefore difficult to assess whether the decisions are implemented, although we do know anecdotally that SENDIST finds it difficult to enforce their own decisions or offer advice to parents when a responsible body continues to behave in a discriminatory manner.

3.6 Difficulties with enforcement—Independent Appeal Panels and Admissions Panels

3.6.1 Cases concerning breach of the DDA relating to permanent exclusion from maintained schools are heard by Independent Appeal Panels. It is very difficult to obtain information about how these cases are being dealt with and DRC are concerned that those hearing such cases are not qualified lawyers (SENDIST is chaired by a qualified lawyer). The DRC has similar concerns relating to Admissions Panels.

3.7 Children in Care

3.7.1 There is also a particular issue relating to disabled children in care. The conflict inherent in this system, is where children are in the care of the local authority, the social services department would need to appeal against the LA if the statement was not in place or not effective—essentially appealing against themselves.

3.7.2 There is growing interest in independent advocacy for young people in care, and all local authorities are expected to have Children's Rights Officers. There have also been some encouraging developments in citizen advocacy for young people. When advocacy works effectively, it can avoid or at least ameliorate the potential conflict of interest between one part of the local authority when it is in dispute with another. However, the merging of education and social care under a common Director of Children's Services, the conflict has the potential to be greater rather than lesser in the immediate future.

3.8 Opportunities to review the legislation

3.8.1 The DRC are currently looking at these issues in the context of a single equality act.

4. MOVING TO AN OUTCOME FOCUSED SYSTEM OF PROVISION

4.1.1 All disabled children and young people, and their parents and supporters should expect high quality of education provision that maximises opportunity and achievement. Any debate concerning the education of disabled children, therefore, must extend beyond simply the relative merits of placing children in “mainstream” or “special” schools and instead begin from the point of how our schools can effectively meet the quality of experience and outcomes that disabled children and young people deserve.

4.1.2 The DRC believes that schools have three critical roles in achieving our aims:

- Schools play a fundamental part in defining individuals' life chances through providing children and young people with the opportunity for self-development, reaching their individual potential and successful transition to independent adult life as effective and contributory citizens.
- Schools play a vital role in transmitting society's values to children and young people, both through the education they provide and through their own values and ethos.
- Schools offer a place and a reason for interaction and engagement between different children and act as hubs of the local communities, and are therefore uniquely placed to help over time to challenge and overcome prejudicial and discriminatory in society.

4.1.3 Reaching these aims is determined by two key measures: the quality of experience and the outcomes achieved.

4.1.4 If schools are to fulfil the role as a “hub of the community” (which incorporates co-location of services as proposed in the NSF, proposals for Children's Centres and extended schools), then they must develop inclusively.

4.1.5 These principles should form part of an overall vision of learning for life. The five objectives of *Every Child Matters* imply a continuum of educational opportunity from early years provision through to further and higher education. However, conflicting policy priorities can mean that disabled young people are marginalised. For example, recent proposed changes in the funding of further and adult education pose major threats to a range of courses often attended by people with learning disabilities by implying a need to prioritise the attainment of 16–19 year olds. Access to adult education can be a powerful lever for change and optimism and lead to positive outcomes and a greater potential for sustainable employment as opposed to reliance on day service or economic inactivity.

5. DISABILITY EQUALITY DUTY

5.1.1 The Disability Discrimination Act 2005 has introduced a duty on all public authorities to promote equality for disabled people. This has a substantial potential to answer many of the problems of inequality that disabled people experience in education, such as lower levels of participation and achievement, bullying, child poverty, social attitudes and expectations. It is therefore vitally important that it is effectively introduced in a way that works for teachers, to tackle some of the inherent barriers within the education system.

5.1.2 The structure of the Duty moves away from an individualistic approach to enforcing rights to a planned approach to removing barriers for disabled people. The Disability Equality Duty will work alongside the provisions of the DDA, and add a new focus on tackling the institutionalised causes of discrimination and identifying the barriers to achievement before they arise.

5.1.3 In carrying out their functions, public authorities must have due regard to the need to:

- eliminate unlawful discrimination;
- promote equal opportunities;
- eliminate disability related harassment;
- promote positive attitudes towards disabled persons; and
- encourage participation by disabled persons in public life.

5.1.4 To translate this into action, there is a specific duty, which sets out what public authorities should do to plan, deliver and evaluate action to eliminate discrimination and promote equality, and to report on the activity that they undertake. Listed bodies will have to produce a Disability Equality Scheme (DES) to set out what action they will take.

5.1.5 As part of their DES, schools will have to assess the impact of policies and practices that directly or indirectly affect disabled children and young people. Where potential unlawful discrimination is identified, the school will need to show the steps that they plan to take to remove the causes of this potential discrimination. For example, after assessing the impact of their admission and exclusion procedures, a school finds that, potentially unlawfully, disabled pupils are more likely not to be admitted or more likely to be excluded from school. The school will have to analyse the causes of this situation and set out the steps they plan to take to ensure that unlawful discrimination is avoided.

5.1.6 Schools should also seek to involve disabled people in the development of their plans. For example, a school could invite disabled pupils to discuss the barriers that they experience in teaching and assessment as part of the development of a curriculum and achievement strategy. Similarly, their experiences could form part of a school's revision of its anti-bullying policy.

5.1.7 The factors that the DED seeks to promote will require effective measurement and inspection.

6. PROVISION FOR SEN PUPILS IN “MAINSTREAM” SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

6.1 Provision for disabled pupils in mainstream schools

6.1.1 The percentage of pupils with statements of SEN placed in maintained mainstream schools (nursery, primary, secondary) was 60%, which is similar to the previous year. The proportion of pupils placed in independent schools has increased slightly from 3.1% in 2004 to 3.3% in 2005. (DfES National Statistics June 2005)

6.1.2 The inclusion framework continues to have little impact on the proportion of pupils with SEN in mainstream schools or on the range of needs for which mainstream schools cater. (Ofsted 2004)

6.1.3 The literature review by Miller *et al* (2005) for the DRC on accessible curricula, qualifications and assessment found that the continuing focus on SEN rather than disability² was a factor in how schools approached teaching and learning for disabled children and how government designs its strategies. The authors found that: “Although the term Special Educational Needs was originally intended as a move away from an over reliance on within-child factors there is still a tendency in many schools to see problems lodging within the child rather than with the provision” (this is often referred to as the “medical model” of disability).

6.1.4 In his review of the literature on disability discrimination across the 0–19 age range commissioned by the DRC, Gray (2002)³ noted that in failing to tackle the systemic causes of less favourable treatment, schools are unintentionally discriminating. Gray's findings showed that although there are some reported incidents of extreme prejudice and discrimination towards young disabled people in educational establishments (from both adults and other pupils), most discrimination is subtler and sometimes unintended. In many cases, Gray found that the cause of discrimination was the lack of action taken by schools to make reasonable adjustments or the low expectations of school staff of disabled children.

² See section 8 of this submission for details on the difference between SEN and disability.

³ Gray, P (2002) *Disability Discrimination in Education: a review of the literature on discrimination across the 0–19 age range*.

6.2 Resources and expertise

6.2.1 The availability of expertise in mainstream school varies widely. The 2004 Ofsted report *Special educational needs and disability: towards inclusive schools* indicates that whilst a few schools are doing very well in realising inclusion, and awareness is growing, a significant proportion of schools are not doing enough to move towards this goal. The report showed that over half the schools were unaware of the reasonable adjustments duty from Part 4 of the DDA. This also extended to other elements of SENDA.

6.2.2 The “medical model” also pervades culturally amongst school staff, for example, research by Pearson (2005),⁴ into trainee teacher attitudes towards disability has shown that a majority of trainees focus on a “medical model” of disability and within child-factors. In some cases, Pearson found that trainee teachers used exclusionary and offensive language. The DRC have recently launched a project to introduce disability equality training into initial teacher education to try to tackle some of these issues.

6.3 The role of associated service delivery

6.3.1 DRC research has found that role of the LEA is very significant in ensuring that schools meet their duties under the DDA. The Ofsted report *Special educational needs and disability: towards inclusive schools* found that eight out of 10 schools said their LEA and specialist support services were helpful, but that LEAs often only use funding to support the specific requirements of children with a statement. This means that efforts to improve longer-term measures for increasing accessibility are restricted. Of those surveyed for the report, only seven out of 10 LEAs provided at least satisfactory value for money and most did not evaluate the effectiveness of the outcomes of their funding.

6.3.2 In the context of provision for disabled children, significant concerns have been raised by the recent Ofsted report *Inclusion: the impact of LEA support and outreach services* (2005). The report stated, “The outreach services visited for this survey tended to depend in part on the expertise available at the time rather than on a strategic review of the needs in any one area and how these needs might be met. This lack of strategic planning was common and services available in any one area varied considerably. Different groups of pupils with similar needs received different levels of support depending on where they lived which was unacceptable.”

6.3.3 There are potential benefits and disadvantages of government plans to increase the delegation of funding to schools. Access to specialist support in a delegated system can be challenging—and may particularly affect children with low incidence disabilities. Ofsted’s report *Inclusion: the impact of LEA support and outreach services* found that “Support and outreach services promoted inclusion and improved the life chances of many vulnerable people.” The report also stated, “The delegation of funding for support services had a negative effect on the provision for some pupils with SEN. It diminished the capacity of many LEAs to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support.”

6.3.4 The role of social services is also relevant in the effectiveness of “mainstream” provision for disabled pupils. The Prime Minister’s Strategy Unit report Improving Life Chances of Disabled people (2005) found that “One of the most significant barriers to enabling people to be full citizens is the culture of care and dependency within health and social care structures. Associated with this “culture of care” is a failure to see expenditure on independent living as a form of social and economic investment. Instead of meeting disabled people’s additional requirements to enable them to improve their life chances, resources are used in ways that maintain and create dependency.”

6.4 Different models of provision

6.4.1 The DRC support efforts to explore how resources can be re-deployed and effectively delivered in a way that promotes a better quality experience and outcomes for disabled children and that avoids the negative impact of removing some disabled children from their community.

6.4.2 The DRC believe that many of the challenges faced by mainstream schools and by teachers in effectively including disabled children across the curriculum and school life are a consequence of a legacy of disabled children being deliberately separated from their friends and classmates and educated outside of the mainstream education system. This has meant that our education system has developed without consideration to their inclusion.

6.4.3 “Removing Barriers to Achievement” focussed on a number of potential areas for action to improve the capacity of mainstream schools including:

- Proposals on staff training, both with regard to initial training and continuing professional development.
- An increased emphasis on outcomes for disabled children and children with SEN.
- The need to develop a range of appropriate forms of support for pupils and for their teachers.

⁴ Pearson, C (2005) “SEN—a politically correct phrase to replace terms such as disabled? A study of the views of students entering a secondary PGCE course” Support for Learning Vol 20 Number 1.

— Seeing SEN and inclusion as integral to the School Development Plan.

6.4.4 Useful tools for achieving these aims are being developed, such as the (recently revised) Index for Inclusion as well as the DfES resources on accessibility planning and making reasonable adjustments, which are currently being developed. Another key theme within “Removing Barriers” is that of clusters or communities of schools and breaking down barriers through new partnerships.

7. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

7.1 *Background*

7.1.1 The above evidence shows why there are specific concerns about the current effectiveness of mainstream schools in working towards the full inclusion of disabled pupils. As a result, disabled children can have a poor quality of experience where the mainstream school is not performing well enough. On this basis, it would be premature and wasteful to abandon high quality resources where they exist in some special schools, and in doing so deny access to such resources. In addition, to the credit of some special schools, recent Ofsted annual reports have noted a gradual improvement in the quality of curriculum delivery and teaching in special schools, though particular problems persist with setting challenging targets for achievement.

7.1.2 However, there are equally a number of concerns about education provision in special schools and the effect this has. The DRC wants to see schools improve the quality of experience and outcomes for disabled children and young people. To do this, certain shortfalls and problems in mainstream provision need to be addressed. It is not sufficient to accept low quality outcomes from mainstream schools as the basis for supporting special schools.

7.1.3 A recent longitudinal research by the Institute of Employment Studies has shown that children at special schools are less likely to have achieved GCSEs or GNVQs than disabled children in mainstream schools. The Audit Commission (2002) also reported that only 4% of SEN children in England in mainstream schools were not entered for any GCSE or GNVQ examination, whilst the equivalent figure for special schools was 61%.

7.1.4 Not all pupils in special schools will be able to gain formal qualifications. However, they can still progress in their education and require equal weight to be given to their achievements, using P Scales and similar measurements that can reflect progress and record it effectively. This is particularly important in respect of the shift in population acknowledged in both the PMSU Report and in the National Service Framework and the importance of person centred planning.

7.1.5 The Prime Minister’s Strategy Unit report, *Improving the Life Chances of Disabled People* pointed out that “There are particular concerns around labour market inactivity amongst disabled young people. Disabled young people are considerably more likely than non-disabled people to be not in education, employment or training (NEET), particularly from age 19 when many will first transfer out of special school.” As noted above, disabled young people are already twice as likely to be in the NEET group aged 16 as non-disabled young people of the same age are.

7.1.6 Overarching statistics often fail to consider the specific context, and as with mainstream schools, there is a wide variety of quality. The Ofsted report *Special educational needs and disability: towards inclusive schools* noted that since 2001 there has been a 10% increase in the number of pupils placed at independent special schools by LEAs⁵. At the same time, inspection reports have noted concern about the quality of teaching in independent special schools, which are unsatisfactory in nearly one third of these schools, and notes significant weaknesses in the curriculum in over one third.⁶

7.2 *Human rights and “good relations”*

7.2.1 The Prime Minister’s Strategy Unit report, *Improving the Life Chances of Disabled People* noted that, “Many families with disabled children would like to access mainstream services—including early education, play and childcare—with adequate support where needed. This not only benefits many disabled children, enabling them to take part in activities in the same way as their non-disabled peers, but non-disabled children also benefit from growing up in a diverse and inclusive environment.”.

7.2.2 Recent research by the charity Stonewall concerning the nature and causes of prejudice against marginalised groups, including disabled people, confirmed the “contact theory” developed by Professor Miles Hewstone and others in finding that: “overall...personal contact and familiarity with difference are

⁵ There are 6,224 pupils are boarders at maintained and non-maintained special schools and a further 2,766 board at approved independent special schools. *Removing Barriers to achievement* DfES (2004). Over the last five years the proportion of pupils with statements place in special schools (both maintained and non-maintained) has increased by almost one percentage point (DfES National Statistics June 2005).

⁶ Ofsted Annual report 2001–02—Special Schools <http://www.ofsted.gov.uk/publications/index.cfm?fuseaction=pubs.summary&id=3151>

keys which unlock the shackles of prejudice. The research found that places of work and learning were the best environments through which to generate relationships which helped overcome prejudice and discrimination.”⁷

7.2.3 The international statement on the future of “special” education, the Salamanca Statement, set out the international aspirations for “good relations”:

“Inclusive schooling is the most effective means for building solidarity between children with special needs and their peers. Assignment of children to special schools—or special classes or sections within a school on a permanent basis—should be the exception, to be recommended only in those infrequent cases where it is clearly demonstrated that education in regular classrooms is incapable of meeting a child’s educational or social needs or when it is required for the welfare of the child or that of other children.” (UN 1994)

7.2.4 In her recent pamphlet, *Special Educational Needs: a new look*, Mary Warnock has argued that placement in a “mainstream” school might infringe a child’s right to personal development, and so could be held in breach of their human rights. However, the European Court has made it clear that article 8 of the Convention on Human Rights includes “the right to personal development and the right to establish relationships with other human beings and the outside world”. As such, it could be said that placement in a school which separates a child from “the outside world” is an infringement of article 8.

7.2.5 One of the many examples of where this is relevant is bullying. The prevalence of bullying and the issue of class sizes have both been cited as justification for children being placed in special schools. However, this not only fails to tackle the problem of bullying per se within a school, it also responds in an excessively risk averse way. Non-disabled children experience bullying and can find large class sizes difficult to thrive in, but we do not advocate their removal from mainstream schools.

7.2.6 It is also important to remember that specific groups view separate schools as a more effective route to inclusion, and as a means of maintaining cultural and linguistic identity, such as within the Deaf community.

7.2.7 There are a number of ways in which schools can seek to promote “good relations”. The DRC launched a Citizenship and Disability resource pack in 2003, to actively engage students in thinking about their role in creating an equal society for disabled people. The pack consisted of lesson plans, alongside *Talk*, the DRC’s award winning short film, designed to provide a resource for teachers to champion disability equality in school. 5,000 copies of the Citizenship Pack are in schools throughout England and Scotland.

7.2.8 School Councils can also have a strong role in increasing accountability given to pupils in the development and management of their schools. Some School Councils are particularly effective in the support they give to disabled pupils and the steps they have taken to improve access and inclusion. As such, they could play an important role in helping schools meet their duties under DDA 2005 and contribute to the development of Disability Equality Schemes.

7.2.9 The DRC view is that solutions to the challenges faced, are not to be found in the continued segregation of disabled children and children with SEN, but through inclusion and real school improvement.

8. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

8.1 *Background*

8.1.1 There has been major progress in providing disabled children and young people with more equitable educational opportunities and a steady improvement in educational outcomes, which show a faster annual increase in achievement of GCSE grades A–C and equivalent over the last six years by disabled people than non-disabled people. Similarly, education has played a central role in transforming the wider life chances of disabled people. The DRC want an education system where high expectations of all disabled pupils facilitate a rise in levels of attainment across the sector.

8.1.2 The DRC supports the Government’s strategy “Removing Barriers to Achievement” and the *Every Child Matters: change for children* programme, which sets out to improve outcomes for all children and to narrow the gap in outcomes. The DRC encourages the Government to implement in full and build upon these strategies.

8.1.3 The Prime Minister’s Strategy Unit report, *Improving the Life Chances of Disabled People* noted that, “The rhetoric of mainstreaming needs to be followed up by specific action to include disabled children.” There are already some good examples of where this is working. For example, introducing measures of inclusion into the Ofsted inspection framework has begun to challenge the perverse incentives created by exam league tables for schools to place the education of pupils with special educational needs at the periphery of their core concerns.

⁷ *Profiles into Prejudice*, Stonewall (2004).

8.1.4 Specific action will require a range of shortcomings in the existing system to be tackled in order to ensure that standards are raised for disabled children. The DRC would welcome further discussion with the Committee on these actions. In addition to the successful implementation of existing legislation, the Disability Equality Duty and the suggestions above, further areas for development are:

8.2 Accessible learning environments

8.2.1 There is currently a great deal of investment in schools, through Building Schools for the Future and the development of “extended schools”. In addition, there is a lot of enthusiasm for breaking down the barriers between schools to ensure that resources, expertise, provision and planning are effectively shared, such as “federations” or “families” of schools. All these developments have the potential to improve the accessibility of schools for disabled children, whether in terms of sharing existing expertise or buildings, or building new accessible and adaptable learning environments with a better provision of support. However, they also bring with them a substantial risk if they do not consider disabled children in their development.

8.3 Curriculum

8.3.1 In their research for the DRC, Miller et al (2005) note that “disabled learners are required to demonstrate how they can meet the assessment criteria of qualifications which have not been designed with their needs and skills in mind”. QCA have highlighted the failure to tackle the issue in its research on inclusion (2004), which noted with concern that “despite efforts to ‘mainstream’ there was a perception that SEN had fallen off the agenda in all mainstream high-profile initiatives”.

8.3.2 The current curriculum and assessment procedures often create barriers to disabled children and young people. It is unlikely that minor changes to post hoc inclusion policies or access arrangements will be able to achieve the scale of change required. There is a need to take a fresh look at the purpose of curriculum content and delivery and the method by which these are assessed and the qualifications system that supports it, based on a common set of principles to promote equality, maintain academic standards, be adaptable enough to make reasonable adjustments and “personalise” learning in a way that is practically deliverable.

9. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (“THE STATEMENTING PROCESS”)

9.1 The DRC’s remit on this topic

9.1.1 The remit of the DRC does not extend to the provisions of the SEN framework; however, it is worth highlighting that the DRC are aware of concerns about the quality and consistency of the system of statutory assessment and statements across LEAs.

9.2 Principles

9.2.1 SEN framework is a vitally important source of securing the specific resources and support that disabled children require. Successful delivery of this SEN process framework should be measured in terms of the participation and progress of children with SEN and disabled children in achieving more equal outcomes. This is more than just measuring whether the system is “meeting needs”, it is about promoting full participation and supporting children to reach their potential. There is a need to make schools more demonstrably accountable for all pupils’ progress and for parents to feel more confident that their child will be supported appropriately without recourse to formal procedures.

9.2.2 There are concerns that the provision of support under the SEN Framework does not fit well with the reasonable adjustments duty of the DDA. For example, the process of defining support through the production of a statement of special educational needs does not take into account the duty to make reasonable adjustments. This means that there are not always sufficient efforts to remove barriers to promote equal participation before the assessment for support requirements.

9.2.3 It is important that the statementing process is developed in combination with greater awareness about the duty to make the reasonable adjustments. By focusing on removing barriers to participation, this approach could result in greater participation of disabled children and reduce the demands on the statementing process.

9.3 Coverage

9.3.1 The structure of the statutory assessment process does not sufficiently cover non-educational provision (eg equipment or therapy) or provision that does not fall within the scope of the SEN framework, but is required by a young person who may be disabled but who is not identified as having SEN. As a result, residential or other special education is sought because of a lack of non-educational provision, which may be more readily available in a specialist setting.

9.3.2 Currently, families whose children who do not have SEN may be forced down the statutory assessment route in order to get a single piece of equipment. This results in a time consuming and unnecessary formal assessment procedure may actually cost more than the specific equipment or other reasonable adjustment required by the child. The National Service Framework points to a system of Community Equipment Services and the role of Children's Trusts in providing this support, provided either through joint commissioning and pooling of budgets or through the NHS directly rather than through schools.

10. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

10.1.1 The Special Educational Needs and Disability Act (SENDA) 2001 created new rights for disabled children and their parents. It changed the inclusion duty by requiring Local Education Authorities to place all children whose parents wanted it in a mainstream school, unless it was incompatible with efficient education for other children.

10.1.2 The DRC supports the presumption contained within SENDA that a mainstream placement should remain the preference for all children unless it is against the parents or child's wishes or the effective education of other children. The decision to place a child in a special school should always be made in this context.

10.1.3 However, the DRC feel that the expression of preference of educational setting made by a parent of a disabled child needs to be a meaningful one. Parents of disabled children experience understandable anxieties in expressing a preference and often find the language of SEN and disability in education bewildering⁸. Meaningful choice requires the provision of effective advice, guidance and advocacy to ensure that the most appropriate decision can be made and a choice from a wide range of schools.

11. HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

11.1.1 The system of identifying Special Educational Needs should be limited to the process of identifying barriers learning and defining the provision of support required to enable equal access to learning. In keeping with the intent of the Disability Equality Duty, the overarching paradigm should be one of equality. In meeting the needs of disabled learners, schools should primarily focus on removing barriers and making systemic changes to ensure equality of opportunity in education.

12. PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

12.1.1 The "social model" of disability is based on an understanding that functional limitations arising from disabled people's impairments do not inevitably restrict their ability to participate fully in society. Rather than the limitations of an impairment, it is often environmental factors (such as the structure of a building, or an organisation's practices) which unnecessarily lead to these social restrictions. Therefore, it is as important to consider which aspects of an organisation or body's activities create difficulties for a disabled person, as it is to understand the particular nature of an individual's disability. Disabled children are a diverse group, who will have vastly different educational experiences mostly in relation to the quality of their educational experiences and the opportunities available to them.

12.1.2 Following the "social model" above, categories of impairment/condition should not be used to presume what provision is most appropriate, and such practice may in fact be discriminatory. Each child should have an equal right to an individual assessment of their needs developed in partnership with the child and their parents to consider how the barriers in the learning environment can be removed.

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⁸ Lewis, A et al (June 2005) *Experiences of disabled students and their families: Phase 1*, DRC.

Witnesses: **Mr Steve Haines**, Policy Manager for Education and Employment, **Ms Cathy Casserley**, Senior Legislative Advisor and **Ms Phillippa Russell**, Commissioner, Disability Rights Commission, gave evidence.

Q276 Chairman: Can I welcome Steve Haines, Phillipa Russell and Cathy Casserley to our proceedings. It is very good of you to come and give us your time. This is a very important inquiry to us and we are trying to learn as much as we can about an area that this Committee has been away from for far too long. I want to divide the questioning into three sections and I want to start with looking at definitions and legislation on the whole notion of

disabled people and pupils with SEN, and the relationship between those. Could I ask—to start with Phillipa: you know what the terms of reference of this inquiry are, what do you think we should be trying to get out of this session with you?

Ms Russell: I hope we can use this session, which the Disabilities Rights Commission warmly welcomes, to explore some of the issues around the interface between the SEN framework and the disability

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discrimination legislation, in particular the implications of the forthcoming disability equality duty. I thought it might be useful to say a very few introductory words about the Disability Rights Commission and our role, because we clearly have a very specific role and duties. The DRC, just to introduce ourselves, was created by the Disability Rights Commission Act of 1999, and Section 2 of that Act sets out the following duties for the Commission—just to define our key roles. Firstly, and most importantly, to work towards the elimination of discrimination against disabled people and, secondly, to promote the equalisation of opportunities for disabled people. I think we are all aware that currently disabled people, including children and young people, frequently miss out on the life chances which are available to their non-disabled peers. Thirdly, to take such steps as are considered appropriate with a view to encouraging good practice in the treatment of disabled people. So we are very much about working with disabled people, with services structures, in order to maximise participation and equality of opportunity. Fourthly, we have a statutory duty to keep under review the workings of the Disability Discrimination Act 1995 and, also, to produce statutory codes of practice on request from government. Clearly, this Select Committee's brief is of particular interest to us because nothing probably enhances the life chances of disabled people more than access to and support in appropriate education. So we very much look forward to the discussion. I do not know if you would like me to introduce my colleagues?

Q277 Chairman: If you would.

Ms Russell: I think the best way is if I turn to each of them and ask them just to say a word or two about themselves. Perhaps I should have said about myself, I am a Disability Rights Commissioner, I was Director of the Council for Disabled Children, I am now the Disability Policy Advisor to the National Children's Bureau, and I am the parent of a disabled son.

Mr Haines: My name is Steve Haines. I am the Policy Manager for Education and Employment at the Disability Rights Commission.

Ms Casserley: My name is Cathy Casserley. I am a Senior Legislation Advisor at the Disability Rights Commission.

Q278 Mrs Dorries: Pro-inclusionists tend to be mainly those who are fighting on behalf of disabled groups. Do you think that there is a blurred definition between children with special educational needs, adults in terms of Asperger's, other autism and other disabled groups, and physically disabled children? It does seem to be that those who are fighting on behalf of inclusion tend to be the parents and support groups of physically disabled children, and the other children, the SEN children, seem to be swept up along with that.

Mr Haines: There is a fundamentally different definition relating to disability and special educational needs in the legislation. When you say "physically disabled" that is obviously very much

part of the group, but the definition of disability extends to long-term health conditions, it extends to autism and it extends to the whole breadth, really, of special educational needs. However, special educational needs defines itself even further than disability. Just two cases to illustrate the difference: a child who used a wheelchair in a fully accessible school would not necessarily be defined as having special educational needs. On the other hand, a child perhaps with emotional and behavioural difficulties who did not meet the definition of disability under the DDA would have special educational needs and not necessarily be considered disabled. There is also a different approach in the two definitions as well. Obviously, one—special educational needs—refers specifically to the education environment whereas, I think, disabled children and, perhaps, the social model definition which we tend to use, which is not necessarily reflected in the DDA, is one that identifies the environment as having disabling factors within it that can be removed. So there is a difference in the approach: one, special educational needs, is to put in the equipment and support which will perhaps help children over barriers, and the definition of disabled, which is about removing those barriers. Those two things need to be seen in co-existence when we look at the breadth of how we are going to approach supporting disabled children in school.

Q279 Mrs Dorries: Do you think there are local authorities who are blurring the boundaries then? It seems to me that they, also, are not making definitions between the two.

Mr Haines: One of the things that we know, and the DDA is a relatively new legislation (it is worth remembering the Act only came in in 2001) is that awareness across the board of what the definition of disabled children means and how authorities and schools should be dealing with disabled children—the whole concept of making reasonable adjustments—is something there is very little awareness of. The Ofsted report of last year showed a lot of that and showed that accessibility planning had not really taken place in over half of the schools. So it just shows there is a low level of awareness. Perhaps there is a distinction we need to make between the actions that local authorities are taking and, perhaps, those that they are not taking because the awareness of the definition is quite low.

Q280 Mrs Dorries: Do you think the SENDA 2001 Act has made the situation worse for children with special educational needs, and the children with EBD? Do you think it has made life, for those children, worse or better?

Mr Haines: I think it has definitely made life better. One case that the DRC supported was a child who had been reprimanded by their school, an independent school, on a number of occasions. The educational psychologist was brought in and defined the child as having autism. When the educational psychologist wrote to the school and said: "This child is autistic and you need to make the reasonable adjustments that this child requires in order to stop

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this exclusion of the child from the school”, the head teacher immediately excluded the child permanently.

Q281 Mrs Dorries: You are citing one case but 27% of autistic children every day are excluded from school because of their autism, and one case is not enough to justify the statement that the SENDA Act is better.

Mr Haines: There was a specific case where the DDA was used to combat the discrimination that that child experienced in that school. I think, as we get a greater understanding of the legislation, as we have more test cases, then that situation will improve.

Q282 Mrs Dorries: The problem is that a lot of parents cannot get to the point of testing because they do not have the financial means. Do you think that there is a blurred boundary of definition between physically disabled children and those with SEN?

Ms Russell: I think there can be blurred boundaries, and if a child is appropriately assessed and his or her individual educational needs identified and met appropriately then it is not so much blurring as recognising what additional support that child might need. I think that there is great confusion, often, in the public about who is disabled, and who is not, which is not always helpful, but a key objective of the Disability Rights Commission is that we can move to a society where everybody—disabled people—can participate fully as active citizens. I think that sometimes we can become obsessed with definitions rather than looking at the needs of individual children and, very importantly, about how we build the capacity of schools to manage diversity. You were asking the question about whether the SEN Disability Act had made a difference. I think it has made a real difference and many schools and other education services, (including early years services), are beginning to plan strategically and develop capacity, which is absolutely crucial. We have a long way to go but it seemed to me to be an important marker inasmuch as it formally recognised the needs of disabled children in education and the need to plan strategically.

Chairman: I do not wish to seem obsessive about this but could witnesses and my team speak through the Chair.

Q283 Mrs Dorries: A thousand apologies. It seems to me that a large number of physically disabled support groups have campaigned very effectively on behalf of physically disabled children but, unfortunately, they have taken the legislation and the whole issue of inclusion way past the level where it supports children with special educational needs and is having a detrimental effect on those children. We can quote you lots of figures and statistics to back that up. Do you not agree that is the case?

Ms Russell: I think that is a very challenging question. I think there is no doubt that there are different views about the possibility of inclusion now for all children amongst different organisations or

groups of disabled people. However, I think that we always need pressure groups, if you like, to challenge the system and look to the future. I do not think that the inclusion debate has been detrimental, with regard to the campaigning you refer to, to the education of children with special educational needs. I think part of the challenge of inclusion is that we do realise the need for a properly trained workforce, for building capacity in schools, for high-quality support services and for a greater willingness to value the diverse abilities of children within the school system. I think we are on the road working towards inclusion, but the balance of individual needs with the broader interests of children in a particular group will always be challenging.

Q284 Mr Chaytor: Could I ask Cathy about the relationship between the DDA and the SEN framework? Do you think there is a complementary relationship or are there contradictions and anomalies between the two sets of legal approaches?

Ms Casserley: The intention, certainly when the disability discrimination provisions were brought in, was that they would be complementary, and that was specifically why it was that the Disability Rights Taskforce recommended that education be covered by the Disability Discrimination Act because it was not originally, and the Taskforce recommended that auxiliary aids and services and physical features should not be covered by the anti-discrimination provisions and that, instead, what they should focus on is blatant prejudice, for example when someone is excluded because of their disability, and, also, the way in which teaching is organised—so things that would not necessarily have resource implications. I think there are two main issues around that and how it is worked. Firstly, there is a lot of confusion about definitions, and I think the blurring in particular happens when people are trying to bring cases. What happens often is that schools or education authorities will say: “We do not accept that this person is disabled under the Act” because they are actually thinking of the special educational needs framework, rather than the DDA. I think that is one aspect in which it jars, somewhat. The second issue is that there do appear to be cases where pupils have particular needs which might not be classified as educational needs. So, for example, a pupil has a medical need—they may need to have injections, for example, in the day and may need assistance with that—and that is not necessarily the sort of thing that would be picked up in relation to the special educational needs system. Certainly there might be scope for doing that but the approach to the way in which educational provision is provided is quite patchy geographically. The Disability Discrimination Act, strictly speaking, should not be picking that up because it is excluded, but the issue is then who does pick that up? So we do think there might be gaps and this is an area that we are looking at, at the moment, particularly in light of the forthcoming Single Equality Act, and one of the things we are looking at is whether or not the DDA actually is fit for purpose in that sense. We do think

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there are some issues there about what it is that is excluded and whether or not the two working together are meeting all the needs of disabled pupils.

Q285 Mr Chaytor: Do you think the fact that they have got different theoretical backgrounds is part of the problem? Would it be better if there was a common philosophy which underpinned the legislation?

Ms Casserley: I think that there is a difficulty. Certainly one of the reasons, I think, for low awareness of the Disability Discrimination Act in schools is that they are coming from two different angles. One is about a needs-based approach, the other is about a rights-based, equality approach. I think there are many different definitions, for example, of disability in a wide variety of contexts, and when you are dealing with a system that is meeting particular needs which are resource intensive you do not necessarily have the same definition as you do for an anti-discrimination provision which is about tackling prejudice, and those sorts of barriers. So I do not necessarily think, and this is something we have not reached a conclusion on and my colleagues may have something to say on this, we need a completely common framework but what we do need is for the two frameworks that exist to work properly together and meet all the needs of disabled pupils.

Q286 Mr Chaytor: In respect of the review that the Commission is doing at the moment about the anomalies that have been highlighted, what is your thinking on that? Are there specific examples of issues that could be handled better or where the relationship between the two forms of legislation could be better integrated?

Ms Casserley: One of the things we are looking at, at the moment, in particular, are the gaps. So where, for example, the parent of a disabled child has not been able to get the assistance their child needs through the statementing process or through special educational needs provision, whether or not there would be a case for extending the Disability Discrimination Act provisions slightly to cover that is an issue we are looking at at the moment, and those gaps, particularly around medical needs. That does seem to be a prime example of that. I think there are also issues in relation to independent schools and the way in which provision is made in those.

Q287 Mr Chaytor: Finally, in terms of how other countries handle this, are there particularly good models from other countries that have managed to get the system working better than we have that any of you are aware of?

Ms Russell: I cannot answer in great detail but I am currently doing a piece of work for the European Union which is a comparative study of services for disabled children in six member nations. I could certainly give you detailed information in future but I cannot at the moment. However, I think that many of the challenges facing us are also facing them. Perhaps the biggest challenge is putting the jigsaw

pieces together of a disability rights legal framework. There is no equivalent to the DDA but there are some human rights legal possibilities within the context of their provision. I think this challenge lies in, say, putting together the SEN or education piece of the jigsaw, the human rights or disability discrimination piece of the jigsaw but, also, as in this country, acknowledging that disabled children often have needs in other areas. Therefore, you may be endeavouring within the statutory assessment process to put together an assessment under the framework for the assessment of children in need, because there may be social care issues—you may be looking at the health needs of the children—and I think it will be interesting to see whether the further roll-out of *Every Child Matters* and the working towards a common assessment framework can help us bring these different pieces together to give us an integrated assessment system which leads to joined up working and avoids the current dislocation of crucial provision, like support for medical needs, which Cathy has already referred to, and which can thereby interfere with both the SEN needs of the child and also, of course, appropriate provision for including the child with a disability within the full life of the school.

Q288 Chairman: Can I ask Philippa, where do you look for the right expertise for this overview in terms of the needs of a child with disability and special educational needs? I am looking at the evidence on this and I am puzzled by what sort of superhuman person it is that can pull all this together. It is quite a difficult area, is it not?

Ms Russell: It is a very difficult area, which is why I think there are often so many problems with statutory assessment and a statement. A statutory assessment process genuinely intends, or endeavours, to provide an accurate picture of the child and any additional support needs that he or she has. However, I think part of the challenge is actually drawing together all the information that will exist about children. I would say, with my disabled son, that I probably now have 65 box files (he is now an adult) of assessments and reports, but very often the information has not been presented in a way which was relevant to his educational progress. I think that is an on-going challenge for us. I hope that the development of Children's Trusts will make it easier to get relevant information on the integration of health, education and social care for many of these children, but I think at the moment assessment can still often be too bureaucratic.

Q289 Chairman: You think the new arrangements coming in might actually cut through that? What we constantly hear is that there are well-intentioned and quite expert people out there but there is an enormous amount of bureaucracy in the process.

Ms Russell: Yes, and I think there are, perhaps, some interesting models we might look at: for example, particularly with younger disabled children, the emergence of the key worker, somebody who can help bring together all the relevant information on the child and actively

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engage the parent or child, as appropriate, and hopefully thereby provide relevant information in an education setting. If a child is to develop in education and flourish and become an active citizen, which is our ambition, then the relevant professional advice needs to be presented in a way which schools and others can use.

Q290 Chairman: Do you think there is a danger—I know from when I was much more active in the disability area as a Shadow Minister—in the view that a lot of teachers have, certainly, in the child population, which is a stereotype of what a person with disability looks like? I certainly know, in those days, long before your legislation and your personal organisation existed, that people always thought of people in wheelchairs rather than a range of disabilities. What percentage of people now are wheelchair users? I remember a statistic from sometime ago, but what is it now, roughly?

Ms Russell: I am not sure what the current statistic is with regard to children and young people but I think it is very small. Many disabled children will have a mobility problem but, of course (and this is where I think you make a very valid point about stereotypical views of disabled children, young people—people—and about what they can or cannot do), there is huge diversity ability as well as disability. This is where I hoped, and still hope, that the SEN Disability Act will make a difference because the accessibility planning duties, of course, require attention not only to the physical environment, which, once right, is right for at least one generation, but, also, access to the curriculum, and to information. Stereotypes, particularly around risk, can cause enormous problems. Disabled children are all too often excluded from a range of activities in the life of schools and other services because of presumptions about risk rather than a careful assessment of their abilities and what they need to actively participate. We are a very risk-averse society, so this is part of a bigger problem.

Chairman: We have looked at that very closely in a report on out-of-school education and the importance of disabled children being able to have access to that. Thank you very much for that. Let us move on.

Q291 Stephen Williams: I want to ask some questions about the legal duties placed on schools and LEAs, firstly by the Disability Discrimination Act, which places a duty on all public authorities to promote accessibility for equality for disabled people. It has a disability equality duty within that Act. Perhaps I could start with Commissioner Mrs Russell. Do you think that is a realistic proposal for schools, in particular?

Ms Russell: I think it is absolutely realistic. I know there were some initial concerns and I would, with your permission, like to turn to my colleague Cathy after I have responded. There was some initial concern that this would be a burdensome duty but I do not see it in any way as burdensome. Firstly, the disability equality duty and the requirement to develop disability equality schemes is something

which good schools would be doing largely already within their accessibility planning and other planning duties. Secondly, it is a reasonable and proportionate duty because the school will start from where it is; it will take advice and it will set, hopefully, ambitious but definitely achievable targets in a staged way. Fourthly, and most importantly, we are not going to improve access and inclusion unless we adopt a strategic approach across schools rather than always focusing on the individual child and whether he can be slotted into the jigsaw picture. So I think it will actually be a duty which will help schools and I believe that if that duty is delivered well it will not only benefit disabled pupils and those who are working with them, it will actually benefit the whole community because one will be working towards a more inclusive school and getting the active participation of all concerned. Might I look, with your permission, Chairman, to Cathy?

Ms Casserley: I would really just echo what Philippa said. There is the duty itself contained in the Act which is obviously about promoting equality of opportunity, and, clearly, that is what schools should be doing anyway so it should fit into what they are doing. The duty to produce the disability equality scheme, very clearly, is tied up with the planning duties and, as Philippa said, those schools which are already taking those responsibilities seriously should have relatively little difficulty in producing a scheme and in making sure they set out what their actions are. Finally, the way in which the requirements of the disability equality scheme have been set out means that they are quite flexible; they are not actually that prescriptive. You have to look at what steps you are going to take to promote equality of opportunity, you have to set out what steps you are going to take to gather evidence, for example, on the educational opportunities of disabled children, and that is something obviously which schools would want to be doing anyway, but it does not prescribe exactly the way in which they have to do that. Certainly we think that the responsibilities of schools and what they have to do already was taken into account when these duties were actually framed.

Q292 Stephen Williams: If I can stick with Cathy, Chairman, as she is a barrister and has a textbook with her as well! LAs had to have accessibility plans in place by April 2003 but when Ofsted had a look at this towards the end of 2004 they found fewer than half the schools had such plans in place. Why is there not more pressure on schools to fulfil their legal duties?

Ms Casserley: I will say something and then I will probably turn to my colleague, Steve, also, to comment on this because I know he has had a lot of involvement. I think one of the issues generally about the Disability Discrimination Act provisions is that there is a low awareness of them and a low awareness of what they require and what schools have to do under them. There is also no real way of enforcing that planning duty. Again, one of the advantages of the disability equality duty is that it

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ties in with the accessibility plans, it covers a lot of the same ground but there is actually a process for challenging a school in those circumstances if it does not actually fulfil its duties. So, again, I think the disability equality duty should make a significant difference.

Q293 Stephen Williams: Did you say there was no way of enforcing this duty?

Ms Casserley: Certainly not by an individual, no.

Q294 Stephen Williams: Is that because the legislation is flawed, or—

Ms Casserley: The actual process behind the accessibility plans, if they are properly carried through, is a very good way of ensuring accessibility. The problem, I think, with it is that there has not been any enforcement of it. Obviously, that is not just an issue for individuals taking cases but that is also an issue for inspectorates in how they deal with that and the recommendations they make on the back of that. So certainly, I think, the way in which they are enforced or are not enforced has been a problem.

Q295 Stephen Williams: So to encourage enforcement, are you saying, someone would need to go through the courts to set some legal precedent?

Ms Casserley: There is not a mechanism, other than taking a judicial view, for enforcing that aspect of the duty, and it was never intended to be enforced by any individual; it was merely intended as a duty upon the school which it should comply with in respect of what it does.

Mr Haines: I would echo very much what Cathy has just said there. The other aspect to do with this, I think, is again about awareness within schools. We have been working with the DfES to produce accessibility planning guidance and hopefully that will show schools and LAs the best way to approach these duties. That is another important aspect of it—the inter-relationship with LAs. I think we are concerned about the increasing autonomy of schools to lose that link with the LAs and how they can work together to make schools accessible over time. The other issue here is, obviously, to do with building schools for the future and making sure that that new stock of schools is built accessibly in a way that does include disabled children.

Q296 Stephen Williams: You said you were worried about LAs and schools having a weaker link which might undermine—

Mr Haines: I think there is a concern about how that link might affect more strategic planning of how schools and LAs work together to improve inclusion.

Stephen Williams: Chairman, it might be an interesting point for our other investigation on at the moment.

Q297 Chairman: Can we push you on that? As I understand it from the legislation, and indeed the proposals in the White Paper, local government will not lose their existing remit over special educational needs.

Mr Haines: That is something that we will have to see how it pans out in practice.

Q298 Chairman: There is nothing in the White Paper that takes away the present local government role in special educational needs. That is a fact; it is not what we should expect, surely? There is no plan to change that relationship.

Mr Haines: I think what concerns me is being shown with academies at the moment and how that distance, by having the funding agreement by the Secretary of State, seems to perhaps undermine the legislation and how it would work in practice. We have certainly seen it, in the admission of children to academies where they are named in the statement, starting to cause some problems.

Chairman: We are going to come to academies in a moment. As we understand it, trust schools will have the same powers as foundation schools, which are several hundred, as you know. They have the same responsibilities. We are going to come to academies in a moment, so hold back on academies.

Q299 Stephen Williams: While we are on awareness, and I will stick with Mr Haines, do you think the Department itself is viewing this problem with enough urgency and has given enough advice down to the LAs in then asking them to pass it on to schools?

Mr Haines: The roll-out of *Removing Barriers to Achievement* is something that is going ahead and we fully support that. The accessibility planning guidance that I just mentioned goes alongside reasonable adjustment guidance as well, and we are very much welcoming those going into schools. The Teacher Development Agency is certainly bringing in extra training for initial teacher training around working with children with special educational needs. We would like to see a bit more disability equality training in there as well, but that that continues is a very positive step. On your point about whether there should be more onus on schools to put these duties in place, I think that will really show with the support for the disability equality duty which will be central to cohering together a lot of these duties and giving schools an action plan for how they can address a lot of these problems together. So that is where the importance should lie.

Q300 Stephen Williams: If I can go back to some of the legal duties and, perhaps, Mrs Russell or Ms Casserley will want to pick this up, is the requirement on schools to remove the causes of potential discrimination perhaps a step too far for schools, and how will they define what potential discrimination is?

Ms Russell: I think there will need to be, obviously, clarification about what areas of potential discrimination might be relevant to a particular school situation, but I think a core duty within the

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accessibility planning arrangements is anticipating what those barriers, what the areas of potential discrimination, might be and we are not only looking at physical access—important as it is—we need to look at the whole life of the school. The Government's Extended Schools Programme and the forthcoming promises and delivery of *Youth Matters* are absolutely crucial to disabled young people because they really do extend opportunities for participating in sport, drama, and homework clubs—the life of the school. Of course, those new services are not covered by the SEN framework, so schools, for example, will need to consider how they will actively include and promote equality of opportunity for disabled pupils. However, we are talking about accessibility planning duties and we will be talking about disability equality schemes which, as Cathy said, are anticipatory, are flexible and reasonable. I hope that schools really will work with all relevant partners. There is some very encouraging work out now about the use of inclusive school councils in mainstream and special schools engaging disabled pupils in actually identifying what they see as potential barriers, where they see lack of opportunity. So I think we are on a learning curve and, as Steve said, the DfES, the Disability Rights Commission and the Council for Disabled Children have been working on the accessibility planning and reasonable adjustment projects, and I think nothing actually encourages success like good, working examples of schools which have embraced the accessibility planning duties, the equality of opportunity duty and find that it benefits all pupils.

Q301 Chairman: Can I apologise to you, Steve Haines? I realised I have a question at the back of my mind which I have for the next set of witnesses on academies. Do you want to articulate a little more your concerns about academies in relation to special educational needs as opposed to disability?

Mr Haines: I think, really, the focus on academies is on tackling the outcomes for certain children who face disadvantage. That children with special educational needs are at the centre of the focus of academies, I feel, is really important. What we should be looking at is not just meeting needs but, rather, looking at the kind of structures we have to see how they can promote equality of outcome. My concerns are really focused on where funding agreements mean that academies are not as responsible to that legislation as perhaps they might be. I am sure your witnesses later will be able to give you more detail on that.

Q302 Mrs Dorries: I wonder if you can just clarify that point again. We have heard evidence in this Committee that, in fact, academies have no obligation to take children with special educational needs and there is no statutory duty for them to be named in a statement. In that case, how can the focus of academies be on children with special educational needs if they have no obligation?

Mr Haines: I think that is exactly my concern, yes. The focus really should be on promoting equality of opportunity for children with special educational

needs, and that these are the very systems that should support this, whereas they seem to have missed the opportunity to focus there and, instead, almost watered down that duty in relation to those children.

Q303 Mrs Dorries: So your statement that the focus of academies is on special educational needs—the fact they have that—is that your opinion or is that based on some kind of evidence?

Mr Haines: I know that this will be focused on later by some of the witnesses who have a legal understanding of the situation, but what seems to be coming through what I am hearing through various networks that we are in contact with is that there is that lack of onus on children with special educational needs. I would have to find more evidence for you on that.

Q304 Chairman: Would Cathy Casserley like to come in on that? The word “legal” was mentioned, so I thought perhaps you wanted to say something.

Ms Casserley: The word “legal” was mentioned but my legal experience does not stretch to academies.

Chairman: You are the sort of witness we like, those who say they do not have an answer!

Q305 Mr Chaytor: Can I ask a follow-up question to Steve about that? In your experience, can you make any generalisations about the way in which different categories of school respond to the needs of children with SEN?

Mr Haines: It is a very mixed picture out there, and I think the Ofsted report from last year really showed that. What is important is not necessarily the category of school but the approach of the school, and the schools that are best at inclusion are ones that have a very inclusive ethos, and who consider the outcomes and achievements of all children, whether disabled children or non-disabled children, as of paramount importance. So it is really the approach that is important rather than the categories.

Chairman: Let us move on to an outcome focussed system of provision, and Jeff Ennis is going to lead on this.

Q306 Jeff Ennis: Thank you, Chairman. I would like to ask the witnesses, first of all, how can we better achieve an education system with high expectations for all disabled pupils?

Ms Russell: I, personally, and I know many others, have warmly welcomed an outcome focussed approach to education and, indeed, to all children’s services. I would define that approach as ensuring that all pupils gain not only the necessary academic qualifications (or maximise the academic opportunities if they are not able to get academic qualifications) but, also, gain life skills which will enable them to have a fulfilled adult life. Within *Every Child Matters* we have the five key outcomes for all children, and the Prime Minister’s Strategy Unit report on improving the life chances of disabled people very clearly set out concerns about the numbers of young disabled people who come

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through the system and do not necessarily have the skills and abilities that will enable them to go into the world of work. I think an outcome focussed approach is a holistic approach; it is ensuring that all pupils are engaged to the maximum level of their ability within the life of the school. However, if I might just refer to my own son's personal experience, his ability, notwithstanding significant disabilities, to have his own home and be part of the local community depended not only on having access to a good education in the traditional sense of the word (he has severe learning difficulties) but in the acquisition of good communication skills and the understanding of personal safety, the ability to work in a team with others, and the ability to travel to a limited extent independently. I think we do need to make sure that we include disabled young people in all the initiatives which are around at the moment. If I might quote a couple of statistics which give us a warning about the importance of this, last year, the 2004 DfES Youth Cohort noted that disabled 16-year olds are twice as likely as their non-disabled peers to be in neither education or training or in employment, and that really is not satisfactory. Nor is it satisfactory at the moment that 21% of disabled people 16–24 have no qualifications compared to 9% of non-disabled people. In this context I would like to make a strong plea for the recommendation that disability is not a disqualifier for success in adult life, and I am including within my definition of disability people with learning disabilities, be it mental health problems or a range of impairments which might seem very challenging. Nonetheless, these are people with talents and we need to be absolutely certain that we are looking at those long-term outcomes, and access to further education training and higher education is important. It is the *Every Child Matters* agenda, and I hope it will apply equally to disabled children and young people.

Q307 Jeff Ennis: Just a follow-up to what Philippa has just said, obviously within the mainstream school settings etc, or within special schools, the young people with disabilities are protected from the outside world to some extent. When they reach adulthood—and it is following on the point you were making about the doubling of the number of young adults with disability who are not in training or employment, or whatever—will the *Every Child Matters* agenda really impact on this, what I call, transition phase from the protective environment of the school into the adult world?

Ms Russell: I hope that it will. There are big challenges around transition. I think the transition arrangements 14–19 are probably one of the most important, but also probably the most variable forms of provision that young disabled people, or indeed any young people, go through. In some areas, the Audit Commission has noted, we have a postcode lottery; Connexions is working well and there are a number of initiatives. There are some interesting partnerships around between special and mainstream schools. For example, Beaumont Hill Technology College, which is a generic special school up in Darlington and which operates on a

campus basis, is doing some very exciting work with young people who are in mainstream schools and enabling the staff there to develop the specific skills to ensure that they actually do well. *Every Child Matters* is a challenging agenda but we must be absolutely sure that young disabled have bright futures, and futures, and I know because the transition information network is supported by the Council for Disabled Children that young disabled people with whom we consult are particularly anxious about what comes next, and many with good school experiences, be it mainstream or special, are worried they might not get the support and training in order to be ambitious, to make choices about their life after school and to actually go on and achieve. One challenge here, of course, is that many young disabled people have missed significant amounts of schooling because of hospital treatment etc, and we do need to be absolutely sure that the lifelong learning journey is open to them and that their education and training opportunities are not cut short prematurely.

Q308 Jeff Ennis: We have focussed, to some extent, on the *Every Child Matters* agenda that the Government is working to. The other major SEN document, of course, within mainstream schools is *Removing Barriers to Achievement*. Are these two strategies fully complementary with each other or is there anything missing between the two strategies?

Ms Russell: I think the strategies are complementary and I think they are right. If *Every Child Matters* and *Removing Barriers to Achievement* can be delivered in the spirit in which they were developed, and that has to be over a period of time, they will work well. However, I think we need to be vigilant at every stage to make absolutely certain that disabled children and young people are fully included at every stage and within every initiative. There is no doubt that if *Removing Barriers to Achievement* is to succeed then we need the multi-agency approach, the collocation of services and the better joining up of health and social care, etc, in order to support progress in education. It is a challenging agenda but I think we are on the right path.

Q309 Jeff Ennis: What sort of timeframe do you think we are on in terms of delivering that joined up approach, shall we say, that you would be satisfied with as a Commissioner for the DRC?

Ms Russell: I would like to ask my colleagues, and I suppose all of us would like to say “tomorrow” but saying “tomorrow” would be unrealistic. I am well aware, having been around in this field for a number of years, that progress has to be sustainable; that we have to be absolutely clear that all partners understand their responsibilities but, also, know that they can act in more creative and dynamic ways. *Improving the Life Chances of Disabled People*, the Prime Minister’s 2005 Strategy Unit Report, hoped that the ambition set out in that report would be achieved by 2025; I hope that we could achieve earlier. I think one of our challenges will be maintaining the momentum. For example, achieving real inclusion across the education system

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is a process and we have to learn from experience. So my main concern is that any new programme has the timeframe and the support within that timeframe for delivering and evaluating progress, recognising that new challenges will come along the way. One point I would want to make is that the pattern of childhood disability is changing; we are seeing more young people with very complex disabilities. The *National Service Framework* is important in offering direction as to how we might address those needs, but we need to be absolutely sure that they are not excluded and that they do get education and support appropriate to their needs.

Q310 Chairman: There is a view that the way to really energise the system, if you want to take any particular category of student and get something done about their situation in giving them the fullest educational provision you can, is to make it particularly rewarding for schools to take them; in other words, a premium following a particular student. What do you think of the view? Is there enough of a premium? If a child with special educational needs or a child with a disability goes into a school, is there a sufficient premium to make that child, in a sense, attractive to the school, both to accept in the first instance but, also, to provide a full level of facility?

Ms Russell: I think you are making a very important point. I think that there has been an encouraging development over the last few years in celebrations of schools and pupils that are doing well, but we need to do more. I am aware that many mainstream schools are worried about the league tables, they are worried about how they demonstrate success and celebrate progress—and all children do make progress in a good school. I would like the reward, the recognition of achievement, to be much more widespread. I know that good schools' value of progress in their pupils may not necessarily be in achieving formal academic accreditation, although I hasten to say that the Disability Rights Commission is worried that many disabled pupils who could achieve, for a variety of reasons, do not get the examination results one would have expected, but I think the premium, as you call it, or the celebration is very, very important. I certainly hope that we will see more rewards, if you like, incentives, to schools to think accessibility and inclusion.

Q311 Chairman: Do Steve Haines or Cathy Casserley want to come in on that?

Mr Haines: I would echo very much what Philippa said. I would also add that, perhaps, rather than an extra premium that has to be added, the mainstream policy should encourage schools to give the best to disabled children and children with SEN that attend that school.

Ms Casserley: I do not have anything to add; I would just echo what Philippa and Steve have said.

Q312 Chairman: Can I then just shift the discussion, for a moment, because I realise what a valuable group of witnesses we have with us. In terms of this balance between SEN and disability, are we getting

it right? That is the big question. Are we getting it right? We started off with the big question, so let us come back to it. If we are not getting it quite right what new initiatives do we need?

Ms Russell: Just giving a personal point of view, if I may, firstly, I think, as we said earlier, we are looking at a jigsaw of provision, in particular the SEN Framework and the disability duties, but there are other assessment processes and services that may need to fit into that picture. I think we need to improve the sharpness and the relevance of our assessment processes so that we understand which framework we are using when. Secondly, I think that greater awareness of the accessibility planning duties and the forthcoming Disability Equality Duty will make, hopefully, the inter-relatedness of the two much clearer to schools. Thirdly, I think that we have a real issue in a more complex education system, and I would include the Early Years provision there as well because we have, of course, major developments now in terms of children centres, the Childcare Bill plus, of course, Government promises on Early Years education where proper inclusion and accessibility will be crucial. I think we need to take a strategic view and a regular review of how the system is actually working. If we use the strategy set out in *Removing Barriers to Achievement* we do have a means by which we can measure progress, but I think the Disability Rights Commission has an important role here as well, to assist the Government in understanding how the disability duties interrelate with other duties in protecting and promoting the overall human rights of disabled pupils.

Q313 Chairman: The theme today in all our discussions and our questioning has been about inclusion. We started this inquiry partly because we have been away from special education for too long but also because of the very famous speech and pamphlet by Baroness Warnock. What do you believe in terms of this view that Baroness Warnock put to us when she gave evidence, that perhaps we have gone too far on the inclusion side; that a good provision of special schools is very important and very appropriate for a lot of students; that perhaps some people are pushed into mainstream because of the inclusion doctrine rather than getting really the right kind of education they want in a special school?

Ms Russell: I do not think the inclusion agenda has gone too far. I think a lot of people would say it has not gone far enough, inasmuch as we are still learning how we can include all disabled pupils effectively in mainstream provision. Whilst we are on that learning curve, special schools or specialist provision will obviously have a place, but I think one can already see some encouraging evidence of co-location and strong partnerships between special and mainstream provision. We have to build capacity in the workforce. Parents pick special schools because they do not in general have confidence that the mainstream schools will deliver the specialist additional support their children need. We are working towards, I hope, an inclusive and accessible society and that must include education,

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but I personally would not want to backtrack on inclusion; rather I would say that we need to learn, both from the UK experience and from international experience, how we can include more children to recognise that good inclusive schools are actually good for everybody. If you include a disabled pupil well, then other pupils will benefit. Thirdly, some children do have very complex needs and special provision will be absolutely crucial to their educational process and progress. I think we are also looking at some interesting challenges for special schools. Some special schools already are largely operating on an outreach basis to build competence and confidence in mainstream. It is a learning curve, but I personally would be very unhappy if we turned the clock back. I think we are actually learning as we go towards the achievement of high quality education with maximum inclusion for all pupils. I would just turn to my colleagues briefly and ask whether they would like to complement what I have said.

Mr Haines: Again, I would agree with all of that. I think we do need to focus on the ongoing improvements of the school system as a whole. Promoting separate schooling should only really be done, following the Salamanca statement of the UN, in those exceptional cases where it is necessary and an appropriate environment and setting for that child to be able to develop. On the whole, the efforts still need to continue towards giving schools the skills and the framework with which they can promote inclusion.

Q314 Chairman: What is your take on Baroness Warnock's position?

Mr Haines: I do not think I could comment directly on Baroness Warnock's position.

Q315 Chairman: Why could you not comment directly? It is right in the centre of your life and work experience, is it not?

Mr Haines: I think Warnock identified some of the concerns that are out there, especially amongst parents of disabled children. But we do need to ensure that the reality for the disabled child is that they are given the opportunity to interact with non-disabled peers. It has a very long-term benefit and we need to promote the independent living in the future of that child as they become an adult. I think some of the statistics that Phillipa quoted earlier regarding those not in employment, education or training at 16 are also echoed at 19, where there is not sufficient transition coming from special schools, and we see that blip that is reflected in the Prime Minister's *Improving the Life Chances of Disabled People* report which shows a great increase at 19, where children are leaving special schools. We need to consider the disabled adult of the future as well as the disabled child of today.

Q316 Chairman: Cathy Casserley, what is your view on the Warnock review?

Ms Casserley: I think I have the same view as Steve, that she identified a number of issues, but the key thing is to make sure that disabled pupils have the same opportunities as other pupils. That is not being done at the moment and it needs to be.

Q317 Chairman: Coming from certainly the two of you—and I am coming back to Phillipa Russell in a moment—there is a rather negative attitude—or “as the last resort”—to special schools. That is what I am getting. Is that right? Surely in some situations a special school would be the right environment to bring on all the talents and make someone fit for a greater role in society.

Ms Casserley: As Steve said in the Salamanca statement—

Q318 Chairman: He was being a bit reluctant to answer.

Ms Casserley: Certainly there are exceptional circumstances where special educational needs or a special school may be the most appropriate forum, but my view is that a lot of the education that goes on in special schools goes on there because the provision is not being made in mainstream and often parents feel that the way they will get the most for their child is actually to have the resources focused and to have that child educated in a different school. That often points to a failure of the mainstream system, rather than it being much better in a special school.

Q319 Chairman: It is a totally different argument that some children thrive with a particular set of special needs in a smaller environment. “Small is beautiful” EF Schumacher called it. Is there not an argument that sometimes that big environment of 1,000, or perhaps a 2,000 school environment, however good the inclusion, is not the right environment for a particular student?

Ms Casserley: My view is probably that that is in exceptional circumstances. I would imagine the vast majority of children would thrive much better, in general, in a smaller environment. But, in broad terms, I would say that is the exception rather than the rule. I have to say I am expressing a personal opinion now, so I should probably hand over to my colleagues.

Q320 Chairman: Phillipa, this is the most offensive of the three of you have been. I do not want to make it offensive, but I am putting the question to you. You seem reticent to criticise or even to come back and tell me what you think about Warnock and you are a bit reticent to say what you really believe about special schools. Am I right, or am I being unfair?

Ms Russell: I hope I was not being reticent, because I recognise Baroness Warnock's genuine concerns and we know that there is variable practice within mainstream and indeed within some special schools. But I would want to reiterate my point that we are on a learning curve. We do at least believe that every disabled child is educable—and my son is old enough for me to have seen him rejected as uneducable before we got the 1970 Education of

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Handicapped Children Act. We are on a learning curve, inasmuch as some children do have very complex disabilities and special educational needs and at the moment special schools may be the place where they will indeed get the support and education that they need, but, because we are learning as we go, not only will mainstream schools hopefully develop more capacity—and I am looking to the future—but special schools themselves will develop different roles, where they perhaps become specialist support teams or outreach service—and one sees much more collaboration between the two. We know at the moment that some children are in special schools because mainstream has sadly failed them, and we have to address that fact.

Q321 Chairman: But it is okay if a local authority has no special schools at all.

Ms Russell: If a local authority were able genuinely to meet the needs of all disabled pupils and pupils with SEN without special schools, that would be fine, but I think at the moment one might well find they were using special schools in other authorities. My personal view—and it is not a criticism of a view that anybody else holds—is that, at the moment, certainly, many parents are picking special schools because they are worried about the capacity and quality of mainstream to meet their children's needs. But I see ourselves as working towards a more inclusive education system, with co-location in specially resourced units, for example, with greater capacity in mainstream. I see in effect a challenge ahead for both mainstream and special schools to produce a better education system which maximises all pupils' abilities.

Q322 Mr Wilson: In an ideal world, if mainstream schools were properly resourced, there would be no need for special schools. You are en route to saying that inclusion has not gone far enough.

Ms Russell: In one sense, inclusion will maybe never go far enough, because there will always be new challenges and new groups of children, not necessarily disabled children, about whose exceptional needs one needs to think very carefully. I think we have a lot of work to do on the inclusion agenda.

Q323 Mr Wilson: But your ideal is that over a period of time there should be no need within local authority areas for special schools *per se*, as long as mainstream schools are properly resourced for special needs students.

Ms Russell: If we were to achieve that vision—which I hope that one day we might—then there would have to be very significant changes in the way in which we organise education services. But, even if there were no special schools, we would still need special services and specialist services. Some children will always need that provision, and some children may sometimes need provision or for part of their education in a separate place. I think we have to explore further how we deliver the best possible education for children with severe autistic spectrum disorders, for example, but I think the point Steve

made was very important: we must ensure that disabled pupils have the real opportunity to interact with and be part of the wider society of children and any young people in their area. Inclusion is not merely attending a mainstream school and sitting in a corner; it is about being part of the life of that school. Equally, a special school should endeavour to the best of its efforts to be inclusive. Some people would say a special school never can be inclusive, but a special school can work towards enabling a pupil to acquire the skills and support which will enable him or her to go back into mainstream. It can enable partnerships with mainstream services. The real emphasis has to be on that long-term vision of citizenship, and therefore it is inclusion in everything, in all the life of the school. I think we do have quite a long journey to go, but I think we are moving along it—maybe not fast enough, but it is a pilgrim's progress.

Q324 Mr Wilson: No-one would argue that changes would need to be made if we are going to reach an ideal of full inclusion in schools, but the question is should those changes be made? Should we be working towards those changes, or should we be investing more in special schools? That is the argument that is taking place now. I am trying to get your view on that movement and how quickly it should be made.

Ms Russell: I do not think one can ever promote positive change in a human service by running down one sector whilst one endeavours to build up the other—by which I mean that if there are pupils in special schools now and in the future we have to be absolutely sure those schools are properly resourced, that the staff are properly trained and recruited, and it must mean some investment. I think in many public services there are transition arrangements. I am thinking of the closure of the long-stay hospitals which incarcerated many children with learning disabilities until the 1980s. It would not have been possible to get those children out unless there had been a parallel investment in the community-based, children-based services of the time, which prior to the Children Act 1989 had never thought about including disabled children. That, I think, is one of our challenges in promoting positive change, and also exploring, because some of the children in special schools have very complex needs, how we meet those needs. Even within a special school there are some children we have heard about who are not in school at all because their needs are judged too complex even for a specialist service for disabled children.

Q325 Mrs Dorries: I would like to clarify one point you made. Do you absolutely not accept that there are groups of children, such as those on a high autistic continuum that you have mentioned, those with Asperger's, who absolutely would not be able to survive within a mainstream school, even with the specialist provision. Even with their funding Velcro'd to them, as we have heard recently, so that they had direct funding, even in those circumstances, just the type of building, the changing faces of the

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main children in the classroom, the noise, all those kinds of things, makes it impossible for them to survive within that environment and to be educated in that environment. Do you not accept at all that there are children who need to be in SEN provision special schools?

Ms Russell: There will be some children who need specialist provision. When I talked about a pilgrim's progress I meant that we have a journey ahead of us and we must learn along the way about how best to educate children with the most complex needs. I think that at least for the foreseeable future some specialist provision is going to be essential. The point I wanted to underline, however, is that specialist and mainstream need to and are beginning to work more closely together, that more autistic spectrum disordered children are now being included in mainstream with the support of specialist unit support in schools.

Q326 Mrs Dorries: We had evidence from Newham, who have a low number of statemented children. Most of the children with SEN needs are educated in mainstream, but they do have a large number of children who are being educated outside of Newham in other boroughs. It is not a case that it is not necessary or that it works; it is just: "Push the problem away from our borders and send them elsewhere". That is a borough that has gone further on the pilgrim's progress than you are suggesting: they have gone right the way down the road. That is a borough of total inclusion but the children are

being educated outside of Newham. They do not show on the statistics, but there is still a need and the children go elsewhere.

Ms Russell: Your point about Newham, which I know very well, complements my earlier point that at the moment there is no doubt that some children are being placed in special schools very appropriately and we have to explore whether in the future more of those children could be in mainstream. It is very important that we have to build a greater synergy between the specialist expertise and the mainstream, because I do not think we always know at the moment whether we can really include all children effectively and achieve the life outcomes that we want. It is a matter of working towards inclusion—which we must do—but it also goes back to my final point about valuing specialist expertise and specialist provision, and building bridges—which brings us back almost to the jigsaw—between specialist and mainstream to maximise opportunities, and having a real look at and constantly re-evaluating along the way what is working in the best interests of children and pupils.

Chairman: I am afraid we are out of time. It has been an absolutely fantastically good session for us, Philippa Russell, Cathy Casserley and Steve Haines. We have learned a lot. Forgive us if we pushed you a little at the end. That is our job. Thank you very much for coming. I hope you will keep in touch with the Committee. If, on the way back to your day jobs, you think of something you should have said to the Committee and you wish you had, do be in communication with us. Thank you.

Memorandum submitted by the Independent Panel for Special Education Advice (IPSEA)

INTRODUCTION

This submission is made by the Independent Panel for Special Education Advice, a registered charity which provides advice and support for parents of children with Special Educational Needs (SEN).

1. IPSEA'S APPROACH

IPSEA's general approach to the education of children with special educational needs is close to that set out in Chapter 1 of the 1978 Report of the Committee of Enquiry into the Education of Handicapped Children and Young People ("The Warnock Report")⁽¹⁾. Notwithstanding the dated terminology, the following quotes exemplify IPSEA's understanding of the purpose and the importance of special educational provision. They also, in our opinion, describe the conceptual basis of the current law on special education.

1.1 "We hold that education has certain long-term goals . . . first, to enlarge a child's knowledge, experience and imaginative understanding, and thus his/her awareness of moral values and capacity for enjoyment; and secondly, to enable him to enter the world after formal education is over as an active participant in society and a responsible contributor to it, capable of achieving as much independence as possible. The educational needs of every child are determined in relation to these goals. We are fully aware that for some children the first of these goals can only be achieved by minute, though for them highly significant, steps, while the second may never be achieved. But this does not entail that for these children the goals are different. The purpose of education for all children is the same; the goals are the same . . . (1.4) . . .

1.2 ". . . There is in our society a vast range of differently disabled people, many of whom would not have survived infancy in other periods of history. In the case of the most profoundly disabled one is bound to face the questions: Why educate such children at all? Are they not uneducable? How can one justify such effort and such expense for so small a result? Such questions must be faced and must be answered. Our answer is that education, as we conceive it, is a good, and a human good, to which all human beings are

entitled. There exists, therefore, a clear obligation to educate the most severely disabled for no other reason than that they are human. No civilised society can be content just to look after these children; it must all the time seek ways of helping them, however slowly, towards the educational goals we have identified . . . (1.7).

1.3 “Moreover, there are some children with disabilities who, through education along the common lines we advocate, may be able to lead a life very little poorer in quality than that of the non-handicapped child, whereas without this kind of education they might face a life of dependence or even institutionalisation. Education in such cases makes the difference between a proper and enjoyable life and something less than we believe life should be. From the point of view of the other members of the family, too, the process of drawing a severely handicapped child into the education system may, through its very normality, help to maintain the effectiveness and cohesion of the family unit” (1.8).

2. IPSEA’S ROLE

IPSEA was established in 1983, to coincide with the implementation of the Education Act 1981, under which, for the first time, parents of children with special educational needs were given the right to challenge the decisions of Local Education Authorities (LEAs) on the special educational provision (including the type of school) required to meet their children’s needs. IPSEA currently assists 3000 parents and carers of children with SEN every year, including over 25% of those making applications to the Special Education and Disability Tribunal. We therefore have a great deal of historical evidence from actual cases as to what is happening to individual children with SEN throughout England and Wales.

2.1 The need for an organisation such as IPSEA was predicted in The Warnock Report:

“. . . it has long been a function of voluntary organisations to bring pressure to bear on national and local government in two ways: first by seeking to ensure that authorities are fulfilling their existing responsibilities for those with disabilities and secondly by identifying the need for new forms of provision and mobilising public opinion to demand them. For example, as more children with disabilities and significant difficulties are educated in ordinary schools voluntary organisations may need to be increasingly vigilant to see that adequate special arrangements are made for them . . . We would expect voluntary organisations to exert pressure on behalf of individuals who cannot easily undertake the task of seeing that statutory duties are carried out . . .” (17.17/17.18)

3. THE STATUTORY FRAMEWORK: ASSESSMENTS AND STATEMENTS

The actual system

The Education Act 1981 established LAs’ basic duties towards children with SEN and these have remained unchanged despite subsequent amendments to the law (in 1993 and 2001). These duties are:

- (i) to assess children who have, or probably have, special educational needs which cannot be met by their school;
- (ii) when assessment confirms that a child’s special educational needs cannot be met by their school, to issue a “Statement of Special Educational Needs” which describes those needs and “specifies” the special educational provision necessary to meet them.
- (iii) to “arrange” the special educational provision specified in a Statement.

As with links in a chain, when implemented properly these duties connect and deliver to a child with SEN a legal entitlement to receive the provision which their needs call for.

3.1 The process of assessment and ‘statementing’ of children with special educational needs has been attacked as being over bureaucratic: “*the process for assessing pupils and issuing statements is lengthy and expensive*” (Excellence for all children, DfES 1997) “*statutory assessment is a costly, bureaucratic and unresponsive process*” (Audit Commission 2002) “*far too much of the expenditure on special needs was taken up with the bureaucracy of assessments*” (Special educational needs: a new look, Mary Warnock 2005). IPSEA receives many calls from parents who have been dissuaded from seeking statutory assessment by being told by LEA staff that it is wasteful, bureaucratic and that it achieves nothing for children. We would make two points in response to such criticisms.

3.1.1 First, statutory assessment and the issuing of Statements is a procedure which calculates then allocates the additional financial resources (from the public purse) needed by an individual child with SEN. For the sake of accountability, this can only be done by a procedure which involves some bureaucracy.

3.1.2 Second, the process of assessment and the production of a Statement is already as minimal as can be envisaged without being ineffective. None of its critics have yet suggested an alternative, quicker or reduced process. We ask the Committee to consider which of these stages or elements they think could safely be removed from the overall process:

- (i) a request for assessment in writing to the LA by either a parent or a headteacher;
- (ii) a reply in writing by the LA;

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- (iii) if assessment is agreed, the start of a 10 week period of collecting professional reports on a child's needs and the provision required to meet them from an educationalist (usually the child's teacher), an educational psychologist, a medical officer, a representative of the Social Services Department and the child's parent. (*In practice, teachers and psychologists often already have a good knowledge of the child and a considerable body of evidence which can usually be submitted to the assessment team in its original format. Where a child has no medical condition, the Medical Officer's advice simply records this fact. Where a child is not known to the SSD, their advice simply notes that fact;*)
 - (iv) the LEA sends parents a copy of the Statement in a proposed form;
 - (v) parents have a right to send in written representations or to ask for a meeting to discuss the Statement;
 - (vi) having considered parents' comments, the LA finalises the Statement.

3.2 The reality is that over the 22 years of “assessment and statementing” the critics have been the service providers (and those arguing their cause). Parents of children with special educational needs and the organisations which support them have never considered the assessment and statementing procedure to be overly bureaucratic. On the contrary, assessment and statementing is recognised by parents as a valuable protection for children with special educational needs when the needs cannot be met by their school. A clearly written statement, which quantifies the provision a child should receive, is enforceable and for that reason is generally honoured by an LA. Under 5% of the parents contacting IPSEA for support complain of statemented provision not being arranged and it is generally an easy situation for them to put right: legal assistance in the child's name allows a parent to make a credible threat of Judicial Review which invariably results in an LA taking immediate action to correct the position (ie fulfil their duty to “arrange” the special educational provision on the statement). In 22 years of the legislation no case has reached the High Court as a result of an LA resisting a challenge to put in place the provision specified on a child's statement. Furthermore, as we will argue in paragraph 8.5 below, a well-written statement is an absolute requirement if inclusion is to be successful. Vaguely written statements are a deterrent to parents expressing a preference for a place in a mainstream school.

3.3 IPSEA casework has consistently shown than Parents are made to feel they are being greedy, over-anxious or unreasonable for requesting assessment for their child, and both LAs and the Department for Education have been guilty of implying that the issuing of statements is a purely parent driven phenomenon, owing nothing to the actual needs of individual children in our schools. Yet parents cannot demand assessment of their child or demand a statement of special educational needs. The legal duty to conduct a statutory assessment only arises when an LA considers that a child has or probably has special educational needs which cannot be met by the resources available to their own school. An LA will only issue a Statement if an assessment confirms that a child's needs cannot be met by their school alone. Although refusal to assess and refusal to issue a statement can be appealed against by parents, tribunals do not order assessments or statements unless—again—there is *convincing evidence that the child has needs which are not being met by their school*. If a tribunal were to make an order in the absence of convincing evidence (eg just because a parent was over-anxious about their child's needs) the LA could and would appeal against the order to the High Court, which in turn would look at the legal issues raised by the tribunal's judgement (not the level of parental anxiety).

3.4 IPSEA would also draw the committee's attention to two court judgements which provide key underlying principles to be applied in assessment and statementing, namely:

- what constitutes educational need and provision as opposed to non-educational need and provision; and
- the amount of discretion which the law allows LAs in deciding how much they should spend on meeting children's special educational needs.

3.5 In *London Borough of Bromley and Special Educational Needs Tribunal and Others, QBD and CA (1999) ELR 260* considered what is “educational” as opposed to “non-educational” needs and provision. At the time of the judgment the child, S, was 12-years-old. He had quadriplegic cerebral palsy and impaired vision. He was unable to walk, sit up or stand and was totally reliant on adults for all his mobility needs apart from head movements. He was unable to wash, dress, toilet or feed himself. He was able to understand only a small number of words in contexts which were familiar to him and was considered to be functioning overall below the level of a one-year-old. The Tribunal had ordered that S's needs for occupational therapy, physiotherapy and speech therapy were educational needs and that the provision to meet them, therefore, was special educational provision for S. The LA appealed against the Tribunal decision to the High Court.

3.6 The judgment took as its starting point the definition of ‘education’ in the Shorter Oxford English Dictionary, which is: “*the process of nourishing or rearing; the process of bringing-up; the systematic instruction, schooling or training given to the young . . . in preparation for the work of life.*” The court considered evidence from an educational psychologist, which had been placed before the Tribunal, “. . . that the purpose of education for S was to maximise his control over his own environment and that education for S involved a series of over-learning the basic functions of his day: eating, drinking, toileting, dressing, etc and co-operating about them.” The LA had argued before the Tribunal that S's needs as described above were not educational and that the provision to meet them could not be educational provision and this argument was

the basis of their appeal to the High Court. The importance of the case for the LA was that they would have a strict legal duty to ‘arrange’ the special educational provision in S’s Statement, but would not have the same duty as regards the non-educational provision. The parents argued that education for S would not be to teach him Modern Languages or Physics but “*to teach him so that he may be prepared for the very limited work of his life.*”

3.7 Dismissing the LA’s appeal, the High Court ruled: “*If, as is undoubtedly clear, S needs to learn eating and drinking skills then, as it seems to me, to assist him in learning those skills will be an educational provision for him.*” The High Court’s interpretation of the law in this case provides firm legal underpinning for the principles set out in the Warnock Report and quoted above in paragraph 1.1.

3.8 *R v East Sussex County Council ex parte T (1998) ELR 251* considered what the term “suitable education” meant in relation to an LEA’s duty in law to provide for a child, T, who ME and was not able to attend school. The case reached the House of Lords and the ruling eventually was that to be “suitable” educational provision must be suitable to a child’s age, ability and aptitude and to any special educational needs he or she may have. The ruling laid down clear guidelines on the difference between and LA’s statutory duties and discretionary duties:

“There is nothing in the Act to suggest that resource considerations are relevant to the question of what is ‘suitable education.’ On their face those words connote a standard to be determined purely by educational considerations . . . There is nothing to indicate that the resources available are relevant . . . The argument is not one of insufficient resources to discharge the duty but of a preference for using the money for other purposes. To permit a local authority to avoid performing a statutory duty on the grounds that it prefers to spend the money in other ways is to downgrade a statutory duty to a discretionary power . . . Parliament has chosen to impose a statutory duty as opposed to a power, requiring the local authority to do certain things. In my judgement the courts should be slow to downgrade such duties into what are, in effect, mere discretions over which the court would have very little real control. If Parliament wishes to reduce public expenditure on meeting the needs of sick children then it is up Parliament so to provide. It is not for the courts to adjust the order of priorities as between statutory duties and statutory discretions.”

3.9 The Select Committee will receive many submissions from service providers arguing that the law makes an unreasonable demand on their resources, which is why we wanted to bring this judgement to your notice. The legal duties which LAs have towards children with special educational needs are *statutory duties, not discretionary duties*. We hope that the Committee will report on the extent to which LAs themselves are seeking to downgrade their statutory duties towards children with SEN to discretionary duties (see section 4 below) and that the Committee will recommend that the Government should take firm action to prevent this.

3.10 Even if the financial arguments used to justify denying children their legal rights to appropriate special educational provision are taken on their own merits (disregarding the law), they do not work if any proper view is taken of all the potential costs to society. Meeting children’s special needs adequately though their education increases the chances of them leading independent lives as full members of society when they become adults. By extension, it decreases the likelihood of the need for costly social support systems during adult life. It can also reduce other social costs: eg the majority of young men in our prisons have learning difficulties which have not been adequately addressed by the education system.

THE SYSTEM AS PORTRAYED BY THE “SECOND WARNOCK REPORT”

3.11 Mary Warnock’s 2005 attack on statements needs to be commented on because she is accorded the status of special educational needs guru by politicians and the media, and this risks her recent contribution to the debate being accorded a significance which it does not merit.

3.11.1 Despite the respect still generally accorded to the original “Warnock Report”, on the evidence of her 2005 pamphlet Mary Warnock would seem, now, to know little of how the special educational needs system operates eg.

- the pamphlet asserts that 20% of children have Statements of Special Educational Needs, when actual figure is between 2% to 3%. The context of the error makes it clear that it is the author’s, not the typesetter’s: “. . . our original guess of how many children would receive statements was wildly off the mark. We thought the figure would be around 2%. The actual figure was around 20%”.
- the pamphlet asserts that parents are dissatisfied with the Special Educational Needs Tribunal and offers as an explanation “*Local Authority officials who could hardly be regarded as disinterested, chaired the tribunals (Special Educational Needs Tribunals).*” From the evidence of IPSEA casework, this is wrong. In the main, parents are satisfied with the operation of the Tribunal. The whole purpose was for it to be independent, and, in fact, Chairs are qualified solicitors (not LA officials), and are appointed by the Lord Chancellor.
- the pamphlet asserts “*every school now (has) to appoint someone as a Special Educational Needs Coordinator (or SENCO), whose responsibility (is) to ensure that all the procedures of assessment and statementing (are) properly followed.*” This is wrong. Statutory assessment and the drawing up of Statements is the responsibility of the LA, not of school staff or SENCOs.

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- the pamphlet asserts that “*Since 2002, heads and governors have been liable to criminal charge if they exclude a disruptive child from a mainstream school against the wishes of the parent.*” This is not true.

This degree of factual error alone would suggest that Mary Warnock’s opinions on the operation of the special educational needs system should be treated with some wariness.

3.11.2 A further reason to guard against uncritical acceptance of the views put forward in the 2005 pamphlet is that, in the pamphlet, Mary Warnock claims falsely that her Committee ‘invented’ statements. This risks the unwary reader concluding that: “If Mary Warnock is coming out against statements, when they were her idea in the first place, there must something seriously wrong with them!”

The 2005 pamphlet claims:

“We (the 1978 ‘Warnock’ Committee) invented the statement of special educational need. This was to be a document issued by the local authority, after expert assessment of a child’s abilities and disabilities, which would list the extra support that he would need in order to make progress, the provision of which would be a statutory duty laid on the local authority.”

In fact, the 1978 Report does not contain the term “Statement”. Nor did it recommend that LAs would have a statutory duty to provide the help described in it. What “The Warnock Report” recommended should happen, following assessment, was:

“We consider that the process of multi-professional assessment of a child’s needs . . . should be concluded by the completion of Form SE4 . . . The detailed profile of the child’s needs and the *recommendation* (our emphasis) for the provision of special help entered on this form will . . . provide the basis for a judgement by the local education authority as to whether the child should be recorded as requiring special educational provision (4.66).

The process of recording a child as requiring special educational provision will entail entering in a file at the local education authority’s offices the completed Form SE4 with a profile of the child’s needs and with a *recommendation* (our emphasis) for the provision of special help, as well as a separate note on how that recommendation is being met in practice together with the name of a person designated by the multi-professional team to provide a point of contact for the parents. These documents will form the record of the child. (4.70).

“The recording of children as in need of special educational provision will enable their parents to satisfy themselves that the children are receiving a suitable education. The profile of their child in Form SE4, as well as the documentation filed by the authority alongside Form SE4 recording how the child’s needs are being met, will afford the parents a basis on which to make representation to the authority and subsequently, if necessary, to the Secretary of State if they consider that their child’s needs have been incorrectly assessed, or that the *recommendation* (our emphasis) for meeting them is inadequate, or that the authority is failing to make suitable provision.” (4.73).

What the 1978 Warnock Report proposed was a new use for an already existing form (Form SE4), that being to trigger the “recording” of children as in need of special education provision. The Report neither recommend nor described by another name a document with the legal function of the Statement ie a contract which would make it mandatory on an LEA to arrange the provision specified in it. The Report referred to parents being able to use their general right to make representations to the Secretary of State if unhappy about an aspect of their child’s education, but this is a very different (and a much weaker) right than the right to seek Judicial Review if your child is not getting the provision specified in his or her statement.

In fact the Statement, and its binding nature, was the creation of the drafters of the 1981 Education Act. It was not so much as hinted at, let alone “invented”, by the Warnock Committee.

We would re-iterate the following regarding the actual assessment and statementing process:

- (i) For the sake of accountability, a proper process is necessary which will inevitably involve an appropriate amount of bureaucracy;
- (ii) The current process is already as minimal as it can be if it is to be effective;
- (iii) The citizens using this process, the parents or carers of children with SEN, find it a vital protection for their children;
- (iv) This vital protection is all the more necessary if increased inclusion of children with SEN in mainstream schools is going to succeed.

4. LA LAW BREAKING

In 3, above, we likened the legal duties which create a child’s entitlement to special educational provision to links in a chain. However, as with a chain, it only needs one link to be broken for the legal entitlement to be destroyed. LAs learned this quickly and are now very practiced at refusing to assess children on spurious grounds and refusing to say in Statements exactly how much help a child should receive.

4.1 It has been long known that very many LEAs have sought to ignore the law on special education since its inception over two decades ago. As a leader in *The Times Educational Supplement* put it, the law on special education has been “*more assiduously circumvented and breached than honoured by many Authorities.*”(3)

4.2 The first Select Committee to consider the implementation of the 1981 Education Act (4) heard evidence from the National Association of Headteachers that 80% of special school heads believed statements were “*being prepared directly in keeping with what was available rather than in terms of the specific needs of the particular child.*”

Researchers from the University of London told the Select Committee that they had found that ‘*professionals may tailor their advice to coincide with what they know is available*’ rather than what they believe is necessary to meet a child’s needs.

The Select Committee’s report to the Government (15 December 1987) concluded: “*. . . the lack of specific resources has restricted implementation of the 1981 Act.*” One of the Committee’s recommendations was that “*the Act should be more effectively monitored and resultant guidance given. This should be carried out by the Department . . .*” (4)

4.3 The Government’s response the Select Committee’s report was to issue fresh statutory guidance on the Education Act 1981. It contained the following, strongly worded, advice to LEAs:

“The LEA is legally bound to provide whatever is specified in Section III, which should specify in detail the special educational provision that they consider appropriate for the special educational needs identified in Section II. It is important that this information should be easily understood by all those involved in a child’s education, including the parents, so that they know exactly what is required. Statements that fail to specify in detail what provision the particular child requires are of little use to parents and to the professionals who are to act upon them.” (5)

But LEAs ignored this guidance and continued writing vague Statements.

4.4 In 1991, Jack Ashley MP tabled an Early Day Motion on IPSEA’s behalf which drew attention to what IPSEA described in its briefing paper as “LEA Law Breakers”. This included the following:

“Many LEAs write statements in such vague terms that parents are given little indication of the kind or amount of provision to be made for their child . . . One statement issued by a South-East Authority deferred any decision by recording that “*the nature of (the) support will be decided as a result of discussion between the Head teacher, the Educational Psychologist and the parents.*” A South West Authority avoided being specific about the amount of help a child with a statement would receive by using the phrase “*up to 5 hours*”. A North West Authority issued a statement which simply offered “*some help from an adult.*” (6)

The EDM “*called upon the Government to ensure that all Local Education Authorities fulfil their legal duties under the 1981 Act*” It was signed by 250 MPs from all political parties.

4.5 The EDM was quickly followed by an Audit Commission/HMI Inquiry, which reported in 1992 that in one in six LEAs the 1981 Education Act had never been implemented or had collapsed within a few years of implementation. Also, in only one of the twelve LEAs surveyed were statements being written in accordance with the duty in law to “specify” the special educational provision required by a child. The Audit Commission’s analysis of the cause was frank: “*. . . there is an incentive for LEAs not to specify what is to be provided because they thereby avoid a long-term financial commitment.*” (7)

4.6 In 1992, in its response to the Audit Commission report, the Government announced their intention to amend the law on special education and to create a Tribunal, which would hear and decide upon disputes between parents and LEAs arising from situations which included LEAs refusing to assess children and issuing Statements which failed to specify the provision which children were entitled to.

4.7 IPSEA proposed an amendment to the law which would have created a mandatory duty on an LEA to “*specify the type and quantify the amount*” of special educational provision in Part 3 of a child’s Statement, but this was resisted. Instead, the Government decided to address the issue of “quantification” in a Code of Practice, introduced for the first time to accompany the 1993 Act. Thus, the following guidance was given to LEAs on how the legal duty to “specify” special educational provision should be interpreted: “*The provision set out in this sub-section should normally be specific, detailed and quantified (in terms, for example, of hours of ancillary or specialist teaching support) although there will be cases where some flexibility should be retained in order to meet the changing special educational needs of the child concerned.*” (8)

4.8 But LEAs ignored this guidance and continued to refuse to quantify provision in Statements, just as they had ignored the guidance in Circular 22/89. Many of the appeals made to the newly established Special Educational Needs Tribunal represented attempts by parents to find out what exactly the Statement entitled their child to by way of provision, rather than disputes about the kind or actual amount of provision on offer. These were unnecessary appeals, made necessary by LEAs’ failure to fulfil their duties in law to write Statements which make it clear how much help a child should receive.

4.9 In 1996, a Select Committee of the House of Commons undertook a further enquiry into the operation of the new Code of Practice and the Tribunal. Paul Vevers, who carried out the research for the Audit Commission, told the Committee: “*The majority of statements* (our emphasis) are so vague that it would not be possible to tell whether what should be delivered, is being delivered.” (9).

5. CENTRAL GOVERNMENT COLLUSION

Up until the mid-1990s, central government had reacted positively to the evidence from the two Select Committees and the Audit Commission Inquiry which showed that the law on special education was not working as Parliament had intended, even though the action taken—issuing guidance—had proved ineffective. But in the mid-1990s, central government seemed to change its stance on the issue of LEA law breaking.

5.1 In 1995, 59 separate LEAs, the Society of Education Officers and the Department for Education and Employment came together to form “The SEN Initiative”. A City accountancy firm (Coopers and Lybrand) was commissioned to undertake a survey of LEA practices with regard to financing special educational provision and to make recommendations. Their report, published in 1997, also called “The SEN Initiative” (10), presented an account of LEAs’ powers and duties which was totally at odds with the law’s requirement that children be assessed as individuals and that statements be issued when a child’s needs can not be met by the provision available to them from their school’s resources. Instead of the individual needs-led approach prescribed in law, the ‘SEN Initiative’ recommended:

The LEA can and should make its own decision on the definition of SEN which suits its own particular circumstances. It should also decide the level of SEN it considers should be protected by a statement—and therefore additional resources . . . Once the LEA has determined which cohort—and the size of the cohort—of pupils with SEN it considers to need extra resources, it can then decide what extra resources to devote to this group. (Realistically, it will have an eye on this when determining the size and nature of the cohort . . . each LEA should identify broad categories of SEN—probably using those in the Code of Practice (and) for each category decide the percentage of pupils it wishes to target for extra resources—say 1%, 2% or 3% . . .

So it would be possible to consider each child currently with a statement at the annual review and to remove the statement in cases where the child would not, under the new criteria, receive a statement . . .

There is a wide disparity in what individual LEAs spend on children with apparently similar needs. This means that an LEA can decide where to position itself on a spectrum in relation to expenditure on these pupils.”

Long time observers of the SEN scene were not overly surprised by the Society of Education Officers’ involvement in the “Initiative”. It was, however, a disturbing development that the Department for Education had contributed £10,000 to the costs of the “Initiative”; and still more disturbing, that the Department had been represented on the steering committee which had approved the final draft of the report, including the above recommendations.

5.2 Looking back, the “SEN Initiative”, begun in the last years of the Conservative administration, was very much a tipping point after which governments stopped trying to curb LEA law breaking (albeit too meekly) and instead started colluding with the law breaking.

5.3 The “SEN Initiative” was published in 1997, as New Labour took power. IPSEA wrote to the incoming New Labour Secretary of State, asking for an assurance that his Department would play no further role in the “Initiative” and that it would not receive further government funding. We received neither acknowledgement nor reply.

5.4 New Labour came to power with immediate plans for special education, its Green Paper “Excellence for all children” being issued within the year (11). Clearly aimed at promoting increased inclusion, it also (inexplicably, in IPSEA’s view) linked this goal with a series of unsubstantiated, negative assertions about the assessment and statementing procedure, including: *“the process for assessing pupils and issuing statements is lengthy and expensive . . . resources that could be used to give practical support to pupils are being diverted into procedures . . . resources allocated to those with statements are diverted away from the majority of children with SEN but without statements . . . statements can act as barriers to full inclusion of pupils with SEN”*.

Some of these assertions echoed those of the SEN Initiative. Although the Green Paper made clear that the Government were not proposing to alter the law on assessments and statements in the short term, it reported: *“In the longer term we will consider whether statements in their present form are the best way of carrying out the functions . . .”* IPSEA’s impression has been that LEAs interpreted The Green Paper as the declaration of an “open season” on assessments and statements and that LEA disregard for the law has spread alarmingly since 1997, fuelled in part by subsequent actions of the Government which signalled their lack of commitment to the legal framework.

5.5 In July 2000, the draft of a new Code of Practice was released for consultation. It omitted the guidance from the first Code that normally provision should be quantified in terms of numbers of hours or lessons a week unless the changing needs of the child required there to be “flexibility”. The omission was noted by most of the organisations in the voluntary sector with a concern for children with special educational needs, and by many professional associations, and it was condemned universally.

Later in the year, the debate on the Code in the House of Commons showed that MPs were very well aware of the significance of the “quantification” issue and very unhappy with the omission of clear guidance from the new Code. Two days later the Code was due to be debated by the Lords and there were three

motions tabled calling for the Government to take it back and amend the guidance on quantification. Unexpectedly, it was announced that the Code was withdrawn and would be presented to Parliament in the autumn of 2000, with the original guidance on quantification reinstated.

There was no further consultation, but the revised version of the Code, unveiled in October and approved by both Houses, repeated almost word for word the guidance from the 1994 Code of Practice:

“Provision should normally be quantified (eg in terms of hours of provision, staffing arrangements) although there will be cases where some flexibility should be retained in order to meet the changing special educational needs of the child concerned.” (12)

This version of the Code, together with the new law and regulations, came into effect from 1 January 2002.

5.6 As if to pre-empt the effect of its defeat over the statutory guidance on “quantification” in the new Code, the DfES launched a new document giving non-statutory guidance on, among other things, how to write statements: the “SEN Tool-kit” (13). Chapter 7 of the Tool-kit went far beyond the Code (and existing case law) in suggesting to LEAs situations in which they might be justified in refusing to quantify special educational provision in statements:

“LEAs are required to be specific about provision. Provision should normally be quantified, for example in terms of hours and frequency of support, but there are times where some flexibility needs to be retained either to meet the changing needs of the child *or to allow for appropriate and alternative responses from within the school to reflect particular class or school arrangements.* (our emphasis).

This was so general as to undermine completely both the requirement in law that provision must be specified and the guidance in the Code and that normally it should be quantified.

In addition, the Tool-kit suggested that quantification may not be required when children are placed in special schools:

“LEAs will always need to specify provision *but they will need to consider whether there are times when it would be inappropriate to provide further detail or quantify provision when a child is placed in a special school . . .*” (our emphasis).

If provision for children in special schools is not quantified in their Statement, it is left up to the staff of the school to decide what a child will receive (which is at odds with case law); but, also, it means that the provision can be reduced without the child or the parent having recourse to appeal to the Tribunal. Special schools are as vulnerable to the effects of expenditure cuts as are mainstream schools and, particularly with regard to therapies being provided, the need for the guarantee which a quantified statement provides is every bit as crucial for children in special schools as it is for those in mainstream schools.

The Tool-kit also suggested that schools could take over the LEA’s role as “determiner” of needs and provision and that this could serve as a reason why a Statement might fail to quantify provision:

“Schools and LEAs will need to make decisions about the interventions and provision appropriate to each pupil on an individual basis. This can sometimes only be done by a careful assessment of the pupil’s difficulties in the school and classroom context. It may therefore sometimes be inappropriate to *quantify* in advance the action that might be taken in terms of *how much* individual tuition a pupil might need, or *how many* hours of in-class support may be necessary, or *what size* of teaching group may be most appropriate.” (Emphasis in Toolkit)

This was not only at odds with case-law, but directly challenged the function of the statutory assessment, which is to do precisely what the Toolkit was now proposing should only be done *after* assessment and the issuing of a Statement.

5.7 IPSEA sought Judicial Review of the Secretary of State’s actions in publishing the guidance in the ‘SEN Tool-kit’. The High Court deemed there was no illegality on the part of the Secretary of State on the basis that the Tool-kit was non-statutory and did not remove or over-rule the statutory guidance in the Code. However, LEAs were advised by the Court not rely on the Tool-kit as a defence if they were challenged for producing vague statements and the Secretary of State was invited to consider rewording the Tool-kit (14). This invitation was ignored. The Tool-Kit remains in circulation in its original form, signalling again the Department’s low esteem for the law on special education (and the High Court’s interpretation of it).

5.8 There were other changes to the guidance in the Code of Practice (and to the regulations) which the Department attempted to make, and in one case made, when the new Code was introduced. These affected the legal entitlement of children whose SEN arose from medical conditions, the duty of educational psychologists to consult other psychologists who have knowledge of a child, and the right for parents to know what type of school the professionals who had assessed their child believed would best meet their needs.

5.8.1 Under s312(2)(b) Education Act 1996, children with medical needs which do not in themselves give rise to learning difficulties but which prevent or hinder them “*from making use of educational facilities of a kind generally provided . . .*” are entitled to be considered for statutory assessment. The original (1994) Code provided clear guidance to LEAs on the duty to assess children for SEN when they have medical conditions, by:

- (a) giving examples of some of the commonest medical conditions which give rise to SEN: “congenital heart disease, epilepsy, asthma, cystic fibrosis, haemophilia, sickle cell anaemia, diabetes, renal failure, eczema, rheumatoid disorders, leukaemia and childhood cancers” and
- (b) advising LEAs “*where there is clear recorded evidence that the child’s medical condition significantly impeded or disrupts his or her access to the curriculum, ability to take part in particular classroom activities or participation in aspects of school life . . . the LEA should very carefully consider the case for statutory assessment of the child’s special educational needs.*” (15)

The revised Code when laid before Parliament in 2001 omitted the examples, omitted the guidance on when a medical need might give rise to a special educational need and omitted any reference to LEAs’ legal duties with regards to assessing children with medical needs.

In IPSEA’s view this posed a clear risk that LEAs would believe that the law with regard to children with medical needs had been changed (which it had not) and that this in turn would prejudice the educational rights of these children. We wrote to all MPs in advance of the Commons debate on the Code. IPSEA’s Patron, Baroness Darcy de Knayth, wrote directly on IPSEA’s behalf to the Minister. As a result, the decision to reinstate clear guidance on children with medical needs in the Code was quickly, and quietly, made. But why had it been removed in the first place? Crudely, to reduce the number of Statements which an LEA would have to issue and maintain? No explanation was ever given.

5.8.2 The Education (SEN) Regulations 1994 placed a duty on educational psychologists, at the time of statutory assessment, to ‘consult’ other psychologists with knowledge of the child concerned, and this requirement was paraphrased in the 1994 Code of Practice. Although the duty was reproduced unchanged in the 2001 Regulations, the new Code of Practice contained no reference to it.

The omission was potentially disadvantageous for parents who had obtained a second professional opinion from an independent psychologist on their child’s needs, for there was a clear danger that LEA psychologists relying entirely on the Code for their knowledge of the law would assume that this consultation was no longer required.

IPSEA would have challenged the omission, but did not detect it, and the change to the Code went through, although the duty in law remained unchanged.

Two years later the Association of Educational Psychologists circulated amongst its membership a paper entitled “Guidance to Educational Psychologists in Preparing Statutory Advice to the LEA.” This advised educational psychologists: “. . . *there is no longer an obligation to consult with any other psychologist who might be involved with a view to summarising the psychological advice.*” This wrong advice, based on the change to the Code, was questioned by some members of the Association, causing the AEP’s Secretary to seek clarification from the DfES.

The clarification needed was for the AEP to be told that there had been no change to the regulations on psychological advice since 1983 (ie for some 21 years) and that the duty placed on educational psychologists when producing psychological advice for the purpose of statutory assessment was, if they had reason to believe that another psychologist had “*relevant information relating to or knowledge of the child*” to “*consult*” that other psychologist.

Instead of explaining that the duty to “*consult*” remained in force by effect of the regulations, the DfES official’s advice stated that “*although there was no longer an obligation to summarise other psychological advice, it remained good practice for educational psychologists to seek this information.*” On the basis of having received this rather obscure advice (which confuses “summarising” with “consulting”), the AEP stood by its original advice to members: “*there is no longer an obligation to consult with any other psychologist.*” To IPSEA’s knowledge, this legally incorrect advice to AEP members remains on record. (*A copy of the document which substantiates this point is available, on request*)

5.8.3 Under the 1994 SEN Regulations, all professionals giving advice for the purpose of assessment were allowed to refer to the *type* of school they felt was appropriate for the child. With no prior discussion or debate, the Government changed the SEN regulations in order to prohibit professionals from referring to the type of school they believed would best meet a child’s needs in their statutory advice.

When IPSEA noticed this change, the new regulations had already been approved by Parliament and we assumed that it was a printer’s error. But a DfES official confirmed on the telephone that the change was not inadvertent, that it had “the Minister’s approval” and that it was aimed at making the new section 316 (on inclusion) ‘work smoothly.’ In other words, in order to promote inclusion, the Government had legislated to prevent parents from knowing the views of the professionals who had assessed their child on the type of school which would best meet their needs. And they had done this without consulting or informing anyone, inside or outside of Parliament.

A letter from our Patron, Baroness Darcy de Knayth, to the Minister, Cathy Ashton, persuaded the Government to make an immediate amendment to the newly approved regulations, removing the gag on professionals before it had been generally noticed. (*A copy of the documents which substantiate this point is available, on request.*)

6. THE SECOND AUDIT COMMISSION REPORT

In June 2002 the Audit Commission (AC) published its second report on special education provision, titled “Statutory assessments and statements of special educational need: in need of review?” (16) This was a very different report to that of 1992. Like the first report, it identified widespread LEA law breaking. But unlike the first report, it blamed the law itself for the problems caused by the LEAs who were flouting it. For example:

6.1 On page 16 of the report, “one family’s experience” purports to reveal the weakness in the assessment process by setting out the chronology for a boy named Mark:

- *at 3 he had little language and throws temper tantrums*
- *at 4 his class teacher said he was clumsy*
- *at 6 he was falling behind with his reading and writing*
- *at 7 he was assessed and found to have dyspraxia*
- *at 8, eventually, Mark received the provision his needs called for”*

Yet, far from showing that statutory assessment was ineffective for Mark, the chronology shows that assessment was not invoked soon enough. When it was, it led to Mark’s needs being met within a year. The chronology may be evidence of the LEA’s failure to identify Mark’s needs (a legal duty from a child’s birth); it may show that the parent was not informed of her right in law to request assessment when problems began; it may show the failure of professionals to advise the parent of this right. But the assessment, as such, was effective and speedy, once initiated. *The law on assessment needs to be obeyed for children like Mark, not changed.*

6.2 On page 18 of the report, a case is described of a parent saying: “*I found it difficult to start the process. I had to phone, I had to beg . . .*” Yet the law gives parents the right to request assessment of their child’s needs, following which an LEA has a strict legal duty to respond within a 6 week deadline. *The law is not in need of “review” here. It is in need of enforcement.*

6.3 Another parent is reported on page 18 as saying: “*Professionals’ advice is based on funding not the needs of the child.*” Yet the law clearly sets out the content of professionals’ reports and insists that they cover the needs of the child and the provision required to meet those needs. It is simply not lawful for professionals to distort their opinion on a child’s needs in order to save their employer (the LEA) money. *Again, the law is not in need of “review” here. It is in need of enforcement.*

6.4 On page 24, the report says researchers found situations where there were “*delays in provision (such that support was not forthcoming for many months . . .)*” Yet LEAs have a duty in law to arrange the provision specified in a statement from the date of its issue. *The law is not in need of “review” here. It is in need of enforcement.*

6.5 Also on page 24, the report says researchers found situations in which there were “*shortfalls in provision (support was provided, but to a lesser extent than set out in the statement).*” Yet LEAs have a strict duty in law to arrange *all* the special educational provision specified in a statement. *Again, the law is not in need of “review” here. It is in need of enforcement.*

6.6 The Audit Commission urged the Government to review the statutory framework, but the problems described in the report arose not from the detail of the law (which in fact is what provides children with the legal entitlement to have their needs met) but from LEAs’ disregarding the law.

7. “REMOVING THE BARRIERS TO INCLUSION”—GOVERNMENT POLICY CONTINUES THE ATTACK ON ASSESSMENT AND STATEMENTS

The Government rejected the Audit Commission’s call for a review of the legal framework, but made no comment on the extent of LEA law breaking which the AC report had uncovered. Later in the same year (2004), the government published further policy proposals for SEN, under the title *Removing the barriers to inclusion*. (17) *Removing the Barriers* contained many cross-references to the AC report in the form of negative comments on the assessment and statementing processes eg. “*They (the AC) also found that statutory assessment was a ‘costly and bureaucratic process’ which could divert specialist staff from working in schools.*” It was later revealed by the Times Educational Supplement (18) that *Removing Barriers*, the government’s policy statement, was in fact written by the same person who wrote the Audit Commission report—obviously, by invitation. So, despite having rejected the AC Report’s call for a review of the law, the Government was happy for its hostility towards assessments and Statements now to be promulgated as Government policy.

8. EDUCATION OF CHILDREN WITH SEN IN MAINSTREAM SCHOOLS

Has the inclusion of children with special educational needs in mainstream schools really been a disaster, as claimed by Mary Warnock? For the reasons set out in 3.4, above, it is necessary to examine carefully, again, what is being claimed for the 1978 ‘Warnock Report’ in Mary Warnock’s 2005 pamphlet.(19) Mary Warnock describes integration/inclusion as: “. . . possibly the most disastrous legacy of the 1978 Report . . .”, as if the Warnock Report gave birth to the concept of inclusion and was responsible for it being written into education law. Neither is true.

8.1 In 1928 the Wood Committee stressed the unity of educational provision, special and non-special. During the debate on the 1944 Education Act, the Parliamentary Secretary Chuter Ede said: “May I say that I do not want to insert in the Bill any words which make it appear that the normal way to deal with a child who suffers from any of these disabilities is to be put into a special school where he will be segregated.” In line with this, s33(2) of the 1944 Education Act provided for the majority of disabled children to be educated in ordinary schools and the subsequent Department guidance contained detailed suggestions as to how this might be achieved. In 1970, the Chronically Sick and Disabled persons Act (a private members bill) required LEAs as far as was practicable to provide for the education of deaf-blind, autistic and acutely dyslexic children in maintained or assisted schools. The Education Act 1976, in Section 10, required LEAs to arrange for special education of all handicapped pupils to be given in county and voluntary schools, except where this was impractical, incompatible with efficient instruction in the schools or involved unreasonable public expenditure. Section 10 was to come into force on a date selected by the Secretary of State and in January 1997 the Secretary of State announced that before deciding upon a date she would consult widely, and await the outcome of the Warnock Committee’s enquiry. At the same time she made it clear that the new legislation was not introducing a new principle, but rather giving new impetus to an old one.

8.2 When published, The Warnock Report made no new or original recommendations with regard to the law on integration/inclusion. It merely recommended that “*before Section 10 (of the Education Act 1976) comes into force the Secretary of State for Education and Science should issue comprehensive guidance to local education authorities on the framing of their future arrangements for special educational provision.*” (7.59)

8.3 The Education Act 1981 included the qualified duty to integrate children with special educational needs in ordinary schools for the first time in implemented legislation and took over from s10 of the Education Act 1976. The 1981 Act added the duty on LEAs to take parents’ views into account and added a duty on school governors to use their best endeavours to ensure that children with special educational needs engage in the activities of the school together with children who do not have special educational needs. But the basic “integration” duty in the Education Act 1981 simply *re-stated* s10 of the Education Act 1976 and owed nothing to The Warnock Report.

8.4 Around 20% of pupils are considered as having special educational needs at some point in their school life and the large majority of these are educated in mainstream schools, as has been the case for many decades. No one (including Mary Warnock) argues that *all* children with special education needs should be in special schools; nor even that the majority of them should be. It is therefore unfortunate that Mary Warnock’s intemperate dismissal of inclusion ignores the large measure of common ground which exists amongst parents, professionals and government on the issue of inclusion. She refers to the very real problems facing some disabled children, who are bullied in mainstream schools, but is it really an acceptable adult response to suggest that the solution lies in removing the victims of the bullying to special schools? Mary Warnock also refers to the ideal of the ‘small school’ and it is true that some parents of children with special needs (and some professionals) feel strongly that school size is a crucial factor in determining whether a child’s inclusion is possible, or likely to be beneficial to the child. This is an important issue, but Warnock’s seeming determination to grab the headlines and politicise the attack on inclusion has ensured that the detail (bullying, school size) has simply not been discussed.

8.5 IPSEA’s experience is that a well-written statement, quantifying the support a child is entitled to receive and thereby guaranteeing that support, is an absolute requirement if inclusion is to be successful. Vaguely written statements are a deterrent to parents expressing a preference for a place in a mainstream school. They do not know what support their child will receive; still worse, there is no guarantee that their child will receive *any* support.

8.6 It is an irony that the Government should have launched an attack on the statementing system in 1997 at the same time as launching its attempt to promote inclusion. It is extraordinary that, some eight years later, the Government is still unable to grasp the contradictory and self-defeating nature of these policies, despite the growing backlash against inclusion which it has itself provoked.

9. THE ROLE OF THE DEPARTMENT FOR EDUCATION AND SKILLS

As part of its casework IPSEA is asked by parents to consider and advise on the generic policies and practices employed by LEAs in the discharge of their duties under education law. As will be clear from this submission, we have detected a consistent and persistent quantity of breaches of the law by LEAs, in particular:

- policies containing unlawful criteria for the statutory assessment of special educational needs.

- blanket policies of not “specifying” provision for special educational needs in Statements of Special Educational Needs.

When unlawful policies have been brought to our attention we have made complaints to the Secretary of State for Education under ss496-497 of the Education Act 1996.

9.1 We have been disappointed by the inadequate response that we have received from the Secretary of State’s Department (the DfES) to complaints about LEAs, in particular, with regard to:

- the *time* taken to resolve complaints;
- the *methodology* used by the DfES in its complaints handling; and
- the sufficiency of the *outcome* of complaints, specifically the failure of the DfES to make any binding direction on LEAs to reform their practice.

9.1.1 Complaints take far too long to be investigated. The complaints we make to the DfES should be familiar and straightforward to its staff, normally involving allegations of either blanket policies denying statutory assessment of special educational needs; or, failure to meet the statutory duty to specify provision in Statements. The response we would expect would be for the Department to:

- (a) examine the documents complained about;
- (b) talk to the LEA involved and require evidence from them;
- (c) examine the evidence and discuss it, when appropriate, with the LEA and/or the complainant; and
- (d) make a decision and direct the LEA to take action when required.

However, in our experience this process can take up to a year, resulting in very serious denial of entitlement under the law to large numbers of children and their families.

9.1.2 The DfES’s method of investigation is inadequate. In a recent complaint the Department did not appear to have obtained basic documentary corroboration of the assertions they have received from the relevant LEAs when investigating our complaint. They simply relied on the LEA’s word.

With regard to outcomes, our complaint is that the Secretary of State never uses his or her power to issue an Order. Instead, the outcome of formal complaints tends to be a letter assuring us (as complainant) that the LEA has been spoken to, now accepts the error of its ways, and has promised not to err like this in the future. But given LEAs known track record in treating both the Secretary of State’s guidance and the law itself with disdain, seriously, how reassured can we, and the parents we support, be?

The Secretary of State’s failure to take strong action to control LEAs risks making LEAs even more disdainful of the law. We believe that if the Secretary of State made formal directions and enforced them, the operation of SEN provision would improve and the number of SENDIST cases would reduce, with a consequent reduction of the enormous personal costs to SEN children and their families in battling with this poorly policed special needs system.

9.2 IPSEA has recently sent the Parliamentary Ombudsman a bundle of examples of complaints which we consider have been dealt with inadequately by the DfES. We would be happy to provide copies of the bundle for the Committee, if this would assist the inquiry.

10. THE ROLE OF PARENTS

Guidance in the Code of Practice affirms: “*Partnership with parents plays a key role in promoting a culture of co-operation between parents, schools, LEAs and others . . . All parents of children with special educational needs should be treated as partners.*” (paragraphs 2.1/2.2) However, the Code also makes clear that the role envisaged for parents in this “partnership” is to act as “informant”: “*Parents hold key information . . . They have unique strengths, knowledge and experience to contribute to the shared view of a child’s needs and the best ways of supporting them.*” There is no acknowledgement in the Code that parents are obliged to *policing* their LEA, in order to ensure that their child receives the provision which their needs call for, nor that most parents will need considerable support to be able to fulfil this role.

10.1 The law on special educational needs does not in itself make heavy demands on parents; it is LEAs breaking the law—and the lack of an effective enforcement mechanism or agency—which places the greatest burden on parents. And, it is a burden which less able and/or less confident parents simply cannot cope with. The consequence is that children with SEN whose parents are less able and/or less confident end up being the least likely of all the children with SEN to receive the provision they need.

10.2 Children in the care of their LEA are particularly vulnerable under the present arrangements, having no “parent” figure to act as “informant” on their needs and, critically, no-one to act as watchdog on the LEA. In practice, the social worker assigned to a child assumes the parental role of policing the LEA and ensuring that the child receives the provision they are legally entitled to. The fact that social workers are employed by the Authority which is making the decisions means it is impractical to expect them to be able to assume this role in any meaningful way. And, in practice, they don’t.

There is a pressing need for legislation to address the position of children in care who have special educational needs.

11. THE OPERATION OF THE DISABILITY DISCRIMINATION ACT 1995 AS AMENDED BY SENDA 2001

When Conservative Minister for the Disabled, Nicholas Scott, introduced the DDA1995 to Parliament he explained the absence of measures covering discrimination in education by claiming that special education law was so effective that disabled children needed no further protection and no additional legal rights. This was despite the fact that by the mid-nineties it was widely known that there were serious problems with regard to the enforceability of the law on SEN.

11.1 The issue was re-examined four years later by the Disability Rights Task Force (DRTF), established by New Labour, who recommended an extension to the DDA to cover education (20). But, yet again, on the quite wrong assumption that special education law provided all the protection disabled children needed, the DRTF advised that there was no need to include the denial of education aids and services as a ground of discrimination. As a result, the most worrying, damaging and persistent form which disability discrimination takes in the school system—the denial of the special educational provision required by a child in order for them make progress commensurate with their ability—was expressly excluded from the DDA.

11.2 IPSEA urges the Select Committee to examine closely the “fit” between SEN law and disability discrimination law, in particular with a view to recommending legislative change to ensure that a child’s right to special educational provision is reinforced by the DDA, rather than ignored by it, as it is at present.

11.3 It would be desirable for a Tribunal hearing a claim of disability discrimination to be able to issue an order compelling an LEA to ‘make-up’ for the absence of statemented provision where the details of a parent’s claim reveals that there has been a failure on the Part of the LEA to fulfil its legal duty to “arrange” the special educational provision specified in a statement. This would be a useful supplement to the current available remedy, the threat of Judicial Review of the LEA, which although effective in terms of future provision does not compensate for a lack of statemented provision in the past.

11.3 There is a lacuna in the legislation with regard to children with Emotional and Behavioural Difficulties (EBD) who, in IPSEA’s experience, form the largest group within those children excluded from school in situations where the special education provision they need has not been put in place. Because EBD is not covered by the definition of disability in the DDA 1995, parents are not able to bring claims to the Tribunal, although children whose behaviour problems arise from specific conditions (eg autism) are protected by the DDA by virtue of their condition being defined in law as a disability.

We therefore ask the Select Committee to recommend an amendment to the DDA 1995 to include a child with a statement of special educational needs under the definition of “disability” contained in that Act.

12. TRANSFORMING THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY TRIBUNAL

IPSEA welcomed the recognition by The Leggatt Report that “tribunals are well placed to pick up systemic problems in decision-making which are confusing, through administrative systems which muddle or miss key facts, to a flawed decision-making process which leads to misconceptions of the law.” (21) We also welcomed Leggatt’s aspirations “... to make sure that a new system enables primary decision-makers to learn the lessons of adverse decisions.”

12.1 The Government is going ahead with fundamental changes to the Tribunal Service and we ask the Select Committee to give some thought to how a transformed service could better protect children with special educational needs, in particular those children whose parents are less likely for whatever reason to bring an appeal on behalf of their child.

Useful changes could include, for example:

- Where an LEA’s Statement of Case (the stage before the hearing) reveals unlawful decision-making the Tribunal could be given the power to require the LEA to retake the decision, this time in accordance with the law, and in the event of an LEA refusing, the parent’s appeal could be automatically upheld.
- Where unlawful decision-making comes to light in the course of a hearing, costs could automatically be awarded against the LEA.
- If, following either of the above situations another parent lodges an appeal against the same LEA and the paperwork reveals a repetition of the unlawful decision-making, the parents’ appeal could be automatically upheld.

These are punitive measures, but necessarily ones, in IPSEA’s view. At present we have the situation where SENDIST can only make an order with respect to the individual case before them, leaving the LEA free to continue with unlawful decision-making, disadvantaging in particular those children whose parents are less likely and/or less able to appeal.

12.2 IPSEA has welcomed the proposal to create an upper tier of tribunals which will consider appeals on the grounds of legal error and be able to establish case law. We believe that this would be quicker, cheaper and more parent-friendly a process than the current system which involves appeals to the High Court. However, because of the legalistic nature of appeals to an upper-tier, the majority of parents will continue to be disadvantaged unless legal assistance is made available to support them with appeals to a new ‘upper tier’. We ask the Select Committee to consider making this recommendation to the Government.

12.3 Around 60% of children excluded from schools have SEN. In most cases, they are excluded as a result of provision to meet their needs not being made. The current appeal arrangement—to local Independent Appeal Panels—is totally inadequate. We therefore ask the Select Committee to consider the unsatisfactory nature of the current arrangements for parents who wish to appeal against their child's permanent exclusion from school. Parents run a double gauntlet of Governors' meeting and Independent Appeal panel, neither of which is truly independent. We believe that the new Tribunal Service should have a remit which includes hearing appeals against all school exclusions.

13. CONCLUSION: AN IMPROVED FUTURE ROLE FOR CENTRAL GOVERNMENT

Although the law on special education places the primary duties on local government, there is an important role for central government in enforcing the law (via the Secretary of States powers under sections 468 and 469) and also in signalling Government's respect for individual children's legal entitlement to special educational provision.

History shows that prior to 1997 Government attempts to bolster the law (for example by issuing statutory guidance, setting legal deadlines for assessments and by creating the Special Educational Needs Tribunal) although necessary, were insufficient to persuade LEAs to obey the law.

13.1. Since 1997, the situation has worsened in that the Department itself now signals a disregard for the legal framework which is alarming for parents of children with special educational needs, and which should be alarming, also, for any citizen with a concern for parliamentary democracy.

13.2 This is not the place to speculate on the Government's motives in 1997. Perhaps an attempt to balance the views of the disability movement, who were pressing for total inclusion, with the views of LEAs, who were pressing for a reduction in the restrictions which special educational needs law placed on how they could 'spend their own' money, is what formed government policy. There was very much a 'road to Damascus' conversion at the end of the 1990s, with LEAs who had the worst record of opposing inclusion doing an about turn. SEN Officers woke to find they'd been re-titled "Inclusion Officers". In some LEAs, even the officers who deal with school exclusions are now called "Inclusion Officers".

It is hard to resist the suspicion that the conversion was brought about by a covert offer from the government to LEAs along the lines of: 'help us with our goal of inclusion and we'll get the law off your back as best we can, because

- First, there was the attempt to remove the duty to "quantify" provision in statements which, at a stroke, removes the duty to "arrange" the provision as quantified. When this failed through the revised Code a further attempt was made via the SEN Toolkit.
- Second, there was the attempt to weaken LEAs' duties with regard to assessing children whose SEN arise from medical conditions.
- Third, there was the attempt to withhold professionals' views on the type of placement which would best meet a child's needs from their parents—which would clearly damage the chances of parents appealing against LEA placement decisions.
- Fourth, there was the (successful) attempt to mislead psychologists via the Association of Education Psychologists on the legal duty to consult other psychologists who know a child.

All these moves would be welcome to LEAs. All would be damaging to children and their parents. They would be likely to increase the numbers of children included in mainstream schools, but at the price of an increased risk that children's needs would not be met, their provision not protected.

For children with SEN and their parents, these have been particularly difficult years. For their sakes we ask the Select Committee to send the following clear messages to the Government:

- (i) *Respect* the law and put aside all covert attempts to manipulate the legal framework in ways which favour the service providers over the children they are meant to be serving;
- (ii) *Enforce* the law, and if the Secretary of State is not prepared to use her or his powers vigorously, then empower the new Tribunal service to do so;
- (iii) *Pursue inclusion only by enhancing and guaranteeing adequate provision* in mainstream schools through reinforcing, not weakening, the assessment and statementing procedure, and by not seeking to limit parents' access to professionals' opinions on their children's needs. Create a system in which parents will choose inclusion because there is a legal guarantee (via the Statement) that their child's needs will be met in the mainstream and because, with this guarantee, they can trust that this is where their child's needs will best be met.

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October 2005

Memorandum submitted by the Children's Legal Centre

1. INTRODUCTION

1.1 The Children's Legal Centre is the leading provider of education law advice in England and Wales. The Centre's Education Law and Advocacy Unit provides free legal advice and representation to children and parents with concerns relating to schools and local education authorities (LEAs). The Unit has been awarded a Specialist Quality Mark by the Legal Services Commission, together with a national contract to offer free legal advice and assistance from Community Legal Service Direct. The Unit also holds a contract specifically to provide support in the Eastern Region. Issues surrounding special educational needs (SEN) form a huge proportion of the Unit's work. Since July 2005, the Centre's national education law advice line has received almost 2,000 calls, around one-third of which concerned SEN.

1.2 Types of cases

1.2.1 The SEN cases dealt with through the Centre's Education Law and Advocacy Unit cover a broad spectrum of issues, including:

- Refusal to statutory assess or reassess;
- Refusal to issue a Statement of SEN;
- Failure to adequately describe the nature of a child's SEN in Part II of a Statement;
- Failure to specify sufficient support for a child's SEN in Part III of a Statement;

- Failure to provide the support specified in Part III of a Statement;
- Refusal to name parents' preferred school in Part IV of a Statement, or refusal to change a named placement;
- Provision of free home-to-school transport;
- Failure to adhere to statutory timescales in the statementing process;
- Failure to implement the decision of the Special Educational Needs and Disability Tribunal; and
- Exclusions arising from failure to meet a child's SEN.

Two examples of recent cases undertaken by the Children's Legal Centre are attached as Appendix 1.

2. PROVISION FOR SEN PUPILS IN MAINSTREAM SCHOOLS

2.1 It is the view of the Children's Legal Centre that inclusion can often lead to exclusion: exclusion is not only expulsion from school, but also social isolation. For those children with SEN who are placed in mainstream school, it is often strikingly evident to them that they are "different" to those children without SEN. This can also lead to bullying, particularly where a child is regularly supported by a Learning Support Assistant.

2.2 Although the Centre believes that as far as possible children with SEN should be educated in a mainstream setting, it is often the case that parents and children themselves feel more comfortable in the environment of a special school where other children have similar difficulties and teachers are fully equipped to meet their needs.

2.3 For children with certain types of SEN, such as those on the autistic spectrum, the structure of a mainstream school is unsuitable. For these children, the size, particularly of a mainstream secondary school, can be extremely difficult for them to cope with, and this is often exacerbated by the numbers of pupils and the need to move between classrooms and sometimes buildings.

2.4 The Centre often assists parents in obtaining a place at a special school where their child is not coping in a mainstream environment. Often, we have found that the lives of these children, and indeed their parents, once placed in a special school have been totally transformed. Parents often talk of dramatic improvements in behaviour at home, of seeing their child happy when they arrive and leave school and of their child wanting the school holidays to end.

3. THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY TRIBUNAL (SENDIST)

3.1 *Funding*

3.1.1 The Tribunal was intended to be a reasonably informal arena in which parents would feel at ease, and would feel confident about representing themselves. In the Children's Legal Centre's experience, this is no longer the case. LEAs are increasingly instructing barristers to represent them at Tribunal and this puts parents at a major disadvantage. It is very expensive for an LEA to conduct a statutory assessment or place a child at a special school, particularly if that school is residential and/or independent, so LEAs will try all means of defending their decision. There is a major anomaly in the system, as public funding is not available for parents to be represented at the SENDIST, yet LEAs regularly use public funds to brief counsel.

3.1.2 The Children's Legal Centre currently provides representation to parents at the SENDIST through charitable funding received through the BBC Children in Need Appeal Funding, but this funding is being withdrawn next year (as we have received a grant for the maximum number of years possible through this fund). It is sometimes imperative that parents receive representation, as parents of children with SEN often have SEN themselves. In addition, the challenge of arguing their case against an LEA which is legally represented is a daunting prospect.

3.2 *Free home-to-school transport*

3.2.1 The provision of free home-to-school transport is becoming an increasingly problematic area. LEAs are now adopting a specific approach to dealing with this issue. If parents express a preference for a school, LEAs will often agree to the parents' preference, but will avoid having to provide free home-to-school transport by stating that the LEA believes there is a nearer suitable school for the child. Parents are then faced with a dilemma: do they agree to transport their child to school or send their child to a school which they do not feel is suitable? The problem is that the SENDIST has no jurisdiction to deal with the issue of transport. Thus, the only option for parents if they want to challenge the LEA's decision is to ask the LEA to name its preferred school in Part IV and then appeal to the SENDIST on the named placement. If the SENDIST orders that the parents' preferred school be named in Part IV, the LEA will have to provide free school transport. However, there is, of course, always the risk that the SENDIST will disagree with the parents' preferred placement and there is the problem of where the child is educated in the meantime—if the LEA's preferred school is named in Part IV, the child must attend pending the decision of the SENDIST.

3.3 Children's views

3.3.1 Although the child's views will often be sought during the process of statutory assessment, children have no automatic right to be heard at the SENDIST. In practice, if a child does attend the hearing, the Tribunal panel will often seek the child's views, but few children do attend, as parents are aware that the SENDIST is not an arena in which children are likely to feel at ease. In addition, parents are often reluctant to bring their child if the nature of his or her SEN is behavioural difficulties in case he or she is disruptive during the hearing.

3.4 Looked after children

3.4.1 A statutory assessment can be requested by any of the following:

- the child's parent;
- the school;
- the health provider; and
- the social services department.

3.4.2 There are obvious difficulties for children "looked after" by the local authority. If the social services department requests a statutory assessment, as the child's corporate parent, and the local education authority refuses to conduct an assessment, that is the end of the matter, unless a foster parent chooses to appeal, as one department of the local authority cannot appeal against another. This situation may become even more problematic as many local authorities are combining education and social services departments under the banner of "children's services".

4. DISABILITY DISCRIMINATION

4.1 The provisions of the Special Educational Needs and Disability Act 2001 extended the principle of disability discrimination to schools. The SENDIST is now able to deal with claims of disability discrimination, but only in specific circumstances.

4.2 Regardless of the type of school concerned, the SENDIST always hears claims of discrimination in relation to education and associated services—this includes exclusion from school trips and such like. However, in relation to discrimination in the context of admissions and permanent exclusions, the forum for making a claim for discrimination is dependent upon the type of school concerned:

	<i>Independent and non LEA maintained schools</i>	<i>LEA maintained schools</i>
Admissions	SENDIST	Admission Appeals Panels
Permanent exclusions	SENDIST	Independent Appeal Panels

4.3 The effect of this is that while children from independent and non-maintained schools (ie a significant minority) will receive a hearing from a body with extensive experience and specialist knowledge of special educational needs, those in maintained schools will be heard by a panel experienced only in exclusions or admissions.

October 2005

APPENDIX 1: CASE EXAMPLES

DANIEL

Daniel is 13-years-old. He has a Statement of SEN for his behavioural difficulties, but he has no firm diagnosis of the cause of his difficulties and his Statement is extremely vague in Part II. Daniel was permanently excluded from his mainstream secondary school in June 2005 for rude and abusive behaviour. We represented Daniel before the Governors' Discipline Committee and were successful in getting the exclusion overturned. We were able to show that the school had failed to adequately support Daniel's SEN. We also sought a statutory reassessment of Daniel's SEN. The reassessment was refused by the LEA, despite the fact that Daniel remains at extremely high risk of permanent exclusion and has not been assessed by an educational psychologist since he was 7-years-old. Daniel's difficulties relate to his behaviour and speech and language delay. We are appealing against this refusal to the SENDIST. We shall represent Daniel *pro bono*.

ROBERT

Robert is 16-years-old. He has a Statement of SEN for complex motor learning difficulties. Since 2000, Robert has attended a special school. The LEA agreed to name the special school on the condition that Robert's parents were responsible for his home-to-school transport. Robert's parents agreed to this as they believed they had no choice. Until June 2005, Robert was travelling to school as a concessionary ride in another pupil's taxi. This pupil has now left the school, but Robert is pursuing post-16 education there. The LEA has refused to fund Robert's transport. We are currently trying to challenge this refusal and, if necessary, we will seek a judicial review of the LEA's decision.

Memorandum submitted by The Advisory Centre for Education

ACE'S BACKGROUND

The Advisory Centre for Education (ACE) is an independent national charity which provides advice and/or information to over 60,000 parents/carers a year who are experiencing problems with their children's education. We give advice on education law and how parents/carers can act as advocates for their children. Two of our advice lines are dedicated to exclusions. We refer to other agencies, eg Step-by-Step advice workers (see below), where parents/carers need more support.

Minority ethnic parents are well represented in users of the advice line (11% African Caribbean in 2003).

We train and support advice workers in local organisations that work with disadvantaged, minority ethnic and refugee parents/carers through the Education Step-by-Step programme. We keep their details on a database that enables ACE advisers to refer parents/carers to them. There are 160 Education Step-by-Step advisers in London, and 200 across England. In 2003–04 we trained 90 new advisers and gave 373 on-going support. Our surveys show that on average each adviser helps 300 families a year.

ACE trains LEA officers, parent partnership officers, professionals and staff of voluntary organisations in special educational needs (SEN), as well as other aspects of the state educational system. ACE has a reputation for the width and depth of its knowledge of law and guidance as well as its ability to apply this to the day-to-day problems faced by parents.

The examples from advice line calls used in this document are nearly all from the last three months' advice work, as we wanted to sample very current concerns.

RECOMMENDATIONS

1. Support and outreach services need to be maintained as LEA/LA provision, and expanded to include consistent support for emotional and behavioural needs.
2. LEAs and schools need to adopt better monitoring and accountability of resource use for delegated funding, so that the use of resource for individuals and the outcomes of that use can be tracked. We see the continuation of Individual Education Plans as essential to this.
3. Statutory assessment and Statements should be retained and expanded to include all the child's needs in line with the *Every Child Matters* programme. Parents' rights to initiate, contribute to and challenge processes and decisions should be retained.
4. Reductions in statutory assessments should cease: children who need extra support should receive their entitlement. LEAs' administration of the legal framework needs to be policed to remove unlawful barriers to assessment. Assessment reports should give honest and detailed advice as to the provision needed. The contents of Statements should be scrutinised by Ofsted during LEA inspection to ensure their adherence to legal requirements.
5. Parents of children with SEN/disabilities, especially those who are themselves disadvantaged, deserve more and better support and advocacy, freely available and independent of both central and local government.
6. Reliable estimates of the number of disabled children who need additional aids and services to access education should be obtained in order to inform policy. We do not believe these are available at the moment, and without them claims that Statements can be reduced or SEN expenditure capped or redistributed are unfounded.
7. Children with SEN/disabilities whose behaviour is related to their SEN/disability should be removed from the exclusion process. At the very least it should be mandatory that a multi-agency review of needs, provision and reasonable adjustments is held before exclusion is used.
8. In view of the mismatch between SEN and disability estimates, schools' exemption from the obligation to provide aids and services should be reconsidered.
9. If children whose behaviour arises from their SEN/disability remain within the exclusion process, their appeals against exclusion should go to the Special Educational Needs and Disability Tribunal.

CONCERNS

1. ACE does not wish to add to the debate around special versus mainstream schools: it advises parents on both choices. We are concerned, however, with the evidence of a decreasing ability of mainstream schools to cope with children's difficulties, not least in the resulting demand from parents for our advice and information.
2. ACE's view is that where schools are properly supported by central and local government policies, support services, funding and proper training for staff, inclusion works and benefits the whole community. The evidence of our exclusion advice lines tells us that the opposite is happening in some schools. Around three-quarters of our callers on those lines have children with special educational needs, and one in six raise issues which call for advice on disability discrimination.
3. ACE strongly disagrees that the problem for parents is bureaucracy. In this area, the word "bureaucracy" is frequently used by providers as an excuse to reduce information, accountability and legal duties owed to parents.
4. The parents ACE speaks to every day on our advice lines may be worn down with trying to get support for their child and do complain of bureaucracy. But they are not complaining that their child is being assessed or that the help is being written on a Statement or that they are asked to meetings to review an IEP. When you dig below the surface you discover that parents' complaints are largely about failures of the system rather than the system itself: backlogs in assessments, hold-ups in getting provision, difficulties with school placements, and Statements which are so unclear about the help which is to be provided that they are not worth the paper they are written on, let alone the expense of the assessment that preceded them. These failures may actually be unlawful (see, for example, the non-provision of therapies for children whose Statements specified them documented in the 2002 Audit Commission report on special needs).⁹ An advantage of the current statutory system is that parents can exert pressure via the system of complaints and appeals which leads to better outcomes for the child.
5. In ACE's view the system itself, with its guiding principle of matching help to needs, could not be more compelling. The problem is that local authorities are having to square the circle between the law, conflicting national policies, their own local policies and funding. The law says that a child's education is so important that extra help to give children with SEN/disabilities the same learning opportunities as other children must not be rationed, delayed or subject to blanket refusals to provide. But where resources are not available to match this legal duty, local authorities respond with policies which impose a form of rationing.
6. Many parents of children with SEN/disabilities, whatever their backgrounds, become extremely well-informed and active in their children's education. It makes sense to build on the positive aspects of the SEN framework to increase that informed active participation, which must lead to far better outcomes for their children.
7. For parents, the system offers, in both law and guidance, a truly participative role in the education of their child, an acknowledgement that the parents of a child with SEN/disabilities are the experts on their child, and that their involvement is vital in ensuring the educational progress of that child. Their role is also that of watchdog over their child's right to support. To reduce this role by changing or reducing Statements because of concern over parents' struggles with the system would be to adopt an out-dated welfarist view that parents need protection more than they need equal, active and informed participation in the decisions over their child's education. As parents are acting for the child in many of these decisions, a reduction in their rights to participate in and challenge decisions would be deleterious to the child's rights.
8. Since 2001, the statementing system has also become a part of the delivery of one of the positive requirements of disability discrimination legislation in schools, as it is what should provide disabled children with the aids and services they need to access education. It is therefore essential that it is maintained and improved.

Campaigns for children's rights to educational support

9. In recent years, ACE has joined with many other organisations which offer direct support to parents in campaigning to retain parents' rights in the statementing system's statute law, regulation and guidance. There have been major campaigns over the 1997 Green Paper on SEN which suggested rationing of Statements, and over draft Regulations and guidance on writing Statements in 2000–01. Both apparently resulted in success for the campaigners with reassuring words from the Government: Estelle Morris, then Minister for Schools, offered a pledge at the launch of the SEN Action Programme on 5 November 1998 that although the Government wanted the proportion of Statements to fall "over time", this would be done by strengthening school-based support. Baroness Ashton promised in introducing the Special Educational Needs and Disability Bill:

The whole of this Bill is about the best interests of the child and meeting them. It is about making special educational needs provision better. It is about improving the tribunal system. It is about ensuring that more resources are available in our schools for children with disabilities or special educational needs.¹⁰

⁹ Audit Commission (2002) *Special Educational Needs: a mainstream issue*, p 32.

¹⁰ House of Lords Hansard, 1 March 2001, Column 1295.

10. ACE is therefore looking for better provision and more resources for these children, and for those to be guaranteed where children need them to access education on a par with their peers.

PROVISION FOR SEN PUPILS IN “MAINSTREAM” SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

11. In spite of the Ministers’ desire to reassure parents, ACE receives many calls where support on the “school-based” stages of School Action and School Action Plus is not clear to parents, including cases where the children have plainly been struggling for a long time and our advice is to seek assessment for a Statement as quickly as possible. We want to be able to say to parents that all maintained mainstream schools have support available, either in-house or via their LEA, eg for a child’s behavioural difficulties so as to prevent exclusion. But this is not the case. Even within one LEA, and within one category of schools in one LEA, schools can vary markedly in their attitude to and willingness to provide support themselves or to purchase it from outside.

Have special needs and inclusion fallen off the agenda?

12. Overall, maintained mainstream schools do not seem to be increasing their capacity to support children with SEN—in fact, they seem to be reducing it. Ofsted’s October 2004 report¹¹ found:

- no increase in the proportion or range of needs of pupils with special needs attending mainstream, and that “progress towards inclusion in mainstream schools has slowed”;
- only a minority of the mainstream schools it surveyed were offering children with difficulties high quality support, and few evaluated the effectiveness of their support;
- even the more committed schools did not think they could cope with children with high levels of need;
- a 10% increase in the number of pupils placed in independent special schools and a 25% increase in the numbers of pupils in pupil referral units between 2001 and 2003,¹² indicating less ability to meet needs in state schools, whether ordinary or special;
- although the Special Educational Needs and Disability Act 2001 (SEND) requires schools to draw up disability access plans covering curriculum as well as buildings, “over half of the schools had no disability access plans and, of those that did exist, the majority focused only on accommodation”.

13. Problems of mainstream support are also prevalent in early years. Ofsted says about education and care providers, “we also found, too commonly, that inconsistency and lack of joined-up support created unnecessary barriers to the inclusion of children with special needs”.¹³ Further, Ofsted indicates policy conflicts:

The government’s agenda, together with a plethora of initiatives around inclusion of children with special needs, has moved on since the national standards were written. Even those who receive a judgement of good against National Standard 10 may experience difficulty in keeping pace and promoting the best possible outcomes for children with special educational needs.¹⁴

14. The Qualifications and Curriculum Authority’s 2004 annual report on inclusion included the observations that:

- there was a perception that SEN had fallen off the agenda in all mainstream high-profile initiatives;
- all respondents expressed strong views that performance tables militated against the inclusion of pupils with SEN in many popular schools.

Resources: variation and insecurity

15. In the National Union of Teachers’ survey of special educational needs co-ordinators (SENCOs)¹⁵ in March 2004, “a common theme in all the responses was that pupils with SEN at the first two stages of assessment [ie without Statements] received insufficient support”. SENCOs debating their funding online recently have revealed remarkable differences in the resources available for non-statemented pupils (note that School Action Plus is the highest level of resourcing for non-statemented SEN, and has replaced Statements in many authorities).

¹¹ Ofsted (2004) *Special Educational Needs and Disability: towards inclusive schools*.

¹² Note that this finding is wrong: the increase in the population of PRUs is 55%, based on actual numbers of 9,300 in 2001 and 14,470 in 2004 (DfES, 2005, *Special Educational Needs in England, January 2005*, SFR 24/2005, Table 1a).

¹³ Ofsted (2005) *Removing barriers: a “can-do” attitude: a report on developing good practice for children with special needs in early years childcare and education in the private and voluntary sectors*.

¹⁴ National Standard 10 sets out minimum requirements as to what providers must do to support children with special needs. Ofsted (2005) *Removing barriers: a “can-do” attitude: a report on developing good practice for children with special needs in early years childcare and education in the private and voluntary sectors*, p 3.

¹⁵ The special educational needs co-ordinator is the key SEN teacher/manager in the school.

16. SENCO A says that in her LEA, children on School Action Plus get two hours with a teaching assistant, or half an hour with an SEN teacher per week, or a combination of these times. The SEN audit is supposed to pay for this. Children on School Action do not get a particular amount of time.

17. SENCO B is shocked by this luxury and replies that her school “certainly couldn’t afford this!” It has 31 children on School Action Plus and 60 on School Action plus 14 with Statements. To match SENCO A’s level of resourcing, they would need to allocate 60 hours of teaching assistant time for School Action Plus plus 80 hours for statemented children. She says her “statements” always get their support but children on School Action Plus sometimes do not. They may get 10 minutes a week one-to-one.

18. NFER research¹⁶ done for the DfES also reported insecurity and lack of accountability of resourcing for the school-based stages:

In one of the secondary schools, the resourcing issues related to the fact that the funding for pupils at *School Action* and *School Action Plus* was not ring-fenced. The SENCO explained that the school SEN department would not receive the money: “*it disappears into the school, into the ether*”. This SENCO had tried to resolve the issue with both the headteacher and the finance department, but without progress. This was estimated to be funding equivalent to five additional classroom assistants . . .

Resourcing SEN was certainly an issue for some of the case-study schools, and it could have implications for the admission of pupils with identified special needs. It was clearly an area where some schools would appreciate some more guidance.

Delegated funding and support for children

19. In 2005, Ofsted reported on the state of outreach and support services which (before so much SEN funding was delegated to schools) were provided to schools by LEAs.¹⁷

20. The *TES* summed up the report thus:

Support for vulnerable pupils in mainstream schools has been damaged by the Government’s determination to take money from local education authorities and give it direct to schools, Ofsted said this week.

Special needs pupils have been denied specialist help because schools used the money for other purposes, according to a highly critical report by inspectors.

21. The report said:

Where the funds were delegated, schools had the option to buy services or to use the money in other ways. Positively, this increased the flexibility for schools; negatively, it disadvantaged groups of pupils with complex special educational needs who did not have access to specialist support because funds had been used for other purposes. In addition, delegation of funding to schools reduced the LEA’s capacity to provide targeted support for school improvement where the standards achieved by pupils with SEN were too low.

22. There are, of course, many other purposes and incentives to use funds for those purposes.

23. Current policy is to encourage authorities to delegate nearly all the funds for special educational needs to schools. This is despite the recognition in *Removing Barriers to Achievement*, the Government’s strategy for SEN (2004) that the majority of local authorities have yet to develop adequate arrangements for monitoring outcomes for pupils with SEN, especially in relation to delegated funding. The aim, according to the strategy, is to encourage early identification and inclusion; but again from ACE’s experience on the advice lines we know that the opposite is often the case.

24. The national model of provision for SEN and disability should not allow wild variation from school to school and from LEA-to-LEA. Diversity of standards of provision and autonomy of schools is not currently providing for individual pupils’ diverse needs, and far from inspiring parents with confidence, has lead to increasing battles for appropriate support.

25. We therefore recommend that support and outreach services need to be maintained as LEA/LA provision, and expanded to include consistent support for emotional and behavioural needs.

26. LEAs and schools need to adopt better monitoring and accountability of resource use for delegated funding, so that the use of resource for individuals and outcomes can be tracked. We see the continuation of Individual Education Plans as essential to this.

¹⁶ Wilkin, A, Archer, T, Ridley, K, Fletcher-Campbell, F and Kinder, K (2005) *Admissions and Exclusions of Pupils with Special Educational Needs*, NFER, DfES Research Report RR608.

¹⁷ Ofsted (2005) *Inclusion: the impact of LEA support and outreach services*.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (“THE STATEMENTING PROCESS”)

27. ACE finds the extension of delegated funding arrangements to children with significant and complex needs very worrying. Schools often struggle to identify difficulties and their causes and it is known that many young people have behaviour problems which stem from undiagnosed special educational needs.

28. To make matters worse, many local authorities are coupling delegation with a policy of no more Statements except for special school placements, leaving schools to decide whether to buy in expertise. Again, we refer to the Government’s principle that reductions in Statements were only to be made when children’s needs were securely met by schools.

29. This is plainly not the case, but the issue of new Statements has fallen from 36,200 pa in 1998 to 26,000 in 2004.¹⁸ It is fair to conjecture that that means that last year, more than 10 thousand children who previously would have received Statements were left without them and are relying on the uncertain capacities of schools to identify and deliver the help they need.

30. The downward pressure on Statements is against the professional judgements of many teachers, especially SENCOs. One SENCO said, on hearing of the Select Committee’s inquiry by accident from an LEA officer:

If only LEAs are contributing [to the Committee’s investigation], this is worrying. Like most LEAs, mine is doing its utmost to follow the Government line regarding the reduction of statements even though this policy directly contravenes the Code of Practice.

On this issue alone I want input from teachers. I know my LEA’s view is at total variance with my own.

Statutory assessment under attack

31. When reductions in statementing were discussed with the campaigning organisations in 1997–98 and again in 2000–01, it seemed that assessments of need would still occur. Many children need the multi-agency scrutiny of what is causing the difficulty that is holding them back, and sometimes it is not until this occurs that the real problem is identified: for instance, what was perceived by teachers to be a literacy difficulty to be addressed with extra phonics is discovered to be an auditory processing disorder, which needed visual strategies. The child must have felt he was being shouted at in a completely unknowable language rather than being helped.

32. Indeed, this statutory requirement for a thorough multi-agency assessment (with the full involvement of the parent) might be regarded as an exemplary model, offering a guarantee of provision for vulnerable children that could easily be expanded to include non-educational needs and provision in keeping with the *Every Child Matters* programme.

33. Appeals against statementing decisions go the Special Educational Needs and Disability Tribunal. The Tribunal’s annual reports show that appeals against refusals to assess have risen from 30% of all appeals in 1997–98 to over 40% in 2002–03.

34. However, it is only a minority of parents who appeal against decisions, and the Independent Panel for Special Education Advice believes that local authorities are routinely refusing to assess and are largely getting away with it.

35. Many parents who ring us tell us that SENCOs are quoting local criteria for assessment (that children have to be a certain number of years or stages behind compared with their chronological age, for instance) to explain why their needy children, plainly not progressing, cannot access assessment. One adviser for another national charity recently wrote:

I understand that X LEA will only use the term “dyslexic” for a pupil whose reading AND spelling AND writing are all five years below chronological age. And will only statement if there is also ADHD, Asperger’s etc.

So a girl aged 12 with Reading Age/Spelling eight years and writing seven years (and ability of a 17 year old on a private EP assessment) is not deemed “dyslexic”.

36. Such blanket rules may well be unlawful, but are trusted by teachers and LEA officers who are shocked when they are overturned by the Tribunal. We are sure that the Independent Panel for Special Education Advice will offer the Committee its experience here.

37. As we have said above, we believe these rules are the results of pressure to ration Statements, and take little account of actual need. This is borne out by what parents tell us of what schools and LEA officers tell them.

38. One recent call to our advice line concerned an eight-year-old child whose school stated that he needed 1:1 adult support to prevent incidents which had lead to frequent exclusions, the most recent one lasting two weeks. She told us that her authority was arguing (in writing to the Tribunal) that assessment

¹⁸ DfES (2005) *Special Educational Needs in England*, January 2005, SFR 24/2005, p 2.

of her son would set an “inappropriate precedent” and would be an “inappropriate use of public funds”, both unlawfully irrelevant considerations in a decision on assessment. The child had long-standing problems and was diagnosed and being treated for ADHD and ODD by the NHS. His mother said:

It seems so unjust on him. With the right support he’s a lovely lad. So-called professionals should listen to parents and teachers—my child has been having these problems since nursery. The education system doesn’t want to help you. But the Government wouldn’t have all these problem teenagers if the help was there in primary schools.

Vague and unenforceable Statements

39. Another common problem that parents meet with Statements is LEAs’ non-compliance with the law on specification of provision in drafting Statements. The law says that Statements must normally describe the kind, amount and frequency of the help to be provided. In spite of this requirement, vague words such as “access to a literacy programme” or “opportunities for small group work” or “up to one hour a week” seem to be so common as to be the *de facto* norm. This spells trouble for any parent trying to insist on the support owed to their child.

40. The Local Government Ombudsman reports frequently on SEN complaints. In a ruling in November 2004, the Ombudsman found that Suffolk County Council had a long-standing practice of not quantifying hours of special educational provision in Statements. We know from our advice work that this is not unusual in LEAs. More needs to be done to protect vulnerable children from this evasion of what Parliament has repeatedly confirmed as the intention of the statute, regulations and statutory guidance on how provision should be set out in Statements.

41. A parent of a three-year-old child with Down’s syndrome with recognised speech delay said (September 2005):

A’s proposed Statement has just arrived. In part 3 the reference to speech and language goes as follows: “A requires opportunities to follow a structured speech and language programme planned in conjunction with advice from a speech and language therapist.”

Well now that I’ve scraped myself off the ceiling I could say that I require opportunities to go to the cinema more than once a year—doesn’t always happen though.

42. A is just starting in nursery, at a crucial age for developing speech and communication abilities, and with them relationships with her peers and teachers. But her ability to access the speech therapy she needs will depend on her mother’s action on her behalf, not on the LEA’s fulfillment of its duty to identify need and provide for it when children have significant and/or complex difficulties (see ‘Therapies’ below).

43. We believe that Ofsted needs as a rule to inspect the content of Statements for this crucial adherence to statutory obligations. All too frequently, inspection reports merely observe whether LEAs write Statements within the legal time limits rather than judging whether they do this vital job of specifying and guaranteeing the help the child needs. Timeliness is not what matters—rather, it is whether the Statement does the job the law intends.

44. Here, accurate and detailed advice from professionals as to provision is essential, but many suspect that teachers and educational psychologists are “leant on” to keep their advice vague so that Statements do not commit the LEA to an inescapable obligation to that child. A’s mother will probably need to spend a considerable amount to obtain reliable professional advice on her child, as the advice the LEA has obtained is not specific enough on provision. Another parent who knows the educational psychologists in her LEA said:

The EP [educational psychologist] told us that she was not allowed to write 1:1 tuition with a specialist teacher and was really stretching a point to record that that is what we wanted on the final report.

I called the EP section for my daughter’s school area to ask if my request for 1:1 tuition with a specialist teacher with AMBDA (to differentiate it from non-teaching qualifications such as a Masters in SEN) was unreasonable. I did not want to ask for something unreasonable or something my daughter wasn’t entitled to. The question was shouted across the room and the distant reply was along the lines of “Of course it is suitable what the hell are the LEA playing at?”

Parents’ rights in the process

45. Parents challenge decisions within the process at the moment, as they have statutory rights to request assessment, to appeal against a refusal to assess, to contribute their own views and evidence to the assessment, to appeal against a refusal to produce a Statement following assessment, to be properly consulted during the drafting of the Statement, and to appeal against the final version, on the grounds of its description of needs and provision and/or the school named by the authority. All appeals since the implementation of the 1993 Education Act have gone to an independent national expert tribunal, and any parent who has experienced appeals before and after this Act will tell you what a difference this has made to obtaining proper support for their child.

Therapies

46. Therapies (for example, speech therapy) are frequently contested, and for good reason, as the Audit Commission found health and social services were not provided for children whose Statements specified them:

Children with statements often do not get the support they are meant to from health and social services.

We . . . recommend that Government ensures that health and social services be held to account for their part in meeting children's SEN. This may require a change to primary legislation: under the 1996 Education Act, health and social services are only required to provide support to children with statements in so far as their overall resources and priorities allow . . . Unless children with SEN feature more prominently in the targets set for these services, it seems unlikely that this situation will improve.¹⁹

47. What the Audit Commission could have pointed out, but did not, is that the law makes clear that if therapies specified in the Statement are not provided by other agents, the duty to arrange the provision falls back on to the LEA. The 41 out of 49 LEAs who said that children with Statements were not getting the help they needed even though their Statements specified that help were admitting to being in breach of the duty owed to those children.

Blame maladministration, not the system

48. We reiterate that problems with Statements arise from maladministration of the system rather than the system itself, which we believe was ahead of its time in demanding multi-agency views of the child, involving parents in deciding what the child's difficulties are and how and where to support them, in taking children's views into account, and in time-limiting the process in the interests of the child. The maladministration arises not from incompetence, but from deliberate evasion of legal duties to individual children because of resource constraints.

49. This view is supported by the many Local Government Ombudsman's rulings against LEAs' administration of the system. Within the category of education, after admissions, SEN gives rise to the most complaints and investigation reports, and most of those are about Statements. Given that only 3% of children nationally receive Statements, this is an alarming figure.

50. We recommend that statutory assessment and Statements should be retained and expanded to include all the child's needs in line with the *Every Child Matters* programme. Parents' rights to initiate, contribute to and challenge processes and decisions should be retained.

51. Reductions in statutory assessments should cease: children who need extra support should receive their entitlement. LEAs' administration of the legal framework needs to be policed to remove unlawful barriers to assessment. Assessment reports from employees of the LEA should give honest and detailed advice as to the provision needed. The contents of Statements should be scrutinised by Ofsted during LEA inspection to ensure their adherence to legal requirements.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

52. Parents therefore often need to exert their rights, and we have many calls for advice where we can offer not merely information but steps parents can take which help them to be effective in working with schools and LEAs.²⁰ It is difficult to see how parents will be able to claim as of right a similar active role in the Common Assessment Framework currently being piloted, and easy to envisage a return to the pre-1993 Act system where professionals know best and the child is all too readily fitted into the resources perceived to be available.

53. In ACE's view children have a much greater chance of doing well at school if their parents are actively involved. We believe this because we can see that where parents' rights are less detailed or clear cut, parents are either passive, expecting the education service to deal with any problems, or they become frustrated at their lack of a say about crucial aspects of their children's education.

54. We are concerned that some parents have difficulties because of:

- poor or misleading information including lack of clarity about their rights and where responsibilities lie;
- difficulty in accessing information;
- lack of good quality advice, support and advocacy.

¹⁹ Audit Commission (2002) *Special Educational Needs: a mainstream issue*, p 32.

²⁰ ACE publishes the comprehensive and authoritative *Special Education Handbook*, and also short accessible booklets on getting extra help from schools and early years providers, asking for an assessment, getting the Statement right, and annual reviews.

Information and advice

55. ACE believes that provision of information can be improved by better policing of the system. Our campaign for legal compliance with information regulations (The SEN (Provision of Information by LEAs) (England) Regulations 2001) resulted in Ofsted agreeing to highlight the requirement to provide SEN information on LEA websites in its inspections of authorities. Recently we checked six LEAs which have been inspected this year and found that all were complying with the law. Previously few of these LEAs had met the legal requirements introduced in 2001. At least one of the six had had no website at all covering SEN issues.

56. The information is important to parents because it should tell them who is responsible for their children's extra help; what kind of provision they can expect and the procedures for accessing further support.

57. There still remain difficulties in accessing information. For example, websites are often poorly designed and not parent-friendly. Understanding the information on websites often implies knowledge of education jargon, tenacity in exploring different links on a site and ownership of expensive up to date equipment to download huge files.

"Bureaucracy" versus information for parents

58. The pressure on SEN resources and the general dismissal of documentation as "bureaucratic" are threatening the Individual Education Plan (IEP). If IEPs are not maintained and shared with staff who teach the child and with parents, are prepared for groups rather than individuals, and not kept up-to-date and reviewed frequently, then they become worthless both as support for the child and in tracking resource use and outcomes.

59. ACE is concerned that the campaign against bureaucracy appears to have targeted special educational needs information which parents need to have²¹ We believe that the system is not bureaucratic unless you regard professional assessments as bureaucratic, listing (on paper) provision to match needs as bureaucratic, or progress checks with parents as bureaucratic.

60. In ACE's view, the campaign against bureaucracy is a threat to accountability and parental involvement, particularly the sustained attack on IEPs. IEPs are meant to track strategies put in place to help the child, based on that child's difficulties, and assess how successful they are. If strategies fail, then the IEP records adaptations or new strategies. If those fail, then provision should be escalated (eg from School Action to School Action Plus and from School Action Plus to statementing).

61. With fewer Statements, these documents are the main evidence of a child's progress or lack of it, and since many LEAs demand written records of a child's lack of progress before agreeing to assess parents can be caught in a situation where they know their child is not making progress, but they have no paper evidence because there is no IEP and therefore the LEA refuses to assess.

62. Even the Audit Commission in its SEN Policy Focus Paper of 2002 recognised the value of IEPs and saw them as a safeguard for children who would have had Statements but might no longer if its recommendations were to be adopted. It recommended that:

If fewer statements are issued as a result of increased delegation, schools should continue to use IEPs and regular reviews for all children with SEN and to plan carefully for key transitions; and LEAs should put in place systems to monitor the progress made by children who would previously have had a statement.²²

63. The IEP is valuable for parents because it involves them in planning for the child's support and in monitoring that support. In addition, for those children with Statements, there are legal requirements about target setting and checks on the child's progress within the National Curriculum and in relation to the objectives set out in the Statement. There has to be a mechanism for making these short-term checks and the IEP would seem to be the most sensible one.

64. Parents are able to see whether their child is making progress, whether the extra help their child should get is indeed being provided, and can make informed decisions about whether to request changes to the child's provision.

65. The *Annual Report 2004–05* of the Implementation Review Unit fails to say why alternative planning arrangements it promotes are less bureaucratic. It also fails to mention how parents will be involved. In

²¹ DfES Implementation Review Unit (2005) *Annual Report 2004–05* (<http://publications.teachernet.gov.uk/eOrderingDownload/1593-2005CDO-EN.pdf>) and Cabinet Office/DfES (2005) *Special Educational Needs—Bureaucracy Project* (<http://www.cabinetoffice.gov.uk/regulation/documents/pst/pdf/sen.pdf>)

²² Audit Commission (2002) *Statutory Assessment and Statements of SEN: in need of review?* p 68.

ACE's view the description of alternative approaches suggest much greater bureaucracy and hints of the professional knowing best. In contrast most parents can easily understand the process of drawing up and reviewing an IEP and where they fit into the process. It is unclear where parents would be involved in "provision mapping" which seems to focus on the provider and the support rather than the learner and his or her needs.

66. The attack on IEPs is also at odds with much other government guidance including the statutory SEN Code of Practice and the *Key Stage 3 National Strategy Maximising Progress: ensuring the attainment of pupils with SEN*.

Support and advocacy

67. Certain groups of parents have difficulty accessing information, for example, those who have English as an additional language; those who are not in settled housing (eg mothers sheltering from domestic violence and Traveller families), foster parents unaware of the SEN framework, and parents who have special needs and/or disabilities.

68. Children with SEN are more likely to have parents belonging to these groups.

69. These parents need a range of alternative service including telephone advice, face-to-face advice and advocacy. ACE supports some families via its telephone advice service, and while many parents are able to use information and advice to go on and take effective action for their children, other parents need more or different support. ACE's Education Step-by-Step programme aims to provide greater face-to-face support via groups such as women's refuges, law centres, and community organisations who come into contact with the groups of parents listed above. Training in basic education advice is provided along with a comprehensive education manual kept up-to-date by ACE staff. Funding for this programme has been hard to achieve, however, and it is currently operating under capacity.

70. Parent partnership officers (employed by LEAs) are supposed to be the frontline service providing support to parents, and are the only advice service that many disadvantaged parents access. However, it has to be pointed out that *at best* this is "impartial" support, with PPOs aiming to be even handed rather than champions for parents. Many admit that their LEA funding prevents them undertaking certain types of work such as representing parents at exclusion hearings or at the SEN and Disability Tribunal (SENDIST).

71. In an ACE survey of 20 LEAs covering different sized authorities in both rural and urban areas, we found that only a quarter were able to carry out limited representation of this type (four supporting parents at SENDIST but only one representing parents at independent appeal panel hearings dealing with exclusion).

72. A representative of the National Parent Partnership Network has told us that less than half of LEAs have "independent parental supporters" and at least half of parent partnership officers have been told by their LEAs that they are not allowed to support parents at SENDIST.

73. The service is also patchy and inadequately staffed in some areas: our survey discovered that some LEAs provide as few as one part-timer which, even in a small authority, cannot be adequate.

74. As stated above, some parents face immense barriers in supporting their children and acting as advocates for them. Access to SENDIST is clearly unequal with free legal representation not being available and little support otherwise available. IPSEA's free tribunal support and representation service, to which we refer many of our callers, is overstretched.

75. There is an inequality of access/take up among ethnic groups as shown by SENDIST ethnic monitoring of who appeals. Lack of Statements in community languages is also striking, not to mention SEN policies and translating support at reviews.

76. The charity PACE which supports parents of children with autistic spectrum disorders pointed out in their Tribunal Report 2003 that only 4% of parents received legal aid for pre-hearing advice and appealing to Tribunal was something that only a minority of parents could take on. "Appealing to the Tribunal is an undertaking which consumes major emotional, financial and time resources", they point out. They call for legal aid support to be extended to support more parents.

77. If parents succeed at the tribunal, they can still face problems which demand support and advocacy. PACE suggests the setting up of an independent monitoring body to monitor the implementation of Tribunal decisions, quoting a parent saying:

A year later we are still fighting with our LEA to provide the provision the Tribunal decided.

78. ACE believes that parents of children with SEN/disabilities deserve more and better support and advocacy, freely available and independent of both central and local government.

HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

Numbers

79. The Audit Commission noted in 2002 that “despite the significant number of children with SEN, little is known about the overall pattern of their needs”.²³ They also noted increases in need:

Our national survey of LEAs indicates, over the last five years:

- significant increases in the number of children with autistic spectrum disorders (perceived by four-fifths of respondents), with speech and communication difficulties (two-thirds of respondents), and with profound and multiple learning difficulties (one-third of respondents); and
- significant decreases in few categories of need, except moderate learning difficulties (one-quarter of respondents) and specific learning difficulties (one-fifth of respondents).²⁴

80. However, there has been a recent radical re-estimate of the numbers of children regarded as disabled (a category which must necessarily overlap with those regarded as having SEN, especially if they require additional aids and services to access education). The Prime Minister’s Strategy Unit reported this year that:

Since 1975, the fastest growth in numbers [of disabled people] has been for children—from 476,000 disabled children under the age of 16 in 1975, to 772,000 in 2002. This represents an increase of 62%. Possible explanations include increasing prevalence of impairment among children, children with complex conditions surviving longer, increased diagnosis, increased reporting and/or overall increases in the population. . .²⁵

81. The growth is also attributable to a change in the statistics used:

The 2001 General Household Survey (GHS), carried out by the Office for National Statistics (ONS), estimated there were 789,000 children under the age of 16 with an “estimated longstanding illness, disability or infirmity that limits their activity”.

Analysis of DWP survey data (the 2002 Families and Children Study) by researchers at the University of Lancaster used a broader definition of disability. The results suggested that a staggering 10% of all children are disabled. This equates to just under 1.2 million children under the age of 17 in Britain.

Before these estimates were issued, policymakers and charities commonly used a figure of 320,000 disabled children (up to age 16). This comes from a 1984 survey by the Office of Population Censuses and Surveys (OPCS) which was reanalysed in 2000. Despite the availability of annually updated GHS data, policy-makers continued to use this out-of-date underestimate, which suggests a lack of serious political commitment to the issue.²⁶

82. These figures must call into question any policy to reduce expenditure and legal entitlement to disabled children in schools, and may be another explanation for the persistence of enormous tensions in the system.

Better estimates are needed for policy formulation

83. The lower and less accurate figure of 320,000 is interestingly close to the number of children with Statements that was quoted as alarmingly high in the 1997 Green Paper on SEN:

[In 1993] it was envisaged that the needs of the great majority of children with SEN should be met effectively under its school-based stages, and that only in a minority of cases, perhaps the 2% of children envisaged by the Warnock Report in 1978, would the LEA need to carry out a statutory assessment of SEN and make a statement. But there has been a steep increase in recent years, so that 233,000 pupils (almost 3%) now have statements.²⁷

84. ACE recommends that reliable estimates of the number of disabled children who need additional aids and services to access education are obtained in order to inform policy. We do not believe these are available at the moment, and without them claims that Statements can be reduced or SEN expenditure capped or redistributed are unfounded.

²³ Audit Commission (2002) *Special Educational Needs—a mainstream issue*, p 5.

²⁴ Audit Commission (2002) p 7.

²⁵ Prime Minister’s Strategy Unit (2005) *Improving the life chances of disabled people*, p 34.

²⁶ New Philanthropy Capital (2005) *Ordinary Lives. Disabled children and their families*, pp 7–8.

²⁷ DfEE (1997) *Excellence for All Children*, Green Paper, p 35.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

85. In this section we are concentrating on difficulties that result in exclusions from school.

86. Two-thirds of permanent exclusions are of children with special needs, officially classed as needing extra support. ACE registers SEN as being involved in three-quarters of the calls to its exclusion advice lines. It is suspected that more children have unacknowledged special needs, a view borne out by research that found that 10 out of 11 pupils in a primary PRU had undiagnosed communication difficulties.²⁸ It would obviously have been preferable to offer assessment and appropriate support to primary-aged children rather than excluding them to an environment where they were only diagnosed because of a therapist's personal research interest.

87. One example from our advice line in the last week of September 2005 is not untypical of exclusion of children with SEN because of unmet need/lack of support. The mother of a five-year-old boy rang us. Her LEA had refused her son statutory assessment in February despite severe developmental delay which had caused him to be held back a year in nursery. In his first few weeks in primary school, the school is only able to offer him support (shared) in the morning, so at lunchtimes and afternoons he is unsupported, becomes isolated, confused and frustrated, and (according to the school) is "naughty and aggressive" and lashes out. He is in danger of permanent exclusion. If statutory assessment starts now, it may not bring resources in time to prevent the exclusion.

88. The 2004 annual statistical digest on schools revealed that while permanent exclusions of pupils *without* special needs had gone down by 579, permanent exclusions of children *with* special needs had risen by 334, a jump in one year of 6%. Nearly two-thirds of the pupils in pupil referral units (PRUs) have special needs—ejected from mainstream schools but not placed in special schools.²⁹

89. The NFER research already referred to indicates some of the problems of whether EBSD are seen as learning difficulties/disabilities and of teachers' confusion between a supportive versus a punitive regime:

In the secondary schools, [teachers] identified both learning difficulties and behavioural difficulties as common needs. In some cases, the pupils with learning difficulties were also thought to have behavioural difficulties whereas in other cases, the interviewees felt that these were different cohorts of pupils. One school felt that many of the pupils identified with learning difficulties would then develop behavioural difficulties because their learning needs were unmet, whereas others argued that behavioural difficulties alone did not constitute a special educational need as such (it should be noted that this represents interviewees' perceptions—regardless of DfES guidelines).³⁰

90. One school revealed extremely punitive attitudes:

In one case-study school, an interviewee's comment supported the view expressed in the authority (which was a "high-excluding" one), that fixed-term exclusions were at a high level because of a lack of tolerance of persistent poor behaviour: "[The school] has improved quite a lot and a lot of that is due to exclusion—we have rooted out quite a lot of the undesirable kids".

This focus on removing undesirable behaviour was underlined in the comment from another interviewee in the same school, who reported "pushing" a year 7 pupil with ongoing behavioural problems until a confrontation occurred and the pupil was eventually permanently excluded.

As far as I'm concerned if a kid is misbehaving in class then they should be removed . . . I always make a point of challenging those pupils, and it's either black or white, they either conform to what I want or it results in a very serious incident where I challenge them to the point where they swear at me or do something. . . . I challenge them to the point that neither of us will back down.

Head of year, secondary school³¹

91. Here the teachers' motives are a desire for "school improvement", which has overridden teachers' more usual commitment to helping and retaining pupils.

92. The following is from our July 2005 calls:

A six-year-old with a Statement for ADHD was subjected to an escalating regime of exclusions from one, to two to four to eight to 16 days and so on. His mum called us when he was at eight days—he'd just returned to school after being very anxious that he would fail again, and was sent home at lunch time.

93. A more appropriate response would have been to use the SEN framework, especially in reviewing the strategies and support used for him, with external help as required.

94. Currently, however, schools can ignore the strong advice in the exclusions guidance not to exclude children with special needs except as an absolute last resort. Parents are rarely able to overturn exclusion decisions even in such cases as the above.

²⁸ Heneker, S (2005) *British Journal for Special Education* vol 32(2), pp 86–91.

²⁹ DfES, 2005, *Special Educational Needs in England, January 2005*, SFR 24/2005, Tables 1a and 1b.

³⁰ Wilkin, A, Archer, T, Ridley, K, Fletcher-Campbell, F and Kinder, K (2005) *Admissions and Exclusions of Pupils with Special Educational Needs*, NFER, DfES Research Report RR608, p 41.

³¹ Wilkin et al. (2005), p 50.

95. ACE recommends therefore that children with SEN/disabilities whose behaviour is related to their SEN/disability should be removed from the exclusion process. At the very least it should be mandatory that a multi-agency review of needs, provision and reasonable adjustments is held before exclusion is used.

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

96. Section 28C of the Disability Discrimination Act 1995 (DDA) as amended by the Special Educational Needs and Disability Act 2001 (SENDA) requires responsible bodies to refrain from placing disabled pupils at a substantial disadvantage compared to non-disabled pupils, but also exempts schools (but not early years providers which are not schools) from having to provide “aids and services” (s28C, subsection (2)(b)), unlike FE and HE institutions which were so required by the Act. The reason for this (as is clear in Government statements about the Bill and from *Hansard*) is that such aids and services are meant to be provided by the pre-existing special needs law and guidance, especially through the statementing system. There are problems in the way these two elements of law work together, especially as

- not all pupils disabled within the meaning of the DDA will have special needs and not all pupils with special needs will be regarded as falling within the legal definition of disability (although most of them will);
- the prevailing climate against statementing means that disabled children will frequently not be able to insist on aids and services to access education in schools.

97. In view of the mismatch between SEN and disability estimates, schools’ exemption from the obligation to provide aids and services should be reconsidered.

98. The DDA 1995 as amended sets out two main duties, which apply to all providers of services to disabled children. These are:

- a duty not to treat a disabled child “less favourably” than other non-disabled children for a reason relating to his or her disability, and
- a duty to make “reasonable adjustments” to accommodate disabled children, so that they are not placed at a disadvantage for a reason relating to their disability.

Lack of awareness and use

99. The second of these duties (which levels the playing field for disabled children) is frequently misunderstood by schools, who believe that if they treat them the same as non-disabled children, all will be well. This misunderstanding comes up again and again on both our general advice and our exclusion lines, and together with the problem with definition of disability, implies that governors and staff still need training even four years after this much-heralded legislation.

100. Schools commonly are not aware of the legal definition of disability and often ask for a clinical diagnosis or label as “proof”, especially where children have cognitive impairments, even though case law has established that, eg, moderate learning difficulties without a medical diagnosis can be a disability within the meaning of the Act.

101. The DDA 2005 further amends the DDA 1995. For the childcare and education sectors, the DDA 2005 places a duty on all public sector authorities to promote disability equality, to be implemented in late 2006.

102. In spite of the re-estimated and huge number of children considered to be disabled, and the many problems that arise for disabled people in day-to-day life outside school, the current DDA seems not to be used by parents to any great extent. Parents perceive (with good reason) that they may face the breakdown of good relations with schools if they raise it, even where their disabled child has faced an outrageous exclusion from a school play, or a teacher (or teachers) will not accept that they need to approach the child differently to other children to ensure they can, for instance, understand instructions and therefore comply with classroom expectations.

103. There has been a very low number of discrimination claims to the Special Educational Needs and Disability Tribunal (SENDIST) (at a peak of 81 in 2003–04), and a low success rate for the claims that were made. SENDIST’s first President, Trevor Aldridge, was concerned that these results were probably not a true representation of life as it is lived in schools, that disability discrimination was indeed happening, but that parents and schools were ignorant of how to identify it and what to do about it. He suggested that governors described what it is and how to remedy it in their annual report to parents.³² Perhaps that is unrealistic considering how often advice workers hear of school policies and practices that have obviously not been reviewed in the light of SENDA.

³² Special Educational Needs and Disability Tribunal (2003) *Annual Report 2002–03*, p 3.

104. Even if more parents understood it, for many the process is too complex, the rewards are too little, and the threat of a total breach with the school their child attends is too great. Experts on this area point out that all successful cases have been taken against schools from which parents have already removed their children.

105. While cases remain so rare, there is little hope of this new legal remedy acting as an incentive to cultural change and the establishment of good practice. And David Wolfe, a leading education barrister who has argued some of the current leading cases in this area, thinks there is huge resistance to change:

My experience is that, despite clear Government guidance and the decision of the Court of Appeal in *H-v-Hounslow*, many schools, LEAs and even SENDIST chairs have still not realised that the law now says that, where a parent wants their child included in mainstream, mainstream cannot be refused on the grounds that it is “not suitable” for the child—it must be made suitable. And there is clearly a long way to go before the full implications of the Disability Discrimination Act permeate into schools.

Disability discrimination and permanent exclusion

106. The most drastic result of discrimination in education must be permanent exclusion, and for this parents do not appeal to SENDIST but to local non-expert appeal panels. ACE recently raised with the DfES three major problems specific to disability discrimination and exclusion appeal panels (see Appendix), the chief of which is the lack of remedy if claims are upheld. We asked how many disability discrimination claims were made in cases of permanent exclusion. It appears that the Department does not know. We still hope that this Government which is determined to make their inclusion strategy work will establish that where schools are taking the most penal action they can against pupils, and where so many of the pupils being excluded have special needs, there is an effective remedy for disability discrimination.

107. In 2003, the Council on Tribunals reported to Parliament on the problems with hearings by local non-expert panels of appeals against permanent exclusion of children with SEN, and recommended that these appeals should be heard by SENDIST.³³ The Government responded that they would not do this, giving these reasons (our comments in italics):

- the low number of pupils with Statements who are excluded (*in spite of a child with a Statement of SEN being nine times more likely to be excluded, and current figures showing that two-thirds of exclusions are of children with SEN*);
- longer journeys, higher travel costs for parents and longer delays in determining the outcome (*the DfES did not consult parents' organisations before reaching this conclusion; in our view many parents would prefer waiting for an expert and fair hearing to a quick and convenient but unfair one. SENDIST in any case pays parents' travel*);
- “it could also transmit the misleading message that all bad behaviour was the result of some condition beyond the child's control” (*but to ignore the rights of pupils who have such conditions seems to be in itself discriminatory*).

108. Disabled children likely to fall into this trap are those with learning difficulties which are not supported properly (this has included children with cognitive impairment caused by Down's syndrome), those with social and communication difficulties such as autism, and those with mental health needs.

109. The Council on Tribunals did not include disability discrimination issues and the need for even more expertise in that area than is required for SEN, but relied on their own observations of panels at work with children with SEN. They did not believe that this system was fair on such pupils. We believe that there is even more of an imperative to change it now that such panels have to hear disability discrimination claims.

110. ACE recommends that if children whose behaviour arises from their SEN/disability remain within the exclusion process, their appeals against exclusion go to the Special Educational Needs and Disability Tribunal.

APPENDIX: DISABILITY DISCRIMINATION AND PERMANENT EXCLUSION APPEALS

This document sets out three questions which have arisen from ACE's work which we believe indicate current gaps in the law on appeals against disability discrimination which leads to permanent exclusion.

A. Where a child who is disabled is permanently excluded, where parents do take a potential disability discrimination claim against the LEA?

B. Where do parents of pupils who have been permanently excluded from maintained nursery schools or pupil referral units (PRUs) take a disability discrimination claim?

C. What remedies are available for permanent exclusion resulting from disability discrimination?

In these situations, parents acting for children who have suffered permanent exclusion as a result of discrimination may be unable to:

³³ Council on Tribunals (2003) *School Admission and Exclusion Appeal Panels: special report*, Recommendation 2, p 27.

-
- appeal;
 - have a fair hearing;
 - obtain a remedy (this affects all appeals against permanent exclusion arising from disability discrimination).

We suggest possible solutions.

We also set out the sources of law and guidance.

QUESTION A: CLAIM AGAINST LEA

Where a child who is disabled is permanently excluded, and the parent asserts that the LEA (in addition to or as an alternative to the child's school) have discriminated against the child by failing to take reasonable steps to avoid less favourable treatment/substantial disadvantage, where does the parent take the claim against the LEA?

Problem with current law/guidance

1. It is questionable whether the Independent Appeal Panel (IAP) has power to hear the complaint against the LEA. There is nothing saying so in the law, the guidance or the ISCG/DfES exclusions training. In both the Code of Practice for Schools on Part 4 of the Disability Discrimination Act (paras 9.21 to 9.27) and the exclusions guidance, *Improving Behaviour and Attendance* (para. 47), there appears to be an assumption that claims of disability discrimination will be brought against schools alone. This will not always be the case.

2. Further, the IAP is constituted and trained by the local authority (LA), so that where an IAP hears a DDA claim against the LEA, the LA is in effect hearing a case against its own education department, an apparent breach of Article 6 (right to a fair trial) of the European Convention on Human Rights (as incorporated into English law by the Human Rights Act 1998) and common law natural justice rules. In non-DDA appeals, IAPs are considered to be borderline impartial given the LEA's role in proceedings and the heavy weighting in favour of schools.³⁴ The Court of Appeal in *P, S and T v London Borough of Brent and others* gave advice on how the LEA could stay within this role so as to ensure independence and impartiality. We argue that it is plain that a local authority becoming a party to an appeal would overstep the role's boundary.

3. Authorities have commented on IAP members' lack of training and therefore of knowledge of the basics of a fair hearing.³⁵ They have even less knowledge of special educational needs and the DDA 1995 (as amended by the SEN and Disability Discrimination Act 2001).

QUESTION B: MAINTAINED NURSERY SCHOOLS AND PRUs

Where do parents of pupils at maintained nursery schools or pupil referral units (PRUs) take a claim that a permanent exclusion amounts to discrimination on the grounds of disability?

Problem with current law/guidance

PRUs have a very high proportion of pupils with special educational needs (67% in January 2004),³⁶ and therefore probably have many who are disabled within the meaning of the Disability Discrimination Act. For both PRUs and maintained nursery schools, the LEA is the "responsible body" under the Act, and therefore will be hearing an appeal against itself. *Improving Behaviour and Attendance* states that maintained nursery schools and PRUs are covered by its guidance, unlike some other schools such as sixth form colleges which have separate exclusion procedures and where claims of disability discrimination would go to SENDIST.

The problem of lack of impartiality in the hearing of a claim clearly arises here.

³⁴ Council on Tribunals (2003) *Special Report on School Admission and Exclusion Appeal Panels*, para. 3.5.

³⁵ Council on Tribunals (2003) *Special Report on School Admission and Exclusion Appeal Panels*, Part 4.

³⁶ DfES (2004) Statistics of Education: Schools in England 2004 Edition, V05/2004, Tables 32A and 32B.

QUESTION C: LACK OF REMEDY FOR DISCRIMINATION IN ANY CASE

If the child had received a fixed period exclusion, the parent could take a claim of disability discrimination against the school and the LEA to the Special Educational Needs and Disability Tribunal (SENDIST) and receive proper remedies (such as staff retraining or implementation of the SEN statement). But in the much more serious case of permanent exclusion, the only remedy the IAP has available is reinstatement, and the discrimination may then be repeated. The independent appeal panel, then, offers no remedy for a case of disability discrimination leading to permanent exclusion.

Where should parents go in this situation?

Problems with current law/guidance

1. The law, guidance and training do not enable IAPs to offer a remedy where parents make a DDA claim. It is not even clear whether, if disability discrimination is found, the IAP should order reinstatement.
2. If parents seek judicial review of the IAP's decision where disability discrimination was alleged but the claim failed, all the court can do is quash the decision and refer it back to the IAP.

BACKGROUND

In 2002–03 it was estimated that 0.45% of all SEN pupils were excluded from school compared with only 0.05% of the school population with no SEN³⁷—nine times the likelihood. Two-thirds of permanent exclusions are of pupils with SEN. Figures released by the DfES in September 2004 show that despite a fall in the overall number of children being permanently excluded from school (by 250), the number of children with special educational needs being permanently excluded has risen (by 314).³⁸

The recent Ofsted report³⁹ on mainstream schools' capacity to include children with special needs made clear how patchy schools' response to the new disability discrimination duties was, and this confirms our impression from advice line work that many schools are resorting to exclusion rather than taking the “reasonable steps” that would prevent the exclusion of a child with special needs/disabilities, and that many LEAs do not institute reviews of need for more support until too late.

POSSIBLE SOLUTIONS

Three, in descending order of ACE's preference. Please note that there are under 1,000 appeals a year to IAPs over permanent exclusions, and of these the number that involve disability discrimination is probably tiny.

1. All exclusion appeals to go to SENDIST

Advantages:

unified system for exclusion and disability discrimination appeals;
impartial, independent;
knowledgeable;
trusted by parents;
structure already exists.

Disadvantages:

change may be opposed by heads, teacher unions;
will take longer;
not local.

2. All exclusions appeals involving disability discrimination to go to SENDIST

All advantages and disadvantages as (1) above, plus two additional disadvantages:

- (a) these exclusion appeals would take far longer to resolve than those that do not involve disability discrimination;
- (b) parents who do not have a disability discrimination claim may feel disadvantaged as their hearings may be seen as a second class service.

³⁷ DfES (2004) *Statistical First Release: permanent exclusions from schools and exclusion appeals, England 2002–03 (provisional)*, SFR 16/2004.

³⁸ DfES (2004) *Statistics of Education: Schools in England 2004 Edition*, V05/2004.

³⁹ Ofsted (2004) *Special Educational Needs and Disability: towards inclusive schools*.

3. Change constitution of IAPs

- make them part of national appeals service to remove LEA bias;
- require legally qualified chair;
- require rigorous training in SEN and discrimination legislation;
- balance membership.

Advantages and disadvantages as in (1) above.

SOURCES OF LAW AND GUIDANCE

Statute

Section 52 Education Act 2002

Part 4 Disability Discrimination Act 1995 as amended by the Special Educational Needs and Disability Act 2001.

Regulations

England

- SI 2002/3178 (The Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002); and
- SI 2002/3179 (The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002) (as amended).

Wales

- SI 2003/3227 (W.308) (The Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003); and
- SI 2003/3246 (W.321) (The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003) (as amended).

Guidance

Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units (DfES/0345/2004).

Code of Practice for Schools on the Disability Discrimination Act Part 4.

September 2005

Memorandum submitted by The Law Society

The Law Society is the professional body for solicitors in England and Wales. The Society regulates and represents the solicitors' profession and has a public interest role in working for reform of the law.

We welcome the opportunity to submit evidence to the Education and Skills Committee's inquiry into the provision of education for children with special educational needs (SEN) and the legal system that supports this provision. We believe that the legal system must continue to support the right of parents to choose inclusion in mainstream education for their child but we also recognise that special schools currently have an important role to play within the overall spectrum of provision for children with SEN.

PROVISION FOR SEN PUPILS IN "MAINSTREAM" SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

We believe that the current legal framework provides an appropriate balance between ensuring that children with SEN can be included in mainstream schools, while also facilitating parental choice and where appropriate the placement of a child in a special school. The Education Act 1996 enables a parent, as part of the statementing process, to express a preference for a state school and for that preference to be acceded to unless: the school is unsuitable, having regard to the child's age, ability, aptitude or special educational needs; or this would be incompatible with the provision of efficient education for other children or the efficient use of resources.⁴⁰ There is also a parallel duty which requires that the local education authority (LEA) secures a place for a child with a statement of SEN in a mainstream school, where the child's parent requests this, providing that this would not be incompatible with the provision of efficient education for other children.⁴¹ This provides parents with a strong legal right to mainstream education. We believe that

⁴⁰ Schedule 27.

⁴¹ Education Act 1996 Section 316 (as amended by the Special Educational Needs and Disability Act 2001).

inclusion in mainstream education not only benefits many disabled children, providing a right to enjoy the same equality of opportunity as their non-disabled peers, but non-disabled children also benefit from being educated in a diverse and inclusive environment, which will lead to a reduction in oppressive attitudes towards disabled people. It is, however, important to emphasise that the law does not provide that a child with SEN must be educated in a mainstream school and recognises that some children have severe and complex needs that require more specialist provision than is currently available in most mainstream schools. We believe that this is an important legal balance that must be maintained, at least until the same levels of good practice and provision that exists in special schools is also available in mainstream schools.

We are however concerned that many disabled children are effectively excluded from mainstream schools because of the failure to implement fully the provisions of the Disability Discrimination Act 1995 (DDA 1995). Schools are required under the DDA 1995 to prepare and publish plans to increase access to education for disabled pupils, and they must cover access to premises, the curriculum and providing written information in alternative formats.⁴² However, research conducted by Ofsted found that over half of schools had no disability access plans and, of those that did exist, the majority focused only on accommodation and in too many cases the plans "were merely paper exercises to fulfil a statutory responsibility rather than demonstrating a clear commitment to improving access."⁴³ Under Part 4 of the DDA 1995 schools are also required to make reasonable adjustments to ensure that pupils are not discriminated against because of their disability: however the research found that over half of schools were unaware of this duty.⁴⁴ We believe it is crucial that schools fully comply with the requirements of the DDA 1995 in order to ensure that wherever possible the barriers to learning that many disabled children encounter in mainstream education are removed. This will become increasingly important after December 2006 when the provisions in the Disability Discrimination Act 2005 are implemented, which will place a new anticipatory duty on public bodies to have due regard to the need to eliminate unlawful discrimination, eliminate unlawful harassment and promote equality of opportunity for disabled people. The new duty will place greater responsibility on schools and LEAs to proactively eliminate discriminatory practices, policies and procedures, rather than providing restitution when a disabled pupil has been discriminated against.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

We are concerned that children with SEN are significantly over-represented in national statistics for poor attendance and exclusion. Pupils with statements of SEN are almost four times more likely to be excluded from school than the rest of the school population and pupils with SEN (both with and without statements) are more likely to be excluded than pupils with no SEN.⁴⁵ We recognise that some schools are fully committed to including children who have SEN and have developed effective strategies to support their inclusion. For example through the *Excellence in Cities* programme some schools have appointed learning mentors to support individual pupils with challenging behaviour, including those with SEN, and poor attendance, in working towards targets in individual education plans. We believe that examples of good practice which ensure support for individual children with challenging behaviour short of excluding them and providing for children with SEN in admission arrangements should be shared with other schools through practice guidance. We also believe that good practice and greater awareness of disabilities could be included in initial teacher training and the standards for qualified Teacher Status.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS ("THE STATEMENTING PROCESS")

Within the current framework of practice we strongly support the statementing process and believe that the provision of a statement of SEN is vitally important for ensuring that LEAs provide appropriate support for children with SEN. Unlike children without statements, this gives the child a direct and personal right to receive the provision set out in the statement, rather than the LEA having a 'target duty' to provide.⁴⁶ Special educational provision must be specific and quantified and most importantly, the duty to arrange special educational provision set out in the statement is not subject to resource considerations, except that provision must be delivered in an efficient way. Our view is that this is an important legal right which is specifically targeted and helps to ameliorate disadvantage which arises from SEN.

As part of the statementing process, we believe that the right of appeal to the Special Educational Needs and Disability Tribunal (SENDIST) is a crucial and impartial tool in resolving disagreements between parents and LEAs, and one which is much valued by parents. Some appeals, particularly those concerning disagreements as to the type of educational provision that a disabled child requires, may reflect a genuine disagreement between parents on the one hand and LEAs on the other; while other appeals may be brought because the LEA has failed to carry out their legal responsibilities towards the disabled child. We believe that appeals to SENDIST therefore represent a key aspect of the matrix of arrangements for disabled children. It

⁴² Section 28D Disability Discrimination Act 1995.

⁴³ Special educational needs and disability: towards inclusive schools (2004) Ofsted: para 103.

⁴⁴ Ibid, para 104.

⁴⁵ 44 in every 10,000 pupils with statements of SEN and 46 in every 10,000 pupils with SEN without statements are permanently excluded from school. This compares with 6 in every 10,000 pupils with no SEN (Permanent and fixed period exclusions for schools and appeals in England 2003–04—DfES).

⁴⁶ see *R v ILEA ex parte Ali* [1990] COD 317.

is important to recognise that in some cases when parents disagree with the decision of the LEA, for example over whether their child needs the support and protection of a statement, then a legal challenge may be the only course of action available.

The Law Society also supports the use of mediation to ensure that practical educational solutions, acceptable to all parties, are reached as quickly as possible so that there is minimum disruption to a child's education and to ensure that in time the number of appeals going to Tribunal will be reduced.⁴⁷ We are however concerned that the time limits for lodging a Tribunal claim, currently two months, means that the adversarial route often has to be pursued as well as mediation, even if it is eventually abandoned. We are also concerned that some parents are given access to the disagreement resolution service only when they have lodged an appeal with the Tribunal, by which time parents are unlikely to feel inclined to negotiate with the LEA. Furthermore, mediation is most effective when both parties have a genuine desire to negotiate and we are concerned that some LEAs operate policies which add rigidities to their decision making, for example setting a maximum amount of support that will be provided for children with SEN.

We believe that legal action should only be pursued as a last resort and that the most effective ways of ensuring this, and making the process less bureaucratic, would be for LEAs to comply with their legal responsibilities, for example: by producing statements within the statutory time-limits; specifying the provision in a sufficient amount of detail; and by providing whatever provision is set out in the statement. We would also welcome a greater commitment to long term strategic planning by schools and LEAs to anticipate the needs of pupils with SEN in their area and ensure that they can participate in mainstream education. The legal definition of SEN includes the fact of a learning difficulty, which is an objective test, but it also includes whether or not educational facilities within an area are available to meet the needs of the child with SEN, which is ultimately subjective.⁴⁸ It is therefore likely that as schools increasingly make provision to meet the needs of children with SEN, then the numbers of statements will correspondingly fall.

We also believe that the effectiveness of the statementing process would be increased by charging a central agency, such as Ofsted or the Audit Commission, with the task of monitoring the provision of education for children with SEN and ensuring that LEAs fulfill their legal duties. This would help to ensure a more consistent approach by LEAs across the country when providing support for children with SEN. It would also mean that legal action would no longer be the only available option for parents seeking to bring LEAs to account.

We are concerned about the operation of the complaints system regarding assessment and statementing at both LEA level and the Department for Education and Skills. We believe that there is a significant level of unlawful practice by LEAs (ie beyond the proper exercise of their discretion) in the preparation of both generic SEN policies and in the assessment and statementing of individual children. The handling of complaints by LEAs often does not appear to result in appropriate remedial action and there is very limited apparent direction of LEAs to take that action by the Secretary of State through exercise of her powers under the Education Act 1996. We therefore believe that more effective and preventative policing of LEA performance is required. The above mentioned regime of supervision by Ofsted or the Audit commission could meet this requirement.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

The Law Society is concerned that children with SEN in the care of local authorities, who have no biological parent to share responsibility for their care, are unable to gain access to SENDIST. The law requires that only a 'parent' may bring an appeal or complaint to the Tribunal, which is widely defined in section 576 of the Education Act 1996 to include anyone who has care of a child but critically does not include the child him/herself nor anyone with an interest in the child but who does not have care of the child—such as an advocate or relative. This means that for a child who is in the care of a local authority where there is no individual person who has parental responsibility who is taking an active role in their life, the only 'parent' who might bring an appeal or complaint to the Tribunal is the local authority—the same body which has made the decision in the first place. We believe it is almost impossible, and virtually unheard of, for a social worker to take such an independent, robust stand against their employer.⁴⁹ According to Department for Education and Skills and Department of Health figures, a disproportionately high number of children with SEN are recorded as being looked after by local authorities.⁵⁰ Accordingly children who are already marginalised and disadvantaged through being in care and disabled, do not have access to any independent scrutiny body able to check whether the education provision they receive is appropriate or, indeed, lawful. We are concerned that this represents a significant lacuna in the statutory framework.

⁴⁷ The Special Educational Needs Code of Practice sets out the minimum standards required in delivering an effective disagreement resolution service.

⁴⁸ Section 312 Education Act 1996.

⁴⁹ The Independent Panel for Special Educational Advice estimates that in the last 10 years it is only come across 10 appeals to SENDIST concerning children in care, and many of these are likely to have been initiated by foster parents.

⁵⁰ As of March 2002, there were 59,700 children who were recorded as being looked after by local authorities. Of these 33,800 were children of school age who had been looked after for a period of at least 12 months and of these 26% had statements of special educational needs.

We recognise that parents often face significant difficulties when seeking to challenge the decision of an LEA about their child's education, due to the inequality of arms in the legal process. The Education Act 1996 allows for parents to be represented at the SENDIST, but makes no provision for the funding of that right. Free legal assistance is available for people on low incomes for preparatory work, including formulation of written grounds and representations for SENDIST hearings, from a solicitor contracted with the Legal Services Commission; however public funding is not available for legal representation at the Tribunal. The gap in legal representation is currently filled by voluntary organizations, such as the Independent Panel for Special Educational Advice, and lawyers working on a pro bono basis. This inequality is particularly marked when challenges need to be made in the High Court concerning the provision of education by way of judicial review. In contrast, the LEA has access to expert legal advice and representation and can easily access experts who can attend hearings on their behalf. A further extension of this disparity may occur with the introduction of the proposed 'Second Tier' Special Educational Needs and Disability Tribunal which is proposed in the new unified Tribunal service being established by the Department for Constitutional Affairs in 2006. We believe that this inequality of arms means that children are less likely to receive the support they need and encourages parental distrust in the system.

The Code of Practice on SEN acknowledges that parents have unique strengths, knowledge and experience to contribute to the shared view of a child's needs and the best way of supporting them. It requires all LEAs to make arrangements for parent-partnership services which must be publicised and must meet certain minimum standards.⁵¹ The obligations include the provision of information on the decision-making process and the provision of a disagreement resolution service where parents' views differ from those of the education professional. We support these initiatives and believe that parent-partnership services can help parents to navigate the education system. We are however concerned that the parent-partnership service is funded by the LEA, which raises a potential conflict of interest.

HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

We believe that the legal definition of SEN is an effective means of ensuring that children with SEN are properly identified and supported. Part 4 of the Education Act 1996 defines special educational needs as a learning difficulty that calls for special educational provision to be made. Special educational provision is defined as provision that is additional to or different from that made available for children of the same age in mainstream schools in the area.⁵² The Law Society believes that these definitions are sufficiently broad and flexible to enable decision makers to take into account the individual needs and circumstances of children as well as the provision that is already available locally. As previously noted, this definition of SEN includes both an objective and subjective element, which recognizes that not all children with a disability will have special educational needs. This ensures that the pupil's individual needs should be the starting point for decisions on special educational provision rather than using an inflexible categorisation of disability.

We believe that the existing statutory framework provides an effective mechanism for ensuring that children with SEN are identified at an early stage. Each Local Education Authority (LEA) is under a statutory duty to undertake an assessment if it considers that a child has, or probably has, SEN requiring the LEA to make special educational provision which any, or all, of the child's learning difficulties calls for.⁵³ If the LEA complies with this duty, and undertakes a full and comprehensive assessment in accordance with legal requirements, children with SEN will be identified at an early stage.⁵⁴ This system is supported by the Code of Practice which establishes pre assessment responses to children with learning difficulties, such as early years action/school action or early years action plus/school action plus; if properly resourced, these responses should also ensure the early identification of children with SEN and the provision of appropriate support.⁵⁵

We believe that some confusion in the law has arisen from having a separate definition of disability in the DDA 1995 and a definition of special educational needs in Part 4 of the Education Act 1996. This means that where a pupil is deemed to be disabled, in the sense that they require a statement of special educational needs, they are not necessarily covered by the DDA 1995; even though in practice the vast majority of those with special educational needs will also fall within the definition under the DDA 1995. We believe that the law should be amended to provide that all children with a statement of SEN are automatically defined as disabled for the purposes of the DDA 1995. This would provide greater clarity and reduce the complexity of many Part 4 DDA 1995 cases.

⁵¹ paras 2.18 and 2.21.

⁵² Section 312.

⁵³ Education Act 1996 section 323 (1).

⁵⁴ the detailed assessment procedures are set out in the Education Act 1996 and the 2001 regulations Education (Special Educational Needs) (England) (Consolidation) Regulations 2001.

⁵⁵ Special Educational Needs Code of Practice DfES 581/2001.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

We recognise that much conflict can arise between parents and LEAs about the best educational provision for individual children with autism. For example there are a range of views on the best way to treat children with autism and a range of therapeutic interventions available, including: the TEACCH approach (Treatment and Education of Autistic and related handicapped children), the SPELL framework, the NAS EarlyBird Programme, Lovaas based on intensive behavioural therapy, applied behaviour analysis (ABA) and the Son-Rise Program. Many of these interventions are conflicting, which results in the difficulty of parents requesting a particular form of therapy which the LEA will not or cannot fund. We believe that autism presents particular and growing challenges for schools and LEAs, as increasing numbers of children are diagnosed with conditions on the autistic spectrum, presenting with a wide range and complexity of needs.⁵⁶

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

We are concerned that where children with SEN, both with and without statements, are excluded, the Independent Appeal Panel is not the appropriate forum for deciding such cases. As previously noted, children with SEN are significantly over-represented in national statistics for poor attendance and exclusion. We therefore support the recommendation of the Council on Tribunals that exclusion and admission appeals should be heard by the Special Educational Needs and Disability Tribunal because of the link between exclusions and special educational needs.⁵⁷

CONCLUSION

We believe that the legal system must continue to support the right of parents to choose inclusion in mainstream education for their child but we also recognise that special schools currently have an important role to play within the overall spectrum of provision for children with SEN. Continued efforts are called for to ensure that more mainstream schools are able to admit and support pupils with a range of different needs.

We believe that the current legislative framework and judicial system is an effective mechanism for enabling children with SEN and disability to participate fully in mainstream education. The only major changes that we regard as necessary are the rationalisation of the definitions of SEN and disability and extending the remit of the Special Educational Needs and Disability Tribunal to exclusion and admissions appeals.

October 2005

⁵⁶ In a recent survey by the National Autistic Society, primary school teachers reported a prevalence rate of 1 in 86 pupils in school.

⁵⁷ School Admission and Exclusion Appeal Panel: Special Report (2003) Council on Tribunals.

Witnesses: **Mr John Wright**, Chief Executive, Independent Panel for Special Education Advice, **Ms Julia Thomas**, Solicitor, Children's Legal Centre, **Ms Chris Gravell**, Policy Officer, Advisory Centre for Education, and **Mr David Ruebain**, Solicitor, Law Society, gave evidence.

Q327 Chairman: Could I welcome our next set of witnesses, please, John Wright, Julia Thomas, David Ruebain and Chris Gravell. Thank you very much for spending the time with us. We want to talk particularly about some issues that have cropped up time and time again in this inquiry. Would you like to make an opening statement, or do you want to get straight into questions?

Ms Thomas: Straight into questions.

Q328 Chairman: Teasing away at this statement process, which is at the very heart of our considerations, on the one hand we have a process for statementing. We know that once you are statemented there is a statutory duty to provide what the statement suggests. We also know there is a complication that the local authority both is in

charge of the statementing process and then the provision of whatever the statement suggests. We know in the background that Scotland seems to be going (as so often) in a different direction on this. How fit for purpose now is the statementing process?

Mr Ruebain: Thank you, Chairman. My name is David Ruebain. I am Chair of the Law Society's Mental Health and Disability Committee and I am a solicitor in private practice. I have a specialist department in education and disability law, so this is really my area of work and it has been for 16 years. Incidentally, although it was a very long time ago, I did attend both special schools and mainstream schools myself when I was a child. I am a big fan of statements. I am a big fan of the current statutory regime, for a number of reasons. First of all, unusually, it provides for disabled children—who I often choose to call "marginalised groups" because,

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in this context, when we are thinking about disabled children or children with special educational needs, really the purpose of the law is to reflect the fact that for whatever reason they are being marginalised. So it is not so much about the nature of their impairments, their medical or quasi-medical conditions—although that is relevant, of course—but it is about how to overcome what would otherwise be an experience of exclusion. The statutory framework governing assessments and statements is unusual, in that, if it is properly carried out, it affords such children a direct right to receive the provision that they require. If it is properly done, that can be a transformative experience. It can, in effect, guarantee the children that they will be given what they need in order to do everything that everybody always agrees is an essential part of education: allow them to thrive, make the most of their school careers, become active citizens and so on. For those reasons, in summary form, I think that we should act very carefully before we decide that we want to get rid of that system.

Q329 Chairman: David, you did very well in terms of introducing yourself as well as answering the question. Perhaps all of you could do that. Julia Thomas, is it fit for purpose?

Ms Thomas: I am a solicitor specialising in education law at the Children's Legal Centre, which is a national charity dealing with children's rights. I have been working in this field for four years now. I also have a child with a disability who is on the autistic spectrum, so I have some experience personally as well of education within a mainstream school for a child with a disability. I think I would agree with David that the system, if it works correctly, is a good system. My concern is that in very many areas the system is not working very well at the moment. I think there are a number of reasons for that. I think parents receive insufficient information about the system, and, sadly, sometimes they receive incorrect information about the system. They may, for example, if they speak to special needs within the school, be told, "Oh, there's no way that your child will get a statement, there is no point in you asking for a statement" or they may not be told that they have the opportunity to request a statutory assessment. There are very many parents out there who could have asked for a statutory assessment but have never received the information to enable them to do so, and a lot of children who are missing out as a result. I think that is one problem.

Q330 Chairman: Is that the reason, when you look at who receives a statement, that it is very often the more middle-class professional families, who are able to get through the hoops.

Ms Thomas: I think that is quite right. One of the things we are trying to address within my particular organisation is how we can get access to parents from other groups, because at the moment we are dependent upon parents telephoning us for our advice and we need to be able to reach into groups where they would not normally choose to do that. That is quite a challenge for us. Certainly many of

the parents who ring us, even those from middle-class backgrounds, are saying, "Well, we were not aware up until now that we could ask for a statutory assessment." Sometimes the children in question are 12, 13, 14 years old and they have gone all the way through the system without the parent knowing that there was that opportunity for them.

Q331 Chairman: John Wright, what is the average wait for a statement, even if one goes for a statement? The common complaint one hears, certainly as a constituency Member of Parliament, is that it is a very long process.

Mr Wright: It ought not to be because the process is dead-lined in law. I work for a charity called the Independent Panel for Special Education Advice. We are a parent-led charity. We advise about 4,500 parents of children with special educational needs a year. We target information about our advice services to low income families: generally about 50% of our parents are from households with annual incomes of below £25,000 a year. We try to break this problem you identified, in terms of a complex procedure being more accessible to middle-class families, but it is true that this is difficult for all parents. The difficulty arises, in our experience, not from problems with the legal framework or the assessment system or the statements; the problem arises from local authorities disregarding their duties in law. This is the main problem area—and often that is by stated policy.

Q332 Chairman: Chris Gravell, is that not at the heart of the problem? There is a sense in which there is no bog standard child: every child has special educational needs at one level; every parent knows their child much better than anyone else, on average; but there is a tendency to have this local authority view that every local authority could be bankrupted if all the statementing took place and all the full implications of the resource had to be delivered. Is this not a recipe for bankruptcy for most local authorities, if they were to take it to its logical conclusion?

Ms Gravell: I am the policy officer for the Advisory Centre for Education, which is an independent national charity advising parents throughout England and Wales, mainly through telephone advice lines but also via our website and via books we publish.

Q333 Chairman: Were you originally set up by the famous educationalist Brian Jackson?

Ms Gravell: That is right.

Q334 Chairman: Who came from Huddersfield.

Ms Gravell: That is right.

Q335 Chairman: I just felt I had to get that plug in.

Ms Gravell: Yes, he had a huge concern about the success of working-class children in the education system, which is relevant nowadays. The argument that this is going to open the floodgates may be true, but I do not think there is enough evidence out there of how many children do actually deserve

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statementing as opposed to being judged to be within arbitrary targets or thresholds by local authorities. I do not think local authorities themselves know what would happen if they freely advertised what could potentially benefit the children they are looking after. There is an advantage about statements—which I want to stress, because we are an organisation for parents. The legislative framework was miles ahead when it was passed, by giving parents standing for children, acting for their children, the right to initiate, the right to participate in the process and the right to challenge the outcome and go to an independent tribunal if they disagreed with the decisions. There are problems with looking, for instance, at alternative frameworks, if they do not carry out those functions for parents. We really need strong rights for parents acting on behalf of their children and to get the entitlement their children need. Could I comment on the point that it is a system for middle-class parents?

Q336 Chairman: Yes.

Ms Gravell: Obviously any complicated system is going to advantage people who keep documentation and are literate. But there are ways that the Government deals with that in other areas, where they try to make systems accessible to parents. I think that is a problem for the system and for government. It is not a reason to say this system is a discriminatory one. There are ways for dealing with discrimination.

Chairman: It is our job to articulate what we have picked up in previous evidence, but I take your point. Does anyone else want to go in on that first round? Douglas, you have your first question in the Committee.

Q337 Mr Carswell: Picking up, Julia, on some of the points you have made, would you have any sympathy with the view that the statementing process as it stands is fundamentally flawed, in that it allows the so-called experts, the LEA experts, to be too vague and non-specific about the provision for the child. In my experience, for example, Essex Local Education Authority has tended to drag its heels, wriggling out of the provision and the legal entitlement. They are experts; it is their full-time job. Not only does this discriminate against vulnerable families who perhaps lack the access to information and the ability to take on the experts, but do you have sympathy with the view that we perhaps need to replace this current system with a far more specific means of assessing people's needs, possibly even quantifying the financial entitlement to which that child is entitled?

Ms Thomas: I think it is a very important point that you are making. Certainly we see huge numbers of statements, and many of them which have been accepted by parents are extremely vague. As was raised by your previous set of witnesses, there is a problem in this whole area of enforceability. I think it is particularly true in relation to statements, because, although there is a legal duty on the authority to provide what is set out in part 3 of the

statement, in reality, if they fail to do so, it is extremely difficult to do anything about it. To my mind, one of the big problems is that the special needs tribunal does not have any jurisdiction in relation to enforcing statement provision—which I do find difficult to understand, given that they have a similar jurisdiction on their disability side. The other problem is that if you are going to enforce a statement, you have to look at judicial review. There is no way you will succeed in a judicial review if the statement is not very specific about the provision. It is very unusual for the statement to be so specific that it is enforceable. I think it is a very good point that local authorities—not just Essex—do tend to make those statements deliberately as vague as possible and much of my time is made up with parents and LEAs negotiating to try to get those statements into proper order. I would say it is not a question necessarily of changing the statementing process; but I think it may be necessary to tighten up the local authorities' duties in terms of how they express their support in the statement, particularly in part 3, and also looking into how there might be an enforcement mechanism should they fail to put that support in place.

Q338 Chairman: Do you agree with that, David Ruebain?

Mr Ruebain: I think Mr Carswell's point, if I understood him correctly, was to replace the existing system with one where we allocated a sum of money.

Q339 Mr Carswell: Ultimately, if that is the way we need to go in order to make sure that the children get their entitlement specified.

Mr Ruebain: I would not agree with that, if I may say so. The problem at the moment is not with what the law says—because the law does require a higher degree of particularity in the statement. The problem is that many local authorities do not comply with the law. Were we to change the law to say that local authorities would have to allocate an amount of money rather than to particularise provision, then that would weaken rights for children, because it might be that that money may happen to purchase the support that they need, but, equally, it may not. The only way that you can guarantee that a child who needs additional different provision will get it, is to set out what that additional and different provision is. That is precisely what the law requirement is at the moment. My own view is that the law as it stands at the moment does not need a radical overhaul. If I were to press for any particular change, it would be to press for greater policing arrangements of local authorities.

Q340 Chairman: John Wright, you have indicated that you want to come back on a point.

Mr Wright: On this point, when SENDA 2001 was going through Parliament, we made representations to the Secretary of State and the DfES for an amendment which would slightly expand the existing duty in law to specify the special education provision required; to expand it so that the law read “to specify the kind and quantitative amount of

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special education provision required". In effect, this would have taken something that is clearly in the Code of Practice—of which local authorities are aware but disregard—and put it into the primary legislation. The Government did not favour that—in fact, at that point they did not favour having it in the Code of Practice, so there were great problems caused by that. But what made me nervous about your question was that you started off by saying, "So is this law ineffective or do we need to change this law"? Desperately we must hang on to this law. This law guarantees an entitlement to children. Try to change the law overall and you will be lobbied mercilessly by those people who want to remove the entitlement and they will do it under a variety of charades but get something less bureaucratic, get something quicker. The enemy here, in terms of the enemy of children's rights, want to remove the entitlement—and that absolutely has to be hung onto. The answer then is not to overhaul the law but to look at this precise problem and amend the law to cover it; that is, to strengthen the law.

Q341 Chairman: Going slightly off at a tangent, if I may, you said that some LEAs do not comply with the law. Does Essex comply with the law in your opinion?

Mr Wright: Not always.

Ms Thomas: I am in Essex, and I would say: no, most of the time not.

Q342 Mr Carswell: I have only been an MP for eight months, but I am inclined to agree.

Mr Wright: It is also our experience from our casework.

Ms Gravell: I would like to add that there is a policing mechanism available now which should be used. When Ofsted inspects local education authorities, it looks at their statutory duties with regard to SEN. It has a regular section within the LEA inspection reports devoted to that. Rarely do they identify content of statements and this very important duty as something which they inspect. They usually talk about adherence to time limits. If an LEA like Essex adheres to time limits but produces a rubbish statement, they are said by Ofsted possibly to be meeting their statutory obligations, whereas actually they have evaded the most important one they have to an individual child. I think we could urge Ofsted and other inspection agencies to look at that duty more carefully for content as well as process.

Q343 Jeff Ennis: I would like to ask our witnesses, given that the rest of the UK legislatures, including Ireland, are moving away from the statementing process, why should we persevere? Why are they moving away from it and we are wanting to stick with it?

Mr Ruebain: I know that Scotland has changed its framework. I do not know that Northern Ireland has.

Mr Wright: Northern Ireland has not.

Q344 Jeff Ennis: Northern Ireland is part of the English legislature.

Mr Wright: No, it is not. It is a separate law but it is very, very similar. It is based on statements.

Q345 Jeff Ennis: Okay.

Mr Ruebain: I have to say I do not know exactly why Scotland decided.

Q346 Jeff Ennis: Wales are going down that route as well.

Mr Ruebain: The law that we are talking about today covers Wales as well.

Jeff Ennis: I understand Wales are looking to move away from it as well.

Chairman: Let us not have a discussion about this. The one we know about is Scotland. Let us stick with Scotland.

Q347 Jeff Ennis: And Ireland, Chairman.

Mr Ruebain: I do not know why they have done it, but my guess is this—and I suppose it is a half-educated guess. One of the first things I said is that special educational needs law is unusual in the way it provides for marginalised groups. If you look at parallel legislation, for example, community care law, services for disabled adults and others who need additional different provision, a key aspect of that legal framework is that whether or not a person has a need depends in part on the resources available to the local authority. Conceptually, it is a somewhat bizarre idea. It seems to me you either have a need or you do not have a need. But certainly in community care law you can have a need if the local authority can afford it, but, suddenly, if they cannot afford it, you no longer have that need. The position is different in special educational needs law. I recognise that that makes it more onerous on public bodies because it means, unusually, they have to find the money for a marginalised person if they decide they need it. It is different from health law; it is different from community care law; it is almost unique in special educational needs law. My guess is that maybe public authorities simply do not like that. It means that they have to guarantee provision, whereas they do not have to in other sectors, and maybe the pressure has been brought to bear on Government or on the Scottish legislature to say, "Can't we relax this a little bit? Can't we have slightly more flexibility?" My own view, for the reasons you have heard, and those of my colleagues here as well, it seems to me, are against that. But I suspect that that is the reason: because of effective lobbying.

Q348 Jeff Ennis: Going back to Baroness Warnock, she said in her report last year, "Far too much of the expenditure on special needs was taken up with the bureaucracy of assessments."

Mr Ruebain: I do not want to hog this but I do want to say something about Baroness Warnock, if I may, because I listened very carefully to the last set of witnesses. My great concern about what Baroness

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Warnock wrote in the paper that she published in April last year, and also because I have read some of the transcripts of her evidence to you when she spoke to you, is not that she takes a view with which I happen to disagree—because of course she is entitled to that view: she is far more experienced and important than I am in this work—but that she premises her opinions on a series of factual positions which are plainly wrong. My concern is that she has premised a lot of what she has said and the information she has given you is premised on information which is simply not true. I am sure it is inadvertent, but it is wrong.

Q349 Chairman: Which information?

Mr Ruebain: For example, in her paper she says that 20% of children in schools have statements, to support her view that it is a wholly bureaucratic situation. That is not true. It is 2%. Somehow she has multiplied the figure by 10. She also said, I think to illustrate her point that schools are under great and unwarranted pressure to meet the needs of disabled children, that if the head teacher were to exclude a disabled child, he or she would face criminal sanctions. There are no criminal sanctions. Criminal law has no part to play in this area of law. I do not want to occupy all your time—I have a long list which Mr Wright and I will put in a paper which we will publish shortly, hopefully—but my concern, although she is obviously entitled to her opinion, is that a lot of what she says is premised on no research or simply it is wrong. I do not know how else to put it, but it is just wrong.

Q350 Chairman: You will give us the information you have not given us orally today.

Mr Ruebain: I am happy to send it to you, yes.

Q351 Jeff Ennis: So you would dispute, David, the fact. There is not too much money being spent on the bureaucracy of the assessment process rather than on the provision.

Ms Gravell: I was part of a campaign umbrella group during the 2001–02 campaign over the Code of Practice. During that time, the organisation wrote to the DfES and asked for a figure for how much was spent on the bureaucracy of statementing (that is, the administration rather than the valuable bits which actually address the needs of the child). We got a response that in their estimate it was 4% of the total SEN budget. I do not think that is a lot. Statementing usually happens only rarely in a child's life—it can sometimes be only once—and it is like a capital investment. You are making one big effort to identify that child's difficulties and the provisions to meet those difficulties. After that, you have some renewal processes of reviews, possibly amending the statement, but you do not necessarily go through that full thing again. The chief expense in statementing is on getting the experts to have a look at the child. I think one of the problems that we have identified in the current situation is the drop in the statutory assessment bit of the process. It is all very well to say we will get rid of statements because they are bureaucratic, but if you do not have that big,

multi-agency, full-team look at the child, the school does not necessarily ever get a chance of properly addressing the child's needs, because they have not identified what the difficulties are properly and they have not identified how to address those difficulties.

Q352 Chairman: On a point of order, John, unless the lady who gave you that slip of paper is with you as an advisor, it is not allowed for members of the public to pass information. I would remind members of the public that that is not acceptable. I am sorry. Please do not let us have that again.

Mr Wright: On this issue of bureaucracy and the assessment process being over-bureaucratic, the point we have tried to make in our written submission is that it is simply difficult to see how assessment could be more stripped down than it already is. What would you dispense with? The professional's assessment of children, the local authorities reading the reports and summarising them in a statement or pressing the button that prints the statement out of the computer and then the stage where parents are allowed to meet and talk about it? This seems to everyone who works in this field to be pretty minimalistic really. Where is the fat here that you would dispense with in terms of individual children?

Q353 Chairman: You are emphatically all of that view, are you?

Ms Thomas: Could I make an additional point? I do think that money is wasted but I think money is wasted very often because local authorities make foolish decisions about cases that come into the process. If I could give you an example of such a case: I have to spend a whole day tomorrow involved in an appeal to the tribunal where it is accepted by the local authority that the parents' preferred choice of school is suitable for the child and is no more expensive than the school they have named in the statement, but, nevertheless, they are insisting upon contesting the appeal. We are going to spend a whole day, at considerable cost to the public purse—and, might I say, to the charitable purse that is paying for me—in order to resolve an issue which could have been resolved quite simply through a meeting. That certainly is a waste of money, but it is not as a result of the bureaucracy of the statementing process, it is about how local authorities are reaching decisions to fight cases.

Q354 Stephen Williams: A witness made the point last week in an evidence session about the bureaucracy of statementing that if a child has a statement given by one local authority, let us say Bristol, but then they move to Gloucestershire, they have to go through the process all over again.

Ms Thomas: That is not true.

Mr Wright: That is not true.

Chairman: They are all shaking their heads at that, Stephen.

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Q355 Stephen Williams: That is why I was asking, because I do remember a witness saying that last week and it surprised me. I thought that was an interesting point and I wanted to hear your opinions, but you are all saying that is not the case.

Mr Ruebain: The short answer is that it could be that the new authority would decide to do a reassessment, but they do not have to. The regulations provide for them to step into the shoes of the old authority, so they take responsibility for it. They can look at it and decide that it is perfectly adequate and they will just carry on maintaining it. They do not have to do anything. They do not have to start the ball rolling again.

Q356 Stephen Williams: Might it have been the case that the child with the statement turns up in a new authority and the new authority is effectively not wanting to put the resources behind the statement and therefore they go through the process again?

Mr Ruebain: Possibly,

Ms Thomas: It may be so.

Q357 Stephen Williams: Perhaps we could check the transcript again to see what came across.

Mr Ruebain: In relation to that, could I say that there is a problem in relation to looked-after children who have moved from one authority to another, because very often that does not get supported.

Q358 Mr Chaytor: You are obviously in support of statementing, regardless of certain reservations about the limitations of the local authorities' implementation. But what is the alternative? Those who argue against statementing, as a point of principle, what are they saying should replace it?

Mr Wright: I have not heard an alternative. I believe when Baroness Warnock was asked this at the Committee she said she did not have any ideas because she was not an expert. I have not heard an alternative to statementing as a way of guaranteeing that children receive the provision that their needs call for, in the same way as I have not heard an alternative scheme for assessment that is less detailed or less bureaucratic. This is a question you must put to the critics of the current legal framework: "What is your alternative?"

Q359 Mr Wilson: I have just dug out the notes of the session we had with Baroness Warnock and one of the things she was saying about the statementing process is that she felt it was totally inequitable. She compared the example of two children, one of whom went through the statementing process and ended up in a school and one of whom did not even get to the statementing process because the local authority withheld financial resource or whatever. So two children with the same special needs ended up in totally different circumstances.

Mr Wright: The law provides for—and it is one of the values of it—an assessment of an individual child's special educational needs and the extent to which those needs can be met from the provision available to them in their ordinary school. An

assessment is a bipolar decision; it is not just based on the needs. Whether a child needed a statement or not would depend on the resources, the expertise that happened to be in that ordinary school. So it is quite fair and possible for two children with exactly the same needs to be receiving exactly the same provision but one of them without a statement and the other one with a statement. There is nothing inconsistent about that.

Q360 Mr Wilson: Do you not think a system that has such vast differences in outcomes for children with the same problem—

Mr Wright: It should not.

Q361 Mr Wilson: Exactly, it should not.

Mr Wright: This system should not—

Q362 Chairman: Through the chair, please.

Mr Wright: I am sorry.

Q363 Chairman: It is very difficult, because our team stretches right down the table and you are very close and it gets to a personal conversation. We have to make sure that does not happen. You have a rest for a moment, John, and let me call David Ruebain. You have made an attack on the facts of what Warnock said, so would you like to come in.

Mr Ruebain: She was obviously referring to a particular situation with which she was familiar and I am not, but, if the current statutory framework is properly applied, it is designed, quite properly, to deliver the provision a particular child may need having regard to his or her local circumstances. Let's say if you took two children with Down syndrome, by way of example, and one of them happened to be in a particular local school which was heavily resourced with certain levels of support and the other child was in a different school in a different area which had a different matrix of arrangements. It is quite correct that they should have different statements; it is quite correct that in fact one of the might even not need a statement if it so happens that all of his or her needs could be delivered through the local resources. There is nothing improper about having two children with the same disabilities but one has a different statement from another, because of the quite correct position that they are designed to address the gap between their needs and provision. Could I pick up one other point that was raised as well?

Q364 Chairman: Yes.

Mr Ruebain: I know the US has a similar framework to ours. Their legislation is called IDEA—and I forget what the acronym is for—which is aimed overarchingly to consider each particular child's needs and draw up a plan for them. I would not pretend to be an expert on the international position but I understand that there are other parallel arrangements which do what we do.

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Q365 Mr Wilson: I think we are coming to a consensus that the current system is not working, but your answer seems to be that if you enforce the rules properly which are already there the system will work.

Ms Thomas: If there is a means of enforcing them—an effective means of enforcing them.

Q366 Mr Wilson: Do any of you have an answer to that particular question that you have posed? What are the effective means of enforcing the current legislation that already exists?

Mr Ruebain: We have all made suggestions on this. You could compile a list. The Secretary of State has enforcement powers. The Secretary of State is too reluctant, in our view, to use these crisply, publicly, in a way that sends a message to all local authorities. The Secretary of State would deal in a secretive way with one complaint relating to one child, usually persuade that LEA to amend its ways behind the scenes, so no-one hears about this, but nevertheless there is an enforcement power there. We have argued for a number of years that the special educational needs tribunal should be able to address more than just an individual child's problem; for example, when a parent appeals and as part of the documentation there is evidence that an authority is pursuing an unlawful policy never to quantify provision in statements. This happens. This comes before tribunals. At the moment all they can do is make an order that corrects that one child's statement, leaving the authority absolutely free to continue with the policy. We argue that the tribunal should have broader powers, in order to be able to make an order that would correct behaviour across the board within an authority when an individual case gives them the evidence that was needed. These are two areas. Other people will have other ideas. But enforcement is not a technical problem; it is a lack of political will.

Mr Wilson: That answers the question I was going to ask: Why do you think the Secretary of State is so reluctant to enforce these powers? You think it is a lack of political will—or do you think there are financial reasons?

Q367 Chairman: Does anybody else want to come in on this?

Ms Gravell: I would like to go back to your original question, when you said that the whole system is not working, and also to refer to the total inequity that Baroness Warnock was talking about. I do not think we can say that. We can certainly point to the fact that on our advice lines SEN is disproportionately a huge topic, but then it is something that really bothers parents of children who are having difficulties. We can also point to the fact that a minority of disciplines in SEN, challengeable decisions made by local education authorities, are challenged and taken to the tribunal. I think we all know of authorities which never turn up on advice lines or as big causes of problems for parents. I think you can look at good practice. There is good practice in individual schools and individual authorities, so it is not the case that we have a total breakdown, and

we can actually learn from that good practice and look at what is going wrong in the authorities that are turning up over and over again on advice lines. It is not just a matter of seeking new measures. There are things that people have the potential to do now—like Ofsted coming in, looking at individual schools, looking at authorities and so on—to make sure that the current system is working better.

Chairman: We would be grateful, as a Committee, if you could give any steer on which authorities are better and which are worse, because we are planning visits. It does not have to be on the record, but if you could tell us where to look we would be grateful.

Q368 Mr Wilson: I would like to pose to whoever wants to answer it, the same question I posed to Baroness Warnock back in October. I think it is £70-£90 million that we are currently spending on the statementing process, do you think we are getting good value for money from that process?

Mr Ruebain: I find it impossible think in these sorts of macro terms: What is the right number of million or hundreds of millions of pounds to spend on it? If you look at the NHS, I do not know what the figure is on the provision of human resources, for example, but presumably it is tens of millions of pounds, so the question is: Is it a good use of money? On the face of it, if you say, "Give me £10 million," I would have a whale of a time, but it would be completely ludicrous for me to say that is the wrong amount of money. I do know, however, that in her paper there is no evidence to suggest that it is an over-bureaucratic arrangement. Unfortunately, Baroness Warnock makes a series of assertions about the effectiveness of provision on no evidence at all. It does not say on the basis upon which she has decided that £70-£90 million is too much. I do not say that there is not room for making things more efficient—I am sure there are—but I have no way of saying why that figure is way too much and what is the way that we are going to deliver targeted provision for marginalised children without having a level of bureaucracy, as you would for any kind of public arrangement.

Q369 Chairman: John, you are looking excited about that question, do you want to come in on it?

Mr Wright: The question seems to leap a stage, in a way. We have a legal framework which was consciously designed and adopted across party. I think Margaret Thatcher set up the Warnock Committee; James Callaghan's Labour Government drafted the Bill; then Margaret Thatcher as Prime Minister enacted the Bill as the 1981 Act. If you look through all of the debates, there was never an argument, never a whisper of disagreement with the fundamental principle behind this law, that children with learning disabilities should receive/must receive/will by law receive the provision that their needs call for. That is a principled statement, it is a correct statement, but of course it is a democratic society and, if someone wants to change the law in order to remove that right from disabled children, that right to the educational

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provision that their needs call for, then this is the right place for that sort of law to be changed. But that is essentially at the bottom of this. There is no way this could be cheaper than meeting the needs of children who do not have learning disabilities or special educational needs; it is simply something which our society has been committed to and on which there has been cross-party commitment since the late seventies. I see no argument or evidence that we can dispense with this particular protective legal right for children—this safety net, as it were. There is no evidence at all that it would be safe to dispense with this on the basis that there is sufficient goodwill and ability existing amongst LEAs in schools now to meet children's needs without the legal framework. In a sense, there is not.

Ms Gravell: What does that figure cover? I do not think it is the process of statementing. In 2004, 26,000 children received new statements. What is the average cost of that? Not more than £6,000 per child. You were quoted a figure by the DfES, were you not? If not, it is available from the DfES, I know. But that does not add up. I think again we are getting confused about what is the bureaucracy we are talking about that is costing us, rather than the provision for the child which has to be made anyway, which will have to be made under an ideal system in the utopia we are moving towards.

Q370 Chairman: Very few of you have said what some of us picked up on visits to schools in our own constituencies to talk about this issue: sometimes heads and teachers say very often it is the teachers who have a better knowledge of the educational needs of a pupil and some of them resent the fact that the statementing process brings in these experts from outside. Is there something about the quality of the experts who are brought in, the educational psychologists or whoever they are? Is that an area you have looked at? It does seem to be patchy, again depending on which local authority you are in. What is the quality of the people who do the assessment and what is the uniformity or the checks that that is a satisfactory process? How good is that stage? And, of course, with Rob's question, how expensive is it? Would anyone like to come in on that?

Ms Thomas: In addition to my professional role, I am also a governor in a foundation secondary school, so I have quite a lot of contact with how the school operates in terms of SEN. I have talked to our SENCO regularly about the schools' attitude to SEN. I have to say, it has not been my experience that teachers resent the statutory assessment process. I find that many SENCOs I talk to are very happy when the statutory assessment process starts. Many of them have been saying to the authority for a long time that they want one and, in fact, they welcome the experts coming in and they welcome the input they receive from those experts in assisting them to meet the needs of the child. I cannot say it has been my experience that there is that resentment by and large.

Q371 Chairman: Our experts are all right?

Ms Thomas: If you deal with the county educational psychologist, for example, their problem is they have huge numbers of children for whom they are responsible and very limited time. They are not going to have huge amounts of time to spend with any individual child. In my experience in Essex, most of the time the educational psychologist might spend 15 to 20 minutes with a child if they are visiting at the request of the school, if they are doing an assessment for a statutory assessment they might spend an hour. You would compare that with a private educational psychologist who we might instruct on occasion, who might spend a whole day with the child. The quality of advice that is going to come through the county educational psychologist inevitably, however good they are, is going to be limited.

Q372 Mr Wilson: What schools do resent is that the statementing process takes an awful long time, six seven months, and the schools have to invest a substantial amount of budget in that which they do not get refunded—yes, they do—from local authorities. This has been a common theme with a number of schools that I have visited.

Ms Thomas: I do not disagree that that may be true, but I think there are equally large numbers of schools who would like pupils to be statemented. The local authorities are not statementing them and the schools have to find, from their own resources, huge amounts of additional money to support those children within school because the local authority will not do a statutory assessment.

Mr Wright: That is the cost. The cost is that the school will do its best, of course, to meet the child's needs in a situation where they are not resourced to because of the time the LEA may take for doing the assessment. The assessment process should not absolutely be a drain on the schools' resources, because all they are asked to do is to submit an educational report. In any case, that will normally draw together information already available on file. I would go so far as to say in most cases this should be cost neutral.

Q373 Mr Carswell: We talked about some of the flaws in the current statementing process and the current system. Do you think some of these weaknesses fall particularly heavily on those with more moderate special needs because by nature on the spectrum it allows more wiggle room for the LEAs to evade what would otherwise be their statutory obligations? Do you think it is particularly with those with more moderate special needs that some of the failings in the current system apply?

Ms Thomas: I would say with the more moderate special needs they largely do not get into the statementing process anyway because schools will try to deal with them with school action or school action plus and may well say to any parent who queries it, "I do not think you are going to get a statement".

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Q374 Mr Carswell: It fails them completely.

Ms Thomas: I would say many, many children with moderate difficulties do not get into the statementing process at all. Certainly, if you take the case of high functioning autism, which is my personal experience with my child, that was not picked up or supported through the statementing process.

Q375 Chairman: I think we may have to have you back again because we are running out of time.

Ms Gravell: We have got a special concern about the children who do not get statemented, the children who are on the school base stages, because of the reduction in statementing in a lot of authorities and the increased delegation of funding to schools. You need to have a really robust system for these pupils so their progress is properly monitored and their needs are identified properly. I think we gave an example of a child who was assumed to have a literacy difficulty which was being addressed through phonics. He was discovered, when his parent got a private assessment, to have an auditory processing difficulty. He could not understand the phonics, it was like being shouted at in a foreign language and he needed an entirely visual route. That is a problem. If the multi-agency assessment, which is part of the statements, is going up and away from a lot of these children, and you get more children who would have had that look at them in the previous funding regime, you need an identification of need and a proper identification of strategies to meet those needs and thereafter you have to have proper tracking of whether those strategies are working. Ofsted pointed out in its 2004 Report that schools are not very good at doing that nor are local education authorities where statements are concerned. One of the problems is the anti-bureaucracy campaign is targeted at what is called individual education plans which are the things that are meant to monitor the pupils on the school base stages. You are supposed to have your targets and your strategies in place and then at timely intervals you look at how far you have gone. If you have not met those strategies, or you have met them and you need some more, you have a review and you put new ones in place or you vary the amount of support and go up a level. If you do not have that kind of tracked process, you have lost the ability to respond properly to that child's difficulties.

Q376 Mrs Dorries: To move on to a slightly different subject, John, you are from IPSEA. In terms of authorities, they have a statutory obligation to statement children and yet many authorities act as though it is a discretionary right, and they quite often withhold the information from parents that it is a statutory obligation. That is obviously evidenced by the number of SEN tribunals we have. Do you, from your organisation, have any particular examples of any authorities which particularly abuse this, who are known or infamous for not letting parents know that they have that right in law and are treating it as though it is discretionary?

Mr Wright: I do not have information to hand which I can read out now, I can certainly provide it. On our website we list and document those authorities that we make formal complaints against to the Secretary of State for threats of judicial review. They are authorities which are—I would slightly reword it, but they are roughly what you describe there—pretending that they do not have a statutory duty. They are misinforming parents about the nature of their duties in law.

Q377 Mrs Dorries: There must be one or two you can name now off the record.

Mr Wright: Obviously we database our casework, so if I just mention two names. This is slightly strange, perhaps. Over the last seven years we have had more calls from parents with difficulties in Essex than any other local authority. This is what I always find interesting, the second in the list is Hertfordshire but, also, over these seven years we have had twice as many calls from parents in Essex as Hertfordshire, so Essex is way out in the front and has been for a long time.

Q378 Chairman: Something is happening in Essex.

Mr Wright: You are going to ask me why.

Q379 Mrs Dorries: Has not somebody from Essex in a key position just gone to the DfES to be the special needs adviser?

Ms Thomas: That is quite possible, yes.

Chairman: You are asking the wrong people.

Q380 Mrs Dorries: You do agree that is an issue. Do you think the SENDA Act 2001 has made life worse or better for children with Special Educational Needs?

Ms Gravell: There were two completely separate bits in that Act, were there not, there was the bit which opened up the possibility of disability discrimination claims for children in schools, and that is an absolute gain which has been needed for a lot of years. There is no way anyone can say that has not made life better. With regard to SENDA in terms of the SEN law, it was a lot of small changes to bits of the legislation. Yes, I think all of those were positive changes. However, the difficulty in your question is if this is a law on a piece of paper, is it being enforced? Is it a good Act in terms of improving the situation?

Mr Ruebain: Broadly I agree. I wonder if there is something specific you have in mind, Mrs Dorries, but I think SENDA was a great triumph for disabled children.

Q381 Mrs Dorries: My second question is about SEN tribunals and the cost and disparity between access to SEN tribunals. Because authorities are not honouring their statutory obligation to statement many parents have to go to the point of a tribunal, which is at a huge expense. Do you have any particular experience of parents who have had to go to huge expense? Also, is it the case that when parents do get there and they do fight their case, they are almost always successful?

18 January 2006 Mr John Wright, Ms Julia Thomas, Ms Chris Gravell and Mr David Ruebain

Ms Thomas: No. I think the tribunal needs to be looked at. We have made a point in our submission about looked after children. We have a huge concern about looked after children because at the moment the only people who can make an appeal to the tribunal on behalf of a looked after child are the social workers who are employed by the same authority that the appeal is being made against. This is a huge problem. Ironically, because of the *Every Child Matters* agenda, local authorities are now merging their social services and education functions into one department. In fact, that is now going to get worse because it is not even one department against another department, but it is the same department. These looked after children are being left and I have a concrete example of this. I have a child and a statutory reassessment was requested by a social worker on my advice. I then had to put in a complaint to the local government ombudsman against the authority in question. She then was told not to have any more contact with me. When the county where he was living refused to do the assessment, she did not appeal and she did not even tell me that they had refused. Consequently, he completely lost his right of appeal and had no access to the tribunal. That is a very serious issue. It must be addressed because the most vulnerable children—and there are very many looked after children with special needs—are losing that right completely, so that is major.

Q382 Mr Chaytor: Can one of our witnesses clarify the distinction between the processes that apply to academies, in terms of the naming of schools with statements, and those that apply to all of the schools?

Mr Ruebain: It is a live issue at the moment, and I think we are still waiting for further clarification from the DfES about how this is all meant to work. As I understand it, academies will be non-maintained schools, so they are technically independent, albeit funded centrally by the Government. If they are treated then as independent schools, they do not come directly within Schedule 27 of the 1996 Act, which are the arrangements whereby parents can express a preference and the LEA must then consult with the school and name that school, unless certain conditions arise. It is outwith all of that. What we do not know is how that is all going to be resolved. Is it the case, on the one hand, that academies will not have to take children with statements unless they happen to agree? Can they be ordered to by the tribunal? What I understand to be the case is that the DfES are proposing to set up a section within them to deal with applications by parents of children with statements for their children to go to academies so that the DfES will deal with those specific questions. How that will fit with a tribunal procedure, which is designed to deal with these questions, I do not know. It does seem to me to be potentially a huge mess. I would hope that whatever is determined in the end would allow at least the tribunal to make orders to name academies because that would be wholly consistent with their existing powers. I cannot

answer your question about how is it going to work because I am not sure yet that the scheme has been designed by the DfES.

Ms Gravell: As far as I understand it, there are now three consultancies involved in the dispute resolution test planned. It is meant to resolve an objection by an academy principal to the local authority naming the school for a child with a statement for SEN. It is not planned to meet problems that parents and children meet in perhaps a hostile reaction when they first go to talk to an academy about their child going there, which could be enough to put a parent off. We have had a case on our advice line of that happening. It is planned to do some mediation between the academy and the LEA. Where ordinarily the parent has rights to talk directly to the local education authority, to go into dispute resolution with the local education authority if necessary and thereafter the LEA may direct a school to take the child if the school is a maintained school, we cannot see what the parent and the child are doing while this conversation between the academy and the LEA is going on and then if that is not resolved, with the escalating dispute resolution up to the Secretary of State if necessary, how far the parents for the child's rights are protected in that process. Can I make a point about autonomous schools' admissions as well? You referred to trust schools being just like foundation schools. If I go back to our concern about non-statemented children who are sometimes the children who lose out on the admissions process because statemented children, to some extent, are protected by the statement and their parents' rights. In the *Which?* research on admissions, they showed that SEN is only rarely listed as a criterion in over-subscription criteria for admissions. For community schools it is 48%, which I think is pretty poor, that is with the current Code of Practice in place. For voluntary aided and foundation schools combined it is only 15%. The more autonomous the schools are, the less they tend to give preference to vulnerable children.

Q383 Mr Chaytor: Does it follow that rather than establish the new SEN disputes resolution procedure within the DfES—

Ms Gravell: For the academies?

Q384 Mr Chaytor: Yes, it would be simpler, cheaper, less time-consuming, more efficient and in the interest of parents and children with SEN to put academies on the same footing as all other schools?

Ms Gravell: Yes.

Q385 Chairman: You are also saying there should be much closer attention to that in the code of admissions?

Ms Gravell: Yes. I think for all publicly funded schools we should have preference for vulnerable children of all kinds, otherwise schools will want to refuse. It is not in their interest to do so.

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Q386 Mr Chaytor: Can I ask one specific legal point to David on this. Given the issue is that academies are legally defined as independent schools, non-maintained schools, even though they are maintained, what amendment to the law would be required to cut through that anomaly?

Mr Ruebain: There are various references to the obligations of maintained schools: powers of tribunals, for example, and independent appeal panels in respect of them. I suppose the most straightforward amendment to the law would be to add whatever is the technical legal term, presumably maintained schools and academies, because that would still exclude truly independent schools from the provisions but would bring in those schools which are state funded even though not maintained.

Q387 Mr Chaytor: An amendment involving two words would cut through the whole of this?

Mr Ruebain: It seems to me that would work.

Ms Gravell: You should include CTCs as well.

Mr Ruebain: Many of them are going to become academies.

Mr Wright: I did not get an opportunity to say anything about Scotland when someone mentioned that as an example of an alternative way forward. I am happy to send you some information through the post.¹ We worked in Scotland for a lot of years and we have a sister organisation there. We went through

the changes to the law which happened with our sister organisation. There are some very damaging changes to the law which have happened there. It only came in November, but our organisation in Scotland is monitoring the effects of this law. I would like to urge caution before there is an over-easy acceptance, “Scotland can do without statements so why can we not?”. In the end, it is what the children in Scotland can do without in terms of provision that is the question and we do not yet know how this is working. I would like to send you some details specifically on the rights that were stripped out of the law in Scotland on Special Educational Needs in its passage from A to B.

Chairman: Interestingly enough, I have to apologise to the witnesses today, this is one of the few occasions when the Chairman has been unable to get our side to get through the programme entirely. There are some questions I wanted to ask you that we did not get to. One of them was when we were talking about Special Educational Needs, the statementing process. The Conservative Party’s Commission has just come out with some suggestions about alternatives and we did not get time to get to that second part and to pull that out. When you go away, if there are things that you thought we should have asked you and did not ask, please be in communication with us. Our only interest is to make this as good a report as we can. We very much value your evidence today. Thank you very much.

¹ Ev 183

Supplementary memorandum submitted by Independent Panel for Special Education Advice

INTRODUCTION

1. This paper responds to the Committee’s request on 18 January 2006 for further information regarding the follow two topics:

- Our experience of how Academies are operating regarding Special Educational Needs (SEN)
- changes planned and/or implemented in special educational needs legislation across the countries of the UK, in particular Scotland.

A. HOW ACADEMIES ARE OPERATING REGARDING SPECIAL EDUCATIONAL NEEDS

The Legal Status of Academies and control over them

2. An Academy is treated like a fully independent school in law.⁵⁸ This is particularly relevant when an LEA asks an Academy to admit a statemented child (see below).

3. Consequently the main legal control over what an Academy does is through the “model funding agreement” (contract) that DfES has with each individual academy. These contracts should include terms obliging the Academy to abide by the education law principles which govern maintained schools as regards critical functions such as use of the national curriculum and SEN. However the contracts are individually negotiated between each Academy and the Secretary of State. To date there have apparently been significant variations in terms between each individual contract.

4. As things stand, therefore, unless the Secretary of State obtains appropriate contractual terms, there can be no legal force brought to bear on Academies to comply with the education law principles which govern maintained schools. Even if appropriate terms are obtained, the mechanism for the DfES to control academies is purely through contractual law rather than public law.

⁵⁸ Except that it comes within the definition of a “mainstream” school when LEAs are performing their duty to place children with statements in a mainstream school subject to the exceptions listed in Sections 316/316A of the Education Act 1996.

A reduction in Parental Choice regarding children with Statements of Special Educational Need (SEN)

5. Parental choice regarding statemented children under paragraphs 3 and 8 of Schedule 27 of the Education Act 1996 does not apply to academies because they are independent schools. At the proposed Statement stage, the parent can “make representations” for the Academy to be named in the final Statement under Section 9 of the 1996 Act (as they would if they wanted any other independent school) and the LEA must consider the parent’s representations by having “regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure”. Apparently DfES is currently arranging the costs of Academies to make their cost equivalent to maintained schools so that no objection on grounds of unreasonable public expenditure should be raised. However the Section 9 choice is a much less powerful one in law than the Schedule 27 choices. Consequently parents of the most vulnerable and needy children in the system have much less choice in real terms because of the Academies’ status as independent schools.

Other Critical Legal Differences

6. The LEA is legally responsible for arranging the special educational provision in a Statement, but it cannot put in place and enforce arrangements to ensure that an Academy makes that provision. The LEA therefore has no mechanism of control to fulfill this critical duty to deliver to SEN children other than to request that the Secretary of State exercises her powers under the Funding Agreement.

7. No complaint about an Academy’s performance for SEN children can be made to the LEA or the Secretary of State, who lacks her usual general and reserve powers (to direct a maintained school under the Education Act 1996) when dealing with Academies.

8. None of the statutory protections in relation to exclusion (over 60% of excluded children have SEN) apply to Academies. Specifically not all Academies allow for a right of appeal against a permanent exclusion to an independent appeal panel.

How Academies can and do operate in practice regarding admissions

9. It follows from the above that Academies can operate admission and other policies completely at their own discretion subject to:

- (a) any specific contractual agreement with the Secretary of State;
- (b) disability discrimination legislation; and
- (c) the very limited legislative controls over independent schools found the registration of independent schools regime (of no real practical use in this context).

10. The amount of independence that Academies can and do claim regarding admissions has been demonstrated dramatically in a recent case that IPSEA has conducted in December 2005 for a parent wishing to send her child to an Academy. After our intervention and that of solicitors the child has now obtained a place at the Academy and, for understandable reasons, her parent does not wish to be named in this submission. We shall therefore refer to this child as Child A and the Academy as Academy B.

11. By way of background, for maintained schools, a ruling of the Special Educational Needs and Disability Tribunal (SENDIST) regarding admission is binding. This is not the case regarding academies. The Tribunal can still however make a ruling naming an Academy in Part 4 of a Statement which can then be enforced by the Secretary of State through her contract with the Academy involved provided the necessary contractual terms exist.

12. In order to avoid any public perception that Academies are any “different” to maintained schools as regards a parent’s choice for their SEN child, we understand that the Secretary of State has historically given out the message to Academies that she will oblige the Academy to take a statemented child if SENDIST names an Academy in Part 4 of that child’s statement. Simultaneously DfES have directed SENDIST that it is not necessary for an Academy to agree to accept a child before SENDIST registers a parent’s appeal to name that Academy in Part 4 of their child’s statement (unlike other types of independent school). Until recently, therefore, parents were given the reasonable expectation that they could appeal to SENDIST asking for an Academy to be named with complete confidence that if they were successful a place would be forthcoming for their child.

13. Academy B however had different ideas. When SENDIST ordered placement of Child B at Academy A in November 2005, the relevant LEA complied and amended the Statement accordingly. However Academy B refused to take Child B and asked the Secretary of State to use the dispute resolution process that has been set up by DfES to under Academy funding agreements to deal with disagreements between LEAs and Academies about placements in Academies. That process is run by KPMG accountants, who to our knowledge have no proven expertise in SEN matters to match that of the specialist panel members chosen by the Lord Chancellor to sit on SENDIST.

14. After a great deal of deliberation due to apparent “ambiguities” in the contract with the Academy, The Secretary of State agreed to allow KPMG effectively to re-run the SENDIST process in a private process in which Child A’s parent had no say or participation except a list of what papers had been sent to KPMG. Specifically her parent did not have the right to see or respond to the papers sent by the Academy to KPMG or make their own submissions to KPMG. In our view this process (which we understand applies to all cases of this sort) is an extremely serious breach of established principles of procedural fairness which should be subject to judicial review.

15. Child A’s parent then instructed solicitors to threaten judicial review of this process. Without explanation the owners of Academy B (as opposed to the Headteacher) then wrote to solicitors stating a place would be available to Child B. It is unclear whether the dispute resolution process was concluded. Child B is now attending Academy B but has been left very distressed by this process and the perception that she “is not good enough for them”.

16. The DfES professed themselves astonished by the behaviour of Academy B and indicated that they will provide revised “guidance” to Academies in the future. In our submission it was astonishingly nave of the DfES not to anticipate that an Academy could and would behave like this. The guidance has not been forthcoming to our knowledge.

17. In our view, this demonstrates that Academies, with their individually negotiated contracts with the Secretary of State, will not be maintained schools in the form expected by parents and children at their point of use in the state system. In particular, the Academy model, if adopted for Trust Schools, will allow:

- (a) a complete free-for-all in admissions which will impact severely on choice and access for SEN children;
- (b) no effective control by LEAs over the practice of these independent schools as regards SEN or other critical functions.

Recommendation regarding Academies

18. Academies to be obliged to accept the existing maintained school sector obligations regarding special educational needs as standard, non-negotiable terms of their contracts with the Secretary of State, this to include abiding by SENDIST decisions.

B. MISPERCEPTIONS OF CHANGES PLANNED/IMPLEMENTED IN SPECIAL EDUCATIONAL NEEDS LEGISLATION ACROSS THE COUNTRIES OF THE UK

Change in England, Wales and N Ireland

19. It was stated at the Select Committee that the law on special education was being changed in Wales and Northern Ireland, with the implication that the assessment process and Statements were being jettisoned. No such change is underway in Northern Ireland and Wales is subject to the same law on special education as England: the Education Act 1996 as amended by SENDA 2001.

20. Of course, there may be discussions taking place amongst those who would argue the need for change, stimulated by the legislative change in Scotland. But there is currently no process of legislative change underway either in England, Wales or Northern Ireland.

Scotland

21. There is a misperception that the Education (Additional Support for Learning) Scotland Act 2004 has abolished assessments and Records of Need (the equivalent of Statements) and that this will lead to a reduction in bureaucracy.

Assessment

22. The duty to assess a child’s needs is retained in s8 Education (Additional Support for Learning) (Scotland) Act 2004 and has not been removed from the legislation. What has been removed, however, is the duty to undertake a multi-professional assessment. Under the new Act, LAs in Scotland will be able to choose which professionals to involve in assessment. Hitherto, as in E,W and NI currently, all assessments involved educational, medical, psychological and social service reports.

23. It is argued that this change will reduce bureaucracy and cost by enabling LAs to dispense with obtaining reports from professionals when these are likely to be unnecessary: e.g. a medical report when the child has no known medical condition. However, this was never a major burden on professionals or LAs. The standard practice of, say, a Medical Officer or Social Worker when asked for information on a child with whom they had no contact with has always been to respond with a standard letter stating “This child is not known to the SSD” or “This child has no known medical conditions”.

24. This change is likely to save very little in the way of bureaucracy and cost—but at what cost to children? Under the new arrangements, LAs will be able to choose not to obtain opinions from professionals in disciplines which are likely to recommend provision which will be expensive for the LA to deliver in practice: eg reports from speech and languages therapists.

25. In response to this particular criticism, the drafters of the new law can point to the new rights they have given parents to request reports from particular professional perspectives and the new right to appeal when an LA refuses a request for a particular professional report. But this new right, and the new tier of appeals it will generate, will create much more bureaucracy, additional administration and cost than the automatic multi-professional reporting approach it has replaced.

Records/Statements

26. The original Statement in Scotland, called the Record of Needs, has been replaced with a new document, the Coordinated Support Plan (CSP). The duty to document (ie write down) a description of a child's needs and the provision required to meet them has not therefore been removed from law.

27. With regard to the content of CSPs, the Education (Additional Support for Learning) Scotland) Act 2004 requires that:

- “A co-ordinated support plan prepared under subsection (1) must contain—
- (a) a statement of the education authority’s conclusions as to—
 - (i) the factor or factors from which the additional support needs of the child or young person arise,
 - (ii) the educational objectives sought to be achieved taking account of that factor or those factors,
 - (iii) the educational objectives sought to be achieved taking account of that factor or those factors,
 - (iv) the additional support required by the child or young person to achieve those objectives, and
 - (v) the persons by whom the support should be provided,
 - (b) a nomination of a school to be attended by the child or young person,
 - (c) the name and other appropriate contact details of—
 - (i) the officer of the authority responsible for the discharge of the authority’s duty under subsection (5) (d) of section 11, or
 - (ii) if the authority arrange under subsection (6) of that section for that duty to be discharged by another person, that other person, and
 - (d) the name and other appropriate contact details of an officer of the authority from whom—
 - (i) in the case of a plan prepared for a child, the child’s parent,
 - (ii) in the case of a plan prepared for a young person, the young person or, where the authority are satisfied that the young person lacks capacity to seek advice or information, the young person’s parent”

(s9 (2)) Education (Additional Support for Learning) Scotland) Act 2004.

28. This requirement with regard to the content of CSPs is essentially the same as it was for Records of Need under the Education (Scotland) Act 1980 and is also essentially the same as the content required for Statements under the Education Act 1996 in England and Wales. The best illustration of this similarity is a comparison of the ‘pro-forma’ for CSP provided for Scottish Authorities in the new Scottish Code of Practice and the ‘pro-forma’ provided for Authorities for Statements in England and Wales in the 2001 Regulations (see attachments).

29. In short, the name of the relevant document has been changed in Scotland, but not the duty to provide a ‘key’ document or its required content. It is a misperception to describe this as Scotland ‘ditching’ the Statements/Records or removing the administrative or bureaucratic load in producing the document.

Entitlement

30. There has been a significant change for children and their parents, however, and one which is being given much less publicity: it is the removal of LAs’ unqualified duty to make the provision required to meet children’s needs.

31. The new law in Scotland has introduced for the first time a qualification to this duty to provide for children with disabilities/learning difficulties:

“Duties of education authority in relation to children and young persons for whom they are responsible:

- (1) Every education authority must—
 - (a) in relation to each child and young person having additional support needs for whose school education the authority are responsible, make adequate and efficient provision for such additional support as is required by that child or young person, and
 - (b) make appropriate arrangements for keeping under consideration—
 - (i) the additional support needs of, and
 - (ii) the adequacy of the additional support provided for, each such child and young person.
- (2) Subsection (1) (a) does not require an education authority to do anything which—
 - (a) they do not otherwise have power to do, or (b) would result in unreasonable public expenditure being incurred.”

S4(2)(b) Education (Additional Support for Learning) Scotland Act 2004. (Our emphasis)

The Code of Practice accompanying the new law in Scotland (“Supporting children’s learning”) notes:

‘The Act does not define unreasonable public expenditure. Decisions regarding what can be considered adequate and efficient provision, and unreasonable public expenditure, can only be judged in the light of each child’s or young person’s circumstances.’ (paragraph 63)

32. Inevitably, the Scottish Courts are going to have to provide interpretations of the meanings of ‘adequate’ and ‘efficient’, which is not a good start to a new legal regime.

33. The new, qualified duty contrasts sharply with Scottish Authorities’ duties in the past and with the current duty on LEAs in England and Wales ‘to arrange that the special education provision specified in the Statement is made for the child.’ This crystal clear formulation has not required the High Court’s interpretation, despite being on the statute book for over 20 years.

34. Apologists for the new law seek to draw attention away from this real and dangerous diminution of entitlement for children with SEN by pointing out that a much larger group of children will now be given the right to Additional Learning Support, including gifted children, travellers’ children, children for whom English is a second language, children who are carers, etc. However in our view it is a misperception to see this as an extension of children’s rights to educational provision. Although the group with legally definable additional support requirements has been expanded, the legal right to additional provision for each individual child has been radically weakened. In short, in Scotland now will have more children with the right to less provision, and in some cases it will be to no provision.

35. Perhaps the most striking misperception is that the overall scheme will be cheaper. It will involve a cohort of children which will increase from approx 35,000 a year to 100,000 a year (estimate of ISEA, IPSEA’s sister organisation in Scotland)). This will inevitably lead to a massive increase in bureaucracy and administrative costs, given the additional number of CSPs (as opposed to Records of Needs) produced, the likely increase in the numbers of appeals against refusal to assess, and the new appeals against LAs decisions which regard to who is approached for reports as part of assessment.

36. The new law came into effect on 14 November 2005 (less than three months ago). IPSEA would welcome its effects if it genuinely increased the overall amount of ‘tailored’ educational provision for more children who have additional learning needs (including children with disabilities/learning difficulties). But we doubt that this was either the intention, or that it will be the result, of the new law.

Recommendation regarding the new Scottish model

37. At this point we believe that it would be folly of the most dangerous kind for the Select Committee to recommend to the government that ‘Scotland’s way’ provides a viable alternative to the current legal framework in England and Wales. It is certainly too early to even contemplate such a recommendation. Thanks to the financial support of Comic Relief, ISEA (IPSEA’s sister organisation in Scotland) will be monitoring the effects of the new law and it may well be that, in due course, the Select Committee should invite one ISEA’s staff to give evidence on the effects of the new law. It is also worth noting that the Scottish Executive have in any event committed themselves to reviewing the operations of the Act and the Code in 2007.

February 2006

Wednesday 1 February 2006

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods
Mr David Chaytor
Mrs Nadine Dorries

Jeff Ennis
Helen Jones
Mr Rob Wilson

Memorandum submitted by Newcastle City Council

I write on behalf of the Special Education Needs Scrutiny Group from Newcastle City Council, in order to contribute to the Education and Skills Select Committee Special Educational needs inquiry.

The group were established to undertake a time limited scrutiny study, following a recommendation from the Lifelong Learning panel around Value for Money issues of Special Educational Needs (now called Children and Young People).

The group consists of five elected members and two external representatives.

The key task of the group is to examine value for money issues of provision for pupils with high and complex special educational needs including residential care.

The key questions to be addressed are:

- Are we receiving value for money in light of the pressures the provision places on the Authority's budget?
- What options does the Authority have to relieve those pressures?
- What action can be taken by the Authority and its partners in the short, medium and long term?

The group is in the process of evidence gathering and will be presenting their findings to the Council Executive in February 2006.

On the basis of the evidence gathered so far, representatives from the group have met and would like to submit the following points to the SEN inquiry.

- Parental choice should be valued and welcomed. Parental influence is fundamental to ensure that the needs of the child are met.
- The group has been very impressed by the dedication skill and determination of parents in ensuring the best for their children.
- Where there is a choice parents will exercise their right to choose.
- The statementing system should be retained as they define needs and entitlement which then helps parents in exercising their right to choose.
- LEA SEN provision needs to be sufficient to fulfil the requirements of the statements. This is not always possible and is a real cause of concern.
- Where the Authority does not meet the needs laid down in the statements parents are choosing the private sector in order to have their needs met.
- There are increasing numbers of pupils with special needs. There needs to be a system in place to relieve these growing cost pressures.
- Severe complex cases are costing the Authority on average £120k per pupil (the 12 most expensive case cost the Local Authority £2 million per year).
- Changes need to be made in the way in which SEN is funded. There needs to be some recognition by central government on the budget pressures facing Local Authorities caused by SEN packages.
- As budgets are needs led there should be a flexible central DfES fund, which Local Authorities can access in response to demand.
- If the establishment of this central fund is not yet feasible, there needs to be central guidelines on spending levels with recommendations for good practice.
The present tripartite funding system (PCT/Social Services/LEA) does not work.
(See next point)
- The government guidelines on spending levels could recommend an equal three way split between Health, Social Services and Education.
- Therapy provision is a critical issue. Lack of therapy provision in schools is a key factor in parents choosing the private sector. The recruitment of suitably qualified therapists is also an issue.

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- Greater collaboration is required between neighbouring authorities in order to achieve effective economies of scale.
 - Early intervention and identification is a key issue. Newcastle is attempting to diagnose early and has been successful.
 - Emphasis on raising standards should not be different for SEN. The role of Ofsted in the monitoring process is particularly welcomed. Children should be reintegrated wherever possible but the appropriate support mechanisms need to be firmly in place.
 - There is a real need to retain Special Schools and reintegration would not be appropriate for a range of needs eg for severely autistic pupils.

September 2005

Memorandum submitted by Newcastle upon Tyne LEA—SEN Division

Elected members from Newcastle City Council will also be making a separate response to the inquiry.

I would like to bring to your attention, representing my colleagues, the following concerns we have about SEN provision nationally and also where we think the greatest progress has been made.

CONCERNS

1. The level of health provision, particularly therapists, in our special schools and specialist provision

The DfES are clear in their guidance about the level of teaching staff required in specialist settings. However there is no guidance about the level of health/therapy provision which should be available. This means the level of provision is left to the decisions of PCTs and Health Trusts where the priorities, with restricted budgets, will always be on the demands of the acute rather than long term ongoing therapy provision for children and young people with SEN. Without any clear national guidance the levels of therapy provision in our specialist provision are currently inadequate with the added inequality across the region of significant variations between local PCTs and health trusts. LEAs have had to move to make up the shortfall in health provision and across the region are now funding additional therapy posts in specialist provision—we've just recently allocated £150,000 to new therapy posts in Newcastle. However this LEA, like other LEAs in the region, now has very restricted budgets which are focused on providing central services and it is difficult to know whether we will be able to continue to fund therapy posts on long term sustainable basis.

Health practitioners particularly at consultant and GP level are often only too ready to use the “prescription” rather than the strategic approach to ensuring their children and young people receive the right levels of therapy provision to support their education. Our local non LEA maintained special schools (NMSS) have a very high compliment of therapists. It costs roughly twice as much, at the very lowest level of charge, to send a pupil to a non-maintained rather than an LEA special school—much of this is associated with much higher levels of therapy and support staff provision. In our experience health practitioners will support children going to NMSS so they can receive a high level of therapy provision rather than be prepared to use their professional standing to address shortfalls in LEA maintained provision.

The last five SEN Tribunal decisions that have gone against our LEA have been decided on the relative levels of therapy in LEA/non maintained schools rather than any issues to do with quality of provision. In terms of *Every Child Matters* outcomes this is a serious issue. We are talking about SEN Tribunals making decisions based only on the outcomes of “Being Healthy” and “Staying Safe” and not even considering whether as a result of placement pupils will “Enjoy and Achieve”, “Make a Positive Contribution” or “Achieve Economic Well-being.” In other words decisions are being made on quality of care rather than on educational outcomes and provision.

2. Non-Maintained Special Schools and SEN Tribunals

This is a huge issue for LEAs. There is now a whole industry of lawyers and legal processes arising from the SEN Tribunal. I’m sure this is now a very long way from the original intentions of an SEN Tribunal process to protect parents. I’m not sure whether it supports parent choice. In our experience the SEN Tribunal is used mainly by parents who are very determined, against all professional advice, not to send their children to LEA maintained provision. Unfortunately recent tribunals have been decided on therapy provision rather than appropriate educational provision. The SEN Tribunal creates an antagonistic process of putting parents against LEA. Solicitors are involved on both sides and increasingly barristers.

Non-maintained special schools (NMSS)—those independent of the LEA—should be part of the LEA’s continuum of provision. In reality it is very difficult to get the commitment of LEAs to fund regional provision for low incidence SEN in specialist fields such as autism. NMSS therefore can play a central role regionally in providing the highly specialist provision needed in key areas of low incidence SEN. We entirely

support NMSS who work in this way. A good example is our local NMSS for autism—Thornhill Park in Sunderland—which provides for children and young people with very severe autism from across the country. Two pupils from our LEA special school have recently gone to Thornhill Park because they now require the very specialist seven day/week residential which the school provides and which we could not provide in the LEA. We have good links with Thornhill Park and these involve training, staff visits and networking/consultation on key developments. However we have another NMSS—Percy Hedley—who has very clearly widened its remit from its nationally recognised work on cerebral palsy to a much wider role which brings it directly into competition with LEA maintained schools. There appears to be no regulation of NMSS or consideration about whether they fulfil an essential role of specialist regional provision or are competitors to LEA provision. In the latter there are serious questions about their role. We strongly believe in the wide range of opportunities a strong LEA community of schools can provide for children with very significant disabilities. There are very strong links between our special/mainstream schools to ensure children with major complex learning disabilities are fully part of the Newcastle community with all its associated services. We do not support segregated and separate out of authority provision except when we know that pupils need the very specialist services we cannot provide.

The current way of funding NMSS is also unsustainable. Our City Council, like our neighbours, carries significant debt for pupils who attend NMSS. Like our neighbours these major overspends are not balanced, thank goodness, against the funding for pupils who attend LEA schools. However I'm not sure, as budgets restrict, how that can continue. It is interesting to note that in Scotland some of the costs of specialist NMSS are borne centrally to promote the highly specialist regional/national services they provide. If NMSS were properly funded and planned they would be an essential part of the LEA continuum of provision and we would not be deciding appropriate placements through tribunals.

It is worth note that NMSS are also separated in the new Ofsted inspection framework. They are being inspected centrally by CEA and not by the regional inspection providers. This adds to concerns over the separateness of NMSS from regional SEN planning and delivery.

3. The Learning Skills Council

There is growing disparity between the way the LSC funds post-16 provision in schools and in the FE Sector. LEAs are funded for the SEN provision in their schools at post-16 on the amount they spent in 2001–02. This has only increased annually with inflation so the actual numbers of young people funded by the LSC have not increased at all since 2001–02. However, with the positive impact of inclusion, the number of young people with SEN in our post-16 provision has risen steadily. This particularly includes young people in our mainstream schools with sensory impairment, physical difficulties and autism. We strongly welcome this although it means LEAs are having to pick up the increasing shortfall in funding which is adding to the overall shortfalls and overspends in SEN budgets. One small local LEA has estimated that it is now having to provide £600,000 annually to support post-16 pupils in school provision where the responsibility is clearly the LSCs. Reviews of SEN funding have been promised annually since 2002 but have not materialised. The major national shortfall in funding is probably now unaffordable and is perhaps why any resolution is being put off. The current situation does lead to post-16 SEN learners being treated quite differently in school and FE provision. This is unfair and unacceptable. In a recent example in our LEA a severely deaf pupil had a choice between VI form provision in his local school or the FE College. The FE college approach was that the LSC would provide whatever was needed as “learner support.” There were no questions asked about the list of support requested by the parents and the pupil and the LSC admitted no checks were put in place. The LEA however has to use the criteria of “reasonable” provision with all SEN decisions being made by a multi-agency panel. This resulted in a decision to offer a much lower level of interpreter support. Interestingly both parents work in the media and have themselves moved “reasonably” from a natural position of demanding that the same level of support is available in both institutions to understanding the constraints involved in LEA schools.

We currently want to expand our post-16 ESBD special school provision knowing that, without it, young people often fail again at the next stage of their progression. However with post-16 being the responsibility of the LSC we cannot establish or fund this provision.

4. Parents

We are very interested in the whole area of parent participation/consultation. We are very aware of the often disproportionate external influence of parent pressure groups who come together because of particular issues and who do not represent the wider parent community. We are also aware that there are often key differences and disagreements about provision among groups of parents particularly in the specialist areas of autism and ADHD. We strongly support strengthening the current process of proper parent representation through governing bodies—parent governors elected to represent the views of parents. Our special school for autism has recently gone through a period of major metamorphosis from special measures to a “good school” to a brand new building through PFI scheduled for completion in September 2007. Parents have been driving this change. The Chair of Governors is a parent as are the majority of key governors involved in change. The PFI process has supported visits to other new special schools across the country to look at design and visits to autism specific schools to look at different approaches and the learning environment.

The parents strongly promote an eclectic approach to autism using elements of particular approaches such as TEACCH while promoting personal development and progression. At the same time we also have a small parent pressure group strongly apposed to the LEA's autism provision. This has received far more publicity and political influence on the "inadequacy" of Newcastle provision than the parents driving change within the system. It has also led to some very significant tensions and intimidation between parents particularly when one group is labelling the provision the other group send their children to as "inadequate."

Perhaps we need to make sure that parent governors are more representative of children and young people across a school, for example looking for a parent governor to specifically represent the parents of pupils with SEN. Equally, parent governors may need more support and training in representing parents views and how they bring issues to the attention of the governing body. However we do have a system in parent governors which is essentially democratic and has the capacity to represent parents views.

PROGRESS

1. *Inclusion*

We carried out an inclusive reorganisation of our specialist SEN provision which became operational in September 1999. This created additionally resourced provision in mainstream for children with physical difficulties and communication difficulties. This was in addition to the existing provision for sensory impaired and largely built on its success. We want to highlight just how successful this has been. It has provided a very wide range of opportunities for children with significant SEN particularly to support their academic achievement and personal development. Very quickly after the reorganisation some of the pupils with physical difficulties were achieving high standards in their mainstream settings—achievements which would not have been possible, or even accessible, in their previous special school. The inclusion of children with significant SEN has also had a significant impact on the ethos of mainstream schools and their focus on inclusion. Our primary school which has the specialist provision for physical difficulties was identified in its recent Ofsted as being an "outstanding school" with an outstanding inclusion ethos (Kingston Park Primary).

2. *Multi-agency*

The SEN Standards Fund (now part of the School Effectiveness Grant) has enabled us to establish multi-agency teams in specific areas of SEN. We have multi-agency teams in speech and language and dyspraxia as well as a well-established Young Children Team. The model of practitioners working together from different professional background to support particularly very young children is a very powerful one. The Young Children Team have multi-agency involvement from speech and language therapists, community paediatrics, social services, nursery nurses and qualified specialist teachers. On the ground these different professionals work very effectively together in supporting very young children with significant SEN. This is perhaps a contrast to the difficulties at a strategic level where managers from different agencies are having to reconcile limited budgets.

September 2005

Memorandum submitted by Buckinghamshire County Council

PROVISION FOR SEN PUPILS IN "MAINSTREAM" SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

Buckinghamshire maintains a range of provision and support services to provide for children with SEN in mainstream schools. Across the county, we have 27 "departments" attached to mainstream schools, where pupils with statements of special educational needs can access an enhanced level of provision, supported by staff with expertise in the designated area of need. We also have a Specialist Teaching Service, consisting of peripatetic teachers who support schools and individual pupils, using a range of strategies including training for school staff.

The majority of this support, however, is provided for children with statements of special educational needs, as priority must be given to statutory entitlement. This impacts of the ability of the local authority to promote early intervention and continues to support a reliance on statements as the only method by which schools can access additional support and funding.

SENCOs within mainstreams have access to liaison groups on a termly basis, access to a termly newsletter and a wide range of CPD programmes, developed by analysing skills and needs within the authority, in addition to the national agenda. An annual SEN conference is held to update, launch and debate SEN issues.

The LA encourages SEN teachers to become Advanced Skills Teachers and these are well represented in our authority. In addition to this there are a number of SENCOs who are currently "seconded" for a short period from school ie one day per week, to support and promote initiatives within other schools—Wave 3 being an example of this.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

Buckinghamshire has 13 special schools across the county catering for a wide range of needs and covering the three–19 age range. We are currently in the process of re-provisioning our special schools, having implemented an independent review of provision. We are building a new primary special needs school in Aylesbury, which will cater for pupils with a range of needs and will provide facilities for multi-professional input and support.

We find that the current designations of our special schools do not reflect the increasingly complex needs of the pupils for whom they provide support, and can prove a barrier to the admission of pupils who then have to be educated in expensive, external placements.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

In Buckinghamshire, we are proud of the achievements of our pupils and seek to ensure that pupils with special educational needs achieve their personal best. Pupils without statements in our mainstream schools achieve well. We have promoted additional means of measuring achievement, especially for those pupils whose progress cannot be measured against national curriculum levels.

The introduction and use of P levels will be another additional mechanism to monitor the progress of schools and cohorts across the LA. In addition to this a significant amount of time has been dedicated to ensuring that SENCOs and in the future SEN Governors are aware of how to analyse data and “ask the questions” of the provision. The LA is committed to the “Leading on Inclusion” agenda and has promoted the effective use of provision mapping in schools.

Data is used to target standards fund monies, to ensure that the relevant schools have access to support, consultancy, training and funds to support specific interventions. Concern over the demise of centrally held standards for SEN purposes, combined with the lack of ring fencing monies is a real concern. It has been shown over the last two years, that those interventions that have been promoted, using the standards money, have had impact on standards locally. Without this, there will be a significant challenge to engage schools, as seeing this as a priority from within a limited budget.

The LA uses and analyses FFT data; value added data and the end of Key Stage data to ensure that schools are supported and challenged regarding SEN. This includes discussion within the annual dialogue with schools by the current link advisers. Concern once again in the future, when SIPs are fully introduced into the primary sector, and only limited time is available, to discuss such important and relevant issues.

There is a significant rise in SEN/EAL issues and addressing the needs of this element of our population. Little national research is available in this area, and expertise is difficult to find. This would be a useful national piece of work.

There is little input at Teacher Training, to address the significant issues relating to the teaching of pupils with SEN, once again this is an area ripe for national development. A number of schools in Buckinghamshire offer support to TTA programmes, including our special schools. Alongside this, our NQT programme, enhances the opportunities for new teachers to the profession.

However, too much emphasis is placed on inputs (provision, therapy, support) for those pupils with statements as part of the statementing and review process and insufficient on pupil outcomes. Raising standards for all pupils with SEN needs greater focus for those pupils with statements.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (“THE STATEMENTING PROCESS”)

The statementing process is unnecessarily bureaucratic and expensive. It is time-consuming and can become contentious and stressful for all involved. It can prevent children from accessing support at an early stage and mitigates against early intervention and prevention.

The statementing process requires a child to fail before they receive additional support from therapy colleagues on site at school, by which time many of them have fallen too far behind their peers to catch up. This reduces the potential for children to make sufficient progress to enable the statement to be removed. Additionally, since the parents and schools have had to work so hard to demonstrate the need for additional support, they are often unwilling to consider reducing those services, even if the child starts to make good progress.

While it is crucial that children have access to whatever provision is required to meet their needs, a less bureaucratic system would enable more resources to be channelled into support rather than process.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN’S EDUCATION

Parents have a crucial role to play in the education of their children and working in partnership with parents is critical to achieving successful outcomes for children. However, the statementing process can become a source of anger and frustration which can impede partnership working.

The Tribunal process, initially established as a means of appeal for parents in disagreement with the Local Authority, has become a quasi-legal process where affluent parents engage barristers to “fight” their case, irrespective of the educational rationale.

HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

Although the Code of Practice defines special educational needs as a learning difficulty, there remains confusion as to the extent to which giftedness should be regarded as an educational need. This requires clarity.

Clarity also needs to be given to the extent to which “education” should be required to meet the social needs of children through the provision of residential schooling.

A definitive understanding of the nature and scope of “complex” needs is required, together with a recognition of the impact that areas of increasing need, such as Autistic Spectrum Disorders, can have on the ability of the local authority to make appropriate provision.

The code still talks of IEPs and yet within *Removing Barriers to Achievement* the emphasis is on reducing bureaucracy, an example being the introduction of provision maps.

The code does not state that a SENCO needs to be a qualified teacher, although the standards suggest such. This is a serious omission, which under the current proposed changes in management structures in schools, has started to lead to a number of TAs becoming SENCOs, the concern ultimately is that this could impact on standards.

In light of the two points above, it may be timely to issue amendments to the code or add further clarification and advice.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (BESD)

In Buckinghamshire we are in the process of reviewing all of our SEN provision, with a view to establishing a hierarchy of provision within each area of the county. This will consist of mainstream provision, resources provision attached to mainstream schools and special schools (with a broadened remit to offer outreach support to mainstream schools and intensive, time-limited support to appropriate pupils).

In Buckinghamshire, we believe that educational inclusion applies across the continuum of provision and that, for some children, inclusivity is to be found within the special school environment. A challenge is to value the expertise found in each area of SEN and to ensure appropriate funding. The role of Pupil Referral Units and Learning Support Units must also be clarified within the continuum of provision.

Alternative provisions for pupils with BESD are continually developing, but nationally good practice in this field is not shared widely enough. Opportunities to discuss, implement change and accredit the alternative programmes for the most disturbed or disaffected pupils would be a forum from which all schools could benefit. Whilst the flexibility of the 14–19 curriculum is in its early stages of development, this would also be an opportunity for national research in this area.

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

The extension of the Disability Discrimination Act has not been fully funded for schools and has created concern and confusion. Despite training offered, schools are not clear about their responsibilities and the implications for individual pupils and for them of the DDA.

Witnesses: **Mr Mark Rogers**, Assistant Director, Children and Young People’s Directorate, Stockport City Council, **Mr Tim Warin**, Senior School Improvement Advisor, SEN, and Coordinator of SEN Services, Newcastle City Council and **Ms Janet Sparrow**, Acting Head of Special Education Services, Buckinghamshire County Council, gave evidence.

Q388 Chairman: Good morning. Could I say good morning to Janet Sparrow, Mark Rogers and Tim Warin? Thank you very much for spending the time to come before the Committee. We are just getting to that stage where the Committee might consider itself quite dangerous because it has a little knowledge, but I would not worry about that. But we are really getting into this inquiry. Would you like to say anything to start off? We have your bios and we do not really need them again, but if there is anything you want to say to get us started you can, otherwise we will go straight into questions. What is your wish on this?

Mr Rogers: I will wait to answer questions.

Q389 Chairman: You would like to opt for questions. Janet Sparrow?

Ms Sparrow: I have a short opening statement.

Q390 Chairman: Janet Sparrow, you go ahead with your opening statement.

Ms Sparrow: Thank you. Buckinghamshire County Council is a high achieving authority with a commitment to raising the attainment of all children and young people in all schools and early year settings. This commitment is articulated in the corporate plan, the education inclusion and special educational needs strategies, both of which were adopted by our county council in 2004. We believe that children and young people should be educated in, or as close as possible to, their local community. We have commissioned a review of our specialist provision, which not only includes special schools but additional resourced provision and we are in

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the process of developing models which meet the identified needs of our children and young people, and which provide a hierarchy of provision across the whole special educational needs continuum. We value our special schools and their contribution to this continuum and continue to support their role in developing both inreach and outreach opportunities. Buckinghamshire fully supports the original premise on which statements were developed, that is ensuring entitlement to education for children and young people with special educational needs. However, the process has become far too bureaucratic and expensive, diverting resources away from meeting the needs of children and young people. In times of budget constraints the process also restricts the authority's ability to focus resources on early intervention and prevention, thus ensuring continuation of the demand for statements. Statements themselves have become something of a shopping list with too much emphasis on the input and too little on outcome. The requirement to specify provision, for which the authority has the statutory duty, prevents a more flexible use of resources which may better meet individual need. The emphasis on input tends to create demand for a different support regardless of impact or outcome. This is particularly true of the therapies. In the case of support from a learning support assistant additional hours on a statement can be counterproductive in that they may foster longer-term dependence on adult support, preventing a child from gaining independent learning skills or developing peer group relationships. In Buckinghamshire we work hard to develop good relationships with parents. We value their insight and believe that partnership working can only benefit the child. However, the statementing process can strain that relationship and lead to conflict. When parents feel that they have to fight in order to gain a statement they are anxious to secure all that they can for their child, and are then unwilling to accept a reduction in provision as their child progresses, and this is understandable. We have developed a good working relationship with colleagues in Health but are concerned that while health professionals can assess and make recommendations the duty for those recommendations and the provision resulting rests with education, and where therapists, for example, are in short supply the local authority must then use private therapists to provide that statutory provision, creating inequality, inconsistency and a potential lack of quality assurance. To conclude, Buckinghamshire is committed to raising achievement for all our pupils. We want to work with our schools, our parents, our children and young people so that all may benefit and progress. We are working hard to ensure that we can develop our provision to meet the needs of all our children. However, we are concerned about the divisiveness and inequality of statements. We are concerned about the escalating costs of the statementing process. The statutory process needs to reflect changes in funding, with more significant

delegation to schools and fewer resources held centrally by the local authority. We are concerned that the value of a statement is judged on its inputs and not by its outcomes. For vulnerable children and young people, particularly those with special educational needs, the role of the local authority in terms of challenge, support and accountability must not be diminished. I believe that these issues need to be addressed and resolved.

Q391 Chairman: Thank you. Tim Warin, what is your wish?

Mr Warin: Very brief and then questions are fine. It is great to be here and for me it would be really important that the debate is around education and it is around achievement and around the progress of children with very complex needs, and a lot of the debate at the moment is about provision—it is not about outcomes. It is not pushing forward progress and achievement and all the things that education can bring, and I think at its very best the education of children with very complex needs has made tremendous progress in the last few years in promoting equality and opportunity. Often the debate is not about that; it is about provision of therapists, some of the things that are here. To move from that to talking about real education for children with very complex needs would be tremendous progress strategically.

Q392 Chairman: Let us start on the questions. To start off with a question that we are all thinking about, and that is that we have had people give evidence to this Committee already, from local authorities that do not have any special schools, and we know that a lot of this debate is centred around whether special school provision and the ability of a parent to choose a special school as opposed to inclusion in a mainstream school. I see from your backgrounds that you have all worked on both sides of that fence. What do you think about this issue? Do we need more special schools? Is the government running down special schools against the wishes of parents? Where are you in that debate? Start with Mark Rogers.

Mr Rogers: The starting point actually has to be the analysis of need in any local area, so there is no absolute answer to, "Do you need special schools or do you not need them?" What you have to look at is the range of needs that children and young people have in your area and then make some considered decisions about how those needs are going to be met. I would imagine in almost every case, in my view, that that continuum of provision you then end up with will have special schools as part of it, but as part of a continuum, absolutely, and very much integrated into that continuum. It is a qualified yes, you do need special schools, but I think the question needs to be reframed. People like myself need to be asked, "Have you undertaken the form of local analysis that actually would inform some commissioning of provision of schools, including special schools?" And if you have undertaken that analysis then I think you can justify what forms of provision you

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subsequently make. I really do believe that it has to come in that way and not a more arbitrary question about special schools—yes or no?

Q393 Chairman: Tim?

Mr Warin: Yes, I think you need special schools; I think you need very good special schools, and I think those special schools must be part of a community of schools and they need to be aligned with mainstream, so that they are part of the community. Certainly one thing we have been able to do in Newcastle with PFI is to move a special school for autism into an education village, so it is an intrinsic part of a community of schools. So I think special schools are important, but they should not be isolated, they have to be linked to mainstream education. I think where children are cognitively able—they should be able to access mainstream schools and all the opportunities they provide—our experience is that that works really well. So children with sensory impairments, children with physical difficulties who are cognitively able are doing well in mainstream schools and are benefiting from the wider range of opportunities. I think I wrote in my submission that we reorganised our specialist provision in 1999 and children who were in special school provision with physical difficulties, who are now in mainstream, are doing well because they are able to access a much wider range of opportunities. I think where children are cognitively able in special schools you are never going to get the range of expertise and specialism, and that is why where they are cognitively able I think mainstream, and where they have very complex needs they need to be aligned to mainstream but within a specialist setting so that they can access a range of opportunities.

Q394 Chairman: Should a child with special educational needs be able to go to any school?

Mr Warin: That is a very wide question; “any school” meaning?

Q395 Chairman: If a child has any special educational needs are there schools that they should not be in? Should there be a bar on special educational needs children in certain types of school?

Mr Warin: I would not like to answer that. It depends entirely on the needs. You look at the needs of every individual child.

Q396 Chairman: In the new academies should there be a bar on children with special educational needs ending up in an academy?

Mr Rogers: Absolutely not

Mr Warin: No, absolutely not.

Q397 Chairman: What about you, Janet Sparrow, in Buckingham? You have grammar schools and the 11-Plus. Do you have many Special Educational Needs students in your grammar schools?

Ms Sparrow: We do have some, yes.

Q398 Chairman: How many?

Ms Sparrow: The numbers are fairly small in terms of pupils with statements; it is probably around about 20 currently in our grammar schools.

Q399 Chairman: In how many schools?

Ms Sparrow: Across a number of grammar schools; 13, I believe we have at the moment. I am sorry I do not have all the figures on the grammar schools.

Q400 Chairman: Is there reluctance in grammar schools to take Special Educational Needs children?

Ms Sparrow: The selection process does not rule out children with special needs going into grammar schools if they have the cognitive ability to access the curriculum. Therefore, we do have children with statements for sensory and physical difficulties in our grammar schools; we have children on the autistic spectrum in our grammar schools; and we have some children with emotional, behavioural and social difficulties in our grammar schools. But the selection process is on cognitive ability, not on Special Educational Needs.

Q401 Chairman: We will come back to that. Some of my colleagues will want to ask different questions because we want to look both at academies and grammar schools in terms of that entry. Janet, you want to come back on the broader picture of whether special schools should be still available, and I take it that they are still available in Buckinghamshire?

Ms Sparrow: Yes, and, as I said in my opening statement, we do value our special schools and the role that they play in the continuum of provision, but our current work in terms of re-provisioning our specialist provision does involve looking at the role of the special schools and ensuring that that role is expanded and developed so that they can be more of a support to other schools in their local communities, so providing outreach support to mainstream schools; and indeed, where appropriate, providing short-term interventions for pupils who perhaps need some more intensive support for a short time in order to enable them to be more successful in mainstream.

Q402 Chairman: So over time do you have less or more special schools—over the last five or 10 years? Have you closed any?

Ms Sparrow: We closed one special school two years ago. That was because the numbers in that school were very much declining; it was not a school that was particularly popular with parents. However, our numbers in special schools, although they have gone down slightly, have not declined overall, and indeed we are in the final stages of building a new primary special school, which will cover a range of Special Educational Needs.

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Q403 Chairman: Do you send any of these children with Special Educational Needs out of your authority area?

Ms Sparrow: Yes.

Q404 Chairman: In what situation? In what circumstances?

Ms Sparrow: Unfortunately we do find that we cannot always meet all of the needs of certain individual children within our local area and this is one of the driving forces, if you like, behind our review of specialist provision. Our specialist provision and our special schools in particular developed many years ago and have designations that do not necessarily meet the more complex needs of children in the 21st century. So we do have, for example, children on the autistic spectrum who go out of county because we do not, at this current time, have a range of provision that can meet the full continuum of the autistic spectrum. We also have some pupils with extremely challenging behaviour and—let us put it like this—currently special schools for emotional and behavioural difficulties are not sufficiently geared up to meeting the very challenging needs of some of the pupils.

Q405 Chairman: Is that a similar situation in your area, Tim Warin?

Mr Warin: Yes. I think it is interesting that every local authority will have slightly different needs placed out of authority. We are pretty strong on emotional and behavioural difficulties. I think one of the things I highlighted in my submissions was that we have a non-maintained special school so we have some children going out of authority through tribunals—not a lot—where a lot of it is around health provision, as I indicated, but it is around a particular need where there is often a very high level of health provision. So we have some children out of authority because of tribunals. We have had children out of authority with autism, particularly very severe autism that requires residential provision. We work very effectively with our local non-maintained school.

Q406 Chairman: Have you closed any special schools?

Mr Warin: We reorganised about five or six years ago and we have four special schools and we have additionally resourced provision in mainstream schools. So we did close some special schools. I would say we rationalised the special school provision. Five or six years ago we opened the new provision with capacity in the special schools and we actually anticipated numbers to go down—it may be a similar story. Numbers have stayed very, very similar, slightly rising—refugee and asylum seekers is a reason, children who are born very young, premature babies, now with very, very complex needs coming through the system, and autism. So those three areas have actually meant the population is staying very, very similar. We have no intention to close any more.

Q407 Chairman: Mark Rogers?

Mr Rogers: We have not closed any in Stockport in recent times but there has been a longer-term strategy of developing what we would call specialised provision, which I think you would call either resourced or unit or one of those particular words. What is interesting is that there has been quite a growth in our specialised provision over the last 10 years but it has not seen a reduction in the numbers of children and young people going into our special schools, but we are seeing a different profile of need in all of our types of special school. So, although it is not an official term, what was our primary school for children with moderate learning difficulties is actually a complex needs school now to reflect the fact that the general development delay profile that children used to have is now complicated by a range of other factors—medical, perhaps autistic continuum, whatever. So the profile of children in our special schools is different. The numbers are not particularly different over the last 10 years and we have seen more and more specialised provision made within mainstream settings, so it is quite interesting that the picture is static. One of the things about Stockport which, unfortunately, for me, in terms of performance measures, bucks the trend the wrong way, is we have had a rising number of statements issued year on year over the last three years as well, so we are seeing a greater pressure from schools and parents for the places that we have both in special and in specialised schools. And we do not have plans to close any either, but we do have plans, to use that dreaded word, to re-engineer, particularly in the secondary MLD sector because what has happened in the primary school is it has taken a much more complex profile over the last five years and the secondary school needs to adapt and change commensurately, and we are embarking on that process; but we are not closing it.

Chairman: Thank you for those initial responses. Can we now look in more detail at the statutory duties of the provision?

Q408 Mr Chaytor: Can I ask each of our witnesses if they are confident that their own local authorities carry out their statutory duties in respect of assessment of SEN children without fear of being compromised in respect of the statutory duty to provide for the needs of those children?

Mr Rogers: Would you like me to start?

Q409 Chairman: Indeed.

Mr Rogers: I think my overspending would demonstrate that we do fulfil our statutory duties pretty well and the consequence of that is a demand-led system causes enormous pressures on a finite amount of resource. I was expecting this question and have thought about a particular issue that concerns me. As we move—and we are an authority that is late to move—to a high level of delegation of resource to schools for high incidence needs, as that occurs we may well enter a different phase of behaviour around statements because I have some anecdotal—I would not call it

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evidence—knowledge that the more delegation there is directly into schools for meeting statemented need the less specificity you might start to find as both the school and the local authority take a different position over what should go in that part of the statement.

Q410 Mr Chaytor: Is that altogether a bad thing?
Mr Rogers: If you look at the code of practice and particularly the toolkit guidance on what you should be specifically writing into the statement, I have always had an aversion to quantification in terms of hours and minutes; I am much more interested in describing what interventions children should be receiving and then leaving some discretion for the school itself actually to deliver those interventions in the best way for that school. I do not feel that I have been proscribed or circumscribed too much around the actual writing of statements, it is just that every now and then the tribunal will clearly have a go at you and make you write in terms of numbers. I think we are also fortunate that we have had a system that although we do have banding of support for young people in our secondary schools—mainstream secondary statements work according to a banding system—we have not just relied on saying, “It is band C, get on with it,” we still make sure that within the statement itself we actually describe the range of interventions that we are seeking. But I would also say that my experience is partly based on my previous authority, where, bluntly, we got a bit of a kicking some years ago now through inspection for not actually being as specific as we ought to be, even in terms of describing interventions rather than quantities of provision. So I have learned, I suppose over the years really, that it is not something you should play around with anyway, it is in everyone’s interests to be as clear as possible in a statement. My view would be that we should be clear about what interventions it is that schools should be applying that will make a difference to outcomes and simply saying, “You need two hours of this and four hours of that and some of it on a Wednesday morning and the rest on a Friday afternoon”, which does not seem to make any sense to me. I have seen Ian Coates’ letter, as we all have, from last year, that told us we check out all our systems and make sure we were not breaking the law, and particularly the High Court ruling that IPSEA managed to get over the DfES some while ago. So I am sure there are pressures elsewhere but I would say not in Stockport; and I would also say not in Stockport right now because we have not gone as far down the line as we are going to with delegation and we will have to resist any temptation to be less clear, less specific when we have actually delivered the resource directly into schools’ budgets. I think we will because I believe we have actually got quite a well-established system. We have some officers with considerable experience and knowledge, some of it learnt from being kicked but a lot of it learnt from doing the job well, who will tell us that even when schools have the money the responsibility of the local authority is to be really

clear what you expect to be done in terms of those interventions. So that would be my view, and certainly from a Stockport position I would say that we are quite strong on meeting the statutory requirement, but from time to time the tribunal will basically . . . How indiscreet shall I be? I am not a great advocate of the tribunal so every now and then they will make an entirely non-referenced judgment about what you should do that has no context to it and no usefulness to it beyond the fact that it settles a case there and then.

Q411 Mr Chaytor: It sounds as though you would disagree with that sort of judgment from the tribunal.

Mr Rogers: I do not think it is helpful to be able to make decisions out of context especially as they also have no financial responsibility for the decisions that they make.

Q412 Chairman: Janet Sparrow, do you want to answer David’s question?

Ms Sparrow: I think historically we have found that we have been quite specific on our statements and because over a period of time there has been an expectation from our parent body that that specificity will continue then we find ourselves challenged quite regularly when we try not to be as specific on statements. What we have tried to do over the last few years is to work very closely with our parents and with professionals to actually come up with different wording on statements which will meet the requirements of specificity, but which will allow some degree of flexibility in order to, as I said earlier, better meet a child’s needs. So whereas we have some historical statements with one hour a week of this and one hour a week of that on the statement—and of course once that is on there it is very difficult to move away from that because people see that then as a reduction in provision—with our new statements what we are trying to do is to introduce a measure of flexibility and, instead of looking at provision in terms of per week, looking at provision in terms of, for example, per term. So that if it is then thought that what may have been one hour a week is better as 10 hours a term so that as a child moves into a new situation they could have more support initially and then less later on, the less specific wording on the statement can actually allow that flexibility and therefore allow us to meet the needs of the child.

Q413 Mr Chaytor: Can I ask you, do your earlier comments in your opening statement about the bureaucratic nature of the statementing process still apply to the newer style statement in Buckinghamshire, or was that purely a legacy of being in an earlier period where you were more specific?

Ms Sparrow: No, the bureaucratic process is still there with us. It is incredibly labour intensive. I would like to think that there are ways even within the current legislation that we could in fact limit the amount of the bureaucracy involved, but I still

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do feel that we have too many people working on the process rather than on making the provision for the children.

Q414 Chairman: Tim Warin?

Mr Warin: I think we meet statutory requirements; I think we have a fairly fair, equitable transparent process and decisions on very complex needs are made by a multi-agency inclusion panel, which may well be similar, and we have good support from Health on that. What that panel looks at is very detailed assessments; it is bureaucracy and detail. I think you have to be careful with bureaucracy. You need very detailed information for that panel to act and make decisions—it is a multi-agency panel and very detailed assessments are coming in from a range of agencies for children with complex needs. That takes time but you need that detail and professionalism in there, I think. Our statements have been rising a bit as well. It is very interesting. As you know, there is a big government initiative at the moment about reducing reliance on statement and we have DfES SEN advisers coming to talk to LEAs about that. We are certainly moving to the idea of supplementary funding without the need for a statement, and we are going to instigate that in April. There is a lot of training involved, a lot of work with parents, a lot of work with Health because a lot of people believe in getting a statement and once you have a statement it is there and it is there to protect you. With supplementary funding we would want to move very much to the idea of provision maps, that schools are talking about what a child with very complex needs—this is in mainstream—actually needs and what it is going to cost, and that that would need to be reviewed perhaps every two or three years, so it is not there forever. But we have a lot of work to do with the different agencies involved to make sure that we are all talking from the same hymn sheet on that particular one. So it is not going to be a revolution it is going to be an evolution because for children who already have statements obviously we are not going to change that.

Q415 Mr Chaytor: Newcastle, Buckinghamshire and Stockport could not be accused, therefore, of operating blanket policies, of never quantifying educational provision for particular groups of children?

Mr Warin: No.

Q416 Mr Chaytor: Do you think that is a fair criticism of some of the local authorities, or not? I am looking at the expressions on your faces now.

Mr Rogers: I think it probably is and that blanket approach is applied in different ways. Sometimes there is a blanket approach to not assessing a particular type of need, for example, or there is a blanket approach, as you said, to what then subsequently ends up in a statement if one is written. Again, I think both of those things would always need to be set in context because I would be tempted in Stockport to have what might be

considered a blanket approach to children with sensory impairments, because we have a sensory service that we have invested in very heavily that is able to do some very proactive early intervention work—and I mean the kind of very early intervention work from birth—that really allows us to say that the interventions that are required for our children with sensory needs in the borough can be met without recourse to any statutory form of assessment, let alone statementing, because the service is actually doing the kind of ongoing assessment for learning stuff with all those children anyway, and I would love to take a blanket approach and say to that service, “Please do not ever make a referral for statutory assessment”—we would still have to accept a parental request for one—“because you just do not need to.” But I know two things really. Experience will tell me that there will be people in the service itself who are concerned that the lack of formality and the lack of requirement that a statutory assessment brings would alarm them because as a bureaucrat I might at some point pull the money back. The second thing also, I suppose, is we know all the time that the parents, because of this system we have—and I will only say this “insane system” once today—drives them towards seeking the Holy Grail of a statement because it is the only form of insurance that they feel, many of them, they can have around pinning a local authority and/or a school down to doing what they think should be done or what actually should be done. So I think we have to be more sophisticated about the view of blanket approaches. Clearly in law, if you follow the code properly—and I could have a semantic argument with you about the code of course because, just like the admissions code of practice, it is on a statutory basis but only needs to be given regard—

Mr Chaytor: Can I just move on to that quickly and explore this tension between the discretionary nature of the code and the statutory duty? Does this cause real problems or by and large can you manage this contradiction?

Q417 Chairman: Janet?

Ms Sparrow: I think by and large we manage it.

Q418 Mr Chaytor: Are there specific examples you could give us where it is a real problem, either in your authority or well-documented examples elsewhere?

Mr Rogers: I do not want to do all the talking, but I can give you very a very specific example of why the code bothers me, because it gives local discretion to 150 or whatever local authorities to set their criteria for statutory assessment and everything else. On one level you think, great, local discretion, splendid, but on another level that flexibility in the code is hugely challenging because we all have borders and you often get into very difficult situations around children who attend from other local authorities or your own children who are across the border. So one issue with the code—and I am not actually going to argue that it should be put on a firmer statutory footing,

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although there might be particular strands in it that you would want to regulate more clearly—is that it is problematic, that it is legislated for to have a code, that you just have to have regard to it and have a damn good argument if you go against it. So my specific example would be that, we have 150 systems around the English upper tier authorities for assessing children.

Mr Warin: I agree with that point and certainly with reducing reliance on statements. One authority cannot act in isolation from a neighbouring authority—Newcastle is very much part of Tyne & Wear authorities, and we have common borders, we have children moving across borders and one system needs to be applied regionally—you cannot have supplementary funding in one LA and a family move to the next LA with a different system. That is just not going to work. So that is a very good point.

Chairman: Jeff Ennis.

Q419 Jeff Ennis: Can I begin by asking Mark a supplementary to one of his earlier answers in terms of you seem to be fairly critical of the current tribunal process, Mark, and I am wondering if you have any ideas how we can improve that?

Mr Rogers: I think possibly when you invited me for your navigation session I said something about the fact that in an ideal world I would deconstruct the whole of the SEN machinery anyway because, bizarrely I think either every child or no child should have a statement because, to use the buzz word “personalisation”, the agenda is actually about meeting the needs of all children and young people. If you need any form of appeals system—and you do, I actually think that you do need that and it needs to be independent of local government—it should be an appeals system that deals with all those children whose needs somebody perceives are not being met, and to have a specific system around Special Educational Needs and disability, as we do, does not seem fair to me, to be quite honest, not least because I think probably it is doing a number of unhelpful things which were not intended. One is it is actually concentrating a particular group of issues that get dealt with, ie SEN and disability ones, whereas we actually know that on the disability front, for example, there might be a whole range of children out there who would not consider using the tribunal because they see the title SEN and disability tribunal and do not take the opportunity to access it. I think the second one is—and it is a matter of equity for me, and usually I get kicked at this point by somebody—why should we actually have a better system for a particular group of young people to have their concerns heard and dealt with than for the majority of children? I am not saying that we should dumb down, I am saying that we should raise the bar for everyone if we are going to do it because you can get heard if you have special needs, you can get children’s rights if you are a looked after child, but what if you are just, you know . . .

Q420 Chairman: A bog standard student.

Mr Rogers: I was trying to resist such a phrase. So I am concerned and I think that there is an inbuilt inequality in having something like an SEN and disability tribunal, aside from the decisions that it then takes, of course.

Q421 Chairman: I hasten to say that there is no such thing as a bog standard student—an average student.

Mr Rogers: Absolutely.

Q422 Jeff Ennis: One of our witnesses said that we need to try to find the Holy Grail to do with Special Educational Needs. Would the Holy Grail not be having an assessment process independent of local authorities and getting the SEN budget funding straight from central government rather than local authorities, and then that removes that barrier?

Mr Warin: Why central? Why do you go central? I would certainly go regional. I think you have different needs in very different areas and I think we have quite enough central as it is at the moment.

Q423 Jeff Ennis: Janet?

Ms Sparrow: I was just going to say that I think you also need a system that can respond to context as well as individual need because our contexts vary enormously and some schools are absolutely excellent at meeting fairly complex needs within their own resources and other schools may struggle. Schools themselves may have different thresholds for intervention based upon the children who they see from their local community. So I think you would have to be very careful that the system was able to respond to context as well as individual need.

Q424 Jeff Ennis: Do you have any thoughts on that, Mark?

Mr Rogers: Yes, I have. I would not centralise or regionalise your assessment system. Before I leave I will give you the budget, though, and you can centralise that. Much more seriously and hopefully sensibly I would—and I do not know about my colleagues—appreciate a greater degree of central—and I must get the word right here—direction, and we have used the words “provision maps” already. So probably in much the way we have a national curriculum which sets out the skills, knowledge and understanding that we expect young people to gain at particular stages in their lives, why should we not set out then for some local determination our expectations of the range of strategies and interventions, staffing arrangements, et cetera, et cetera that schools should have in place to meet the needs of children with additional needs, including SEN? You can tell that I do not like the diverse system we have of 150 English authorities doing their own thing within a framework but too loose a framework. So if you want some central intervention here that is what I would ask for and would be very pleased to receive something that then allowed us a bit of standardisation.

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Q425 Jeff Ennis: I am looking at the Buckinghamshire County Council submission, SEN45, so I guess my next question is mainly directed towards Janet. It is to do with the extension of the DDA, the Disability Discrimination Act, and it points out that it is creating concern and confusion, Janet, in your submission, saying, "Despite training offered, schools are not clear about their responsibilities and the implications for individual pupils and for them of the DDA." What do we need to get rid of this confusion and concern around the DDA?

Ms Sparrow: I think in Buckinghamshire we are working very hard with our schools to ensure that they do know what their responsibilities are in terms of DDA. We have, for example, done a lot of work around access plannings for our schools, but I still feel that there is a lack of clarity around where the responsibility ultimately rests, ie with the school or with the local authority. I guess somebody to actually say, "This is the line."

Q426 Jeff Ennis: Does that confusion exist in Stockport and Newcastle as well with the DDA?

Mr Rogers: With that and other areas of responsibility really. I think we always struggle with some of the artificial delineation between what the local authority is responsible for and what schools are. This is the latest, perhaps.

Q427 Jeff Ennis: Tim, do you have any view?

Mr Warin: I think we are clearer about schools' responsibility and about making sure that they are aware of the responsibility and have that degree of training.

Q428 Jeff Ennis: How will the development of Children's Trusts impact on the operation of SEN in their LEAs, or will it?

Mr Warin: It should. SEN is very much around bringing agencies together. I have been talking about a multi-agency inclusion and we have been talking about assessments we make and assessments from different agencies. At the heart of some of the differences in the tribunals are the differences between health and education and I have highlighted that that is a very important part of the tribunal process; it is often to do with health needs and not to do with education needs, and actually bringing professionals together is extremely important. I have mentioned statements and health practitioners will often go for a statement because it is prescription—you know you have it and that is it. So the Children's Trust, the Children's Services is a tremendous opportunity to bring people together, particularly when children are very young.

Ms Sparrow: I was going to agree with that. We do now have a shadow Children's Trust in Buckinghamshire that is up and running and I think it is going to be incredibly helpful to have the support for that strategically from the Chief Executives across the local authority, across the districts and the Health Trusts. I think on the ground, as it were, there is already a lot of very

good work going on, and linking with one of the previous questions one of the successful LPSA 2 bids that we submitted this time was for a joint project between health and special education, to actually provide speech and language therapy support in mainstream schools as early intervention and prevention, and hopefully reduce the reliance on statements later on. So we have people working on the ground very successfully, I think. Now with the Children's Trust coming along it is going to give a strategic lead to that and ownership by the Chief Executive. So I think that is very positive.

Q429 Jeff Ennis: Effectively in terms of looking to radically change the current structure of the SEN process it is a question of watching this space and seeing what impact the Children's Trust will have on the situation before we ought to look at radically overhauling the system.

Mr Rogers: The Children's Trust is about the delivery angle for me, and to get the added impetus to integration of services, for example, eradicating some of the overlap, filling in the gaps, streamlining some of the management, all of that has to be to the benefit of children and families. I would like to make one other observation, which I know this Committee has already made. I argued earlier before the current Children Act came in that we should have schools on the face of that Bill, and I would argue again that if the Education Bill that is apparently under preparation is under preparation, again that would be a really important measure because there is some concern that without both the stick and the carrot schools might not necessarily see the need to cooperate as quickly and as energetically as they need to because they are not on the face of the Children Act.

Chairman: Let us move on to the statementing process and Rob Wilson is going to lead the questioning.

Q430 Mr Wilson: Thank you, Chairman. I might cover some of the stuff that has already been gone through, but I think it is worthwhile maybe repeating some of it. We have taken a lot of evidence already on this Committee about the statementing process and it has also been widely criticised, for example by the Audit Commission as, "a costly, bureaucratic and unresponsive process". But on the other side there has been the Independent Panel for Special Education Advice, which actually says that none of its critics have yet suggested an alternative, quicker or reduced process. What I would like to get at with the three of you is which side of the fence do you fall on with those statements?

Mr Warin: I come back to what I said earlier. You cannot lose the expertise and professionalism of the assessments; that is very important. So the psychologist's assessment, the health practitioner's assessment are an absolutely key part of this. Whether it needs to be done statutorily or whether you can do it in the way we are proposing, through supplementary funding, what you cannot do is lose that detail and professionalism in the quality of

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assessments. One of the delays, of course, is actually getting it in from different agencies. You may be aware that they talk about statements with exceptions and statements without exceptions because often it is difficult to get in detailed assessments, particularly from health practitioners, on time. That is another issue. So you cannot lose that particular quality. I think you can lose a lot of the bureaucracy and the terminology around the statements but not the quality of assessment.

Ms Sparrow: I would agree with that. The thoroughness of the assessment process is something that I think we need to retain. We need to make sure that we are identifying clearly the needs of the children because if we do not do that we cannot meet the needs. I think where my concerns about the statementing process would come would be after that. Indeed the timeframes that are set, while they may seem very long to parents in fact can be quite short in terms of gaining really good, thorough assessments from colleagues in other agencies. So we need to perhaps look at how the process could be streamlined but without losing that thoroughness.

Mr Rogers: You already know the tones of my view. I think there are three elements to the alternative. The first we have mentioned already, provision mapping. I think that that is the way forward; we should have absolute clarity about the different sorts of strategies that schools and others should be able to use with different children. So that is where I would start; that would be my alternative to the statement. Secondly, I think a much strengthened school self-evaluation framework where inclusion and the subset of it is much more clearly, robustly and energetically addressed and supported through the inspection arrangements that we have, both national and local, I would like to strengthen the local authority's ability to support challenge schools around inclusion. I think the third part is the independent appeals system. There should always be the opportunity for parents or children themselves to say, "This still is not right for me." So I would go for that kind of three-part model and absolutely I would de-legislate the 1981 Act, if I could.

Q431 Mr Wilson: So the answer to my question is neither of those two?

Mr Warin: Both of those points of view you have expressed are in a very narrow—

Mr Wilson: I have not expressed any point of view, I have just told you what they have said; I have not expressed a view.

Chairman: Excuse me, through the Chair, both of you, both question and answer.

Q432 Mr Wilson: Sorry, Chair. Do you want to respond?

Mr Warin: You gave two points of view, one from the Audit Commission and the other one from—

Q433 Mr Wilson: IPSEA.

Mr Warin: And I can see both points of view because you cannot lose the thoroughness of the assessment but you can lose a lot of the bureaucracy involved in the terminology. So it is somewhere in the middle.

Q434 Mr Wilson: They have gone through a new way of doing this in Scotland. Have you had a look at that?

Mr Warin: No.

Q435 Mr Wilson: Do you have any views on what has been happening in Scotland?

Mr Warin: No.

Q436 Chairman: You are nearly in Scotland, Tim Warin! Do you have no views at all?

Mr Warin: Yes, I am very interested. I do not know about it.

Mr Rogers: They are taking more of a profiling approach, are they not? I think it is a form of provision mapping, in my view. If I might directly address that Audit Commission/IPSEA dichotomy?

Q437 Chairman: Yes.

Mr Rogers: IPSEA have been asking what the alternative is, so I have suggested one actually. So I do not agree with IPSEA.

Q438 Chairman: IPSEA is, for the record?

Mr Rogers: The Independent Panel for Special Education Advice, most commonly met in tribunals in my experience. They wanted to see what the alternative is and I have suggested that we could actually explore an alternative through that combination of provision mapping, strengthened monitoring, support and challenge and independent appeals. In terms of the Audit Commission, they merely articulated, twice in one year I seem to recall, the view of many of us in local authorities, which is basically the system does not work. So I am with the Audit Commission, yes, the system does not work so let us change it, and I would then say to IPSEA and other similar organisations, "And here are some proposals we should seriously consider putting into place", because I think that they could be made to work, and not least because I think they dovetail with the wider agenda around personalisation about being clear what every child's entitlement is when they go to school.

Q439 Mr Wilson: I would like to turn briefly to the burden of the statementing process actually in schools because a number of schools have approached me to say that it costs them quite a bit of money as part of the statementing process, and it takes an awful long time and obviously resources and teachers and so forth in the schools. How are you dealing with that within your Local Education Authorities?

Mr Warin: I guess we are lucky in Newcastle because it is a fairly compact geographical area that we have very, very strong networks of people

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working in schools and that is a huge advantage. So we are doing a lot of work with the SENCOs of our schools on things like provisions so that they are actually relating the provision that they intend to put in place to the needs. So the kind of assessments they are doing are not for a process, they are actually about what is going to be put in place in the schools. So they are linking assessment to provision in schools and making it more useful. Everything we do we trial with our schools and work with our schools, so it is not a kind of remote process, and it is a two-way process.

Q440 Mr Wilson: So, through the Chair, you recognise that there is a problem in terms of the resources it takes within schools to deal with a statementing process?

Mr Warin: I have to be careful here because it comes back to my answer before about you cannot lose the detail of the assessment. If someone needs supplementary funding, they need something more than the school can provide, then you do need that detailed assessment. I do not think you can lose that, but it needs to be a process that is much more aligned to something useful in schools, which is the provision map.

Q441 Mr Wilson: Through you again, Chairman. Is this notion of inclusion causing more assessments within schools and therefore again more of a burden on schools to deal with it?

Mr Warin: No, I would not say so.

Mr Rogers: I think the issue around inclusion is often distilled back down to SEN for schools and particularly within SEN either autistic spectrum disorder and/or behaviour. So around the bureaucracy issue, yes, schools clearly suffer from bureaucracy; local authorities suffer from bureaucracy; so do our health departments. Anyone who is part of this process of trying to provide the information and advice for a formal assessment will say it is bureaucratic. We have attempted to bend but not break the rules around school advice. So, for example, if at the onset of the assessment process, as they are supposed to do, the school submits an initial case it is then in strict procedural terms they then end up being asked for statutory advice as well, and it has in the past, being purist about it, been seen as two different stages to the process, and we have tried to telescope that a little and make sure that actually the school only provides the information we need from them once. I have been chastised for that, I have to say, but we have attempted to overcome some of the bureaucratic elements of schools by streamlining the process. But technically you could make it a really protracted and bureaucratic process above and beyond the way it is now. But, yes, the short answer to your question is I am sure schools are teed off with it, it takes up too much of their time.

Chairman: We have heard that Janet Sparrow went on at quite some length about bureaucracy, but a lot of parents think you are the bureaucracy; you are the people who make this appeal an inordinate time. When you come back to Rob on this, tell us who you blame for the bureaucracy.

Q442 Mr Wilson: You take centre stage, Mr Rogers, because you have been before us before and you said that you believed that the SEN provision is based on a fundamentally flawed system. What is your evidence for that view?

Mr Rogers: Empirical, working within the system, Chairman. First of all, the fact that it takes a minimum of 18 weeks, if you go through the process, which seems ludicrous. Secondly, that the amount of contention, the occasional resort to litigation and tribunal activity again evidences a level of dissatisfaction that I do not think we should have built into a system of any kind. Thirdly, the lack of relationship between a demand-led system and local authority resources again means that decisions are always challenging and sometimes, I would say bluntly, compromised. So I think those things alone provide me with day to day working evidence of a system that creaks at best and I will not say what it does when it is not working well at all.

Q443 Mr Wilson: Chairman, we have got two other people here today who work in the same area so let us hear them. Would you agree with that assessment?

Ms Sparrow: Can I answer some of the previous things as well, but, yes, I do agree with most of that. One thing that we are trying to do, and are working on in Buckinghamshire, is to look at the annual review process, which, again, can create enormous additional work for schools. We have been working with the DfES over the last few months to pilot a reduced bureaucracy around the annual review process. The aim of that is to try and make the system easier for schools to manage. We will have the results of that pilot shortly, and if it is deemed by schools to be easier to manage, then we will make that part of our county processes. We are looking to help schools in terms of reducing their workload. When it comes to what is the bureaucracy, certainly the whole issue around appendices, when a request for a statutory assessment first comes into the authority it is normally accompanied by a lot of evidence. If that request is agreed, then we have to contact all of the people who submitted the information, plus other professionals who may have been involved in order to send in new reports which become the appendices for the statement. Again, as Mark was saying, what we are trying to do is where we have a submission that contains an up to date thorough report, for example from the school, we would not now seek additional appendices for that. The process of having to request those appendices, get them in, track them, then as part of the writing of the statement and producing the proposed statement, all of those have to then be photocopied and sent out to all of the people who contributed to the statement, it amounts to a huge amount of paperwork, a lot of photocopying and a lot of duplication. Moving on, when we get to the point where the parents wish to indicate a preference for a school, even if the local authority is happy to go along with that preference, we would still need to go through the application process to that school and to those governors if we felt there was a school that was

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nearer to the pupil's home that was as appropriate. Again, it is duplicating a lot of the work and the effort for both schools and the local authority because every time a school receives an application it comes with a statement and with the appendices. They have to look at that and they have to consider if they can make the provision that is on the statement and meet the child's needs.

Q444 Mr Wilson: They are all very good points. I know Nadine is anxious to come in on some of this stuff. I asked Mr Rogers the question and you sort of said you agree with much of what he said. What do you not agree with?

Ms Sparrow: I suppose we are doing a lot of work on provision mapping in Buckinghamshire and I do feel it has benefits and could be the way forward. I think, as far as our schools are concerned, they still want to see how it will work for them in the longer term. I guess my question is around how we can ensure that provision mapping does not become almost the same in terms of workload that an IEP would, for example. That is my concern.

Q445 Mrs Dorries: I have a number of questions, but I would like to pick up on something that both Janet and Tim have said first. Janet, in your opening statement you said that you have closed down a special school and you send children out of county. Why did you not keep the special school open and let the children be educated near to home rather than sending them off?

Ms Sparrow: I think that is a very good question. Unfortunately, I personally cannot answer that because I was not in post at the time that was closed. However, I do feel that the decision was taken because that particular school was designated as a school for pupils with moderate learning difficulties, a falling roll, and a school that was not easily adaptable to meet a broader range of needs.

Q446 Mrs Dorries: The school was not adaptable to meet a broader range of needs but many of those children, I assume, are now in mainstream school. How can a mainstream school be adaptable but a special school cannot?

Ms Sparrow: In fact, I do not think any of those children went to mainstream schools. As I have said, the school roll was falling and the school remained open to enable the older pupils—it was a secondary school—to finish their education. The younger pupils were transferred, where appropriate, to another special school.

Q447 Mrs Dorries: Was the school roll falling because fewer children were being statemented and referred to the school and had that happened over a block of time prior to that? If the children are now being sent out of county, I am sure there will still be new children since the school being closed down being sent out of county. I suppose what I am trying to say is was there a reluctance on the LEA to statement children and refer them to school,

therefore the rolls fell, so the school was closed but the number of children are still there with special needs but are being sent outside a county?

Ms Sparrow: Again, I think it comes down to the designation. This was a school for children with moderate learning difficulties. We are finding that more of those children are now successfully educated in mainstream schools. The children whom we are sending out of county tend to be those with more severe autism or more severe and challenging behaviour.

Q448 Mrs Dorries: Tim, you spoke about the number of children that go out of county from your area and you said they were children who had been to a tribunal.

Mr Warin: Not all of them, some of them.

Q449 Mrs Dorries: Given that—we have had evidence at this Committee—we know the cost of a tribunal, we know that it costs between £2,000 and £10,000, and that if you go to tribunal it is because you are probably white, middle class, well educated yourself and have the funding to pay for it. Tim, are you saying in your statement that the people in Newcastle who can afford to go to tribunal are the ones who get the provision they need because they are the people who have the tribunal and then get sent out of county to receive it?

Mr Warin: No, I am not saying that. All the recent tribunals have all been around health needs, and I think that is a very different debate from education. That is a major educational debate about what children with very complex needs really need educationally and about their achievements. All the recent tribunal decisions have been about health. The most recent one we have had was about respite care in the holidays for a child who needed toileting.

Q450 Mrs Dorries: That does not really count in terms of SEN provision. Are there a number of children with SEN going to tribunal in Newcastle? What sort of numbers are they at?

Mr Warin: They are quite small at the moment. We have a specialist school for autism which is going from strength to strength. That was in special measures, I have to say, three or four years ago and at that time clearly we had parents looking to a better education but that has changed.

Q451 Mrs Dorries: The number of people referred to tribunal, or seeking a tribunal, in Newcastle is low?

Mr Warin: Now, yes.

Q452 Mrs Dorries: In Newcastle, in terms of the socio-economic grouping of parents, and you talked about refugees, people who have got parents where English is their second language, could it be because of the make-up of Newcastle in terms of its demographics and its socio-economic grouping that many of the parents of children with special needs themselves have Special Educational Needs and have neither the financial resources nor the ability to go as far as tribunal?

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Mr Warin: No, I do not think so.

Q453 Mrs Dorries: How would you know that?

Mr Warin: Newcastle has a great mixture—and we have a north-eastern MP here—it goes right across the socio-economic grouping.

Dr Blackman-Woods: A former councillor for Newcastle.

Mrs Dorries: I will move on to Mark swiftly then!

Dr Blackman-Woods: It might be wise!

Q454 Mrs Dorries: You said before that you wanted to move the barriers, you would like to lift the barriers. You felt it was wrong that any children with SEN got to have this special provision and you would like to see it more inclusive for all children. You said normally at that point you would get a kicking, I think the kicking is going to come now because, again, the same points about tribunal. You made the comment that only certain people go to tribunals, and you talked also about the financial responsibility, and you criticised tribunals slightly. Correct me if I am wrong, but the point of tribunals is that you get the full health and educational assessments made independently by independent assessors. The point of a tribunal is that it is outside of the LEA and completely independent and, therefore, somebody objectively makes the assessment. You made the comment that they make it without the financial responsibility but, of course, they do not have to do that because they are not the LEA. Are you saying then that the LEAs are making their judgments and their assessments by their overriding concern being their financial responsibility which is going to be imposed on the authority and not the needs of the child?

Mr Rogers: No, but I am saying that at all times you have somewhere in your mind, and it is usually in the middle to the front end of it, the financial resource you have available. No, I am not saying the decision-making is predicated on the available resource, I am not saying that. What I am saying about tribunal, which is where I find its current remit problematic, is it is a secondary issue for me that they can make decisions without financial responsibility, but that bugs me and irritates me, so you have allowed me to say that in public and get it off my chest. The thing that primarily bugs me about them is that their decisions are without reference and without context. When they hear the case they hear it ipsatively. I do not even think they work particularly on the principle of precedent. They take each case on its merits, which is good, but then they take each case individually, which is not so good, so that you get different kinds of decisions in tribunals, in my view, for children whose circumstances may not be hugely different. Those decisions are not made with reference to what is done for the generality of other children in your local area. I take your point fully about who gets to tribunal, and we might have more challenge if there was a more accessible, more proactive approach perhaps for some parents and some families around this, but I find it very hard to reconcile a tribunal's decision when often it can be so different from a decision we had made locally with

another family who might be happy with us, by the way, and have a different kind of arrangement of provision as a result. It has not got in its remit the need to acknowledge equity, parity and context for me, and that is the fundamental challenge I have to the tribunal.

Q455 Mrs Dorries: Mark, I take that point, but if the family that has gone to tribunal was happy with the provision they were being provided with they would never have gone to tribunal in the first place and incurred those costs.

Mr Rogers: There are a lot of different appeals that parents make. I know you are not making the mistake that it is always about provision. Parents appeal to tribunal if we refuse to assess, for example, or if we refuse to issue a statement and sometimes they appeal about the contents of the statement. There is a range of different issues that are raised at tribunal; it is not always that parents are challenging the provision. They might be challenging the fact that we said they do not meet the eligibility criteria for a statutory assessment.

Q456 Mrs Dorries: Quite rightly so, I would say too, Mark. In 2005, there was an increase of 10% in the number of pupils truanting and to deal with that problem the Government have spent around £1 billion. You spoke about the Audit Commission Report a while ago. Two thirds of permanent exclusions are children with SEN. Mark, you talk about provision mapping and funding yourself and funding seems to be an issue. Do you think, therefore, that the £1 billion spent on truanting and the lack of its success shows that there are better ways that funding could be spent within education to deal with the needs of Special Educational Needs as opposed to the whole group which you spoke about before?

Mr Rogers: I suppose, generally, yes. I would like to see much greater investment both at the initial training stages as well as then continuing through people's careers around all of these issues. I feel that we short change both teachers and support staff, at the initial stage that they qualify and then during their careers, by not providing them with sufficient quantity and quality of professional development which allows them to better understand and, therefore, better address the needs of almost all of these children. Because I said earlier there should be a continuum of provision I understand that some people do get to specialise, and quite often if you do specialise there is probably access to some better quality and range of training. When I think of the generality of teachers, I am very concerned. We still only have five statutory days for professional development in the year, that is a legacy of years ago. We are clear that all the strategies that schools are asked to address and deliver will probably take up that time and twice again, and yet fundamental to all of this is the personalisation agenda, meeting the needs of children, and where are we with providing regular top quality accredited training for all staff to help meet that wide variety of need in the classroom. It does not surprise me about truancy at all, it shocks

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me but does not surprise me that it has gone up. It does not surprise me because I know the figures about the representation of SEN children and young people in those figures, just as they are the same kind of figures for excluded children. Staff have not necessarily all got all the expertise they need. I think we are neglecting that area at our cost. When we have truancy sweeps—others what I would call reactive strategies, so they are probably not strategies, they are tactics—coming down, they are welcome on one level but they are only dealing with the symptoms and not the cause, are they not? They are not enabling those people who work day-to-day with children to keep them included in the system, whatever bit of the system it is.

Q457 Dr Blackman-Woods: Mark, I think earlier you were arguing for a more strategic role for local authorities in terms of planning provision. You will know that in 2004 Ofsted found that there was a lack of strategic planning across local authorities, the services available varied widely and also different groups of pupils with similar needs received different levels of support depending on where they lived and they thought this was unacceptable. Can you tell us why you think there is an unacceptable variation in provision in SEN or whether you think there is an unacceptable level of provision in some local authorities and, in particular, that the variation is unacceptable? Does postcode lottery exist for SEN pupils?

Mr Warin: I do not think there is a postcode lottery. Certainly from my point of view, I mentioned Tyne and Wear earlier on and we share very common borders, we do work quite closely with our partner local authorities and I think that is important. We look at where we can develop provision between us. For example, North Tyneside have some good provision for less cognitively able children with physical difficulties and we use that provision. Similarly, they will use some of our sensory impaired provision. We do work together to make sure it is not a postcode lottery. I do take your point though, LEAs are at very different stages of development and the kinds of schools and provision they have are different. Re-organisations and restructuring are huge events, I am glad we did ours five or six years ago, because they have to be very flexible to changing needs, particularly with the kind of autism complex difficulties. I would hope we are not a postcode lottery and that we do work with partners on a regional provision.

Ms Sparrow: To pick up on one of your points about strategic development or lack of it. I think that could possibly have been said about Buckinghamshire a couple of years ago, which is one reason why we are looking at our provision across the county and have undertaken a review of our strategies and policies. I hope that one of the outcomes of that will be to ensure that there is certainly no postcode lottery within Buckinghamshire.

Q458 Dr Blackman-Woods: That is not my question. It is not within an authority, it is across authorities.

Ms Sparrow: We do work very closely now with the South Central SEN Regional Partnership so that we have a feel across a range of authorities at levels of provision and we are looking to work on some joint provisioning. I do feel that certainly in some areas there is what you might call a postcode lottery, and I do believe, it is purely anecdotal, we do have cases of parents and families who move to Buckinghamshire because they feel they will be able to access a greater range of provision or additional provision.

Q459 Chairman: Why? Is that because the provision everywhere around you is pretty awful then?

Ms Sparrow: No, I would not say that at all.

Q460 Chairman: What is so special about Buckinghamshire? I have got no prejudice against Buckinghamshire at all, but if they are moving into Buckinghamshire for your services what makes that so attractive?

Ms Sparrow: I think there is a recognition that our children with Special Educational Needs achieve well as part of the achievement of all pupils in Buckinghamshire, and that they achieve well because we do put a huge amount of resource into supporting children with Special Educational Needs.

Q461 Chairman: You are being nice and polite, are you not? You are saying, "We do it properly and the surrounding authorities cannot"

Ms Sparrow: No, we are not saying that because we are working with other local authorities now in a regional partnership.

Q462 Chairman: You are joining Betcheman, thinking "poor old Slough". I know Betcheman said nasty things about Slough and raining bombs on it.

Ms Sparrow: I would never say nasty things about Slough because I taught there for many years.

Q463 Chairman: People are moving from Slough to Buckinghamshire to get a better deal, are they not?

Ms Sparrow: I am very pleased to say that, in fact, we have quite a lot of cross-border co-operation and, indeed, some of our pupils from Buckinghamshire do attend schools in Slough simply because of the rather strange boundaries that we have between us.

Q464 Dr Blackman-Woods: That was an interesting diversion. Mark, would you like to answer the same question?

Mr Rogers: I will give you a view as to why I think some local authorities' strategic planning is poor: training and expertise amongst officers. I am not sure there is any programme which existed in the past or exists now to ensure that you are preparing people for these sorts of roles, my colleagues to my left aside, of course. In fact, I think also it is about the relative priority that a local authority gives to this agenda. I have had the fortune to work in two where it has had very high priority, but I think it is not always an agenda that is high on the list and therefore not attended to. I would say around poor

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planning that I think there is a range of issues there that are quite straightforward on one level. Postcode lottery, yes, of course there is. You have teased that out a little bit, Chairman, in terms of Buckinghamshire and its surrounding authorities. Similarly in Stockport, we are attractive to our neighbours and it is very simple. We spend more money, it seems, per head and allocate more support there for the statemented child than some, not all, of our neighbours do. Having worked in one of the neighbours previously I can say that levels of support can be significantly greater in Stockport, so we import. There is a postcode. I do not like the phrase lottery but I understand exactly what you are saying, you get a different entitlement in different local authority areas.

Q465 Dr Blackman-Woods: Should local authorities work together better to try and improve the consistency and share best practice? Is that possible and do mechanisms exist to facilitate that?

Mr Warin: We have the SEN regional partnerships, just to mention those, and those are a DfES initiative. I do not think they have teeth, but they are a good way of bringing people together. I think there is a need to plan provision regionally. They have been good in developing practice regionally. I was on the phone this morning to the head of one of our big non-maintained special schools. If we could get a regional planning provision which involved the non-maintained special schools and use their expertise regionally for low incidence provision, it would also reduce a lot of the conflict around non-maintained special schools. We do not seem to have that mechanism for planning regional provision. We have got a lot around practice, bringing people together, but not the kind of structural strategic stuff.

Mr Rogers: I would absolutely agree about the importance (a) of the partnerships and (b) them retaining a focus on developing regional and sub-regional provision, particularly around low incidence need. That is a really good piece of work that they should carry on having the mandate for. I suppose the other issue around planning comes back to this thing about provision mapping for me. I think you would get some consistency if there was a tighter set of expectations on local authorities and their schools.

Q466 Dr Blackman-Woods: In fact, I want to ask you whether sharing good practice was the way forward or whether you needed more central guidance or both?

Mr Rogers: I think good practice sharing is absolutely essential. One of the key challenges to it is simply the time, is it not? It comes back to the issue about training and professional development, at whatever level that requires time. There are enormous benefits, are there not, to be learnt between institutions and between organisations. We do not always have the time for that to happen properly.

Q467 Dr Blackman-Woods: I suspect one of the areas where there is some difference is about the collaboration between mainstream and special schools, and we still seem to think that good collaboration is the exception and not the rule. Can you tell us why you think collaboration is so hard to achieve, if indeed it is?

Mr Warin: It seems really important and it is also to do with the way the DfES works, that special schools are treated in the same way as mainstream schools. They have the same kind of entitlement, they take part in the same initiatives and they have access to those. A really good thing recently has been the opening up of the specialist schools status for special schools. When *Excellence in Cities* first came out, it excluded special schools. These things are ridiculous because you need special schools and mainstream schools working together and taking part in the same initiatives. We have just done some really good work in one of our special schools in introducing all interactive whiteboards et cetera because that is exactly what ought to be happening. They ought to have the same equality of opportunity, they should be sitting around the same table when initiatives come up and those should be applying to special schools. We do have very strong links between our special and mainstream schools, it will not work otherwise. You have either got to do that through location or through structures like specialist schools, but you need to have that, it is absolutely essential, otherwise the special school gets left behind, it becomes very isolated and when you go in there it is around care, it is not around education.

Q468 Dr Blackman-Woods: I have heard what you said, Tim, but do you think local authorities need more powers to bring schools together in clusters or are they able to do that at the moment?

Mr Warin: I think there is a lot of direction that they should be doing that, the specialist schools. It is more the structural things that are now being set up, thankfully, by the specialist schools that require partner schools, so I think that should be encouraged. Also inspection, Ofsted are looking very much now at what their links are when they inspect special schools and that is to be welcomed as well. If all those are strengthened then you would expect a special school to be part of a wider community of schools, not an isolated institution. If that is through inspection and through DfES, that is good enough and I think that is what we need.

Q469 Dr Blackman-Woods: I would be interested in hearing from all of you about whether you think bringing schools together in clusters is a positive way forward.

Mr Warin: Yes, hugely because it is driving practice forward. That would be fantastic if you could have a discussion in tribunal about education and about what is really good outstanding teaching and provision for children with autism. I think that would be really good and that is happening more and more through bringing schools together.

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Ms Sparrow: Certainly, as part of the re-provisioning in Buckinghamshire we are looking at developing local communities of schools which will include schools which can offer provision across the whole continuum. In other words, special schools will be part of those local clusters, as indeed will mainstream schools with additional resource provision. If I can add something about the interface between mainstream and special schools, one of the problems we have had is around funding. The way that special schools have historically been funded in Buckinghamshire has not enabled them to outreach into the community and to form strong formal links with mainstream schools. We are currently undertaking a piece of work to revise the formula funding for our special schools, but very clearly within that will be an element to enable them to provide outreach work to mainstream schools. When I say "outreach to mainstream", we view it as a two-way process, mainstream teachers coming into special schools and vice versa and the same for children where appropriate. I think our funding models have not allowed that to happen in the past.

Q470 Chairman: In Buckinghamshire that means all the schools, does it? Does it mean grammar schools as well?

Ms Sparrow: Where appropriate, yes.

Q471 Chairman: We understand there is only a small number but they are part of the programme?

Ms Sparrow: They are very much part of the programme and involved in the policy of development.

Mr Rogers: I would agree with clusters and collaboration. I do not know whether you would want to give more powers to the local authority to make schools work that way. I think it should be written into the requirements on schools to operate collaboratively in maybe a slightly stronger way. I would also say something really important that, yes, learning from one another seems to be one of the most effective ways of raising standards, it does seem to work, but there is another important ingredient, which a cluster alone will not address for you, and that is the leadership of schools in the first place. We need to be really clear that a cluster will only ever be as strong as the quality of leadership in its constituent headteachers. Clearly they can learn from one another through cluster activity, but similarly they need to be learning, as they do now, through the National College and other mechanisms. I think that is crucial. We are told time and again, are we not, by Ofsted and other more erudite bodies that leadership is what matters more than anything else. If you have got quality leadership then you will have quality clusters but I do not think it works the other way round.

Q472 Chairman: Those responses were very interesting. Before I move to Helen, can I pick Tim Warin up on one thing. You mentioned in passing the non-maintained sector, and I would like to find

out from the three of you how you regard that non-maintained sector. It seems as though you want to put it into some sort of system or structure, Tim, am I right in that?

Mr Warin: The non-maintained sector is the sector. It is not maintained by LEAs but LEAs clearly fund it because their pupils are placed there.

Q473 Chairman: Of course. What are they, usually independent trusts and charities?

Mr Warin: Yes.

Q474 Chairman: It is a vital role, is it not? I have one in my own area that deals with very severe special and health needs which the local authority would not want to take the burden of.

Mr Warin: That is the role I would strongly push, that regional specialist role. I think it is where non-maintained special schools are in competition with LEAs that that is difficult, and that should not be the case. If there was the kind of regional organisation that we are talking about then it would recognise their expertise in the very complex area of special needs rather than them feeling they need to compete in order to keep their places up.

Q475 Mr Chaytor: Can I pursue this point. Can you say a little bit more about the working of these SEN regional partnership which you have referred to? What happens in reality?

Mr Warin: I think they are all very different in character.

Q476 Mr Chaytor: Does every part of the country have an SEN regional partnership?

Mr Warin: Yes.

Q477 Mr Chaytor: How long have they been established?

Mr Warin: About five or six years now.

Mr Rogers: In 1999 the first ones emerged.

Q478 Mr Chaytor: The practical effect of that is what?

Mr Warin: I would say it is bringing people together to share practice rather than having that kind of structural organisational role. They are very good in developing practice. They have each got their own particular areas that they work on—ours has worked very heavily on developing inclusion—so sharing practice and sharing ideas rather than a structural approach.

Q479 Mr Chaytor: In terms of rationalising provision across the region, it does not have those powers?

Mr Warin: No, certainly, it does not have those powers.

Q480 Chairman: Do the non-maintained people turn up and participate in these regional structures?

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Mr Warin: Yes, they do. What they probably do not have access to is the kind of range of networks that a local authority will have in that kind of mainstream special development. They will not have that kind of access, but they do turn up and participate.

Q481 Mr Chaytor: One of the features of the last few years, over the period of time in which these SEN regional partnerships have been established, is this huge increase in the costs of sending children out of their district to the non-maintained schools. From an outsider's point of view there will be a logic in beefing up the regional partnerships as a means of reducing those dramatically increasing costs to individual local authorities, will there not?

Mr Warin: Yes, I think so.

Q482 Mr Chaytor: What is restraining them?

Mr Warin: They do not have any statutory powers at all.

Q483 Mr Chaytor: What is restraining the individual local authorities who are part of the partnership from getting their act together and moving forward on this?

Ms Sparrow: The South Central Regional Partnership established an organisation a couple of years ago to look at the provision and the fees of schools in the independent non-maintained sector. We have begun a programme which is starting its third year now looking at all of the independent non-maintained schools which are used by the partner local authorities. We are assessing them in terms of quality of provision, both educational and care, and also working together to ensure that each year the level of fee increase is agreed based upon teachers' pay rise usually. That has been very successful over the last two years in reducing the levels of fee increase. Last year it was down to about 5% from a high of anywhere between 16% to 30% in previous years. This year the level is being set at 2.95% and we already have a number of our non-maintained special schools signing up to that.

Q484 Mr Chaytor: The increase in the out of district costs which have occurred over the last few years is not just above the inflation fee increases of the non-maintained schools, is it? It is the general drift away from local authority special schools into non-maintained special schools, or not?

Mr Rogers: It will be different in each local area, I have to say. My experience in Stockport is that we have not seen a net growth in our external placement, we have seen that growth in the expenditure associated with them. There are other areas that have definitely seen significant growth in numbers as well as costs and just one or two areas—which I think has prompted some of the Government's leaning on us last year—that have significantly reduced and one or two cases where one or two local authorities had none. If I picked up your issue rightly about the regional SEN partnerships here, this has been within their brief to see whether they can create better collaboration both between

local authorities and then the maintained and non-maintained provision which sits within those local authorities. They have made some progress, I suppose, on what you might call the benchmarking side of things, the work which Janet was referring to. In terms of establishing how many children we have got out there, what sorts of placements they are in and what the different costs associated with those placements are, a number of the regions, in parallel but not together necessarily, are now working towards either trying to manage fees collaboratively through their partnerships, definitely trying to manage quality assurance issues because that has been one of our greatest concerns—not only do we send a lot of money out of the borough, we are not always sure of the outcomes of that money—and, crucially trying to improve the contractual arrangements. I certainly work in an area where a lot of time and energy is being invested in ensuring that we have contracts that are used across the Greater Manchester region which are then used with all those providers that we purchase places from. Again, that is part of standardisation and quality control. The next stage we have to move to—and I do not know if the partnerships are the right place because they are voluntary groupings—is that regional commissioning and sub-regional commissioning approach with the voluntary, independent and non-maintained sectors as partners in that commissioning process. Historically if you asked me the question five years ago “What do you think of the non-maintained and independent sector”, I would have said, “It is a major drain on my resources”, and been probably quite negative about them. Since they have come more and more into play, willingly, and we have also been more and more willing to bring them into collaborative arrangements, say around training, the more I think we understand we both need each other. The greatest move that will move it forward might be around children's trusts and their commissioning arrangements, in fact, and whether we get to do some joint commissioning between trusts for this low incidence high consequence provision that we need. That is where I think the impetus will come from.

Q485 Helen Jones: We have had parents telling us that it is not accurate to say that parents of children with special needs have a choice because all mainstream schools do not have the right provision. Is that true in your view? Secondly, is that what we should be aiming at? Should we be aiming at choice in every school or, bearing in mind the training needs and so on, should we be aiming at concentrating on specialisms for dealing with a child with a certain kind of need in particular schools? What is your view on that, Tim?

Mr Warin: That question very much depends on the complexity of need, does it not? At a low level of need you want to encourage choice because you want all schools to be able to accommodate children with special needs. It is just in the very complex special needs you have to—

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Q486 Helen Jones: I am sorry, the teachers who have the expertise in dealing with, shall we say, autistic spectrum disorders, with children who have hearing difficulties, children who are blind, whatever, you can make the whole list, is it realistic, bearing in mind the training needed, that you can get the right support for children with all those kinds of special needs in one school or should schools be developing specialisms in the way they do with subjects and say, "We are going to specialise in dealing with children with autistic spectrum disorders and we will train for that" or whatever?

Mr Warin: I will come back to the same answer, I think it is complexity of needs. At a lower level of needs teachers do have those skills. As the needs become increasingly complex then you need to specialise your resource. We have a specialist mainstream resource for children with autism and we also have a special school for children with autism. We will have children with autism at one end of the spectrum in mainstream supported, we will have children with autism who are more complex, who will be in resource of specialised provision in one mainstream school and then we have very complex children with high needs who are in our special school for autism.

Q487 Helen Jones: Mark, do you have a view on that? I can see you writing things down.

Mr Rogers: I am trying to organise my thoughts again. Yes, as you probably expect, I do have a view. No, I do not think we should promote specialisms around SEN in either special schools or mainstream schools. I will tell you why firstly in special schools because it might have the tendency, unhelpfully, to reduce the scope of their admissions in the future by confining their expertise and specialism too much; secondly, in mainstream—I go back to where I come from all the time with these questions—it is about inclusion. Therefore, you do need to be able to cater for most needs most of the time in mainstream schools. There is a wide spectrum of those needs and we need to be equipping staff to meet them. What we should be doing, as my colleagues have said earlier, is bringing the special and the mainstream sectors together into these collaborations. We should be ensuring that the more specialised forms of provision have the means for reaching out, so that it is not just those that can come together physically in a geographical collaboration but also special schools should be able to impact on all the schools across the borough through having sufficient outreach capacity to do so. To answer your first question, there will be some children some of the time who cannot attend a mainstream school, that is absolutely the case, and they will need a specialised form of provision. I would not want to see mainstream schools develop a specialism in behaviour; first of all, I suspect they will be inordinately reluctant to do so, and what they will all specialise in will be the trendy stuff that everybody likes and middle class parents want, bluntly, but equally that argument applies to the special schools. I think it is back to the collaboration question of sharing expertise across sectors, not expecting every sector to do everything.

Q488 Helen Jones: I understand what you are saying and I agree with you about inclusion, but if we are going to make inclusion a fact rather than an aspiration, can we come back to what you said earlier about the training needs that are required to do that. I can think of discussing with my own local authority provision for children with Asperger's. They said, "Well, we can lay on training, but we can't make schools send their SENCOs to it". That is absolutely true, is it not? How do you solve those problems both in initial teacher training, particularly during the first year of teaching which I think is crucial, and going on from that afterwards? What system would you want to put in place to make sure that becomes a reality? Teachers can deal with this wide spectrum of need but a lot of the evidence currently in some cases is they are struggling to do that.

Ms Sparrow: I am not sure that a system in place is necessarily what we need, although what we do need is the ability for schools to participate and teachers and other staff in schools to participate in training. As Mark was saying earlier, schools have five days a year for INSET.

Q489 Helen Jones: Eight days at some schools.

Ms Sparrow: Anything in addition to that has to be taken out of the teaching time. Therefore the cost for a school to send a teacher on a course, for example, not only includes the cost of that course but also backfilling for that teacher. There is a cost element here that I think needs to be addressed perhaps more holistically and organisation-wide rather than school-by-school. I do feel again that the way forward is certainly, as I said earlier, through developing cluster arrangements through sharing of expertise within local areas. Perhaps this goes to the previous question, but what we are trying to do in Buckinghamshire is to remove those specialist barriers from our special schools in terms of the new primary school that will be opening in less than a year now which covers a range of needs. It is getting away from not only labelling schools but labelling children, and trying to ensure that we are able to cover that range of needs and using that facility as a centre of expertise and excellence to reach out into the local community. It is going to take time though.

Mr Warin: You do need specialism and one thing recently that Ofsted has talked about is the importance of LEAs retaining specialist support, that they can provide support. It is more than just training; training can often be very generic, you can have a big training event with lots of staff, but what is often needed, because of the individual children, is specialist support. For example, one of our special schools which provides quite a lot of specialist support in mainstream where they think they have a very complex child, then we have someone who will come in and observe in a lesson another practitioner. That is different from training, that is very practical support. You do need that range of specialism to support mainstream schools.

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Q490 Helen Jones: If we are all agreed that in mainstream schools we should have an inclusive policy, that is what we seem to be, we all accept that there are some children who will always need provision in a special school, should that not also apply across the range of schools? For instance, Janet, you talked about the grammar schools in Buckinghamshire, this educational nirvana that is Buckinghamshire. What percentage of your children overall are in grammar schools, and what percentage of your children who have special needs but do not have a cognitive impairment are in grammar schools?

Ms Sparrow: I have not got those figures.

Q491 Helen Jones: Do you not think that is something you ought to know, whether or not your system is working fairly? Do you not think your authority ought to know that?

Ms Sparrow: First of all, I believe the authority does know it and we do have those figures. I would not consider it essential information for me in terms of ensuring that our children with Special Educational Needs are having their needs met.

Q492 Helen Jones: If children with special needs should have the same right to attend any sort of school right across the spectrum, surely it is an issue if you have a selective system that you need to look at whether or not that selective system is inadvertently or otherwise discriminating against those children? You would only know that if you had the figures, would you not? You would need to look at the percentages in grammar schools and the percentages of your children with special needs but with no cognitive impairment who are also getting through to grammar schools.

Mr Rogers: Yes, but I think we also need other data, Chairman. For example, we know from the Sutton Trust's ongoing findings, and one or two other places besides, that the most successful community schools, particularly community high schools, have an unrepresentative distribution of children with special needs and offering free school meals.

Q493 Helen Jones: The Committee has drawn attention to that. Just before I move on, I wonder if Janet could supply the Committee with that information, if she does have it, because that would be very interesting to look at. Can I ask you all about academies. The current situation is that a parent can make representations to an academy if they have a child with a special need who wants to go there, but because of the different admission arrangements that academies have, academies are under no obligation to accept that child. Do you believe that that ought to be changed?

Mr Warin: We have a proposal in Newcastle and we are assured by the sponsor and everyone involved with it that it would play very much a part of the Newcastle community of schools, so it will take part in the hard-to-place protocols and the admission of children with Special Educational Needs. I cannot see any way that it would be fair and equitable for that not to be the case. I cannot see how you can

have one school in a local authority with different admission arrangements. That is my own personal point of view because all of our schools work together on hard-to-place children and on Special Educational Needs. To have one major player in a relatively small LEA that will not be part of that process, I just cannot see that. We are assured that this new academy will be part of our community of schools.

Q494 Helen Jones: If we move to a system of schools which were independent, for want of a better word, and each acting as its own admissions authority, do you believe that would make life easier or more difficult in finding places for children with special needs?

Mr Warin: For me, it would make life very difficult. When we talk about special needs, perhaps one group we really have not talked about is children with behavioural difficulties, they do not have the same prominence.

Q495 Helen Jones: Yes, not the same social cachet.

Mr Warin: They are probably the most disadvantaged of any group of children with Special Educational Needs. The LSC says 40% fail when they go into post-16 and we do not really talk about that. That group is going to be very hard to place with that kind of independent admission arrangements. The high-profile special needs bring enormous benefits to mainstream schools. I have to say, where you have sensory-impaired children in mainstream schools, the whole ethos of the school is tremendous often as a result of that inclusion, both for mainstream pupils and children with special needs, but it is the hard-to-place children that I would be very worried about, particularly in inner city schools.

Q496 Helen Jones: I would agree with that. It is true from my experience in teaching that children with special needs are often great at being good to other children in the school. One last thing before we wrap up, we have talked a lot about tribunals. There will always need to be a means for resolving disputes because we do not have finite resources, no one does, each of us as parents wants to get whatever we can get for our child. What is your view then about how these disputes should be resolved? We all accept the tribunal process is cumbersome; it is probably too legalistic, it works in favour of those who can afford to pay for a barrister to represent them and so on, but we have got to have a system. In your view, what should the system of resolving disputes be?

Mr Rogers: Can I express yet another view on the matter. I think if we took the opportunity that the Child Care Bill gives us to boost our Children's Information Service to include an inclusive advocacy and disagreement resolution function would be a major start. We have a Disagreement Resolution Service already for Special Educational Needs, but we do not have it more broadly and I think, certainly from my experience in local authority at least, we too often go from zero to 60. In other words, one minute we are trying to do it on

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the phone and things seem sorted, the next minute we are off the scale with it. I would like to see the introduction of a generic advocacy and disagreement resolution service that had within it the specialisms that you need for particular areas of disagreements. The Disagreement Resolution Service for special needs is compulsory at the moment. I would just broaden its scope and allow it to deal with the range of issues that parents and children bring when they are in disagreement with the local authority or a school about their provision. That is the way I would address it and, similarly in terms of escalating upwards, if you cannot deal with it through those routes then, yes, you are going to need some kind of independent system. I do not see why we cannot build on some of the ones we have got. I do not have a particular problem with our independent appeals system, for example; I do not have a problem around our exclusion appeals system either. I think that there are ways and means of putting in place universal systems for all children and families and not the specialised ones and have the specialisms within it.

Q497 Mrs Dorries: Do you not think Parent Partnerships have stepped in and stopped it from going to from zero to 60? Are they not working? Are they doing a good job?

Mr Rogers: Parent Partnerships are doing a fantastic job. My understanding is the majority of them are there to give information, advice and support to parents, but when it gets to the point that a

disagreement is being formalised, they will certainly step back from tribunal, for example. I think we need to be really careful about those services that are advocating and trying to mediate and negotiate from those that then go on to try to arbitrate and arrive at a decision. I think you compromise the Parent Partnership service in the eyes of the parents, particularly, if you put it in the position where it may find itself having to take sides in a non-helpful way. I do not want to get rid of Parent Partnerships, I would put them in the Children's Information Service as well.

Q498 Chairman: Is there anything you would like to say to the Committee and have not had a chance to? We have had a pretty extensive question and answer session.

Mr Warin: The EBD is the disaffected, the vulnerable, the truant, that group of children who really are the least attended to when you talk about Special Educational Needs. They are the group no-one really wants to get to grips with and the ones losing out in the whole system. It is not the high-profile cases or the tribunals, it is the vulnerable children and children with emotional behavioural difficulties who are the ones who truant, who are excluded—no-one has ever been excluded from any of our special schools, we never expect anyone to be—but it is the ones who are excluded from mainstream and the ones with behavioural difficulties. It is that group who is very different.

Chairman: Thank you very much for your attendance. We have enjoyed it and learned a lot.

Supplementary evidence submitted by Buckinghamshire County Council

NUMBERS OF PUPILS ON ROLL AND STATEMENTS AT BUCKINGHAMSHIRE UPPER AND GRAMMAR SCHOOLS

School Type	Number of statements	Number of pupils on roll Jan 05	Statements as % on roll
Upper	515	19,970	2.6
Grammar	34	14,849	0.2
Total	549	34,819	1.6

BREAKDOWN OF SEN PRIMARY NEED

	ASD	BESD	HI	MLD	PD	SLCN	SPLD	VI	Total
Upper	40	59	11	102	41	149	108	5	515
Grammar	6	5	4	0	6	8	1	4	34
Total	46	64	15	102	47	157	109	9	549

February 2006

Monday 13 February 2006

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods	Jeff Ennis
Mr Douglas Carswell	Helen Jones
Mr David Chaytor	Mr Gordon Marsden
Mrs Nadine Dorries	

Memorandum submitted by Visual Impairment Training Group (VITG)

FOLLOWING CONSULTATION WITH VIEW, VIA AND VISION 20:20

This written submission is sent on behalf of VITG. VITG represents all mandatory training providers and other stakeholders across the UK. A mandatory qualification is required by any teacher working with groups of visually impaired children and is also recommended for other teachers who have an especial remit for the education of visually impaired children. This would include those teachers working as members of Support Services.

It is also advised for teachers providing specialist assessment advice as a contribution to Statutory Assessment to inform the decision making process in the production of a Statement of Special Educational Need.

Each year, on average, 50 teachers gain the mandatory qualification. This is a tiny number of teachers and reflects the low incidence of visual impairment amongst children and young people but it also illustrates the vulnerability of staff development in this area of work. However, it is recognized that the role of the specialist has been instrumental in fostering the inclusion of children with special needs (Ofsted, 2005). The vast majority of visually impaired pupils without additional disabilities are now educated and making good educational progress within mainstream schools. Many teachers with mandatory qualifications also work supporting visually impaired pupils with additional and multiple disabilities who currently are to be found in special school provision.

Despite the importance of this aspect of staff development and the role of the specialist VITG would like to point to the following threats to the supply of appropriately qualified staff:

- Funding for provision and training delegated to individual schools without due regard to the more strategic approach previously adopted by centrally funded Services.
- The possible loss of specialist roles under the creation of integrated Children's Services and the rise of generic services.
- Decision making removed, by additional layers of management, from teachers with insight and expertise into the identification of the impact of visual impairment on learning.
- The age profile of specialist teachers remains high (average age 40+).
- The possible loss of management points under the new leadership salary structure acting as a disincentive for new entrants to this field.

SOME OF THE REASONS WHY SPECIALIST TEACHERS ARE IMPORTANT

- They have high expectations of educational achievement for this particular group of pupils, which includes an awareness of appropriate interventions and the ability to carry them out to ensure each pupil achieves their potential.
- They are able to: raise awareness within schools of pupil need relating to visual impairment, analyze the skills and expertise within a school, challenge schools to maximize the skills available and identify additional to, and different from, interventions which school cannot reasonably be expected to provide but which are necessary to ensure pupil entitlement.
- Although vision is fundamentally important in learning and development many children with visual needs do not have access to even basic visual aids or encouragement to use their vision. This is especially true when pupils have severe learning disabilities. Visual Impairment Support Services are an important link for schools and parents.
- Blind children and those with severe visual impairment need help to acquire skills necessary to promoting learning (to learn) through non-sighted means and the use of assistive technology. The visual impairment specialist is there to ensure Braille and other alternative communication skills are properly taught and the child receives other specialist input such as access to mobility and independence training (and personal and social development).

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- Because of the low incidence of visual impairment parents of blind or partially sighted children can feel especially isolated. The visual impairment specialist works with the family and the child from the early years onwards.
 - Mainstream schools are often reluctant to accept Blind pupils because staff feel concerned about meeting the child's needs. Specialists in visual impairment train staff and provide support to the school and mainstream teachers and encourage inclusion.

WHAT IS REQUIRED

- Provision of a stable funding stream to ensure an adequate supply of specialist teachers and a range of development opportunities in the field of visual impairment.
- Recognition of the importance of centrally initiated forward planning at Local Authority level to maintain an overview of recruitment and retention. This would address and anticipate any shortfall in staffing.
- A career and salary structure which recognizes the importance of the role of the Visual Impairment Support Service and encourages younger teachers to enter this area of teaching.

September 2005

Memorandum submitted by Professor Brahm Norwich, School of Education, University of Exeter

FUTURE SCHOOLING THAT INCLUDES CHILDREN WITH SEN/DISABILITY

INTRODUCTION

This submission arises from the recent work of the SEN Policy Options group which has been in existence as a network of people interested in policy and practice issues in this field—senior teachers, advisors, local Government officers, officers of national agencies, academics, researchers and voluntary organisation officers. The group (see current membership in appendix) has organised policy seminars for over 13 years and published 16 policy papers. It was initially funded by the ESRC and the Cadbury Foundation and more recently by NASEN.

There are two papers attached to these summaries, which were presented at a policy seminar held on 22 September 2005 at the Institute of Education, London University. The papers represent two approaches to envisaging how future schooling might provide for children and young people with SEN/disabilities. The methodologies for envisaging futures are different in the papers, but can be seen as complementing each other. Points arising from these papers are summarised below as they relate to the issues under consideration by the inquiry.

FUTURE SCHOOLING: A SCENARIO APPROACH

Brahm Norwich, School of Education and Lifelong Learning, University of Exeter, and Ingrid Lunt, Department of Educational Studies, University of Oxford.

These ideas are based on the outcomes of a workshop held about a year ago which considered future scenarios (see paper for details of participants, design of scenarios and methodology used in constructing them). Further work on the workshop outcomes was undertaken to formulate specific SEN implications. Three social scenarios for possible futures from 2020 were formulated as:

1. Inclusive citizenship—strong state role, focus on common good and culture.
2. Extended choice and diversity—market style system, non-state providers, minimal state role.
3. Regulated choice/diversity—limits to diversification; state moderates user and provider competition.

(see full paper for more details about scenarios)

This submission considers the inquiry issues from the perspective of the three future scenarios. It is presented in the hope that considering multiple possible futures promotes flexible and adaptable strategic thinking.

1. Provision for SEN pupils in mainstream schools: availability of resources and expertise, different models of provision

<i>Inclusive citizenship</i>	<i>Extended choice and diversity</i>	<i>Regulated choice/diversity</i>
Every child belongs to a mixed ability base group—these children learn together for at least half timetable—some ability and cross age grouping used for rest of time. This requirement is justified in terms of citizenship goals, as are the use of co-teaching, collaborative learning and peer tutoring approaches. There is within “classes” both mixed and cross ability groups are used equally. Withdrawal of individuals and groups with disabilities is practised, but mainly before and after formal timetable periods. The facilities and staffing to operate “extended schools” play a key role in maintaining additional provision required for those with disabilities.	There is a wide diversity of internal forms of ability grouping and learning support depending on orientation and kind of learning centre. Forms of grouping reflect the curriculum orientation and aims of the schools/learning centres. Diversity of forms are justified in terms of what is required to support learning set out in individual learning plans. Children with similar kinds and degrees of disabilities are found in quite distinct kinds of settings (even within the same school/learning centre), as parents and children have major say in placement and forms of provision.	Diverse forms of internal organisation are encouraged if consistent with the curriculum orientation and aims of the specific schools, and with the national core emphasis on self-determined learning and social goals. Ability and other kinds of groupings are encouraged, provided they do not engender excessive divisions between diverse children. Mixed ability groupings are required for at least 20% of formal learning times. Withdrawal of children with disabilities for learning support from mixed ability groupings is practised, so long as it is in keeping with learners’ preferences.

2. Provision for different types and levels of SEN: provision for SEN pupils in special schools

<i>Inclusive citizenship</i>	<i>Extended choice and diversity</i>	<i>Regulated choice/diversity</i>
All schools are inclusive of all children in the neighbourhood, providing the common national curriculum geared to individual needs. There are no special schools, though about 1% with profound and multiple disabilities are mainly in self-contained groups in a variety of separate settings on short, medium- and long-term bases, but they have as much learning and social participation as possible with less significant disabled and non-disabled students. There are special centres for children with significant health conditions and children in need of social care where education services are provided.	School or learning centre specialisation is a key aspect of school organisation. Given role of parental preferences, there has been an increase of learning centres specialising in disability, justified in terms of curriculum focus and philosophical orientation. Full diversity operates: special schools/centres have legitimate place, specialised settings co-located with general schools/learning centres, and “inclusive” schools/centres which welcome all children with disabilities and provide as much social and learning participation in general settings as possible.	Diversity of provision for children with disabilities gives a limited legitimacy to separate special schools/centres. Special schools and special classes for children with disability have to meet national legislated conditions for children to have minimum degree of learning and social participation with non-disabled. The interchange sometimes involves teachers and children from the non-disabled settings participating in settings designed for children with disabilities.

3. Raising standards of achievement for SEN pupils

<i>Inclusive citizenship</i>	<i>Extended choice and diversity</i>	<i>Regulated choice/diversity</i>
The full range of national outcomes is defined so that progress for all, including those with profound and multiple disabilities can be monitored. Differentiated “national targets” are set for different groups that take account of social and individual circumstances. These situated targets make simple school performance comparisons difficult. However, schools that do not reach these targets consistently over several years are required to review and replan provision to meet these standards. Additional resources and advice are available to support these schools.	Raising standards is defined in specific and diverse ways to reflect the different kinds and levels of learning outcomes involved in the range of curricula. There is no standard national assessment framework or tests, but well developed assessment systems for diverse needs, abilities and interests, including children with profound and multiple disabilities (informed by national assessment framework in the form of guidance).	Standards are defined in programme specific terms, as well as a limited national core set of learning outcomes. These national outcomes are monitored selectively by sample national testing. Assessing learning progress in the diverse programmes is required to take account of the national assessment framework and principles, such as taking account of learner differences, including those with disabilities.

4. How SEN is defined

<i>Inclusive citizenship</i>	<i>Extended choice and diversity</i>	<i>Regulated choice/diversity</i>
There has been a significant reduction in identification of those having educationally recognised disabilities from 16% in 2005 to about 5–6% in 2020. SEN concept has been abandoned and replaced by a tighter definition of educational disability defined in national terms. Children who were identified as MLD and SEBD have merged into the spectrum of children with differing abilities and attainments. A minority of children, previously described in these terms now identified in new educational disability dimensions, with specific national operational definitions.	There is no national classification of SEN/disability. Some believe there has been an expansion of the proportion of children identified professionally as having disability, through parental pressures. With no national classification there are few relevant statistics. Increased recognition of new areas of disorder: eg Non-Verbal Learning Disabilities (NVLD), Disorders of Attention, Motor and Perceptual functioning (DAMP). Identification is conducted mainly by non-State agencies that serve learning centres and institutions (under national framework).	A national classification framework is used which is based on multiple dimensions of educationally relevant functional impairments, learning activity limitations and learning participation restrictions. This was designed on the basis of the WHO ICF scheme which was developed in late 1990s/early 2000s. Standardisation of identification and monitoring procedures based on ICF scheme is used to contain parental pressures for increased identification and to inform curriculum and pedagogic planning.

5. Legislative framework: system of Statements of need for SEN pupils

<i>Inclusive citizenship</i>	<i>Extended choice and diversity</i>	<i>Regulated choice/diversity</i>
All have entitlement to a defined range of “individualised” learning experiences from an agreed set of institutions. Learners are consulted about their individual learning experiences. Additional allocations for all areas of disadvantage (including disability) are required by legislation. Additional allocations are made from central agency, with a regional structure, directly to schools and groups of schools/learning centres (in formal partnerships). Schools/learning centres are legally responsible for formulating and reviewing individual learning plans for all children (not just for disability) and ensuring maximum possible achievement of goals. All parents can access Tribunals to contest adequacy of educational provision after non-legal disagreement resolution procedures have been used.	All learners have rights to participate in forming individual learning plans. Minimal additional resources are available through vouchers to parents, which is set by legislation. Providers of special education services are held to account through user preferences and decisions; there is no specific legal basis for redress, other than “duty of care”.	Individual learning needs are derived from continuous negotiations in terms of state prescribed agendas and with family and learner participation. There is general and flexible national commitment to entitlements. Learners are able to negotiate about their individual learning plans with parents/teachers. The general legislative framework supports additional resources for disadvantage, including disability. Direct education providers (eg maintained and non-State schools/centres) are legally responsible for individual learning plans for all children, but with specific additional requirements about the content and planning procedures for children with disabilities. The Local Government role in supporting the resolution of disagreements between direct providers and parents is part of its delegated responsibility from regional agencies.

APPENDIX

POLICY OPTIONS STEERING GROUP MEMBERSHIP

Keith Bovair, Head teacher (NASEN representative); Professor Alan Dyson, School of Education, University of Manchester; Peter Gray, SEN Policy Adviser; Dr Seamus Hegarty, Director of the National Foundation for Educational Research; Claire Lazarus, DfES; Professor Geoff Lindsay, Warwick University; Professor Ingrid Lunt, University of Oxford; John Moore, Senior Inspector, Kent LEA; Professor Brahm Norwich, School of Education, Exeter University; Linda Redford, NCH Action for Children, Education Officer; Penny Richardson, Nottinghamshire LEA; Philippa Russell, Adviser DfES; Sonia Sharp, Rotherham LEA; Philippa Stobbs CDC; Eileen Visser, Ofsted; Professor Klaus Wedell, Institute of Education, London University.

October 2005

**Paper by Alan Dyson, Mel Ainscow and Peter Farrell, Professors of Education,
University of Manchester**

TOWARDS A MORE INCLUSIVE EDUCATION SYSTEM: A RESPONSE FOR LORD ADONIS ON NEXT PRACTICE IN SPECIAL NEEDS EDUCATION

Recent national policy moves have enjoyed some success in encouraging local authorities and schools to move in a more inclusive direction. However, something of an impasse has been reached at present, not least because the current legislative and regulatory framework for special needs education dates from a time long before more recent—and still ongoing—moves to increase the autonomy of schools vis à vis local authorities. Moreover, special schools have been relatively neglected within these policy initiatives in a way that has left many within that sector feeling isolated and de-valued.

We believe that the time is ripe for a national lead to be given in the development of a new SEN framework. Amongst other things, this should show how the expertise and resources within special schools can be re-directed in ways that will add support to the overall changes that are occurring in the mainstream. Such a move would, we believe, open up new opportunities for special school staff to continue their historical task of providing support for the most vulnerable learners in the education system.

Talk of a “third way” approach has been helpful in stimulating debate about these matters in the field. On the other hand, there is a danger that if this approach leads to ambiguous messages it will prevent the clarity of thinking that could help provide a firm lever for change.

With this in mind, in this paper we offer an analysis of the barriers that are preventing progress and make some suggestions as to what needs to be done to move thinking and practice forward.

VISION

The elements of a system which is more inclusive of pupils identified as having SEN and, indeed, others who are vulnerable to marginalisation, exclusion and underachievement, are largely in place. These include structural features (such as the integrated services of Every Child Matters, and mechanisms for the flexible funding SEN provision in mainstream schools), as well as multiple examples of successful inclusive practice at school and LEA level. In this sense, things have changed significantly for the better since 1997, not least as a result of the impact of national monitoring systems which have been effective in drawing attention to the way the system had previously failed significant groups of pupils. The problem is that these elements have not yet been brought together to generate system-wide change.

One barrier which could be removed fairly easily is the lack of a clear vision from central government, with resultant uncertainties at local and school level. After an initial commitment to the principles of inclusion articulated in very general terms, successive governments have in practice supported the sort of mixed economy which would have been familiar in the 1980s and have validated structures which have their roots in the Warnock report.

What would be useful at this point is a re-commitment to inclusion, accompanied by a clear statement of what an inclusive system might actually look like that could then be used to guide policy development and inform monitoring procedures.

We suggest that any recommitment should have the following features:

- An emphasis on the positive benefits of inclusion for parents and children, rather than on inclusion as an ideological principle to be accepted as an article of faith. Specifically, it might be useful to emphasise the distinction between needs, rights and opportunities. All children have needs (eg for appropriate teaching), but they also have the right to participate fully in a common social institution (a local mainstream school) that offers a range of opportunities for them. The current system too often forces parents to choose between ensuring that their child’s needs are met—which often implies special school placement—and ensuring that they have the same rights and opportunities as other children—which implies mainstream school placement. The aim therefore should be to create a system where these choices become unnecessary.
- An emphasis on inclusion as being about the development of mainstream schools, rather than the reorganisation of special schooling. The aim over time has to be to increase the capacity of all mainstream schools so that, like the best now, they can meet the needs of all children, whilst offering them similar rights and opportunities. This of course has implications for a changed role of special schools in the medium term and the disappearance of special schools entirely in the long term. However, it is vital to note that the disappearance of the bricks and mortar of special schools does not imply the disappearance of the skills, attitudes, values and resources which those buildings currently contain.
- An emphasis on issues in the education of children with “special educational needs” as part of a wider set of issues to do with the education of all children who experience difficulties in school and, ultimately, of all children.

STRUCTURES

A further major barrier to inclusion is the split of responsibilities between local authorities and schools in this field. Currently, local authorities have the responsibility to provide for children with SEN but have no direct capacity to provide. Schools have the capacity to provide but have much less clear duties to provide. This is a recipe for conflict and uneven provision. This is illustrated by the fact that it is the local authorities, not the schools, who are legally accountable for making sure that pupils’ needs are met. Hence, when there is a dispute, parents take legal action against the LA and not the school.

It might now be sensible to think about shifting the responsibility for provision to the level of the school. This would not mean that every school would have to be able to offer a place in the building to any child with SEN who wished to apply. It would mean that schools would have to be party to a set of arrangements (almost certainly involving other schools and often facilitated by the local authority) which would enable them to find a place for any child. Arrangements of this kind already exist (albeit without a formal shift of

responsibility). They are much more in keeping with the notion of autonomous schools educating a balanced (“banded”) intake, working in networks with other schools and relating to a local authority acting as an advocate for parents.

The implications of this shift are that government would be able to articulate clear expectations of what counts as appropriate provision in the context of inclusion. We anticipate that these expectations would be placed on groups of schools coming together for this purpose and that they might include:

- Specified quality standards for provision.
- Specified minimum criteria for making provision for some children other than wholly in mainstream settings.
- Specified minimum mainstream experiences (in terms of quality and extent) to be available to all children.

These standards would need to become part of local and national monitoring and accountability procedures. In addition, under these arrangements, the schools, not the local authorities would be legally accountable for meeting the SEN of their children.

RESOURCES

Any shift in responsibility would need to be accompanied by a shift in funding arrangements. Specifically, funding would have to be delegated to groups of schools. The use of statementing to release funding from LAs to schools would become largely redundant (though detailed individual assessment would not in some cases, and any placement other than wholly in mainstream provision would require the making of a case).

Some interesting examples exist of this type of arrangement and these would be worthy of investigation. For example, in one LA school partnerships have been created, each of which involves one special school. Significant resources have been transferred to the partnerships and the teams of headteachers now share responsibility for the participation and achievement of all learners in the district. This context creates new possibilities for using the expertise within the special school to benefit a larger number of pupils. It also creates a context within which opportunities for special school pupils to participate in mainstream activities can occur as a matter of routine. In theory, the various co-located special schools that are being built around the country should facilitate similar merging of responsibilities and sharing of resources.

A related barrier, not simply to inclusion but to any rational planning within the system, is that parents of children with SEN have very different rights from those of parents of other children. To some extent they have a veto over local policy. It would be necessary to move to a situation where parents could choose (within the constraints which apply to all parents) to send their child to any school and where the school would then be obliged to provide or make arrangements for provision for that child. The adequacy of provision would be guaranteed through national monitoring procedures, as with all other children. However, the local authority, freed of the role of funding provision, would also be available to act as the parents’ “friend” in cases where parents and school were in dispute.

MOVING FORWARD

Our own research provides some reason to be optimistic that changes are occurring, albeit in a largely ad hoc way. Over the last three years members of our team have worked with a group of well-regarded special schools (all attached to the Specialist Schools Trust), as they have explored ways of developing new roles in relation to the development of inclusive education in their districts. What was striking about the schools involved was their apparent capacity to take on and manage multiple innovations. It was also encouraging to see the sense of commitment amongst staff to the idea of developing new roles.

It seemed clear that all of this had emanated from the leadership provided by the headteachers and their senior teams. Through their energy and enthusiasm they seemed to have been successful in developing cultures of creativity and risk-taking. Of course, sometimes the new ideas that were under consideration did not find favour amongst some of the key stakeholders. For example, some staff in partner mainstream schools expressed anxiety about their ability to deal with children with more severe disabilities and difficulties. Similarly, some staff in the special schools were anxious about their ability to cope within mainstream contexts. As a result, the process of negotiating agreements required persistent yet sensitive leadership, and, inevitably, some compromises had to be made in order to achieve a degree of consensus on the overall rationale for the developments.

Across all the schools there was another striking aspect of leadership that needs to be noted. That is to say, a feature of the leadership practice that exists seems to be a capacity to understand local contexts in order to locate opportunities and resources for moving thinking and practice forward, and an ability to determine and address possible barriers to progress. The success that has been achieved is not so much about importing solutions from elsewhere; rather, it involves people within the local context inventing relevant and feasible strategies that fit existing circumstances.

These experiences point to the important role of special school heads as leaders of change. Herein lies another set of barriers that will need to be addressed if significant progress is to be achieved. Recently we carried out a systematic review of the research literature regarding management and leadership in special schools for NCSL. We found that there is, in fact, very little specialised literature available. We concluded, therefore, that this is an important aspect of educational leadership and management that has received insufficient theoretical and empirical attention. When we consider the uncertainties and challenges that face the field, this is clearly a matter of concern.

CONCLUSION

In summary, we believe that special schools have played an important role in helping to move the education system in a more inclusive direction. In addition there is evidence that, when some of the excellent practices in special schools are transferred to mainstream settings, that pupils with high levels of SEN can benefit. Hence the expertise in special schools can contribute to the strengthening of the capacity of the entire education system to respond to other groups who remain vulnerable within existing arrangements.

We argue that there is now a need for a clear national policy statement that will encourage further experimentation of the sort that is going on in some parts of the country and that would signal the ultimate closure of all special schools. Such a statement needs to be accompanied by changes in national systems of monitoring, incentives for groups of schools to work in partnership, new funding arrangements and guidelines regarding the rights of parents.

We are greatly encouraged by the growing number of examples where mainstream school have successfully included children with a range of severe learning difficulties and challenging behaviours. These arrangements include the development of resourced based provision and co- location of special and mainstream schools. They are all characterised by arrangements whereby all the teachers can work together as a team and where all pupils feel valued and part of the community of the school. In these settings pupils with major learning and behaviour difficulties can receive the expert teaching that they require and yet, at the same time, they can benefit from the opportunities that being part of a mainstream school can bring.

To support these developments local authorities should actively consider how they can cater for the needs of pupils currently in residential schools who, due to problems in their families, need to live away from home. We would argue that, where possible, such pupils should attend schools in their local communities where high quality residential provision should be made available. We think it is unfortunate and totally against the spirit of inclusion that so many residential special schools are so far from the communities where the pupils normally live.

Those in leadership roles in special schools will have a key role to play in providing the impetus for such developments at the local level. They will therefore need support in learning how to promote organisational cultures that encourage experimentation and collective problem-solving within mainstream settings in order to respond to the challenge of pupil diversity. It may well be that they are also the most important gift that the special education community can offer to the movement towards more inclusive forms of education.

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Witnesses: Professor Alan Dyson, University of Manchester, Professor Julie Dockrell, Institute of Education, University of London, and Professor Brahm Norwich, University of Exeter, gave evidence.

Q499 Chairman: Can I welcome Professor Alan Dyson, Professor Brahm Norwich and Professor Julie Dockrell to our proceedings and thank them for taking time off at what must be the peak period of term time at the moment. We are very grateful for your attendance. As I was saying outside, barely a month on and we will know so much about special educational needs that we will be quite dangerous in our questioning, but we are getting there. We have heard a lot of evidence and we are getting to know the territory reasonably well. First of all, what we are getting from the evidence we have had so far is that everything seems to flow from Warnock. We know that is not true but one of the reasons we are looking at this is because Baroness Warnock seems to have changed her mind around inclusion. We have had a lot of witnesses here who think that it is high time we looked at this whole area again. The evidence in one sense is that the number of students in special schools remained fairly constant over a long period

of time and so, one could argue, what is new? What has happened is that there has been this view that inclusion should be promoted, but how far has that gone? Are we making too much fuss about the problems that Baroness Warnock seemed to find out? The other side is there have been real problems in this whole inclusion and exclusion agenda and there are other problems that have nothing to do with exclusion and inclusion; they are about the quality of education for a whole swathe of students in our schools. How important is Warnock in your view, Professor Dyson?

Professor Dyson: In some senses very important because the Warnock Report set the foundations for the system that we still have and that in itself is an issue because, if you look at the education system in the 1970s when the Warnock Committee was sitting and in the 1980s when the 1981 act was implemented, it was a very different education system from the one that we have now. You have

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this mismatch of very rapid change in the mainstream education system and this foundation of a Warnock-inspired framework that really has not changed very much at all. It has been tweaked a little, but substantially it is the same framework that we still have and we get some mismatches from that. Inclusion is one issue. It is also important to recognise that that is by no means the only issue in special needs education and very often it is seen as though it is the only issue and it simply is not. If you take something like the relative responsibilities of schools and local education authorities as they were for special needs education, and the control of education in 1978 was quite different from that which we have now, it is not surprising if the system is creaking at the joints a little.

Q500 Chairman: If you look at the figures, there is, more or less, the same number of children in special schools and still a pretty constant 60% of statemented children are in mainstream schools. That is not a difference, is it?

Professor Dyson: It is not a difference in terms of the raw figures. Probably the nature of the populations have changed in that what is often seen as a mass influx of children with special educational needs into mainstream schools is actually a movement or a retention of children with certain sorts of difficulties at the same time as children with other sorts of difficulties. The case that is always quoted is so-called "behaviour" difficulties, a moving out of standard mainstream provision into a whole range of non-standard provision.

Q501 Chairman: Professor Norwich, do you agree with that?

Professor Norwich: I do, but I would question your assumption that the number of children over the years who are retained or placed in special schools has changed. The Ofsted Report in 2004 had a table which showed a flat level of about 1.3%, but if you look at it over the period from 1983, which was the point at which the 1981 act came into operation, there has been quite a sizeable decline in the total population of special schools. That was greatest in the 1980s and flattened out somewhat in the 1990s. The assumption now is that since 2000 it has been fairly flat. If one is looking at it in terms of the earlier report and what we have been through over the last two decades or so, there is something sizeable and, if you make comparisons with other countries—Holland, for example, which has had a very strong special school tradition much more so than this country, has developed policies to try and place children in regular schools—what they found is that the proportions in special schools have not gone down. If one takes a slightly longer view back to the 1978 Report and the principles underlying the 1981 act, there have been some changes. I agree with Professor Dyson's point that it is a question of what areas of special needs and things change within that. There is a problem with monitoring because the figures have only been global. Even now that we have more sub-area categories there are issues around that and about the consistency of the

identification of the sub-areas to make global statements. My point would be that one needs to look at it in the longer timeframe.

Q502 Chairman: Professor Dockrell, what should we be about in this country in terms of special education? Should we be tearing up what we have done in the past and starting a much more radical policy, or should we be trimming, shaping and modifying? When the Department spoke to us they were much more of the latter view rather than the former view, but we have had other witnesses who have said that the whole framework is not any good; we have got to look at the Scottish example, look at all children with special needs and having a particular category of children with special needs is counterproductive. What is your view?

Professor Dockrell: What is important is to evaluate what the successes have been of the changes over the last 10 or 15 years in terms of special education and also to identify where there have been problems, continue to be problems or where new problems are likely to arise so that one can be strategic about the changes and not tear up what has been done in the past but to look at what has worked and see how those can be systematically developed and planned. If you wanted me to identify what might have been some of the positive outcomes I would highlight the exchange between mainstream and special schools and the exchange of information and skills in both directions. I can point to a special school that I work with quite closely who, until five years ago, did not have any of their young people in secondary sitting GCSEs but with links with mainstream provision now have about half of them doing GCSE exams at 16, but equally some mainstream schools benefiting from the expertise in special schools in supporting their lower attainers in terms of differentiating their curriculum. There is an exchange and that is something one could build on.

Q503 Chairman: Would you agree that we do not need a radical change, Professor Norwich?

Professor Norwich: How radical is radical? I feel there is a need for change. The question of whether radical means we need another committee like some people have recommended is some ways not that important. There is a need for some radical change, yes. One of the things I feel quite strongly about is the need for greater specific information and evidence about what is going on. We have made progress over the last few years towards that. The example that always comes to my mind is the 2003 classification of special needs and the whole way that was introduced and some contention around how those categories were constructed and how they are used and what they mean. There is a need for a lot more systematic evidence and I would say that is a radical move. That is not necessarily radical in the way that Mary Warnock would say we need something radical, we need another committee. In that sense there are a number of fairly radical things that are needed in the system. Whether one needs to change the framework at its core is another issue and one could say more about that, but of the issues that

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I consider to be most radical and having the widest ramification I feel that is really quite an important issue.

Q504 Chairman: You mentioned the information, presumably the data. If that is not being collected, who should be collecting it?

Professor Norwich: It is across the system. One of the points that came through the questions was, for example, how does the standards agenda interface with special needs education? For the standards agenda in whatever form it moves forward to include all children with special needs you need to have good assessment data. We have had the development of the P scales and other systems that have been developed. Personally I feel there is a lot more work needed in that area. There is more work needed in how that monitoring information about outcomes, about value added, is to be used and used in league tables or not and how it is going to be incorporated in school developing planning or local education authority planning and so on. The traditions that we have are very much where the general system is marched forward and then we ask questions about special needs education and then various things are done to try and link it up. The perennial issue is whether things designed within the general system are broad enough and flexible enough to interchange with the needs that are within what people call the special sector. I see that as a big issue. Setting up a committee that has got special needs as its remit does not necessarily deal with that. Where I think radical changes are needed is a more pervasive way. It is a longer-term issue, not just something that is done on a particular cycle.

Q505 Chairman: My gut reaction when I first heard of the call for yet another committee of inquiry was that we would be very happy to do an inquiry ourselves and often a select committee inquiry is of more value in my view than having the great and the good setting up a quasi-Royal Commission on these things because we can work faster and come up with some sensible recommendations in a much shorter time. Professor Dockrell, how do you feel about children with special educational needs in this country? Are they getting a reasonably fair deal? We nearly succeeded in getting to Spain and Holland to look at their systems last week but in the end Parliamentary business prevented us going. We were trying to look at good practice elsewhere. Is our system not fit for purpose and their system more fit for purpose?

Professor Dockrell: Two things: one is that I would like to support what Professor Norwich said earlier about the issue of evidence and this links to the notion of fit for purpose. One of the issues is to establish an evidence base; that is an evidence base not only on kinds of categories or how we do the planning, but also on what is effective pedagogy for all kinds of children with special educational needs. There are gaps in a number of countries. I am not an expert on a range of countries but I have visited some. There are problems with the current special

educational needs provision which needs to be addressed in terms of the flexibility in which it meets individual children's needs. A focus on the individual would be my basic premise.

Professor Dyson: When you ask questions like is the current system fit for purpose it begs another question which is what exactly is the purpose of the current system, because I am blown if I know. It is not a trivial question; it is what are we trying to achieve through special needs education? A concept like "need", which we have lived with from before Warnock, is very useful in some ways but it obscures what it is we are trying to do because needs are self-evident. We think that somehow we can look at children and will automatically know what it is that they then need. One of the problems right throughout special needs policy through many governments has been a lack of clarity of what precisely we are trying to achieve. To give you two examples: you might say that the dominant purpose of special needs education is to raise the attainments of children identified as having special educational needs to as high a level as possible. If you say that then you can construct a system which will help you to do that. You might say no, I am a fairly purist inclusionist and I think that notions like presence and participation and rights are what should be driving special needs education. That would lead you in a very different direction, but unless and until we actually engage with those more fundamental questions of what we are trying to achieve, it is very difficult to say whether the system does or does not work.

Q506 Chairman: Do other countries have a better sense of what they are trying to achieve with their system than we do?

Professor Dyson: Probably not, but they have a different sense. You go to some countries and there would be much more of a rights-based approach to special needs education. There would be certain entitlements that all children would have. We tend to have avoided that sort of approach. You go to other countries where the separation of a category of special needs from a whole range of other difficulties that children might encounter, both in schooling and indeed in their overall development in social issues, would be taken together. There would not be an attempt to separate these things out. You go to other countries again where what we call special needs would be much more to do with disability and identified disability. It would be more medicalised than it is in this country. It is very dangerous to go to other countries and say what are they doing right that we are doing wrong, or vice versa, because they are probably trying to do different things on a very different conceptual basis.

Q507 Chairman: We spend our life when we do inquiries looking at good practice. We recently looked at prison education and we learnt a lot from going to a couple of the Nordic countries.

Professor Dyson: I agree. I do not think it is a case of nothing can be learned; it is that it is a very dangerous exercise if what we get into is importing

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one set of practices into this country into really a very different legislative context, a different context of provision and a different cultural context.

Q508 Mr Carswell: When you talk about a more rights-based system is that to say that parents and carers generally have greater entitlement compared to the experts than they would under our system?

Professor Dyson: No, it would probably be the children who would have the rights.

Q509 Mr Carswell: Exercised by parents?

Professor Dyson: Maybe exercised by parents, which tends to be the way that we think of things here, but maybe exercised by the state on behalf of children. I will give you an example, and it is an anecdotal example: I was recently in the Republic of Ireland doing some work on special needs education there. We were talking about rights and entitlements. The Republic of Ireland has a constitution which guarantees the right to education of all children and that right was guaranteed from whenever the constitution was in force (1936, I think) and we did not guarantee that in this country until 1970 because we did not have a constitution in quite that way. It is that sense of rights where the state acts as the guardian of the child's rights.

Q510 Mrs Dorries: On the back of that, and I do not need a response to it, but have we not done that under the Education Act 1998 where does it not state that the rights of the child—I cannot remember the wording—but is it not stipulated in the Education Act that the educational needs of the child should be met by the state? Have we not done that already?

Professor Dyson: Yes. I am not advocating this approach; it is simply an illustration of how it is different. We tend to carve out particular areas where we think we need to make statements like special needs education where we tend to couch the whole thing in terms of meeting needs. That is not quite the same as an entitlement to a particular sort of education; it is a kind of lesser step. That happens to be the way that we have done it in this country. If you go to a more rights-based country then the whole foundation on which provision is based will be different from the foundation here.

Q511 Mr Marsden: I would like to explore with the three of you, if I may, the knotty relationship between special education needs and social/economic factors. Professor Dyson, in the paper that we have had circulated that you published in a book by David Mitchell last year you talk about this and two particular things: you talk about the fact that we have a variety of different ways of dealing with special educational needs children—you mention referral units resource-based in schools—and that means there is a complex system of social segregation which you refer to, and you also say that “educational risk factors tend to become concentrated in particular areas and in particular schools”. Could I start off by asking you

if you think there is an inevitable connection, as things stand at present, between the concentration of children with special educational needs and the concentration of social and economic disadvantage in terms of geography and parts of the country?

Professor Dyson: The simple answer to that is yes. The reason for that is, and this predates Warnock but since we have started with Warnock, when Warnock extended the concept of special education to include a very large minority of children, most of whom were always going to be placed in mainstream schools, those are not children who would identify themselves or be identified by anybody else as having disabilities. They are children who, for one reason or another, are not doing terribly well in school. What we know about children who do not do terribly well in school is that they disproportionately come from certain social ethnic and indeed gender groups. If you look at the special needs population you come across a really rather bizarre thing which is that if you are young for your year group you are more likely to be identified as having special educational needs than if you are old for your year group. That is nothing to do with disability. We can imagine why that happens but that seems to be the way things go.

Q512 Mr Marsden: Can I play devil's advocate with you on that and say, if we accept that broad convergence, where does that leave us with children who, in other circumstances, would be regarded as gifted, but who nevertheless have special educational needs, and I am thinking particularly perhaps of children with dyslexia, perhaps with children who present at certain aspects of the autism spectrum—Asperger's comes to mind. Has that not slightly skewed that overall picture that you are presenting?

Professor Dyson: There is not a one-to-one correlation between social disadvantage, ethnicity or gender and special educational needs. The problem we have is that we talk about special educational needs as though they are something that are self-evident and as though we know what they are. This is an administrative category and it is a rather ragbag administrative category; it contains children with all sorts of different characteristics, some of which you have listed, but many of those children also experience a range of other disadvantages which is why they do rather badly in school, which is why, in the absence of any really very clear criteria as to who does or does not have special educational needs, they get identified as having special needs.

Q513 Mr Marsden: Can I bring Professor Norwich and Professor Dockrell in here if they wish to comment and particularly if they wish to disagree in any way shape or form with what you have said. In default of that could I ask one of the things in terms of the general media comment insofar as it has focused in the last 12 months on SEN on the apparent extraordinary rise in presentation of children with autism, particularly with ADHD.

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Certainly from my own experience in my own constituency when parents have come to me with children who they say have these particular things there have been particular associations with socioeconomic disadvantage. I wondered whether in fact the *apparent* expansion in autism and ADHD is related to a sort of ghettoisation in terms of social and economic disadvantage. What evidence is there of that?

Professor Norwich: Picking up Professor Dyson's point, with which I agree, special educational needs is not the same as what people would call impairment or disability and that was clear in the framework. The framework we have inherited—there might be some disagreement—my understanding of it was that it was always an interactive one. Special needs arise out of an interaction between environmental factors and within child factors. To that extent if environmental factors become more adverse we would expect a rise in special educational needs. A lot of our trouble and why we go round in circles is around the issue of where do we draw the line?

In my view there is quite a big difference between children for whom parents go and get a medical diagnostic category and those with, what the Americans call "mild educational disabilities" which is quite a useful term, which is the overlap and would be the majority of children who have statements. The rise in ADHD is a reflection of the issues about children's capabilities to attend and focus themselves in schools and at home, parental capabilities of dealing with that and the rise, as some people would see it, of greater parental assertiveness about wanting something to be done. A parent might come to a school and say my child has been diagnosed through the medical circles and this child has Ritalin and that is how it is being dealt with. On the other hand, if you go back historically about the proportions of children who displayed attentional difficulties, there are surveys that go back to the middle and early 20th Century which shows that it is 15–30% of children in surveys that were done. A national survey that I did in the late 1990s showed on a well-known measure that almost 20% of children were being identified by parents of children as having problems in concentration.

Q514 Mr Marsden: You are saying that we have always had this with us but we are just giving it a trendy label.

Professor Norwich: Given a trendy label, maybe tolerance levels are different, there are different social circumstances. There are also different diagnostic practices of medical practitioners. Some psychiatrists I have spoken to have said that they have adopted a more liberal approach to the diagnosis of a disorder of attention than they might have ten or 20 years ago. That is in a sense importing the American criteria. All of that is part of the social factors.

Q515 Mr Marsden: Professor Dockrell, do you want to add anything?

Professor Dockrell: I will not talk about ADHD because it is not an area that I am particularly familiar with. While there is a correlation between disadvantage and special educational needs, that correlation varies according to albeit the different kinds of categories of need that one is looking at; it is an interaction. You can take a child who has additional learning needs because of a hearing impairment who in one context will manage in that kind of educational structure and another will not, so there is an interaction, but it is not necessarily the case that hearing problems or central neural hearing losses are associated with particular kinds of disadvantage. You can do the same kind of thing with language which is what I know best. You can look at pre-school settings and see children who have had, for a variety of reasons, disadvantage which impedes their progress in oral language, yet there are other children who will continue irrespective of their socioeconomic background to experience significant challenges with language and communications, so it is not quite that straightforward.

Q516 Mr Marsden: Professor Dyson, what are the practical implications of this in public policy terms? I want to take you back to your comment in the paper where you talked about the variety of situations. You talked about PRUs and you talked about the extent to which they may be being used as a subset for children with social inclusion difficulties. My own experience of PRUs in my own area, which I think do a very good job, but nevertheless it is the case that they do seem to be taking in more and more children who undoubtedly have behavioural difficulties, but who in other categories in the past in a very vulgar term would have been described as "bad lads" or "bad girls" or whatever. Is this what is happening? If so, is it an appropriate way for PRUs to be used? How does that fit in with this whole context of mainstream education?

Professor Dyson: Professor Dockrell is absolutely right, there are all sorts of variations and subtleties in this that we have to be aware of, but I will speak in fairly broad terms and in broad terms that is what is happening. The issue is naming the problem. If you have some child or young person who is proving difficult to teach in a mainstream school what exactly is the problem and then what is it that would be the most appropriate thing to do about it? The special needs system as we know and love it says the problem is located within that individual child and the things about the interactive definition of special educational needs is absolutely right—that is what the Warnock Report was about—but we kind of forgot the half of it that was to do with the nature of provision and we have concentrated on what is wrong with this child. Then you put in a whole series of measures for responding to that individual. If you cannot find some way of putting that individual right then you place them somewhere else, for instance in a PRU, and while you are doing that you do not pay the same sort of attention to the factors that there may

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be in the classroom, in the school, and then certainly not in the wider social context that might have produced those difficult behaviours in the first place. It is not surprising that it is much easier to try and fix the individual child than it is to look at the context.

Q517 Mr Marsden: Are you saying that there are circumstances in which children with behavioural needs who are currently being put into a PRU would not have gone into a PRU if they had been at a school in an area of greater socioeconomic advantage?

Professor Dyson: No, I would not put it like that, but I would say there are some children who find their ways into special provision such as PRUs from one school who would not find their way into that provision in another school that was differently organised and differently managed.

Q518 Mrs Dorries: My questions were written down on the train this morning so I will just read them. I have a couple of questions to ask of Professor Dyson and a couple for Professor Dockrell. Professor Dyson: having read your submissions to the Committee you have actually answered one of my questions. The term "inclusion" embraces both children with learning difficulties, physical difficulties and those with socially-disadvantaged backgrounds. Do you not think that we are overusing the terminology "inclusion" and that if we took those three categories of children and focused on those three categories that we might see more movement in terms of socially-disadvantaged children being included? You are very much pro-inclusionist, are you not, that these children with these specific learning difficulties and physical difficulties would receive both the appropriate education and the attention that they required rather than being put into one pot which is being measured together?

Professor Dyson: Certainly the notion of inclusion, if it has not outlived its usefulness, is beginning to outlive its usefulness just because it has been stretched and pulled every which way so that it means really very little. When you say I am pro-inclusionist, I have no idea whether I am or not unless you can tell me.

Q519 Mrs Dorries: I think you said you were a moment ago when you came in.

Professor Dyson: I do not recall doing that. Given certain definitions, yes, I am, and on other definitions, no, I would not regard myself in that camp. We have to be careful about categorising and saying different treatments for different categories because of the history that we have got in this field where rigid categorisation does not work. I certainly think there are large swathes of what we currently call the special needs population where the framework that we have that focuses on individuals, individual difficulties and individual provision is not the right framework and where we should be looking at much broader strategies to do

with different types of pedagogy, different types of school organisation and different types of social intervention.

Q520 Mrs Dorries: Do you think that the current process of statementing excludes many families from the lower socioeconomic groups from accessing the statement process, given that we have been given information here about cost. Do you think they are actually excluded from the process?

Professor Dyson: No, not totally excluded, but I think the process is skewed. It can be very straightforward and simple and it can offer high levels of protection, not only to vulnerable children but to vulnerable families, so there is a baby and bathwater issue when we look at statementing. There is no doubt about it that it leads into situations of conflict and in situations of conflict the better resourced, and I do not simply mean financially-resourced, but the better resourced you are in all senses the more likely you are to get whatever it is that you want. Families therefore that are less well-resourced in all sectors are less likely to get the sort of provision that they might ideally want.

Q521 Mrs Dorries: Professor Dockrell, can you tell me if emotional and psychological harm is caused to children with SEN if they do not receive the appropriate education or support within the mainstream classroom which is appropriate to their needs and do those children realise that they are failing? If they do, how does that manifest itself both in the classroom and at home?

Professor Dockrell: That is a very complex question and it assumes that you have got a homogenous group of children with special educational needs which we clearly do not. I would not make a general answer to that. I will try and comment on the basis of some evidence we were collecting about young people of 17 who we have been following up since they were in year two, particularly in mainstream schools, and talk about how they feel about the situation. They have quite a lot of insight into what they felt was good for them at school and what supported them. The majority of these young people were in mainstream settings and the two most salient things they have identified as positive and supporting them was their learning support assistant in primary school and the special concessions that had been arranged so that they were allowed to sit examinations and to give across the information that they knew in a satisfactory way. It is probably fair to say for most of these young people their educational needs were not met in secondary school and they tend not to speak positively about secondary school.

Q522 Mrs Dorries: They were positive about primary but not about secondary. That is interesting.

Professor Norwich: I agree with what Professor Dockrell has said. Children have quite complex views about that. For example, the slightly different population work I have done shows that when

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asked how they feel about being a member of a special school community some of them are very positive about it, particularly if they have experienced hardships or felt that their needs have not been met in a regular school—I am thinking particularly of children with what we call moderate learning difficulties—but on the other hand there are some children, and partly it is an age and a gender issue where older boys are very sensitive to negotiating their identities outside the special school and feel that their identities are very vulnerable so they will conceal where they go to school, but yet they might, when they are in the school, feel very pleased and accepted. There is great complexity in the way children respond. I am sure there are many examples one can illustrate.

Q523 Mrs Dorries: Professor Dockrell, you do independent assessments for Moor House School, is that right?

Professor Dockrell: No, I am a consultant psychologist for Moor House School.

Q524 Mrs Dorries: I have some constituents' children, one of whom has recently gone to Moor House School with very good reports. You will recognise where this question comes from now. How concerned are you that many children in our education system who have underlying average cognitive ability are being failed by inclusion and with the reduction of statements which we know are taking place at the moment—I think they are at a five-year low—I am thinking particularly of Asperger's children, some of whom are at Moor House School, and those with language impairment or auditory processing disorders. The reason I am asking this is because we are aware that children there have high IQs and yet their academic achievement is scored below the tenth percentile. Under the criteria of statutory assessment set by the LEAs these children will not receive the statement or the support that they need within the classroom. Does this cause you any particular concern?

Professor Dockrell: I should say something about Moor House School and the facilities it offers because I think that puts it in context. Moor House School is a specialist residential, primarily secondary school (although there are some Key Stage 2 children there) for children who have speech and language and communication difficulties. The resource that Moor House School has on site, which is not typical in mainstream school, is speech and language therapy and there is also some occupational therapy. The speech and language therapists are working with teachers in the classrooms. Over the years it is fair to say that children with more complex needs have been coming to Moor House School because those whose needs are with specific speech and language difficulties have been met to a certain extent in mainstream settings. The question about attainment and IQ is not a simple one. There is no simple correlation between IQ and attainment. You can change the levels of assessment you get depending on the types of test that you use. That

is not a simple question to address. Many of the children's needs who come to Moor House have not been met in mainstream secondary schools. This is not that they could not have been met in some cases and this is the interaction that Professor Dyson pointed out between the particular school, that particular child and the context of support and in this case the fact that speech and language therapy is simply not provided in this country at secondary school.

Q525 Mrs Dorries: Just two small questions: one, for the purpose of the Committee, you actually need a letter from the Pope to get a child into Moor House School; it is almost impossible; I know that from eight months of trying for one particular child in my constituency. The other point is that in terms of statementing lots of parents have problems because, and as we have had evidence from people that has backed this up, a lot of the educational psychologists who are assisting the statementing and reporting are actually employed by the LA and the financial implications of the LA is very much on their shoulders. Do you think that the process of the EPs should be completely outside of the LA in terms of the statementing process for children?

Professor Dockrell: I know it can be a problem for educational psychologists and it can be a problem in particular LEAs but that is anecdotal and I do not have anything more than anecdote to go on that. Something that I find professionally helpful in my role at Moor House is to give advice. I am not tied to anybody in particular; it is not something I want for children to come there necessarily, but it allows me to stand back and look at the situation in a slightly different way. From a personal point of view that has certain benefits, yes.

Mrs Dorries: Chairman, could we put Moor House down on the list?

Chairman: We can put Moor House down on the list.

Q526 Jeff Ennis: Looking at the current relationship between the children who have been identified with special educational needs and the formal statementing process, I was talking to a head teacher of a primary school recently in quite a challenging school—40% of the children have been identified as having special needs, 48% on free school meals—and she was trying to get over to me the difficulties that she faced and the challenges that the staff faced in being addressed with a cohort of children like that. She drew a comparison with her nephew who lived in another part of the country—quite a well-heeled part of the country—and his record of academic achievement was fairly average but he had dyslexia and he had been statemented by his authority through his dyslexia. She more or less implied that there would not be a cat-in-hell's chance of a child in her school being statemented because of dyslexia. Is there such a variation in what quantifies a child needing a statement of special educational needs and how important is the

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setting and the challenging situation that we have in mainstream schools in determining whether that particular individual child's needs are met?

Professor Norwich: There is variability and it is part of how the system is constructed where what comes from the centre is in fairly general terms which is meant to be translated into particular policies and practices in local authorities. If you took the definition of dyslexia within the 2003 classification, although it is supposed to be used for monitoring purposes I have no doubt that it is also used for other purposes too, maybe informally, but nonetheless there are differing views. If you did a survey of local authorities as to how they interpret what constitutes this condition, this sub-area or whatever, there will be a lot of difference and I have some evidence for that in some areas. It seems to me that that is an issue that is partly to do with specificity of the system. I am somebody who generally thinks that if one wants to be radical that is an area we need to be radical about. We need greater specificity. I know there are almost philosophical reasons some people have against specificity but I think we need greater specificity and we need some flexibility within how that specificity is dealt with. I would say that is a very big issue. The other factor is that Government policy is moving towards trying to reduce the number of children with statements and whether a local authority takes on the commitment to have a low statementing set of practices varies. Some authorities are more that way than others and you can see from the figures that some authorities have reduced the proportion of statements and persuaded parents to accept additional provision at school action plus, for example. Local government practice is really very important in this sense. There is a need for greater national coordination. Part of the issue is taking on the professionals in the sense that you can go to one educational psychologist and they will operate with one definition of dyslexia and you go to another educational psychologist and they will operate with another concept of dyslexia. It might well be that in that one LEA that is not resolved or it is not quite clear, or it might be that they will set a central set of cut-offs which might be a fairly crude set of cut-offs. The importance of specificity in a sophisticated model of whatever the condition or the area of special needs has not really been resolved. That is an area where quite a lot of work could be done with professional groups. Dyslexia is a case in point.

Q527 Chairman: We have had people give evidence to us who say we have devised a test where if you give this to children we know what the problems are. There is specificity in one test.

Professor Norwich: Yes, the test will tell you.

Q528 Chairman: Then you can deal with it. Others say it is impossible to do that; that is the real danger. What you have to do is to take all these things into consideration and, as Professor Dyson and yourself were saying, the social context in

which the child operates, not just the product of a test. Between you academics that is still quite a raging discussion, is it not?

Professor Norwich: Yes.

Q529 Chairman: Do you all come down on Professor Norwich's side?

Professor Dyson: I always agree with Professor Norwich on principle. We are probably at a point where we need more specificity in the system; that the thing is just so open-ended but it has now become such a fragmented and contested system that leaving it open-ended probably is not the right way to go. Where I might disagree with Professor Norwich, and I would need to talk to him in more detail about this, is what it is that you make specific. If you specify a condition and you have diagnostic criteria for the condition—I am not certain that is what Professor Norwich was saying—then you are still in this problem of locating the difficulty and therefore all of your action in the child. You could be more specific about what counts as good quality provision? What counts as acceptable outcomes? We inch towards that sort of thing. You look at some of the things in the code of practice, you look at some of the things that Ofsted do and they are beginning to inch towards that, but we certainly have not bitten that particular bullet. I would want to explore that notion of specificity rather than the diagnostic notion.

Q530 Chairman: There is another wing, is there not? I have met in my own constituency with heads and SENCOs. What they were saying is they get fed up. They are professionals, they know their children, they are trained and they think they are pretty good at identifying the problem in the broader context that the child faces and too often people are trying to take that child off to some expert to assess rather than to people that really work with the children and know them thoroughly being given the more important role. Were they talking out of the back of their heads or was that good Huddersfield commonsense?

Professor Norwich: Many people have held that view over many years about how can an outside professional come in and spend an hour and tell you whereas somebody who has worked with a child for years cannot. That is too black and white in my view. The statutory assessment, if carried out to the letter of the code of practice, would collect a whole lot of views together, there would be parental views, ideally also the child or the young person's views, as well as psychologists and others and the local authority panel would integrate those into something that made some sense.

Q531 Chairman: Professor Dockrell, you are one of the experts.

Professor Dockrell: I do not disagree with what Professor Norwich is saying at all. It is a parody to have a professional take a child away for an hour and think they have made some magical decision that the other person cannot inform. One of the

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things that happens at Moor House is that an assessment is not seeing somebody for a test for half-an-hour or 50 minutes; it is looking at a child's ability to function and learn within a particular context. If you are doing that in mainstream school what sometimes a good professional can do is work alongside a teacher or a SENCO to look at the contexts which support and encourage learning and perhaps help in the next step for that child. I would not favour taking the child away, testing them and coming back with an answer.

Chairman: We will move on to the next section which is SEN in the context of a post-welfare approach to education.

Q532 Helen Jones: Do you think that our views about what education is about have changed; that we have moved from talking about education as a development of the individual to talking about outcomes, about economic necessity and so on? If you think that is the case, has it affected the way we deal with special needs? Is there, for example, much more emphasis on trying to put a label on a child in certain contexts when we would not have done that before? I am particularly thinking of things like the autistic spectrum disorders: ADHD, dyslexia and so on. Has that affected the way the system operates in your view? Is there any evidence for that?

Professor Dyson: Our views of education change all the time. We can only understand what goes on in special needs education, and indeed where we might take special needs education, in the context of seeing what is going on in the mainstream education system. Too often those of us who have worked in special needs education have seen it as a kind of detached world that we can just change in isolation and sometimes we thought it would actually change mainstream education which it never does. It is important to look at the changes that there have been and how we think about education. There has been, in very broad terms, a change from a kind of welfarist notion of education where the responsibility of the state is to do the best that it can for each of its citizens and if some of those citizens have particular difficulties and are vulnerable then to put extra resources into those citizens. Although the Warnock Report is quite complex in its ideologies, some of what it was doing was very definitely located in that tradition. There has also been a move that you could see starting with the Black papers. It went on through Callaghan's Ruskin College speech, the Education Reform Act and all the things that have happened since 1997. I think they are in a fairly strong tradition of their own which says that we are not into welfare as we used to understand it. We are not into what Callaghan at one point called the "flowering of the personality". I do not see much of that these days in educational discourse. However, we are into equipping young people so that they can take their place in a highly competitive labour market with very high levels of skills. That then has implications for what we think the special needs system is doing. Is it there to look

after vulnerable children or is it there to get hold of as many of them as we can manage and shake them up and get them into the attainment game in the same way as everybody else is? Because we have never quite made that clear we get lots of the mixed messages that come out from policy.

Q533 Helen Jones: Do the rest of our witnesses agree with that?

Professor Norwich: I feel that it is a bit of a mixture of both in the sense that special needs is a very wide spectrum and there are some children who have lifelong care needs. They might be a very small proportion of children and in that sense one could make a reasonable argument for a welfarist approach. The issue of whether you are looking at outcomes that are to do with upskilling the economy is a very limited criterion and I think this Government's policies illustrate the interest now in emotional literacy, the interest in personalising, the interest in all sorts of self-review processes; I think there is a broadening of the concept. As Alan was saying, things vary over time but even within the period of the life of this Government we have seen quite a broadening of the concept. All of that will influence the spectrum of what is appropriate for different areas and severities of special educational needs, so I think it is very different. If you have a child who has a specific co-ordination problem or a specific language or reading problem but who intellectually is considered to be well above average, in that sense you might say it really is about attainments and you are into these sorts of issues and providing opportunities that in the past one would not get. There are still other children who have care needs, children with quite serious health and medical care needs, children with quite severe mental health needs and so on. I talked earlier about the importance of specificity. The other thing is to see how diverse the spectrum is and that therefore different responses are needed in that spectrum. I always feel that a lot of the arguments about inclusion are really false arguments because we are not arguing about the same thing.

Q534 Helen Jones: How valuable then is the statementing process in all of this? Does it simply get in the way of meeting children's needs? Is it using up far too much of our resources or do you believe there needs to be a process akin to that in order to make sure that children's needs are properly met? Is it a help or a hindrance?

Professor Dockrell: It depends on the complexity of need—we can follow that up from Brahm's situation—and it depends on what other mechanisms you have in place. If you take the broadest definition of one in five children having a need at some point in time, the majority of these children will be in mainstream schools. A statementing procedure for all of them is a nonsense financially and timewise but you need some mechanism to ensure that the child's educational, social and contextual development is monitored in some way and that appropriate

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resources are provided. The reason some of the children end up in places like Moor House is that that kind of procedure has not happened and many of them have gone through primary school without any additional support or resources because there has been no mechanism in place for them and the only way was a statement procedure.

Professor Norwich: My view about statementing is that the problem is that there are several aspects to it and some elements of it one might judge as being more favourable than others. The point that Julie made earlier, that the emphasis is on individual need, was always behind the original intention for a statement, that it would be a very intensive, multi-disciplinary assessment to try and get a much more detailed view about the child in context. There are other elements of the statement which are that it is also about individual planning, it is about personalisation and, of course, there are degrees of personalisation. In one sense the statement in its best form and its best practice is a very intensified form of personalisation. I would have thought that no-one would want to give up personalisation or individualisation in some assessment of individual need. The critical thing about statementing is the legal apparatus, the statutory element, the contract, the parents' right to go to tribunal and maybe go to court and so on, this contract that can in a sense be pursued. I know that some of the people who have given you evidence, David Ruebain, for example, argue very strongly for that protection, and I think Alan is perhaps indicating that as well. I think the Government and local authorities are still trying to find a way round that by trying to give additional provision without the statutory assessment and I think as a principle that is a good thing. If one could reduce the statutory element I think that would reduce bureaucracy considerably, but all of that depends on building up structure and capacity in local authorities, in the schools, better training and so on. This is partly to do with where the specialist knowledge and knowhow reside and I think the SENCOs, or the learning co-ordinators, whatever one wants to call them, the people who are at the school level, are critical. Reducing the statutory element is good but whether politically one can put the cat back in the bag, so to speak, I do not know, because in other EU countries parents would not have the legal rights. They might have them in some ways under the general legal system but they would not have them under a specific educational system and I think that would be difficult to do. What is happening with the low statementing strategy that has been run through the department and is part of the five-year strategy is probably in the right direction, but without the proper resources, without all the infrastructure, there will be a lot of casualties and I think there will be a lot of resistance, and that is quite an important issue for you.

Q535 Helen Jones: That is very interesting and I do not disagree with what you say but if we were to try to move back to a rights based system, a right for children to receive education appropriate to

their needs, how could we move to ensure that that applied to all children if we were to move away from the statementing procedure, at least in some cases, and that it was not simply the preserve of those with the most articulate parents, the ones who were willing to take on the system? Bearing in mind that we now have a difficulty with much of the responsibility for these things and that SENCOs have devolved to schools, how can you make sure there is equity within the system?

Professor Dyson: In many ways we come at this from the wrong end of the beast. We have this mainstream system, and Brahm said this earlier, and then there are these few odd kids who do not fit in. "What sort of system do we need for them?" "Oh, let us have statements. It has got a few problems. Let us see about modifying the statementing process", and so on. I kind of turn the question round and say how do we guarantee entitlement for the vast majority of children? What are the systems that we have in place? How adequate would they be for many at least, possibly all, of the children in the special needs system and how would we set about extending those? We guarantee entitlement through systems and monitoring and inspection and accountability. We do not guarantee entitlement by putting each child through a legal process which results in a statement. I would be looking to say how do we strengthen and extend those more universal processes—and we may find there are limits to them so that we have to retain something that looks pretty much like the statementing—rather than starting this by saying how do we modify the statementing process?

Q536 Chairman: So you would get rid of statementing process, would you?

Professor Dyson: I do not know. As I understand the way trends are moving, we have moved some significant way towards reducing the proportion of statements, despite the occasional horror stories which, of course, will impact on you and local authorities significantly, without necessarily the roof falling in, but I guess the problem currently is that we rely too heavily for my liking on the goodwill, the commitment and the capacity of particular headteachers, special needs co-ordinators and schools. There really is not a very reliable system to make sure that provision is always good.

Q537 Chairman: What about the rest of you? Professor Dockrell, do you think statementing gets in the way or do you just want it watered down?

Professor Dockrell: No. I would agree with Alan: there needs to be something that guarantees support and guarantees children access to the specialist resources they might need at particular points in education and unless there is something that is structured, either through audits or quality assurance or some mechanism like that, then I think goodwill is not going to go far enough.

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Q538 Helen Jones: It does not guarantee access to the resources you need now, does it, because if it did we would not have the differences that Jeff was pointing up earlier and you agreed with, that we receive a statement for a particular problem in one area of the country but not another?

Professor Dockrell: Indeed, and children change. You have developmental changes so what your specific needs were when you were in year five are going to be quite different when you are in year ten, those kinds of statementing issues, but you do need a system that addresses that.

Helen Jones: We agree. We are trying to find out what it is.

Q539 Chairman: Professor Norwich, do you want to come in quickly on that question of whether we ought to get rid of the statementing process or not?

Professor Norwich: I think the Scots have come up with quite a neat move, which is not to get rid of the statementing process but to redefine it in a more limited remit, a more limited area, and it is tied in with whether children are getting additional services outside education. Mary Warnock has suggested that it is tied to going to a special school. When it was introduced, because the move was towards more inclusion and more integration, the idea was that it was going to be child-focused and not relate to the institution you go to, and that you would predict the additional provision in the regular school. I think one does need some fallback legal protection, but one really has to build up the systemic protections and one has to have layers of protection that are in a sense integral to the normal accountability systems for the general system. I think statementing is unique in children's services for having this legal protection. There are not that many countries that have it. America has it; in fact, I think it was imported from the United States originally, but there are other countries that do not. There are arguments for having it in the sense that it gives you those protections, so I would not scrap the statementing altogether. I think one has to look at its elements and the different functions of those elements and say what serves what purpose under what sort of situation? I agree with Alan: we need a much better integrated system of assurance, I think is the term some people use, so that parents can get assurance, and it does not always have to come through a statement. I think the effect could be to reduce bureaucracy.

Q540 Mr Marsden: Are you saying then that you are not against the concept of the statement but you do not want it to be the be-all and end-all of how a child is judged in terms of its special educational needs? Would that be a fair summary of what you are saying?

Professor Norwich: I would go further than that. I would say that it would be a fallback assurance.

Q541 Mr Marsden: So a minimum guarantee?

Professor Norwich: A minimum guarantee that parents could access but it should not be the normal system of getting assurances. We need to

have fewer bureaucratic systems of assurance and more responsiveness to parents' and children's sense of need. I do not see that as an easy thing to do because it involves quite a lot of systems change but I think that is the direction it should take.

Q542 Chairman: You are saying that the Government is moving in that direction anyway.

Professor Norwich: I think it is.

Q543 Chairman: It was very remiss of me, Professor Norwich, not to mention this when you first came into the room because I wanted to express the regret of all of us in this Committee about the premature death of Ted Wragg, your colleague at Exeter. We had great evidence and help from Ted Wragg in the past and I wanted to put it on record. **Professor Norwich:** Thank you.

Q544 Chairman: I am sure you knew him well, as everyone else in the educational sector seemed to.

Professor Norwich: Yes.

Q545 Chairman: One thing I want to say to you, Professor Dyson, before we get off this section is that you made it look as though it was something entirely new. Here was a Government or a series of Governments that thought that they were prioritising making students fit to do a job out there in the marketplace. I have read a bit of Victorian history and certainly early 20th century history and it is redolent with these kids who come into school and yes, they have got to have reading, writing and arithmetic because they are going to be good fodder for the factories. I am not a Marxist but Marx and Engels' *The Condition of the Working Class* in 1844 is full of that too, is it not?

Professor Dyson: I think the phrase is, what goes around comes around.

Chairman: Okay. I just wanted it on record that it is not a new phenomenon.

Q546 Mr Chaytor: Just coming back to the question of the changes in emphasis in the purpose of the education system, what effect do you think the greater dominance given to league tables has had on the whole question of SEN?

Professor Dyson: I think the answer is mixed, but largely disastrous. On the mix part of it I think there has been an important change which has been in many ways a positive change in that many schools have begun to say, "Although we have children who historically have not achieved very highly, we can no longer simply accept that as a natural condition and we really ought to be looking at what we do about that". It seems to me that that is positive and that that notion, whatever else happens, ought to be retained. I guess it is when you get beyond that that it gets very negative, when you talk about the narrowness with which, certainly up until 2003, achievement was defined with the notion of having target levels and benchmark levels and the traffic light system of the green, amber and red and the focusing around the traffic light system, the undesirability of children

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who would make the school look bad in performance tables. All of those things have been very negative.

Professor Norwich: I agree with that. I remember at the time of all this coming into operation that this was anticipated and has been borne out by the evidence I have seen and the more experiential and anecdotal evidence of headteachers who can tell you that if they accepted this child what effect it would have on their grade point average scores and so on. In a sense schools that are strong, that have good internal support systems and have commitments and so on can accommodate, and in that sense will welcome, those children but I think the welcome is always conditional. You can see it in the language. A teacher will say, "This child has a severe learning difficulty", but that is within their own system in terms of the local authority. In national terms that is not a severe learning difficulty. I think there is a relativity about what mainstream schools deal with. Many people still do not know what the range is because many children with profound multiple learning difficulties are not in regular settings. They are few and far between. In that sense I would agree with that. There are schools, and some of Alan's research and case studies illustrate them, that seemingly show good value added and seem to be more welcoming. The question is always what is the degree of welcoming, as is the issue of what degree of inclusion we are talking about.

Q547 Chairman: Professor Dockrell, do you want to come in on this?

Professor Dockrell: In general I would agree and I think that comes in in terms of access to assessment and access to education and schooling and being absent on particular days that exams take place, but I suppose I would want to highlight one other positive side of this that I would not want to lose sight of. In some ways, with the drive for greater academic achievement for schools at particular points and flexibility in Key Stage 4, that has opened doors for some young people with special educational needs and in the past when they might not have been given access to some form of qualification at that point they now are.

Mr Chaytor: Is there a particular way in which the league table system should be modified or developed to deal with the criticisms you have identified and make it less likely that headteachers would be reluctant to accept pupils or eager to get them out of the way on certain days of the year? Is there a consensus about what needs to be done? We have the value added schools in place now and a new value added school will come in this next year, I think. What else needs to be done in terms of the presentation of these performance tables properly to recognise the achievements of children with SEN?

Q548 Chairman: Professor Dyson, have you got anything to say about that or should we get in a different set of professors?

Professor Dyson: Whichever set you get in will tell you something different. It seems to me that there is a tension at the heart of policy. It seems to me that there have been moves to make the league tables less of a blunt instrument than they initially were and in general terms I welcome that. The moves, however, have been rather timid moves. The direction is right, which is that if you take a measure of children's attainment like SATs or GCSEs it only makes sense if you embed it in a really rich context of what is going on, who the children are, what the trajectories of children are and so on. Then it can be useful as part of a dialogue, but the tension is that if what you are trying to do is give to the consumers of education, who are in current policy interpreted as being families looking to place their children in particular schools, rather simple information on which to judge schools then you are always going to have to simplify what those league tables look like. It is another one of those cases where you have to look at the broader context. I would be looking at how you have a system which takes into account where we have got to in "choice" but also at how it makes it less a choice between this school and that school and how it looks at moving towards more guarantees of provision across the board, looking at groups of schools and so on, but that is a big issue that gets well beyond special needs education but that is what has to be addressed to get at the perverse consequences of league tables.

Q549 Mr Chaytor: Is it possible to construct value-added methodologies that will reflect adequately achievement of all children with SEN within mainstream schools, or is this just not possible?

Professor Norwich: This is the issue of, are the assessment methods adapted to the needs of the children who are being assessed for monitoring purposes? Are the levels in the P-level system for those children who are performing at that level also? There are moves within the five-year strategy to deal with some of these and so I think there is a recognition that this is an important area. Part of the problem is the very nature of league tables. They are summaries. They do not give a rich contextual picture and, of course, there is a big difference between how parents evaluate a school in terms of, "Is it suitable for my child?", in the general system and league tables. I think that in some respects there is a need for a sort of informed parental user perspective and trying in a sense to cultivate more sophisticated means of judging, "Is this school a good school for my child?", and, if they are going to mix with children who have behaviour problems or autistic spectrum disorders, "What impact is that going to have on us and my child?", are some of the anxieties that are around amongst some parents, I guess. I think they need to be allayed, they need to be dealt with, and that is not within the league table system. That is more to do with how does one engender a more enlightened parental perspective in the general system? I think league tables are a fairly small part of it.

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Q550 Mr Chaytor: Given the difficulties caused by competition between schools and accountability and educational information, is there still a value in its own right of inclusion or should it be argued purely on the grounds that it helps to improve attainment? If it were the case that it did not help to improve attainment, and that is what some headteachers seem to be implying by the way they deal with some of their SEN children, is there still an argument to be made that in its own right inclusion is the right policy?

Professor Dockrell: Are you making the premise that inclusion has a negative impact on attainments in schools generally?

Q551 Mr Chaytor: I am saying that, if it were the case, or if it were the case that simply allocating a child with a particular kind of SEN to a mainstream school on the grounds that the general drift is towards inclusion was not going to benefit that child in terms of their progress, ie, that their progress was zero, is it still the case that inclusion should be argued for its own sake and for the wider social benefit even though the specific attainment advantage was non-existent?

Professor Dockrell: I suppose I take a broader view of education than just attainment and so I would be looking at a child's or young person's development socially and personally as well as their educational attainment and it is that wider package that I would want to consider.

Q552 Mr Chaytor: Earlier in answer to one question you referred to the fact that the educational psychologists cannot even agree on a definition of dyslexia and it occurred to me that if we have problems over defining particular conditions perhaps the very concept of SEN itself is now out of date, the idea of a certain group of children being categorised in this way, or do we need a more all-embracing approach? Do we need to be looking at all children having particular learning needs, some of which will be more severe than others? Is SEN still a valid concept?

Professor Norwich: I think that tension was inherent in the Warnock Report and in the legislation that followed. There is an element of the Warnock system which says exactly that: it is individual needs and there is a continuum and on top of that a category system which is in a sense justified in terms of additional resource allocation. In a sense that is a continuing tension around identification and I think in a sense one lives with that and the first step is to be aware of it. I think that the move towards personalisation is an example now of recognising some of the elements of individualisation, individual planning, and flexibilities. In that sense one can dispense with some of the coverage for which this umbrella term was used. There is a view that from the word go the Warnock approach was not that categoric. There was a very general category but really it was individual need that counted. What has happened over the years is that it has replaced "handicap" or "disability" as being a general category that

supposedly can clearly apply to a distinct group of children. I do not think that is true and I do not think anyone in the early 1980s believed that. It is about what happens to categories when people do not understand the continuum of diversity.

Q553 Mr Chaytor: But will the emphasis in the recent White Paper on personalisation in the curriculum start to challenge the idea of a fixed number of children with SEN?

Professor Norwich: I think so, yes.

Professor Dyson: It seems to me that the notion of special educational needs is a flogged horse and it is about time it went, but only if there is some clarity as to where we are going rather than down that particular route so that somebody throwing things out without an alternative does not happen.

Q554 Dr Blackman-Woods: It is quite important to raise that question though, is it not, and to raise it in a very unemotional way because often when we get into these discussions it does become very emotional very quickly about whether you need to have a separate category. I wonder if you would like to make a comment on that before I go on and ask my questions. Is it possible for us to look at personalised learning as the route to not having this category of special educational needs?

Professor Norwich: My short answer to that is that you can reduce the number of children identified as having additional needs that are in some way associated with disability; let me put it that way. I prefer a term like "educational disability". You can reduce that quite considerably through that route but only with all the assurances and the systems development and flexibilities that would be required. I think the political fact is that having set up the system it is going to be difficult with all the political pressures that come from parents and voluntary organisations and so on to withdraw the protection that is so individualised as something that has a slightly separate legal status, but I think you can reduce it considerably. That would be my view. I still think you need a concept of additional educational need and I think that is what the Scots have done.

Q555 Dr Blackman-Woods: I want to return if I may to the issue of the post-welfare education system. My experience of what has happened to education, particularly SEN, over the last two decades is that mainstream schools more and more have had to look at the issue of special educational needs. I really want to ask you what the evidence is that we have put a category into special schools and said, "They are never going to work so we do not want anything to do with them and education is not really about that". I know I am paraphrasing what you have said enormously, but I am really quite concerned about that argument. I have been a school governor for about 20 years and in the last ten years particularly we have had to think about how children with difficulties are going to be accommodated in the school, how we were going to meet their needs. The discussions that we had

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were about the whole quality of life. There was never a discussion in the governing body that I was at that said to the SENCO, "Please do not bring this child in because they are going to wreck our league tables". I just cannot imagine that we were that unusual. I am raising this because it is coming back to David's point: surely there are things to be gained from the inclusion agenda that may be more than just related to that specific child and its needs. Although you think the child's needs have to be met through the inclusion agenda there are additional things in terms of educating the wider population and increasing tolerance that it seems to me are very important and that we are in danger of losing if we go down the route of too many specialist schools. I want your comments on that.

Professor Norwich: I think the development of co-located special schools is a very interesting one, and if you are going on any visits can I suggest that you go and visit some co-located specialist schools. There are some very interesting examples of the physical proximity allowing things to happen that are very difficult to do when you are dealing with special schools that are at a distance, and I think that creates great opportunities. There are varying views about that, I agree, and I am doing some work currently on teachers' experiences of how that works, but it is clear that the social education in having a wider group is valued, and I think that is true from regular children's perspectives in schools. I think there are phase issues between primary and secondary, but I think that is what Julie was saying before. Most people would say that the grounds for inclusion go well beyond narrow educational attainment. They are to do with social inclusion in the widest sense as a sort of political ideology and the importance of tolerance and so on.

Chairman: But was Roberta not really challenging something you said, Professor Dyson, that there is no room for this, everyone is out for the targets, they do not want special educational needs students? She is saying that her experience was that that is not the real world; that is an academic view.

Q556 Dr Blackman-Woods: I was asking for evidence of change on the ground.

Professor Dyson: I think the evidence is very mixed. I hope I did not say it in what I wrote in quite such a black and white manner. First of all, there are many children placed in special schools who do very well and get as good an education there as they are going to get anywhere, I would say. There are many mainstream schools which work with children with a range of difficulties, including quite significant difficulties, and do so in a very committed way and very well. However, what we also know is that there are schools which are less committed than that and that even in the committed schools there is a tension between what we might like to do in terms of educating children with difficulties and having to keep a weather eye on who we have in the school and how that is affecting our league table performance, so you get

a very complex mixture. I think the reason we get this complex mixture is that the messages that we have had from a range of Governments in terms of policy have been extremely mixed, so people out there in the system are not absolutely sure what it is that they are trying to achieve. Are they simply about raising attainment? Are they about this broader notion of achievement which has got all sorts of social wellbeing and function built into it? Are they implementing some sort of notion of rights and entitlement? What is it precisely that they are supposed to be doing? In policy terms we keep avoiding being clear on that because it is easier not to be clear.

Q557 Mr Carswell: I have a couple of questions on the post-welfarist approach to SEN education. Warnock has admitted that the policy of enforced inclusion is not in her view always right. Why has it taken so long to come to this? Why was it not swept away ages ago? Why have we had this centrally imposed policy lasting for so long?

Professor Norwich: I do not interpret that that is where we have come from and where we are. I think parents have always had a say. It is in the legislation and the regulations. The examples she gave you and rights and pamphlets and so on are individual cases where we do not know the context at all and it might just be that the local authority has moved to such an extent with its inclusive practice that it no longer offers a maintained special setting for particular children and therefore points the parents in that direction. I do not think that is at the level of regulation and within the legislative framework. I think it is the way the local authorities have played that and I think budgetary and resource factors come into it. I can think of a specific example—I occasionally do advice for parents when they are in conflict—where exactly in that situation, around autistic spectrum disorder, the parent wanted to go to a very expensive independent school and the local authority said, "We have a special additionally resourced secondary school which is quite adequate". The parent was not happy with it, for all sorts of reasons about social interaction in the playground and whatever, and was trying to find professional advice to go to a tribunal to secure a place in quite an expensive special school. The fact that the parent could go to tribunal shows that the option was there. It is just that with this particular local authority they had a very strong tradition of not having their own maintained special schools. That would be how I would see that.

Q558 Mr Carswell: Just putting that to one side, if one wanted to be really radical, rather than setting up another commission *à la* Warnock surely the point is to do away with having a centrally appointed group of experts imposing a blanket policy nationally? Do you have any sympathy with the idea that we should be letting the balance between inclusion versus non-inclusion be decided

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locally, perhaps in the context of each particular child, and have parents and carers, not experts in the pay of the LAs, choosing if a child should go to a local mainstream or inclusion school? You have admitted, Professor Dyson, that you are pro-inclusionist. Professor Norwich, looking at your memo here, you talk about the need to re-commit to inclusion. Those are your views and they are wonderful but surely under any new system we need to take into account the extent to which the parents are pro-inclusionist and not, with great respect, ministerial advisers. Do you have any sympathy with that?

Professor Dyson: I keep saying: if I did say that I will always modify it by saying, "What do you mean by inclusion and then I will tell you whether I am pro-inclusion". I do not recall having said that. Maybe I did do. It seems to me there is a fundamental dilemma here which is that if you say, "Let us leave this up to the market to decide", how is the market going to be resourced because, if it turns out that different parents want different things in the same area, is the state in one way or another going to fund a full range of provision or is there going to be some sort of a private market system that does this? It seems to me that that is the only way that you could have a market solution to this one. That is one problem that I see in that. The other one is that you get down to really quite fundamental ideologies in this about whether the interests of the child can in each and every case be determined by the views of the parent. We simply do not do that for any other children in this country. We do not say to parents, "Whether you fancy educating your child or not is entirely up to you". The state says, "You must educate your child. You are in trouble if you do not". There are very different ideological positions to be taken on this but it would be an unusual one to say that it is entirely decided by parents.

Q559 Mr Carswell: If one were to decide, and not everyone is not in favour of it, to move to this rights based system, could you reform the statementing process so that it would perhaps be more specific? Section three could perhaps even have some form of financial entitlement and you could have some sort of legal framework possibly to allow judicial fiat to give people a legal right to request and receive their share of LEA funding for statemented children. That would empower parents and carers, possibly at the expense of the experts. Do you think that is a feasible idea?

Professor Dyson: It is the same issue, is it not, which is that you can have statements formulated independently of the resourcing body, currently the local authority, provided somebody somewhere makes the resources available? I do not know what would happen to taxation under those circumstances.

Q560 Mr Carswell: Setting that aside though, setting aside an amount of money in the LA kitty?

Professor Dyson: I would love to set my taxes aside.

Q561 Mr Carswell: I said it for specific reasons. If you were to set aside the question of how much money was in the LA kitty as a way of carving up what was in the LA kitty, do you think it would be a feasible solution?

Professor Dyson: I would want to look at it in more detail. I think there would be some difficulties about children in the system with pots of money attached to them negotiating their way around the system, if I understand correctly what you are proposing. Provision in schools tends not to be made on an individual basis. It tends to be made on the resourcing of the school as a whole and resourcing group provision so I think there would be some difficulties in that highly individualised system.

Q562 Chairman: Professor Dockrell, do you want to come in on those questions?

Professor Dockrell: No, I think not.

Q563 Chairman: What is interesting though is that the question was being posed on whether things are centrally determined rather than locally. As I understand it, this is still an area that largely, putting resources to one side, is determined locally, is it not? This is what Jeff's point was, that it is very local what happens to a child who is assessed to have special educational needs. That is still the case, is it not?

Professor Dyson: Yes. Something we have not touched on other than very briefly is the split between who provides the resources and has the responsibility for ensuring the child is educated and who receives the resources and makes the provision. We have to remember that the Warnock system was set up when local authorities owned and managed schools and that is no longer the state of play.

Chairman: Roberta, would you like to come back? I rather cut you off earlier.

Q564 Dr Blackman-Woods: What I was trying to explore was the extent to which different messages coming from academics and professionals in the field were making things difficult for policy-makers, and if you are going to go down a largely inclusion agenda route then you have to shift resources, you have to shift mindsets and it is very difficult, once you are down that road, then to pull back. Some of the evidence we have had seems to be suggesting that maybe we ought to be pulling back from the overall inclusion agenda and once again looking at whether special needs schools are the most appropriate, particularly for a large number of special educational needs children. I think I have had mixed messages from this Committee and that is why we are taking evidence but I just wonder where you are with that dilemma. We can get out of it, I know, by saying, "Oh, let us have schools

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co-located”, and that is probably the best way forward, but is it really, because you will still get parents insisting one way or the other that they want mainstream or they want special? I would prefer that we did not have that distinction.

Professor Norwich: That goes back to the point I was making earlier about looking at what parents need when they evaluate a school and they consider what their child's needs are and what is on offer. We really need to get away from the notion of special school versus regular school. There has been some criticism of the notion of continuing provision which has been around for years, but it still has some currency. I think the issue of what are the stages and the continuum and where people are on that continuum is where there might be differences. Certainly I think that a lot more work could go into supporting parents in an understanding of some of the detail because I think sometimes parents and children themselves respond in what would be seen as social terms, reputation terms: “What does it mean for my child to be collected by a bus to go to this school rather than walk down the road to go to that school?”. These are some of the issues partly around the identity of the family and so on that are really quite important. I think there is more that could be done there.

Q565 Dr Blackman-Woods: Professor Dockrell, do you want to come in?

Professor Dockrell: I wanted to make two points about that. The first thing is that whilst some special schools are very good they are not a panacea and it would be wrong to see them in that way. The other thing to think about is in terms of specialist resources rather than special schools and these resources are not necessarily financial. They can be skills-based. The money is part of it but it is only part.

Q566 Mr Chaytor: Coming back to the issue of inclusion and attainment, what is the priority that should be given to employability, particularly in the last two years of secondary school? Have we done enough on this? Should it be a stronger focus within the education of children with SEN in the last two years? Are there parallels to be drawn maybe with the way in which we deal with children with SEN in secondary schools and the new policy of incapacity benefit for 25-year-olds?

Professor Dyson: It depends how you define employability and putting an emphasis on that.

Q567 Mr Chaytor: You always answer your questions, “It depends how you define it”. Are you going to tell us what you would answer?

Professor Dyson: I do not think you should have answers necessarily! I think that is an issue because there is a history in this country of vocational training in schools, much of it, I have to say, done in special schools, some of it done by myself in special schools, which had its merits but was also rather unambitious and narrow and did not lead anywhere. We also have to be very careful in that

the chances of many young people finding employment when they leave school at 16 or even 19 are remote, so they are probably going to go on to some sort of vocational training after that. Something which says that it is not the academic curriculum as we had it from 1988 onwards but it is something which is a bit more locked into broader personal development which then links on to questions of employability I think makes sense, but then that makes sense for every child in the system, not just for those with special needs.

Professor Dockrell: I would like to make two points on that and they follow on from what you were saying. It depends on the group of children with special needs that you are talking about. I am talking about a particular group now who have longstanding special needs throughout primary and secondary school and whose move at 16 was predominantly on to some kind of further education, often doing NVQ training of one kind or another, and had typically sat GCSEs because that was what was on offer, so it is a longer term process, as it is for most other young people. The second interesting issue about that is that the children who were finding it hardest to adjust to the FE situation were those children who were coming from special provision because it was a different kind of context and they were typical large FE kinds of colleges.

Q568 Mr Chaytor: Do you conclude from that that those within special provision are beyond training for employability?

Professor Dockrell: No, not at all.

Q569 Mr Chaytor: What conclusions do you draw from that? From your experience is that just another argument for greater inclusion?

Professor Dockrell: It was an issue about, when you think about what you are doing if you are building up a special provision, you have to think of where young people are going to go post-16 and what kinds of services need to be put in place to support them. Academically there were no differences between the kids.

Q570 Chairman: Are you suggesting that employers might be more resistant to taking on a child who has come through the special school route?

Professor Norwich: The figures on employment of young adults with disabilities show there are differentials; I am not arguing with that. The special school issue about the impact of special schools really depends on whether the special school has planned and built in links. Some special schools build in links when giving vocational employment opportunities, having part-time links either with a local school or employment or whatever. The issues are that wherever you are on the continuum there have to be very good flexible links between all the various elements and I think that has a clear bearing on the issue of employability. The days of special schools being isolated, detached, distant, countrified are gone.

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Special schools have a more active place in linking and connecting in with the system and in that sense there is a case for them.

Q571 Mr Marsden: I just want to take you back to the discussion we had right at the beginning about the link between social and economic factors? We are trying to look forward to policy and so I would like to ask you this question. Do you think that if we had a sustained period of earlier (and I mean in age range) concentration and intervention on socially disadvantaged children, such as, for example, the Government is trying to do via *Sure Start* and *Every Child Matters*, and that ultimately if—and I accept it is a big “if”—that was successful over a five or ten year period, we would have a reduced number of children with special educational needs or indeed with statements?

Professor Dyson: There are two parts to the answer. One is that special needs, as I said, is an administrative category and statementing is a kind of micro-political contest that goes on. Who knows? You could end up with more because other circumstances change. In terms of should there be more children who do better in schools, the answer is yes, and therefore if you kept the benchmarks as they are now you probably would not need to identify as many.

Professor Dockrell: I would agree with that.

Professor Norwich: I agree with that but it is a question of degree. People can hold up quite unrealistic hopes about the impact of early intervention. It goes back to the point, what is the purpose of special provision? Special provision is not always in a sense to recover levels of attainment that would be seen as normal. That is really quite an important issue. It might in some cases; it might not in others. That is an important element within the spectrum of special needs that one needs to be aware of.

Q572 Chairman: We have had a very good session. We are very grateful that three distinguished professors have been with us and answered fully

and frankly the questions that we have asked. Is there anything you want to tell us that we have not covered? We have asked a lot of questions. You probably think we are rather muddled about where we are at the present moment, halfway through our inquiry. Are there any questions we have not asked you that we should have asked you?

Professor Dyson: Not in terms of questions, but I think there is a turning point, a decision point, that we are at. One decision is to keep on doing what we have done for many years now, which is to muddle through with the current system. The other one is to take a long, hard look at it—and it will be a long, hard look; there are no quick fixes in this area—and actually say maybe it is time to move in a very different direction.

Professor Norwich: I feel that the system needs to build better capacity. That was what I was saying earlier on. It needs to build better professional capacity, better research-based capacity, more dispersal of knowledge and so on, and I see that as a long term issue. That to me is really the priority. There are lots of issues and difficult challenges and hard choices to be made all the way along the line but I feel that one can see elements of progress, although I must say there is a bit of muddling through, I feel, in special needs which in some ways is not good enough and I think that partly reflects what I see as the separate status of special needs.

Professor Dockrell: Someone earlier said that children's needs were self-evident. I think I would challenge that assumption and say that children with special educational needs, however we define them, often have complex learning challenges that require a sophisticated and intelligent set-up to address them and I would not want us to go away and think that it is self-evident what kind of problems they might be.

Chairman: Thank you very much for your evidence today. If, on the way home, on the bus or in the car or whatever way you are going, you think, “I wish I had told that darn Committee something”, please email us, be in contact with us. We want to make this inquiry and the report that we make out of it as good as we possibly can.

**Supplementary memorandum submitted by Professor Brahm Norwich, School of Education,
University of Exeter**

It was in response to the question about the future of Statementing and whether there was a need for Statements. In the responses from all three of us we referred to the importance of protections and assurances about special provision, but said that these assurance needed to be part of and grow out of the general system of assurances/protections for all children. I talked about levels of assurance with some version of the statutory system being a back-up available for parents. I also mentioned some ways in which the coverage of Statements could be reduced ; as in Scotland linking them only to those children also having support outside schools, or linked only to those going to special/specialised schools. The other option, which I did not mention, is to replace the current Statement protections with protections through an elaboration and extension of the Disability Discrimination legislation (SENDA and Disability Code of Practice for schools). It is early days in the application of this new legislation, but it could be that parents could be afforded assurances to adequate assessment and individual educational planning through this statutory system. This would have the benefits of tidying up the application of two distinct legislative systems applying to schools for children with SEN/disabilities. This is an option I would urge the Committee to explore further. It might

be that the SENDA and Disability Codes need further elaboration, but the effect might be that assurance for parents could be retained, while reducing bureaucracy and linking the assessment of educational needs and individual education planning to the development of the personalising education for all children.

February 2006

Wednesday 1 March 2006

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods	Helen Jones
Mr David Chaytor	Mr Gordon Marsden
Mrs Nadine Dorries	Stephen Williams
Jeff Ennis	Mr Rob Wilson
Mr Douglas Carswell	

Memorandum submitted by RNIB

EXECUTIVE SUMMARY

1. INTRODUCTION

RNIB is the UK's leading charity offering information, advice and guidance to over two million people with sight problems, with a national Children's Services team concerned with the interests of blind and partially sighted children and young people, including those with additional needs. We are pleased to have this opportunity to submit evidence to the Select Committee on Special Educational Needs and would welcome the opportunity to supplement this information with oral evidence.

2. RNIB'S POLICY POSITION ON THE EDUCATION OF BLIND AND PARTIALLY SIGHTED PUPILS

RNIB believes that every pupil with a visual impairment is entitled to high quality education with equal access to appropriate specialist provision *no matter where he/she lives within the UK*.

3. PROVISION FOR SEN PUPILS IN MAINSTREAM SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

A major concern for RNIB is the huge variation across the country in educational provision for blind and partially sighted pupils. There is variation between LEAs in terms of type of educational placement available and in standards of educational support provided.

The three key components that together promote the successful inclusion of pupils who are blind and partially sighted are:

- A coherent system of funding that promotes the organisation of high quality central support services. Of particular concern to RNIB is the drive towards greater delegation of SEN funds from central LEA control direct to schools. RNIB considers that this arrangement is inappropriate for low incidence SEN such as sensory impairments, which require a high degree of specialist teaching support and resources and due to economies of scale function better under a centrally organised and funded model.
- A national set of standards that are universally adopted by local authorities. Despite the publication of national Quality Standards for Education Support Services for Children and Young People with Visual Impairment (DfES, 2002) there is no consistent standard of specialist support across LEAs, which suggests that the standards are not being implemented.
- The readiness of mainstream schools to admit and take responsibility for blind and partially sighted children, and the commitment of the LEA in promoting and supporting this.

4. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

A key concern with respect to provision for blind and partially sighted pupils who are placed in special schools other than those specifically for visually impaired children is that a considerable proportion of these pupils do not receive adequate specialist educational support to meet their visual impairment needs. This may be because:

- Their visual impairment has not been identified.
- The implications of their visual impairment has not been recognised because of the severity of their learning, physical and/or medical difficulties.
- There is insufficient expertise within special schools and VI services to meet the needs of pupils with visual impairment and additional complex difficulties.

5. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

- Any attempt to raise the standards of achievement of pupils with visual impairment must first address the issues of quality standards in terms of educational provision, and to the design and delivery of the curriculum.
- There are concerns that the examination system denies some visually impaired pupils the opportunity to demonstrate their knowledge, skills and understanding properly.

6. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (THE STATEMENTING PROCESS)

- Statements continue to provide an essential framework for assessment and provision. Parents and schools may see them as the only means to guaranteeing additional provision for the child.
- There is wide variation in the quality and clarity of statements and it is important to have a document that clearly sets out a pupil's needs and entitlements but at the same time is not overly prescriptive.

7. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

RNIB has some evidence that, despite there being a range of statutory services designed to support parents such as Parent Partnership and Dispute Resolution Services, they are not fully utilised by parents of visually impaired children.

8. HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

- The published data on SEN is by primary need only. This approach underestimates the number of pupils with visual impairment because it is estimated that at least half of the population has additional disabilities and it is likely for many pupils that the visual impairment is registered as their secondary disability.
- Subsuming low incidence disabilities such as visual impairment within the SEN label carries with it the risk that policies may be driven by the needs of the majority.

9. RECOMMENDATIONS

- Delegation of SEN funding to schools should not apply to low incidence SEN such as visual impairment. LEA VI services should be organised and funded centrally.
- The national quality standards for education support services for children and young people with visual impairment should carry mandatory status.
- LEAs should play a proactive role in supporting mainstream schools to admit and take responsibility for blind and partially sighted pupils.
- There should be a national career structure for teaching assistants.
- There should be a national training standard for teaching assistants with sufficient funding made available.
- Every blind or partially sighted child should have a statutory entitlement to a mobility assessment and training by a mobility officer qualified to work with children.
- There should be a range of training opportunities for teachers working in the maintained special school sector and available funding to enable them to meet the needs of pupils with complex needs and/or learning difficulties.
- There should be a national strategy for the production of curriculum materials in accessible formats.
- There should be a full review of access arrangements in the light of the extension of the DDA to general qualifications to ensure convergence between Key Stage 3 and Key Stage 4.
- Examination papers should be made available in a wider range of alternative formats to reflect the range of need of pupils with visual impairments than is currently the case.
- There should be guidelines on the production of statements to ensure clarity and consistency.

RNIB Submission to Education and Skills Select Committee on Special Educational Needs

1. INTRODUCTION

RNIB is the UK's leading charity offering information, advice and guidance to over two million people with sight problems, with a national Children's Services team concerned with the interests of blind and partially sighted children and young people, including those with additional needs. RNIB is in a strong position to maintain an overview of educational provision for visually impaired pupils around the country. While we broadly welcome the government's strategic approach to education we are conscious that, in order for children and young people with visual impairment to have equal access to high quality educational opportunities, there is still much to be done in order to address some significant weaknesses. We are pleased, therefore, to have this opportunity to submit evidence to the Select Committee on Special Educational Needs and would welcome the opportunity to supplement this information with oral evidence. If members of the Select Committee would like to hear the views of blind or partially sighted pupils RNIB would be happy to provide a CD recording of pupils' accounts of their experiences of school.

The submission begins with background information, which is intended to inform members about the population of children and young people with visual impairment and the context in which they are educated. This is followed by RNIB's policy position on the education of blind and partially sighted pupils. The remainder of the submission is organised around the topic headings identified by the Select Committee.

2. BACKGROUND

Visual impairment, which includes both blindness and partial sight, is a low incidence impairment. It is estimated that there are around 17,500 children in England between the ages of five and 16 with a visual impairment of sufficient severity to require specialist support. Approximately 50% of the children have a single impairment, 20% have some additional need or needs and 30% have profound or complex needs with associated learning difficulties. Out of all pupils with a visual impairment only around 4% use braille. 59% of blind or partially sighted children are educated in mainstream schools. This number has remained static for a number of years. Pupils attending mainstream schools may attend their local school with support provided by the local authority specialist support service or a school that is specifically resourced for blind and partially sighted pupils where specialist support forms part of the permanent school staffing. Just over three in 10 visually impaired pupils attend maintained special schools for pupils with learning and/or physical disabilities, while only one in 20 attend special schools for pupils who are blind or partially sighted (Keil and Clunies-Ross, 2003). In the latter, most class or subject teachers will hold an additional qualification in visual impairment. The number of schools that exist specifically for visually impaired children has fallen significantly in recent years as increasing numbers are included in the mainstream. Those that remain are educating pupils with increasingly complex needs.

A number of different factors are involved in a blind or partially sighted pupil's access to the curriculum. These factors are influenced at a micro level by the characteristics of the individual pupil and at a macro level by the organisational context within which educational support is delivered. Pupil characteristics include type, severity and age of onset of the visual impairment, presence or absence of other disabilities and/or learning difficulties, and the pupil's own attitude towards their visual impairment and to their need for additional support and how this is delivered. Organisational factors include the type of setting in which the pupil is educated, and the size and structure, including method of funding, of the LEA VI service.

Depending upon the degree and nature of their visual impairment, a pupil may use non-sighted or sighted methods, or a combination of both, to access the curriculum. Examples of non-sighted methods are braille, audio-tape, and computer with speech software. Sighted methods include enlarged or modified print, low vision devices such as magnifiers and computers with large screen monitor and/or enlarged text on screen. Some environmental adaptations may also be necessary, for example increasing or decreasing the level of illumination in the pupil's work space. The class or subject teacher plays a crucial role in ensuring that the range of strategies or approaches used enable the pupil with visual impairment to be fully included in the class.

3. RNIB'S POLICY POSITION ON THE EDUCATION OF BLIND AND PARTIALLY SIGHTED PUPILS

RNIB believes that every pupil with a visual impairment is entitled to high quality education with equal access to appropriate specialist provision *no matter where he/she lives within the UK*. This requires that a range of specialist resources and support arrangements are put in place which match the range and distribution of educational needs amongst the whole population of visually impaired children, including those with additional needs and/or disabilities. For most visually impaired children the appropriate placement is a mainstream school with specialist support. The provision must be of sufficient standard to enable the visually impaired child to access the full range of educational opportunities available to fully sighted children, as well as providing for the particular needs arising from the visual impairment. While well resourced and properly supported mainstream placements should be the usual form of provision, a special school placement continues to be the most effective way of meeting need for some children, in particular those who have severe and complex disabilities in addition to visual impairment. Wherever children are

being educated it is essential that schools as well as support services take full responsibility for ensuring that the child's needs relating to visual impairment are properly addressed. Inclusion is as much about the ethos and social life of schools as it is about access to the taught curriculum. It is essential, therefore, to provide the range of educational and social opportunities that enable children to participate on an equal basis with their peers in order to become fully included members of the community.

Fundamental to achieving these objectives is to fully involve parents and children in decisions about their educational provision.

RNIB believes that the increased delegation of SEN funding to individual schools works against the interests of children with a low incidence disability such as visual impairment. Delegation risks fragmenting central VI services. RNIB supports the retention of centrally funded and managed visual impairment advisory services. This model allows greater flexibility of staffing enabling specialist staff to be deployed where they are most needed and ensures greater job security.

4. PROVISION FOR SEN PUPILS IN MAINSTREAM SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

A major concern for RNIB is the huge variation across the country in educational provision for blind and partially sighted pupils. There is variation between LEAs in terms of type of educational placement available and in standards of educational support provided.

The three key components that together promote the successful inclusion of pupils who are blind and partially sighted are:

- A coherent system of funding that promotes the organisation of high quality central support services.
- A national set of standards that are universally adopted by local authorities.
- The readiness of mainstream schools to admit and take responsibility for blind and partially sighted children, and the commitment of the LEA in promoting and supporting this.

4.1 *A coherent system of SEN funding*

Of particular concern to RNIB is the drive towards greater delegation of SEN funds from central LEA control direct to schools. RNIB considers that this arrangement is inappropriate for low incidence SEN such as sensory impairments, which require a high degree of specialist teaching support and resources and due to economies of scale function better under a centrally organised and funded model. Delegation risks fragmenting central VI service teams. A centrally funded system allows greater flexibility of staffing enabling specialist staff to be deployed where they are most needed and ensures greater job security. (See Gray, 2001; Keil and Clunies-Ross, 2002.)

The main concerns about the consequences of delegation are:

Schools lack the knowledge and expertise to judge what is needed in terms of specialist provision.

Under full delegation schools have the option of buying in support from the local VI service, or to go elsewhere such as to the VI service in the neighbouring LEA. This leads to uncertainty, affects VI service planning and may lead to fragmentation of VI services because of lack of centrally held budget to pay staff salaries. (Fletcher-Campbell and Cullen, 1999; Gray, 2001.)

If schools can choose whether or not to buy in educational support there is a risk that they may go for a cheaper option and purchase less teaching or support time than specialist teachers feel is needed. Pupils without the protection of a statement would be particularly at risk of having their support reduced in this way. (Wakefield and Mackenzie, 2005; Wilkin, Archer, Ridley, Fletcher-Campbell and Kinder, 2005.)

Schools may ignore specialist advisory teacher advice about purchase of specialist equipment and go for a cheaper (and less appropriate) option. (Wakefield and Mackenzie, 2005.)

Where budgets are fully or partially delegated, eg to additionally resourced mainstream schools for pupils with visual impairment and/or special schools within an LEA, no single agency has an overview of the number and characteristics of pupils with visual impairment in that LEA. (Keil and Clunies-Ross, 2003.)

Where budgets are fully or partially delegated there may be inadequate monitoring of provision of educational support to pupils with visual impairment. (Fletcher-Campbell and Cullen, 1999; Gray, 2001; Audit Commission, 2002; Teachernet, 2003.)

There will be no central source of funding to finance the training of new specialist teachers of pupils with visual impairment. LEAs with delegated SEN (VI) budgets are likely to lack a strategic approach to specialist teacher training and professional development. (Gray, 2001.)

The specialist teacher plays a central role in setting up and supporting the provision for blind and partially sighted pupils (Keil, 2004b). There are concerns that as a result of the combined effects of delegation of central VI service budgets to schools, and the transfer of Standards Fund grants from LEA control to schools, there will no longer be a central source of funding for training of new specialist teachers. Linked

to this issue is the concern that LEAs with delegated SEN (VI) budgets will lack a strategic approach to specialist teacher training. For example, instead of anticipating future needs as experienced teachers approach retirement by arranging for advance training of replacement teachers, LEAs may respond only when the need for a replacement actually arises. An RNIB survey of LEA VI services found that in 2002, out of 367 specialist teachers employed by 79 LEAs in England, only 12% were under the age of 40. 45% were aged 50 or over (Keil and Clunies-Ross, 2003).

There are concerns also about who will pay for professional development. This is important in view of research findings that have identified an on-going need for training of specialist teachers in topics such as teaching literacy and subjects such as mathematics through the medium of Braille (Keil, 2004a; Johnston, 2004).

Many of the concerns about delegation identified by RNIB have been highlighted by Ofsted in a recent report:

“The delegation of funding for support services had a negative effect on the provision for some pupils with SEN. It diminished the capacity of many LEAs to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support.”
(Ofsted, 2005)

4.2 National standards for visual impairment support services

Despite the publication of national Quality Standards for Education Support Services for Children and Young People with Visual Impairment (DfES, 2002) there is no consistent standard of specialist support across LEAs, which suggests that the standards are not being implemented. Some support services are well organised, have a sufficient number of additionally qualified staff with an appropriate range of skills to meet the needs of all the pupils, and are committed to meeting the Quality Standards. However, there are also services that, for a variety of reasons are failing to meet the Quality Standards and, as these only carry a status of “strongly recommended”, and are not mandatory there is no compunction upon local authorities to improve their educational provision for blind and partially sighted pupils.

4.3 The readiness of mainstream schools to admit and take responsibility for blind and partially sighted pupils, and the commitment of the LEA in promoting and supporting this

One of the most important factors for parents and pupils in ensuring a positive experience of school is having a class teacher who understands and is sensitive to the pupil’s visual impairment needs. More than six in 10 parents of blind and partially sighted pupils said that more support from their child’s teacher would improve their child’s life at school (Franklin et al, 2001). Despite SENDA, RNIB continues to hear of schools that are unwelcoming towards blind and partially sighted pupils. Rather than taking ownership of the pupils such schools regard them as the responsibility of the specialist support services. Clearly this approach must be challenged, and while many LEAs are committed through their policies and practices to promoting inclusive practice in all their mainstream schools, in others this does not appear to be a priority.

A well staffed and flexible central support service is able to support schools new to meeting the needs of blind and partially sighted pupils, and thereby increase the capacity of schools to become more inclusive. In some LEAs however, it would appear that rather than challenging practices that exclude pupils who are blind and partially sighted and enabling schools to make appropriate provision, the policy is to place all or most of their visually impaired pupils in additionally resourced schools. The reason often put forward for this placement policy is that all the specialist resources and staffing are provided in one school and that pupils with visual impairment have the opportunity to mix with others with a similar visual impairment. For many pupils this is a satisfactory compromise and in principle RNIB has no objection to the additionally resourced model where this is offered as one choice of placement. However, this policy is often resource led and in several LEAs it is offered as the only placement option. This is an issue of concern for parents who would prefer their child to be educated in their local mainstream school and a significant number have contacted RNIB for advice and support. Their reasons for challenging this position include one or all of the following:

- The school is located outside the local area, which denies the child opportunities to build up a network of local friends. This can lead to social isolation.
- The pupil is unable to attend the same school as their siblings.
- The pupil faces a long journey to and from school and is therefore more reliant upon local authority transport. As transport arrangements tend to be inflexible, such pupils are prevented from participating in out of school activities.

4.3.1 Pupils who use Braille

There are two issues relating to pupils whose primary literacy medium is Braille. These are: placement opportunities, specialist teaching and support for this aspect of the curriculum.

- In some local authorities, pupils who use Braille attend their local mainstream school while in others the policy is to place them in a mainstream resourced school or a special school for pupils with visual impairment. Data from 97 LEAs showed that the majority of braille users (71%) were being educated in the mainstream sector, although the proportion was higher for primary pupils (83%) than for secondary aged pupils (60%). More secondary aged (35%) than primary aged (9%) braille users were placed outside their LEAs. Overall a greater proportion of braille users (22%) was being educated outside their LEA compared with the rest of the visually impaired population (6%) (Keil and Clunies-Ross, 2002). Decisions about educational placement may be made on the basis of VI service or local authority policy because the perceived challenge of fully meeting their needs in mainstream is too great. This appears to be the case particularly at secondary transfer. In other cases the decision is resource led for example, due to a shortage of sufficiently trained and experienced support staff.
- There is evidence that in many cases the responsibility for teaching literacy through Braille is given to teaching assistants, although this should clearly be the role of a qualified teacher (Keil and Clunies-Ross, 2002, 2004a; Johnston, 2004).

4.3.2 Curriculum materials in accessible formats

There is research evidence that blind and partially sighted pupils do not always receive their school text books and other written materials in accessible formats at the same time as their sighted peers (Franklin *et al*, 2001). This is due to a number of reasons. These include the lack of readily available books in large print or Braille, insufficient forward planning when any access issues should be identified and appropriate action taken, too little or no preparation time to prepare the materials, and the lack of staff with the appropriate knowledge and skills to prepare materials to a high standard. Research looking specifically at provision of materials in Braille has found that reasons for delays include a shortage of “off the shelf” text books in Braille, production delays, the high cost of Braille texts, and a lack of co-ordinated information about availability (Jennings, 1998, 1999; Hopkins, 2001a, 2001b; Keil and Clunies-Ross, 2002).

The impact on a pupil not receiving their materials at the same time as their fully sighted peers is significant. The most frequent outcome is that adult support becomes necessary to compensate for the lack of accessible materials, thereby lessening the pupil’s opportunities as an independent learner and creating a barrier to interaction with peers.

Cobb (2002, 2003, 2004), writing about issues relating to accessibility of examination papers for blind and partially sighted pupils has also raised concerns about the shortage of past test and examination papers in accessible formats.

4.3.3 Information and Communication Technology (ICT)

ICT has an increasingly central role in supporting pupils’ learning both through e-learning and the Internet as a major source of information. It is essential that the technology that is available to blind and partially sighted pupils keeps pace with mainstream developments. In addition, it has to be readily available to them in the same way as it is for their fully sighted peers eg homework clubs, school and public libraries.

4.3.4 Teaching assistants (TAs)

A substantial amount of support for pupils with visual impairment comes from staff who are not teachers but teaching assistants. Where practice is effective the role and responsibilities of the TA are clearly defined and understood by all involved, they receive appropriate training and support, there are opportunities for flexible deployment and they work in partnership with teachers (Balshaw and Farrell, 2002). In addition, where TAs are supporting children who are blind and partially sighted, it is crucial that the TAs are included in curriculum planning and are given time to prepare materials of a high quality. Input from a teacher of the visually impaired in the specialist aspects of the role should be given on a regular basis. If the knowledge, skills and experience that the TA builds up is to be retained and utilised a permanent contract is necessary as is a flexible approach to deploying the TA where their skills are most needed.

RNIB provides specialist training for TAs working with blind and partially sighted pupils and holds a national conference annually. Through our contact with TAs and specialist teachers across the country, a number of key issues of concern relating to the role of the TA have been identified.

These are:

- The understanding of the role and the subsequent practice varies widely within and between schools and LEAs.

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- Many pupils are supported by TAs who have received little or no training, in either the general or specialist aspects of their role.
 - Many TAs are expected to take responsibility for the learning of the pupil, which should be the role of the class teacher.
 - There is no national career structure for TAs and for many there is limited job security as they are on temporary contracts.
 - There is often no systematic review or evaluation of the input TAs provide.

4.3.5 Mobility education

For children and young people who are visually impaired, mobility and independence education is essential to give them the knowledge, skills and confidence to organise themselves and get about safely. Mobility and independence training supports blind and partially sighted children's development from early childhood, enabling them to be fully included at school, as well as in their home and social environments. However, across the country provision of mobility education is extremely patchy, with no one agency taking the lead responsibility for providing or funding it. The outcome is that many pupils are denied their full entitlement to mobility education. Of those who do receive mobility education, for many this is provided by mobility officers whose own training was in rehabilitation for adults rather than mobility for children (Franklin *et al*, 2001; Keil and Clunies-Ross, 2003; Pavey, Douglas, McCall, McLinden and Arter, 2002; 2003).

5. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

Following a national survey of LEA VI services, RNIB estimates that around one in three pupils with a visual impairment is being educated in maintained special schools for pupils with learning or physical disabilities. There is evidence to suggest that most, if not all of these pupils have additional complex needs including severe or profound and learning difficulties (Keil and Clunies-Ross, 2003; Keil, 2003).

However, RNIB believes that a far higher proportion of children with complex needs have a visual impairment than those identified in its survey of VI Services (Keil and Clunies-Ross 2003). Evidence to support this position comes from medical research that finds an increase in the numbers of children with a visual impairment and additional, non-ophthalmic disabilities (Rahi and Cable, 2003; Flanagan, Jackson and Hill, 2004). If only one in three visually impaired pupils with additional complex needs are known to VI services is possible that there are children in special schools whose visual impairment needs are not being met or may not have been identified.

The key concern with respect to provision for blind and partially sighted pupils who are placed in special schools is that a considerable proportion of these pupils do not receive adequate specialist educational support to meet their visual impairment needs. This may be because:

- Their visual impairment has not been identified.
- The implications of their visual impairment has not been recognised because of the severity of their learning, physical and/or medical difficulties.
- There is insufficient expertise within special schools and VI services to meet the needs of pupils with visual impairment and additional complex difficulties.

6. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

It is not helpful to speak in terms simply of raising standards of achievement for SEN pupils because, as research has shown (eg Polat *et al*, 2001; Dewson *et al*, 2004) this is not a homogenous group. There are different issues for the different SEN and/or disability groups that are included within this label (Miller *et al*, 2005).

For pupils with visual impairment the main issues are:

- Any attempt to raise the standards of achievement of pupils with visual impairment must first address the issues of quality standards in terms of educational provision, and to the design and delivery of the curriculum.
- There is a lack of information about the attainment of blind and partially sighted pupils. QCA, DfES and the examination boards do not make this information publicly available.
- There are concerns that the examination system denies some visually impaired pupils the opportunity to demonstrate their knowledge, skills and understanding properly. Specific concerns are the difference in access arrangements for SATs up to Key Stage 3, and GCSE and other examinations at Key Stage 4 and above. For example, SATs papers can be opened one day in advance, allowing time to modify the papers to make them more accessible. For GCSE papers the maximum time allowed is one hour, which is an inadequate amount of time to make most papers

more accessible. Modifications are often necessary in view of the fact that papers in large print are produced in a limited number of print sizes, which limits the range of alternative formats available for examinations. (See Cobb, 2002, 2003, 2004; Miller *et al*, 2005).

7. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (THE STATEMENTING PROCESS)

Statements continue to provide an essential framework for assessment and provision. Parents and schools may see them as the only means to guaranteeing additional provision for the child. Although the process is long, expensive and daunting for many parents until another system is put in place that ensures that additional provision will be guaranteed statementing, or a framework of a similar nature, continues to be necessary.

There is wide variation in the quality and clarity of statements and it is important to have a document that clearly sets out a pupil's needs and entitlements but at the same time is not overly prescriptive. This will enable professionals to use their discretion in responding flexibly as the pupil's needs change and the school becomes more confident and competent in taking ownership. Often there is insufficient clarity on a statement as to what constitutes support for the pupil. This can lead to differing expectations on the part of parents and schools and lead to unnecessary tensions. Statements should contain a clear definition of why additional support is needed and how it will be delivered so that everyone involved with the child will share the same understanding and be clear about the roles and responsibilities of the different staff concerned. For blind and partially sighted pupils it is essential that all support should promote opportunities for independent learning and not create barriers to the pupil's access to the teacher or to their interaction with their peers. It is essential, therefore, to include planning and preparation time on the statement, thereby ensuring that any additional support includes these activities.

8. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

It is essential that the crucial role of parents is recognised and respected when decisions are being made about their child's education. Parents vary in the extent to which they want or are able to be involved in their children's education, but should always be given the opportunity to contribute fully. RNIB has some evidence that, despite there being a range of statutory services designed to support parents such as Parent Partnership and Dispute Resolution Services, they are not fully utilised by parents of visually impaired children for the following reasons: parents are not always aware of the services; those that do access them are not confident that they have the appropriate levels of knowledge of visual impairment and they are not always seen as independent of the LEA (Bunting, 2003).

8.1 Involving parents who speak little or no English

RNIB has evidence that whereas some LEAs have clear procedures for arranging an interpreter service for parents, in other LEAs professionals working with parents of young visually impaired children have had to manage without the support of an interpreter (Keil, 2005).

8.2 Key worker

A study investigating the post-16 transition experiences of blind and partially sighted young people in Wales found that the specialist teacher played a key role as link person between home and school (Keil, 2004b).

9. HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

9.1 Data collection

Information published by DfES on numbers of pupils with SEN is based on data collected through the Pupil Level Annual Schools Census (PLASC). However, pupils are categorised by their "greatest" primary and secondary needs only, and the published data on SEN is by primary need only (DfES, 2004). This approach underestimates the number of pupils with visual impairment because, as previously indicated, it is estimated that at least half of the population has additional disabilities and it is likely for many pupils that the visual impairment is registered as their secondary disability.

9.2 Low incidence nature of visual impairment

Visual impairment is a low incidence disability that requires a considerable investment in terms of resources and professional expertise. An underestimate in the official statistics of the visually impaired pupil population may therefore have important implications in terms of planning and organising educational provision. An allied concern is that subsuming low incidence disabilities such as visual impairment within the SEN label carries with it the risk that policies may be driven by the needs of the majority. According to

the official PLASC data, the majority SEN groups are pupils with moderate learning difficulties (MLD) and emotional, behavioural and social difficulties (EBSD). One example of a policy that appears to be dominated by the needs of the majority is the delegation of SEN budgets directly to schools. As discussed previously, a centrally organised and funded model where economies of scale can be applied better serves low incidence disability groups with high resource needs.

10. PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

We question whether pupils with disabilities are best served by being classified under the general SEN heading, which encompasses such a diverse group of children and young people. We suggest that it would be better to follow the model recently adopted in Scotland, where a distinction is being made between pupils with disabilities and those with other types of need such as EBSD.

11. THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF SENDA

We are not aware that SENDA has had any noticeable effect on educational provision for children who are visually impaired. We suggest that part of the problem is that the Act has linked disability to existing SEN legislation and procedures, which continue to dominate through the statementing process and the SEN Code of Practice. The SEN framework focuses on a deficit view of the child with the result that the disability rights emphasis of SENDA has largely been disregarded.

As mentioned in the previous section, we suggest that England considers adopting the model recently introduced in Scotland, where a new framework based on the concept of "additional support needs" separates disability from educational need and is intended to represent a more inclusive approach to children's learning by shifting the emphasis from children's weaknesses and problems. (See also, Miller, Keil and Cobb, 2005.)

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Memorandum submitted by The Down's Syndrome Association

INTRODUCTION

Down's syndrome is the most common form of single learning disability. There are an estimated 16,000 school-age children with Down's syndrome across the UK.

The Down's Syndrome Association was founded in 1970 as a small parent-led organisation. It is now a national charity with around 19,000 members and regional offices in Northern Ireland and Wales.

As the DSA has grown, certain issues have come to the fore. The move towards inclusion—strongly supported by the Association—has ensured that education issues have dominated our work in recent years.

Increasingly, we are concerned at the thousands of enquiries we receive every year highlighting specific educational problems. The requests for help have developed a familiar ring as parents have reported difficulties in getting appropriate Statements of Special Educational Needs, obtaining speech and language therapy, or battling for a real choice between mainstream and special schools.

This submission reports on the results of a survey which was undertaken by the Association in March 2004. The aim of the survey was to obtain a realistic account of the perceptions of parents of children with Down's syndrome with regard to obtaining appropriate educational provision (including appropriate school placements).

A questionnaire was sent to 5,000 parent members who were recorded as having at least one child with Down's syndrome between the ages of two and 19 in their family. Where more than one child was involved, parents were asked to fill in more than one questionnaire.

A total of 1,500 replies were received and analysed, with the results published in May 2004 under the title: "Access to Education—a report on the barriers to education for children with Down's syndrome." Many of the issues discussed fall under the headings chosen by the Committee in their invitation for submissions, and we have summarised our findings according to these headings. However, full copies of the report can be made available, if Committee members would find them useful.

1. Provision for SEN pupils in mainstream schools

1.1 67% of primary age children and 27% of secondary age children were in mainstream schools.

1.2 Most parents were happy with their child's mainstream placement, with only 2.2% of parents with children in mainstream schools reporting that they would like a move to special school.

1.3 56% of parents of children in mainstream schools said that they would like more support for their child.

1.4 69% rated their child's support staff as "excellent" or "very good" although many comments showed concern about lack of training for teaching assistants.

1.5 36% of parents reported that there was no quantification of provision in their child's Statement.

1.6 With regard to speech and language therapy provision, 62% of parents reported that speech and language therapy was recorded under Part 6, rather than under Part 3, with the result that there was no duty on any public body actually to "arrange" the therapy.

1.7 72% of parents reported that their child's speech and language therapy had not been quantified on the Statement.

1.8 66% of parents felt that the speech and language therapy being provided for their child actually met their needs.

1.9 DSA recommendations:

1.9.1 In the short term, the DSA believes that specialist information and training should be made available to teachers and support assistants. In the long term, a nationally recognised qualification should be made available for LSA's with a dedicated unit on the specific learning profile of children with Down's syndrome.

1.9.2 The problem of shortage of speech and language therapists needs to be addressed, but in the meantime the Government should make clear that LEAs must buy-in from the private sector when this is necessary in order to "arrange" the special educational provision on a child's Statement. It should be made clear to LEAs that speech and language therapy for children with Down's syndrome is in 99.9% of cases an educational need, and should therefore almost always be included under Part 3 of a Statement. Also, it is a stable need (ie not liable to unexpected or rapid change) and therefore should normally be quantified.

2. Provision for pupils in special schools

31% of parents of children in special schools reported that they believed their child needed more help than they were getting.

2.1 Most parents were happy with these placements, with only 2% saying that they would like a change to a mainstream school.

2.2 11.6% of parents preferring a move said they would prefer a unit within a mainstream school.

2.3 The difficulties with regard to speech and language therapy when children are in mainstream schools are also experienced by parents whose children are in special schools.

3. Raising standards of achievement

3.1 Parents' comments suggest that there is a general problem of low expectations for children with Down's syndrome eg:

"The attitude is complacent and the comment: 'He is doing very well for a Down's boy' sums it up."

"My experience on the whole, with people, is that wherever we go people assume he is far less able than he is."

3.2 Increased training for Learning Support Assistants is relevant to the issue of raising standards (see 1.3, above).

4. The system of Statements

4.1 The vast majority of children with Down's syndrome eventually receive a Statement of Special Educational Needs, but 33% of parents reported that they had experienced difficulties in getting a Statement for their child.

4.2 43% of parents said their Statement was not written in an acceptable way when they received it at the proposed stage.

4.3 The comment with regard to lack of specification under 1.6, above, is relevant to parents' views on Statements. Unfortunately, the significance of "quantification" may not become apparent until too late:

"When we received our Proposed Statement we were asked if it was acceptable to us. Never having seen a Statement before we said yes. Now three years on we have a seven year old with severe speech problems and no provision within his Statement for specific speech therapy."

4.4 DSA recommendations:

4.4.1 It is unacceptable that so many parents have to struggle at proposed Statement stage to get a Statement which makes clear how much help their child is entitled to. It is equally unacceptable that parents have to threaten to, or in some cases actually have to, appeal to the Tribunal in order to get their child's provision quantified on their Statement. Parliament intended LEAs to be under a duty to produce Statements which protected children's special educational provision. Vaguely written Statements do not do that. Action needs to be taken against LEAs that persistently fail to fulfil their duties towards children with special educational needs and we ask that the Select Committee recommends that the Department for Education and Skills considers this as a matter of urgency.

5. Disability Discrimination

5.1 Almost one third (32%) of parents reported that they had encountered discrimination or prejudice from professionals within the education service. Some of the comments made were:

"I have encountered indifference and discrimination from the owner of the nursery. She didn't want my son to be in the Christmas nativity play and she had enough to do without having him there as well."

"When I have spoken to Heads . . . I have had some horrible comments about Down's syndrome, for example: We have good grades here, that won't continue if your daughter comes here."

"My main issue has been prejudice, particularly looking at Primary Schools. One teacher . . . said "Some of them can be quite violent, can't they?" Another comment was "Most children with Statements go elsewhere. We once had a child with a Statement and it just didn't work."

5.2 The amendment to the Disability Discrimination Act would seem to have had very little impact on professionals working within schools. Very few parents bring claims of discrimination against schools, opting instead to try to find a more positive and more caring school for their child. Unfortunately, this response risks encouraging schools to be unkind to children with Down's syndrome as a way of reducing their work load.

5.3 DSA recommendation

The Select Committee should recommend that the DfES commission research into parents' perceptions of the incidence of disability discrimination in schools, into the reasons why so few schools seem to be aware of their duties under the Act, and into the reasons why so few parents are using their right to bring a claim against a school when staff have discriminated against their child.

September 2005

Memorandum submitted by the British Council of Disabled People

The British Council of Disabled People represents over 130 organisations with different impairments which includes those with learning difficulties and autism. Our membership includes People First and DANDA in addition to organisations and campaigns such as the Alliance for Inclusive Education and 2020 Campaign to End Segregated Education by 2020¹. Many of the disabled people involved in such campaigns are themselves special school survivors.

POSITION STATEMENT

BCODP have passed a motion at its AGM which has become a policy to campaign for the ending of segregated education for disabled children by 2020. BCODP wants to see the ending of all segregated education and would welcome any robust legislation to make this happen.

INCLUSIVE EDUCATION

Inclusive Education is an education system which welcomes all children regardless of type and severity of impairment. The underpinning philosophy is that the education environment is shaped by its pupils who attend the school rather than vice versa. The latter assumes that some disabled children will never benefit from a supported mainstream school placement, as implied by the Education Act. The former assumes it is not the child's impairment(s) that is the barrier, but how their education is organised which underpins a legal framework that supports parallel schooling for disabled and non-disabled children in different types of schools.

EVIDENCE

The Alliance for Inclusive Education² and Disability Equality Into Education³ are submitting evidence to illustrate how inclusive education can work for disabled children with different impairments'. And further Ofsted⁴ have produced reports stating that none of the children's education has been adversely affected by disabled children's inclusion. Additionally disabled young people's opportunities and self-esteem is adversely affected by their attendance at a special school.⁵ BCODP will therefore be submitting evidence on how the 1996 Education Act together with Special Educational Needs and Disability Act prevents disabled children from having a supported mainstream school. This submission complements rather than substitutes the evidence already provided by two BCODP member organisations.

LEGAL FRAMEWORK

The 1981 Education Act was the first piece of legislation which gave disabled young people a "right" to mainstream education, albeit not a legal one! It was not until 1996 Education Act that disabled young people and their parents were able to legally access a mainstream school placement if successful on appeal. And in 2001, the Special Educational Needs and Disability Act "strengthened" the rights of disabled children to attend mainstream schools by providing an overall duty for LEA's to consider parents' preference for mainstream provision and extending the Disability Discrimination Act provisions to provide for disability discrimination within education settings.

¹ 2020 Campaign To End Segregated Education.

² Alliance for Inclusive Submission.

³ Disability Equality Into Education Submission.

⁴ Inclusion and Pupil Achievement DfES RR578 2004.

⁵ Rustemier S, "The Case Against Segregation Into Special Schools—A Look At the Evidence." 2003.

HOW DOES THE LAW WORK IN PRACTISE?

BCODP members have over the years supported disabled young peoples struggles for inclusive education through a number of ways, by providing advocacy including the representation at Special Educational Needs Tribunals and thereafter assisting with High Court appeals like recent MH v London Borough of Hounslow case⁶, through supporting high profile campaigns like Niki Crane to raise the issues of injustice and responding to Government policies and consultations.

THE LAW CREATES AN INJUSTICE BY ALLOWING LOCAL AUTHORITIES TO SEGREGATE CHILDREN

The SENDA was supposed to make the law governing children's rights to mainstream education easily understood and easier to use when necessary by pupils and their families. However, what has happened is practise is that the law governing disabled children's rights to mainstream education has become more complicated and harder for young people and their families to understand and use. The law is complicated—so much so that even Special Educational Needs Tribunals panels who are chaired by lawyers with a minimum of seven years post qualifying experience have difficulties with understanding the law governing inclusion!

THE LAW PROVIDES A TWO TIER SYSTEM OF RIGHTS BETWEEN DISABLED CHILDREN WITH AND WITHOUT STATEMENTS OF SEN

SENDA has actually created a two tier system of rights between different groups of disabled children. Disabled children can not be sent to a special school if one is fortunate enough to access appropriate provision within their own school resources. However, if the mainstream school can not provide the support needed within their own resources then the disabled child loses his/her legal right to a mainstream school placement. This is because the LEA can consider and name a special school in a child's statement of SEN. This is discriminatory and unjust. There are parents who will not seek the additional support in fear of the local authority and thereafter the tribunal ordering the child to attend a special school.

THE LAW PROVIDES AN ART BURY METHOD FOR DECIDING WHO WILL OR WILL NOT BENEFIT FROM RECEIVING A SUPPORTED MAINSTREAM SCHOOL PLACEMENT

Section 316A and Schedule 27(3)

These main clauses and schedules deal with the law governing both the LEAs and SENDIST's panels' consideration of a mainstream school placement for a disabled child. Section 316 centres upon firstly whether the child's education would affect the efficient education of the other children and thereafter their general duty to comply with a parent's preference for mainstream education.

EFFICIENT EDUCATION OF OTHER CHILDREN

The s(316) Inclusive Education guidelines have been used to prevent the inclusion of disabled children, particularly those with severe and profound learning difficulties into mainstream schools even though it's intention was to ensure that a child with severe EBD did not impinge upon the efficient education of other children. The problem is once a law permits segregation even for one child then a whole legal and appeals procedure must be put in place which diverts resources from providing for children's schooling into paying legal costs. This results in all disabled children's legal rights to mainstream schooling being undermined.

Section 316A and associated Inclusive Schooling guidance deals with the LEA's overall duty to consider parents preference for a mainstream school placement whilst schedule 27(3) focuses on the naming of a particular school in the child's SEN Statement. The "Inclusive Schooling" Guidance makes it clear that the tribunal panel on appeal must satisfy themselves all reasonable steps have been taken to ensure that the child's education is compatible with the efficient education of the other children before naming a special school placement. Tribunal panels can consider whatever factors they wish and what weight should be given to each of them when making an order to include a named mainstream school. Such weight given to such factors like costs, practicality and disruption will vary between panels. Indeed, the suitability and costs under schedule 27(3) are and have been considered by tribunal panels when considering any mainstream schools under section (316). So therefore children are at the whim of the tribunal's panels on what factors they would like to consider on the day! As a consequence, two different tribunal panels with exactly the same evidence and facts can arrive a different decision on whether a child should be placed in a mainstream school simply based on what weight they wish to give for each of the factor and whether reasonable steps can be taken. Such a system is very arbitrary which allows disabled children to be segregated simply on the subjective

⁶ [2004].

assessments carried out by three allegedly independent persons who in the main represent the professionals that already believe that some children ought to be segregated simply on the grounds of the type or severity of “impairment”⁷.

THE LAW CREATES EXTREME DIFFICULTIES FOR DISABLED CHILDREN WANTING TO TRANSFER FROM A SPECIAL TO MAINSTREAM PROVISION

Schedule 27(8) governs disabled children’s rights to change schools on a yearly basis. This provision makes it almost impossible for disabled children to transfer from special to mainstream school provision unless the LEA would agree to carry out a statutory assessment without too much fuss⁸. Disabled children must go through the whole statutory assessment and statementing process which can include a further three tribunal appeals⁹ over a 12 month period. This is a large disincentive for children and parents to make a fresh appeal if after the tribunal or LEA have named a special school in the child’s statement or after giving special schooling a go. This has arisen because s(316) the general duty to consider a parents preference for a mainstream school only applies when the LEA have issued a proposed statement of SEN and that the LEA and tribunals can only consider changing the name rather than type of school under schedule 27(8).¹⁰

THE LAW IS INEFFECTIVE FOR ENSURING THE LEA DOES ARRANGE IMPLEMENTATION OF A TRIBUNAL ORDER

Even after the tribunal have ordered a mainstream school placement with appropriate support, there are no incentives for LEAs to comply with its implementation. The only redress children have is judicial review which can be expensive and lengthy and where such judicial remedies are discretionary including the use of injunctions. Such applications can take up to four months and even longer. This therefore leaves children without any effective and speedy remedy where LEAs have decided to drag their feet or frustrate the implementation of a tribunal order¹¹.

DISABILITY DISCRIMINATION ACT

The Disability Discrimination Act has had benefits for disabled children who require accessible buildings and classrooms and where some adaptations is required in school policies to ensure disabled children are not treated less favourably (White)¹². And that the courts had made it clear that schools which deliberately avoid arranging educational provision will also be considered as disability discrimination (Buniak). However, the law governing disabled children’s access to mainstream education does not provide sufficient legal safeguards despite the amended Disability Discrimination Act 1995’s to include education and the Disability Discrimination Act 2005 which has emphasised LEAs and Schools duties only to not discriminate but also to promote disability equality. This is because many children with SEN labels are not covered by the Disability Discrimination Act. Such children are those who have EBD but without a “medical” mental health diagnosis such as ADAH. As a consequence, such children can not challenge disability discrimination even if they are treated less favourably simply because of having a statement of SEN. BCODP know in some instances that no mainstream school will accept a child with “Challenging behaviour” regardless what provision the LEA is or willing to provide. Such discrimination can not presently be challenged under the DDA unless the child has a “medically” recognisable mental health diagnosis.

BCODP do not think that parents should decide on which type of education their child should receive. BCODP considers that all disabled children must be supported to attend a mainstream school. This is because many parents base their decision on their inability to see that their children can be included in mainstream, lack of experience of seeing disabled children positively included in mainstream schools and the wider community and the fear of professionals.

RECOMMENDATIONS

- All disabled children have an absolute legal right to attend a mainstream school regardless who arranges the provision that is required.
- All disabled children have a legal right to an assessment of need which underpins the social model of disability.
- All disabled children have a legal right to be given the support they need to access mainstream education including homework, extra curricular activities and school trips.

⁷ Brandon S, “The Invisible Wall—Niki’s Fight To Be Included”, Parents With Attitude, 1997.

⁸ IPSEA case work and recent campaign pledges.

⁹ Refusal to undertake a statutory assessment, refusal to issue statement and thereafter contents of the statement.

¹⁰ Slough BC v Mr and Mrs C 2004.

¹¹ Levenes Law Firm has and still deals with judicial review cases involving non implementation of tribunal orders for mainstream school provisions.

¹² 2002.

- All disabled children are entitled to a quick legal remedy if local authorities continue to breach their legal duty with arranging the provision and school placement to facilitate their inclusion.
- A legal framework for ensuring all local authorities will have the capacity by 2020 to support every disabled child's access to mainstream provision which includes the phasing out of special school provision, or at least in the state sector.
- One legal framework for dealing with all disabled children which includes those labelled as having SEN.

BCODP would like to provide oral evidence explaining how the law must be amended and replaced so that all children have a right to attend their local mainstream school.

October 2005

Memorandum submitted by Disability Equality in Education

Disability Equality in Education welcome this opportunity to submit evidence and would welcome the opportunity to follow this up with oral evidence.

1. WHAT IS DISABILITY EQUALITY IN EDUCATION

Disability Equality in Education is the leading training and consultancy organisation in the UK for Inclusion and disability equality.

Disability Equality in Education (DEE) since its inception as a charity in 1996 has been working extensively with the public sector, primarily with Local Education Authorities and schools, developing their capacity to meet new requirements under part 4 of the DDA Special Educational Needs and Disability Act. DEE has delivered training on inclusion to 65,000 education professionals in schools all over the country in 120 LEA's. A DEE survey undertaken by Oxford Brookes University in 2001 found that in 91% of their training events, trainers had been rated as good or excellent. Six months later, a telephone survey revealed that 60% of the client organisations had changed their working practices as a result of the DEE training. The average figure for 2004-05 overall training was rated at 95% good or excellent.

Disability Equality in Education is a Charitable Company Limited by guarantee, but despite the unique and valuable work we do to build the capacity of mainstream schools all over the country we are currently having to prepare to wind up as we do not have core grant anymore. Surely our work should be supported by Government?

DEE has also worked towards empowering and educating disabled people about their rights, the social model and self activity. DEE has run 27 training the trainer courses ranging from two to four days involving 430 disabled people. These took place in Glasgow, Carlisle, Newcastle, Leeds, Manchester, Halifax, Nottingham, Leicester, Loughborough, Birmingham, Bristol, London, Newham, Essex, Southampton and Cardiff on various dates.

Two of these courses were for young disabled people (30) and two were tailored to meet the needs of adults with learning difficulties (35). In addition DEE has run courses for parents of disabled people and non-disabled allies. This has led to a network of 160 trainers and consultants, many of whom have worked with local authorities on managing change and key disability legislative changes. The network has held five annual conferences attended by over 120 participants. In addition DEE have organised four anti-racism courses for trainers and five advanced trainers courses involving 136 disabled people. This project was funded by the Big Lottery from 2002 to 2005.

2. INTRODUCTION

Education is a fundamental element of ensuring disabled children and young people are included in society, achieve their potential and flourish as human beings. The recent, and not so recent experience of education for disabled people is of massive under-achievement and segregation, which leads to high non-employment, poverty and lack of worthwhile social relationships.

The UK Disabled Peoples Movement is clear that inclusive education, which develops the capacity of mainstream schools to meet the diverse needs of all learners, is the way to achieve this transformation to give effective education to disabled people. Involving disabled people in the identification and removal of social, organisational, environmental and attitudinal barriers is the key to developing inclusive education and ending segregation.

3. PROVISION FOR SEN PUPIL'S IN "MAINSTREAM SCHOOLS"

Recent Government Statistics suggest that all but 14.9% of pupils with statements and those on the school action plus stage of the code of practice are attending mainstream schools.

Figure 1**PLASC DATA FOR ENGLAND 2004 BY TYPE OF SCHOOL AND IMPAIRMENT**

PLASC Impairment	Primary	Secondary	All Special Schools	Percent of Total		Rank
				Total	Percent of Total	
Specific Learning Difficulties	41,780	41,250	750	83,780	14.2%	3
Moderate Learning Difficulty	83,310	58,100	28,520	171,930	29.2%	1
Severe Learning Difficulty	7,340	3,070	21,620	32,020	5.4%	5
Profound and Multiple LD	1,150	260	6,380	7,780	1.3%	10
Behaviour, Emotional & Social Difficulties	52,560	61,930	12,390	126,890	21.5%	
Speech, Language & Comm Needs	50,130	10,720	3,040	63,890	10.8%	4
Hearing Impairment	6,090	5,130	1,740	12,960	2.2%	9
Visual Impairment	3,510	2,650	1,000	7,170	1.2%	11
Multi-Sensory Impairment	510	180	170	860	0.014%	12
Physical Disability	11,790	7,540	5,330	24,660	4.1%	8
Autistic Spectrum Disorder	15,950	6,710	8,610	31,260	5.3%	6
Other Difficulty/Impairment	12,180	12,370	9,990	25,530	4.3%	7
	286,300	209,910	89,550	588,730	100%	

Source DfES SEN Statistical Bulletin. November 2004

3.1 Figure 1 suggests 6.2% of secondary and 6.7% of primary pupils are disabled in January 2004. This indicates that only 15.2% of these disabled pupils attend state special schools. The largest groups of impairment are Moderate Learning Difficulty (29%), followed by Behavioural, Emotional and Social Difficulties (21%), Specific Learning Difficulties (14%) Speech, Language and Communication Needs with (10%), Severe Learning Difficulties (5.4%) and Autism with (5.3%). Although many disabled children have more than one impairment respondents were asked to only record one. Sensory and physical impairments which are usually thought of as the main groups of disabled people, together only represent 7.6% of the total.

3.2 The 2005 figure has recently been released and the overall number of disabled pupils is up by 11,000 to 597,770 with only 14.9% attending special schools. The overall figure includes maintained and non-maintained special schools but not hospital schools, independent schools or pupil referral units or children in secure children's homes. The figures for these groups add another 70,000 children, but this includes all those with non-statemented special needs in independent schools and PRU's as well as those with statements. If all those pupils with non-statemented and statemented SEN are added together they equate to 17.8% of the total school population.

3.3 The proportion of disabled pupils included varies greatly LEA by LEA and indeed school by school. This demonstrates it is not to do with the type or degree of impairment, but policies of the Authority, the school and its ethos.

3.4 Where do disabled children go to school? Examining where disabled pupils go to school (ie special or mainstream) there is huge local variation, which depends both on geography and LEA policy. (See Figure 2) Although, overall the figures show a 0.02% national decrease in segregation in special schools, PRU's, independent and hospital schools, they mask huge variations. Greenwich, Tower Hamlets, Manchester, Lambeth and Islington all urban areas with a traditionally high level of segregation who have adopted a conscious policy to develop more inclusive practice all showed reductions in segregation ranging from 0.51% to 0.20%.

3.5 Equally Wolverhampton, Milton Keynes, Southwark, Staffordshire and Hammersmith and Fulham all increased segregation by between 0.26 and 0.18%. Segregation has historically been a product of urban areas and municipal socialism. Rural areas such as Cumbria and North Yorkshire have found it more impractical to move children around and have resourced mainstream schools. Newham and Barnsley, Nottinghamshire and Nottingham City have over the last 15 years adopted conscious inclusion policies and this shows.

3.6 The postcode lottery of destinations of special versus mainstream schools for disabled young people cannot be justified. Disabled pupils in Newham are 24 times less likely to be segregated than their counterparts in South Tyneside. Given the different outcomes of special versus mainstream education as regards achievement and social relationships these figures seriously challenge government policy on inclusion.

3.7 Nationally Ofsted (2004) has found little or no change in progress towards inclusion, despite Government intentions. This contradicts popular perception that there has been a big move of children from special schools to mainstream schools. Figure 3 on inclusion shows that there is almost as large a proportion of children in segregated settings as there were six years ago. A rapid increase in the numbers in Pupil

Referral Units (an increase of 25% 2001–03) has helped to maintain this. In addition disabled children from state schools have increasingly been placed in independent schools supported by a LEA funding and statement. This has gone up from 6,600 in 2001 to 7,930 in 2005.

Figure 2

PERCENTAGE OF PUPILS IN SEGREGATED SETTINGS, 2002 AND 2004 BY LEA TOP 10
INCLUDERS AND SEGREGATORS

	2002	2004	<i>Overall Change</i>		2002	2004	<i>Overall change</i>
England: 148 LEAs	0.84	0.82	−0.02	Top 10 segregators			
Top 10 includers 2004				South Tyneside	1.41	1.45	+ 0.05
Newham	0.15	0.06	−0.09	Wirral	1.35	1.34	−0.01
Rutland	0.22	0.23	+ 0.01	Halton	1.26	1.32	+ 0.06
Nottinghamshire	0.45	0.45	0.00	Knowsley	1.43	1.32	−0.11
Nottingham	0.47	0.47	0.00	Stoke-on-Trent	1.41	1.23	−0.18
Cumbria	0.43	0.49	+ 0.06	Birmingham	1.09	1.21	+ 0.12
Barnsley	0.43	0.50	+ 0.07	Lewisham	1.19	1.21	+ 0.02
East Riding Yorkshire	0.45	0.50	+ 0.05	Brighton & Hove	1.22	1.20	−0.02
Havering	0.53	0.51	−0.02	Manchester	1.42	1.16	−0.26
Herefordshire	0.53	0.51	−0.02	Middlesborough	1.20	1.16	−0.04
Kensington & Chelsea	0.51	0.51	0.00	Rotherham	1.20	1.16	−0.04

Source: Rustemier, S, and Vaughan, M, (2005) Segregation Trends LEAs in England 2002–04 CSIE Bristol 2005.

Figure 3

NUMBER OF CHILDREN IN ALL SPECIAL SCHOOLS (INCLUDING PUPIL REFERRAL UNITS) AS A PERCENTAGE OF THE NUMBER IN MAINSTREAM SCHOOLS IN ENGLAND
1999–2005

1999	2000	2001	2002	2003	2004	2005
1.4	1.38	1.37	1.37	1.39	1.38	1.39

Source: Ofsted October 2004. The 2004 and 2005 figures from DfES (2005) Statistics SFR 24/2005.

“A minority of mainstream schools met special needs very well and others are becoming better at doing so. more schools than before see themselves as inclusive and are keen to be identified as such. However, by no means do all schools regard themselves as having the experience, skills and resources to make effective provision.”—Ofsted (2004).

3.8 What appears to be happening is that a minority of schools, perhaps 10–15% have embraced the inclusion agenda and are proud of their achievements. A much larger number of schools have accepted the principle of inclusion, but don’t know how to implement it and have not really changed their attitudes and practices. A minority of schools are actively against inclusion and think it will lower standards (Ofsted 2004, DfES RAP 2005).

4. MODELS OF PROVISION—INCLUSION AND INTEGRATION?

4.1 Inclusion and integration are often used interchangeably with inclusion being more common recently. However, there is now considerable consensus that integration or placement is not inclusion. Integration is the placement or location of disabled pupils or students in mainstream or ordinary settings where they largely need to fit in or adapt themselves to the mainstream setting. The disabled person needs to overcome the barriers that exist. If the integrated placement does not work then they can always be placed in a segregated special school or unit where the expertise is supposed to exist to meet their special educational needs. This way of thinking is based on the medical model of disability which draws on an oppressive ideology of ableism reinforced by stereotypes in popular culture such as comics, films, TV and literature. The medical model views the issue of difference as negative and a problem rooted in the person and their impairment. This needs to be rehabilitated and/or fixed.

4.2 The Warnock Report outlined the idea of integration in 1978. Only the fullest form of “functional integration” began to approach what is required for inclusion. However Warnock’s Report was based on a medical model and individual approach as opposed to a right’s based approach.

“The first form of integration relates to the physical LOCATION of special educational provision where special units or classes are set up in ordinary schools. It may be the most tenuous form of association. Even so it can bring worth-while gains [and can] offer handicapped and non-handicapped children the opportunity of familiarising themselves with the other.

The second form of integration which we have identified relates to its SOCIAL aspect, where children attending a special class or unit eat, play and consort with other children, and possibly share organised out-of-classroom activities with them.

The third and fullest form of integration is FUNCTIONAL integration. This is achieved where the locational and social association of children with special needs with their fellows leads to joint participation in educational programmes. Functional integration makes the greatest demands upon an ordinary school, since it requires the most careful planning of class and individual teaching programmes to ensure that all the children benefit, whether or not they have special educational needs.”—(DFES 1978 p 100–101).

4.3 Special educational needs are “needs which are different to or additional to those provided for in an ordinary or mainstream school”(DfES 2001b). This is a variant of medical model thinking, which is largely still based on measuring differences from normality and ameliorating or fixing the defects identified. If this view is adopted then it follows that some disabled children can be integrated, but those with the more significant or less commonly occurring impairments must be taught were the expertise about their impairments exists in special schools or units. (Mason 2000)

4.4 Inclusion on the other hand is a right’s based approach to the education of disabled pupils and students and others subject to exclusionary pressures. The right to attend and fully participate in the educational and social life of the mainstream school or college is accepted. Inclusion is a dynamic and ongoing process in which managers, staff, pupils or students, parents and the local community address and remove barriers so all can achieve their potential and flourish socially and academically. This process of restructuring and removing social, environmental, organisational and attitudinal barriers can apply to any mainstream school or college that progressively make adjustments or accommodations to include disabled pupils and students. (Rieser 2000)

4.5 Fundamental to this right’s based approach is the adoption of a “social model” of disability thinking. The social model was developed by the Disabled People’s Movement in the UK in response to the oppression faced as disabled people. The discrimination and lack of rights disabled people face largely arise from society rather than being the result of impairment—the loss of physical, sensory or mental function. The Social Model shows how disability is created by lack of access, lack of understanding, lack of awareness and oppressive attitudes and behaviour to disabled people. The Social Model maintains that it is not our impairments that need to be changed—it is barriers in society. Social Model thinkers say that the human rights of disabled people are denied. The Social Model stresses the fact that if barriers are removed and we are given the support we need to take part in society on an equal basis as a right, not a favour, then society will change and disabled people will be truly empowered. (Oliver 1996)

4.6 Inclusive education aims to equip all people with the skills needed to build inclusive communities. Alliance for Inclusive Education (1999).

“Inclusive education is based on the following principles:

1. A person’s worth is independent of their skills or abilities.
2. Every human being is able to feel and think.
3. Every human being has a right to communicate and be heard.
4. All human beings need each other.
5. Real education can only happen in the context of real relationships.
6. All people need support and friendship from their peers.
7. Progress for all learners is achieved by building on things people can do rather than what they can’t.
8. Diversity brings strength to all living systems.
9. Collaboration is more progressive than competition.”.

5. WHAT CHARACTERISES SUCCESSFUL MAINSTREAM PROVISION?

5.1 Disability Equality in Education recently carried out the Reasonable Adjustment Project for the DfES(2006). We visited over 40 schools across the country that wanted to share their inclusive practice and have it filmed. This followed on from a previous DfES funded project in 2000 “Count Me In”, where 12 mainstream schools had been visited. During 2004 the Alliance for Inclusive Education(2004) also visited 20 schools—“Snapshots of Possibility”.

5.2 None of the schools in these projects were different in resources or general intake to the schools that surrounded them but they had developed the capacity to include a wider diversity of pupils. They also all reported that their attainment test results for all pupils had improved and exclusion decreased as they developed their inclusive ethos and practice.

5.3 A number of key factors emerged as vital in developing this approach. These are enabling factors that support the development of good inclusion. School leaders/managers need to ensure they and their staff develop effective anticipatory reasonable adjustments for disabled pupils. The following enabling factors appear to be key to this process, both in practice and policy across the school.

- Vision and values based on an inclusive ethos-welcoming diversity.
- Having a “can do” attitude in making adjustments.
- Identifying barriers to learning and achievement and finding practical solutions.
- Developing strong collaborative relationships with pupils and parents.
- Empowering pupils to have a meaningful voice.
- Low exclusion rates linked to positive approaches to challenging behaviour.
- Strong leadership by senior management and governors.
- Effective staff training and development.
- Drawing on the expertise of outside agencies and working with special schools.
- Maximising opportunities for funding and using it flexibly.
- Meeting the impairment specific needs of pupils sensitively.
- Regularly undertaking critical reviews and evaluation which involve all staff, pupils, parents, governors and outside agencies.
- Good communication between head, staff, pupils, parents and outside agencies.

5.4 In recent years there has been a rapid growth of Teaching Assistants working under the direction of the teacher. The class or subject teacher is responsible for the learning of all pupils in their class. When planning and working well together the quality of learning and teaching dramatically improves not just for disabled pupils but also their non-disabled peers. The Inclusion chapter in the National Curriculum (QCA 2000) gives statutory advice to all teachers on how to develop a more inclusive curriculum:

- setting suitable learning challenges;
- responding to pupils diverse needs; and
- overcoming potential barriers to learning and assessment for individuals and groups of pupils.

5.5 However, the Qualifications & Curriculum Authority carried out a survey in 2003 and found very few teachers aware of these principles. Furthermore, Ofsted found few schools making substantial adjustments to the curriculum (Ofsted October 2004 p 13).

5.6 The Government’s strategy for SEN over the next 10 years puts improving the capacity of mainstream schools to includes a diversity of pupils at the heart of its approach (*Removing Barriers to Achievement DfES 2004*). However, there is still an issue of Government priorities—narrow interpretations of improving standards and introducing PFI and City Academies, together with full delegation of budgets to schools—all of which are in certain ways in conflict with the inclusion policy.

For example the loss of ring fenced Standards Grant for developing inclusive practice has meant that many schools who need training in the theory and practice of inclusion and disability equality training are not having this training. In far too many schools we find that the SENCO is seen as the one responsible teacher when a whole school approach needs to be taken, led by the Headteacher and Senior Management Team. There is significant evidence from the Reasonable Adjustment Project that points to the fact when this whole school approach is taken, then an inclusion ethos develops and schools are able to accommodate successfully a wider range of disabled pupils.

Schools and their leaders need incentives to prioritise the development of their inclusive capacity.

A key here is inclusion training for all initial teacher training, much more effective beginner and in-service professional development programme, as well as, recognition of inclusion as a political priority in education policy.

6. PROVISION FOR SEN AND DISABLED PUPILS IN SPECIAL SCHOOLS

6.1 Despite much talk of special schools as centres of excellence and repositories of expertise. There is a lack of evidence to back up such statements. Indeed the evidence from adults who attended such establishments is largely negative. They are disabled children grown up and their views should be listened to.

6.2 *The views of disabled adults who attended special schools*

6.2 “Along with our families, we have been victims of a whole way of thinking about disability that is fundamentally mistaken. This thinking we call ‘The Medical Model of Disability’. It sees all our difficulties as a direct result of our impairments. It turns us into ‘patients’ in need of treatment and cure, even when cure is not possible. A whole separate system has been developed on this model, called Special Education. We are diagnosed, labelled, and sent away or separated to have our ‘Special Educational Needs’ met. Our ordinary needs, such as for love, friendship, security, play, and often education, do not get met, and this is why we are so against this process.

Disabled people who are now adults still bear the scars from our early experiences of being forced to leave our families, of being alone and afraid, of being abused by strangers, of being de-valued, underestimated and bored. We remember being used as medical ‘Guinea Pigs’, of being the victims of bullying and racism in our special schools, sometimes by the staff:

We recall being over protected and denied the opportunities to grow up and develop social skills. We remember having very little meaningful education and leaving school completely unable to compete with other people our own age, even to further our own education.

We all have painful memories of leaving school and all its false security with no confidence to interact with the mainstream world. Many disabled people never manage to re-enter ordinary life, but are condemned to live a parallel but separate life dominated by services and systems. This is especially true of residential provision.

We are aware of the resulting ignorance and fear of disability that is inevitable when young disabled people are excluded from the lives of non-disabled people—an ignorance which forces disabled people to hide away, or be in the role of perpetual teacher, and which makes non-disabled people believe they need special training before they can be with us.

With the changes in legislation, the transfer of SEN budgets to schools, and the growing body of examples of successful inclusive education, we do not believe there is any good reason for special schools to continue to exist. They exist only because of the reluctance of teachers to develop their skills, or the manipulation of parents’ fears by professionals using the medical model of disability.

The argument that special schools still serve the needs of those children with the most severe or complex impairments is the opposite of the truth. The children left in special schools are the most isolated, the most vulnerable, and the most in need of inclusion.” (2020 Campaign)

The “2020 Campaign” is an organisation of disabled people and their organisations campaigning for the ending of segregated education by the year 2020.

6.2.1 “The experience of being hidden away, with the assumption that I was worthless, still haunts me with a terror I can’t describe. Nobody should be put through that. Yet there are hundreds forcibly excluded from life everyday” (Maresa MacKeith)

6.2.2 “The focus was on our physical impairments, not on giving you skills for your adult life. There was no ‘What is your career path?’—no focus, direction or outlook. School was a medical chemical bubble—sterile.”—(Michelle Daley)

6.2.3 “School wasn’t about social skills and speech. It was about walking all the f***ing time”. “Chailey made me into a ‘supercrip’. I still have problems accepting support. Made me really insecure. Took a long time to realise that I’m intelligent and have any self-worth. I still feel very scared. Couldn’t accept I am beautiful or loveable. I always try too hard. I’ve always got to be the best.”—(Edwina McCarthy)

6.2.4 “I wouldn’t go to the loo at school because I was afraid of the dinner ladies who used to take us. They took our knickers down in full view and then sat us on the loo and left us for about 20 minutes. The whole of the dinner break went like that. I was very skinny and bony. Only weighed 3½ stone. It was so uncomfortable. There was no gentleness. No kindness. Very degrading. They ignored our impairments.”—(Jane Campbell)

6.2.5 “The worst times were between the ages of six and 11—Five years of sheer hell. The ‘care’ staff team treated us disgracefully. Children with more significant impairments were targeted most and were regularly made fun of for the way they talked, walked or the way they looked. Many of the children who took longer to walk back to the dormitory from school were punished by being sent straight to bed without supper. Those of us who were more mobile were considered difficult and trouble-makers because we were able to speak up for ourselves.

“These young and inexperienced ‘care’ staff terrorised over us for almost four years. We all experienced constant ridicule and torment from people who were supposedly employed to ‘care’ for us. I remember one young boy being dragged down two flights of stairs because he had wet the bed. On another occasion I remember a group of three or four ‘care’ staff standing round a young boy (who had a significant speech impairment), as he ate his food, laughing at him because swallowing made him drool more. At the time we knew we were being treated badly, but we were so terrified that we didn’t tell anybody. A friend and I tried to confide in a member of teaching staff but the backlash for ‘telling tales’ was that we were sent to bed at 5 pm straight after supper as a punishment.”—(Tara Flood)

6.2.6 “I was forced to go to chapel. The Headmaster was a Reverend but I wasn’t a Christian. They made me stand up and sing. I used to mouth something else. I thought ‘This is not my religion’ but they tried to make me fit in.”—(Haq Ismail)

6.2.7 “After leaving school I had no social networks. I still feel affected because I didn’t have the diverse experiences of a normal teenage life.”—(Ali Kashmiri)

6.2.8 “Some of the brighter children who were more physically able than I was and did not have a speech impairment left M School gradually there was a decline in the level of education as the school was left with fewer children. There were fewer subjects and the work became a lot less challenging. This is when I noticed that I was deteriorating mentally due to the lack of stimulation and it was extremely frightening.”—(Sapna Ramnani)

6.2.9 “We will be the labels they have given us. When they look at us they see the label. They do not see children who one day will be mothers or fathers, be bakers or carpenters, shop workers or office workers, artists or mountaineers, poets or politicians. This means that people with learning difficulties will leave school with no qualifications, unable to face any job interview, and with little or no idea of what they would like to do. It is not surprising that people with learning difficulties end up unemployed or in work experience or adult training centres for the rest of their lives”.

Special Schools—And Now We Are Different, People First—Scotland.

6.3 Achievement in special schools

Bearing in mind that the majority of children in special schools(See Figure 1) have the same range of impairments as disabled pupils attending mainstream schools eg:

- Moderate Learning Difficulty 32% special school population.
- Behavioural Emotional and Social Difficulty 14% special school population.
- Autism Spectrum Disorder 11% special school population.
- Physical and sensory impairments and speech and language 23%.

Which leaves 31% with the label Severe and Profound and Multiple Learning Difficulty.

So what are the outcomes of special school education compared to mainstream schools?

Where is the best place to increase standards of achievement for disabled pupils?

The answer to this is clearly in the mainstream when the capacity exists.

6.4 Standards The evidence on standards is clear. A whole range of studies find few if any negative impacts on the attainment and achievement of pupils without SEN. (See literature review Dyson *et al* (2004) and Hegarty 1993).

6.5 “Inclusion and Pupil Achievement (Dyson *et al* 2004, p 44), a research study commissioned by the DfES, took the National Pupil Data base and found that in high including Local Education Authorities, as measured by the low proportion of pupils sent to special schools, there was no negative relationship with attainment scores compared to LEAs where a higher proportion of pupils were sent to special schools. This applied across scores on all four Key Stage tests. This study did find a slight negative relationship between inclusions and attainment, but this was far less significant than variation from socio-economic factors. Schools with deprived populations often had high levels of inclusion. The between school variance was also very high which would suggest there are high including schools where attainment is high and these have much to teach other schools in developing their capacity.

6.6 Comparing outcomes from this study which drew on the National Pupil Database for 2002 with scores for pupils in special schools it is clear any minor variation is outweighed by the significant differences between special school and mainstream attainment in Year 11. See Figure 4.

Figure 4

KS4 NATIONAL AVERAGE POINT SCORE 2002 FOR DISABLED PUPILS

All Year 11 pupils	38.55
Those with SEN non-statemented in mainstream	21.85
Those with SEN and statemented pupils in mainstream	16.99
Year 11 pupils in all special schools	2.4

Source: DfES National Pupil Data Base 2002 and Dyson *et al* (2004)

64 is the maximum score for best 8 GNVQ/GCSE’s at Grade A.

6.7 Figure 5 shows similar findings in the KS4 GCSE/GNVQ annual Tables of the last few years. Prior to 1995 no data was reported for special schools: perhaps because it was not expected that children attending these schools could achieve in national tests.

Figure 5

GCSE & GNVQ—ENGLAND: 15 YEAR OLDS—2003 AND 2004

	<i>Grade Year</i>	<i>5 A*-C</i>	<i>5 A*-G</i>	<i>I A*-G + Entry Level In 2004</i>	<i>No Passes</i>
All	2004	53.4%	86.4%	95.8%	4.2%
	2003	52.6%	88.6%	94.6%	5.4%
Special Schools*	2004	0.4%	4.8%	59%@	41%
	2003	0.9%	5.4%	32%	68%

* Community & Foundation Special Schools, PRU's and Hospital Schools.

@ In 2004 the Government included entry level which is well below G level at GCSE in this category.

7.14 A further piece of evidence about the successful outcome of inclusion comes from the London Borough of Newham. Since 1983 Newham has led the way on closing special schools and developing inclusive practice in its mainstream schools. The year 2000 was the first cohort of disabled students who previously would have attended special schools who had gone right through mainstream. Their attainment results are very interesting compared to national figures. (Figure 6). A comparison of Figures 5 and 6 is an indicator of the (low expectations and) poor results in the special schools. It shows that inclusion is better for disabled and non-disabled pupils.

Figure 6

NEWHAM AND NATIONAL KS4 GCSE/GNVQ RESULTS

	<i>Number</i>	<i>GCSE IA*-G %</i>	<i>5 GCSE A*-G</i>	<i>5 GCSE A*-C</i>
Newham	Average	99%	93.2%	36.3%
England	Average	94.4%	88.9%	49.2%
Newham Mainstream with Statements£	101	88.3% (83)	60.6% (57)	4.25% (4)
Year 11 Project@	22	0%	0%	0%
JFK& Becton Special Schools*	8	0%	0%	0%
Total	131			

Source: DfEE Statistics Secondary performance Tables and What Next: Post 16 Opportunities for young disabled people living in Newham, Newham Council November 2001.

@ This was a project for pupils with Behavioural difficulties run at the FE College.

* JFK/Becton were the remaining special schools.

6.8 It is often argued that inclusion in Newham has been achieved by exporting many of the pupils with the most severe and complex impairments to other Boroughs. The Borough has 14 resourced mainstream schools and is planning one more. After this it will run this provision down as the capacity of staff to meet diverse needs in all schools increases. In addition more parents of disabled children are wanting them to attend mainstream schools. Figure 7 demonstrates that in 2004 only 117 pupils were in special schools out of the Borough and 78 in the remaining special school. All other pupils were on the rolls of mainstream schools.

Figure 7

NEWHAM PUPILS IN SPECIAL SCHOOLS: IN AND OUT OF BOROUGH SPECIAL SCHOOLS 2004

<i>Numbers of Pupils in:</i>			
Residential Schools			28
Day Schools			77
Independent or non maintained			12
Total in out borough Special Schools		117	0.023%
JFK/Becton in Newham			78
Total in Special School & Percentage		195	0.039%*
Total Pupils in Borough			49,815

Source: Newham Inclusive Education Strategy 2004–07.

* This figure is different to the numbers in Figure 2 and suggests such figures can only identify trends.

6.9 Some would argue that it is unfair to judge special schools by mainstream standards after all they provide havens for children who can develop their social skills and be free of bullying.

In fact, the National Bullying Survey (Smith *et al* 1995) found just as much bullying in special schools as in mainstream schools.

But children, and especially disabled children need to develop social skills and friendships at school because they can be isolated in the community if relationships are not intentionally built.

Recent research carried out by the Bolton “Data for Inclusion Project” asked children in 500 primary and secondary schools what made them happy or unhappy at school, and what makes a good or bad teacher:

An overwhelming majority, (62.8%) of the 2,527 children surveyed said that it was “friends” that made them happy at school. There was specific mention of particular friendships but also friendly teachers and other friendly pupils. Feeling safe, making other children happy and being trusted by others also added to their happiness. Joe Whittaker, John Kenworthy and Colin Crabtree, Bolton Data for Inclusion Project

6.10 Increasing self-esteem and social interaction

Improved attainment is certainly not the only or main reason why effective inclusion is better for disabled and non-disabled pupils and students. Dyson *et al* (2004 p 44) found evidence from teachers and pupils in their 16 case study schools that inclusion can have positive effects on the wider achievements of all pupils such as social skills and understanding. They also found that pupils with SEN make good progress academically, socially and personally. But also indicators that it may lead to social isolation and low self esteem. This is why the intentional building of relationships such as setting up circles of friends (See Newton & Wilson, 2003). Work by Wilson and Newton in Nottinghamshire has clearly demonstrated that planned interventions by adults can increase social inclusion, and reduce bullying and isolation of disabled pupils.

6.11 “Growing up Unequal” (Hirst & Baldwin, 1994) was a study based on a stratified sample of disabled and non-disabled young people aged 13 to 22. This identified significant differences in life style between the disabled and disabled young people (see Figure 8.) Interestingly non-disabled young people reported higher self esteem than their disabled counterparts with those who attended special schools having the lowest self esteem of all.

Figure 8

DIFFERENCES IN SELF LIFE STYLE AND SELF-ESTEEM OF DISABLED AND NON-DISABLED YOUNG PEOPLE

<i>Results</i>	<i>A (disabled)</i>	<i>B (non-disabled)</i>
	<i>%</i>	<i>%</i>
Living with parents	92.0	86.0
Gone on holiday with friends	25.0	52.0
Had a spare time job	22.0	32.0
Looked after siblings	34.0	57.0
Had own key	51.0	76.0
Paid work	35.0	67.0
Had a boy/girl friend	30.0	40.0
Difficulty making friends	35.0	20.0
Satisfactory network with friends	57.0	74.0
Self esteem score	7.3	8.5
Disabled mainstream	7.5	—
Disabled special school	6.6	—
Internal locus of control	8.8	9.3

The Survey used two stratified random samples of young people aged 13–22.

A: 400 disabled people on OPCS category 1–10.

B: 726 non-disabled young people.

6.12 The Post-16 Transitions Study Wave 3 (Aston *et al*, 2005) is a study of 1,019, 19 year old disabled young people. 343 had attended special schools and 676 had attended mainstream schools. 62% of the whole sample said they spent three to seven nights a week with friends. 15% said they did not spend any nights a week with friends. For those who had attended special school not spending any nights a week with friends went up to 36% and for those who attended mainstream it came down to 8% (p 4).

In transition arrangements and support given those who attended special school were least likely to be satisfied with their formal support (p 71). When asked about future perceived independence ie living away from home in two years time, those who attended mainstream schools were amongst the highest and those who attended special schools amongst the lowest in terms of perceived future independence (p 90). This group were also the least likely to be hopeful about the future.

6.13 The self esteem and social relationships of disabled young people who attended special schools appear to be poorest. Disabled young people who attended mainstream schools have higher self esteem and more friendships and independent activity after leaving school. But non disabled young people have higher self esteem and are more independent on average. It could be argued that closing this self-esteem and friendship gap is one of the main aims of inclusive education.

7. THE STATEMENTING PROCESS

7.1 The statementing process provides an imperfect fall back system of safeguarding resources and provision for children identified with special educational needs. The shortcomings of the system were well demonstrated in the Audit Commission Report (2002) Special Educational Needs a Mainstream Issue. Many of the recommendations made have not been fully addressed.

7.2 With the Disability Discrimination Act (1995) and SENDA (2001) coming from a rights base the shortcomings of the old Special Educational Needs system are thrown into sharp contrast . The provision disabled pupils need should largely be provided in every school with the capacity being developed and resourced.

7.3 If a disabled pupil needs support then this should be provided by teachers and teaching assistants adequately trained to provide it and schools adequately resourced to make the provision. More commonly occurring needs for pupils such as speech and language, dyslexia, moderate learning difficulties, behavioural and emotional needs and autism can be funded through a formula to all schools. Lower incidence needs should be provided for by an exceptional needs fund held back from delegated funding as pupils with these needs do not occur in all schools and occur unevenly across mainstream schools.

7.4 This type of system was put forward in "The Distribution of Resources to Support Inclusion" (DfES November 2001). Variants on this system have been in operation for a number of years in Norfolk, East Sussex, Nottinghamshire, Nottingham City and Newham to name but a few. In Nottinghamshire a survey of parental and teacher satisfaction was carried out in 1992 which showed over 90% satisfaction. Here funds were delegated to families of schools-typically one secondary, six or seven primaries and one special school and a committee of practitioners from each school would determine how many children at each school needed what level of support. The advantage of this system was that those who knew the child and their needs could tailor resources and provision to their needs without undergoing a lengthy assessment process to be determined by a distant panel.

7.5 Central Support services for disabled pupils are and have been threatened by excessive delegation of budgets has had many negative consequences for the development of the capacity of mainstream schools and should be reversed. As Ofsted have said:

"Support and outreach services promoted inclusion and improved the life chances of many vulnerable pupils.

"The delegation of funding for support servivces had a negative effect on the provision for some pupils with SEN. It diminished the capacity of many LEAs to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support."—Ofsted (2005) Inclusion: the impact of LEA support and outreach services.

What is needed is to replace statements is:

- (i) A national framework of resource levels which is nationally funded, but locally allocated to schools on the basis of need.
- (ii) There should be new Primary legislation to ensure that the school would have to provide for the needs of all pupils under an extension of the Disability Discrimination Act.
- (iii) Schools could be resourced for commonly occurring types and degrees of impairment.
- (iv) Low incidence needs would be determined by a multi-disciplinary assessment panel, which would visit the pupil at their school and determine the type of support they need, the training staff would need and the level of support and advice from LEA services. This would be carried out following the Italian model in a day or two rather than the six to 18 months currently.
- (v) The Local Authority would also provide inclusion monitoring officers who would regularly visit schools to observe practice and how provision is being made, to give advice and to generalise the good practice in the school.
- (vi) at a regional level specialist support teams would be developed to give advice and support for high tech support such as communication aids, support for blind, deaf and deaf blind pupils, those with extremely challenging behaviour and significant learning difficulties.
- (vii) All pupils should be on the roll of a local mainstream school with a phased run in time.
- (viii) Special schools should be co-located with mainstream schools or their provision moved to resource base provision within the mainstream.

- (ix) Special schools should be taken out of the funding formula, as part of the long term phasing out of them, instead they should provide outreach support and specific timed and evaluated short and medium term support to pupils who would remain on the roll of their mainstream school. For a few pupils this might involve intensive 1:1 support and counselling away from the mainstream site.

8. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

8.1 DEE has worked with many hundreds of parents of disabled children and we have learned that most, if not all parents start out wanting inclusion, ie they want their child to be welcomed into the world and given the respect and the resources they need and deserve. Unfortunately many families do not experience this. The uneven nature of the development of inclusive services from one LEA to another—indeed one school to another—means that many parents still experience hostility and rejection in their search for inclusion. Some of these parents find a better mainstream, whilst others are drawn into the segregated system. Here, they may find a sense of safety and security which was missing from previous placements. If they have been sufficiently seduced by the medical model they may feel that their child will be made “better” in the special school because of the promise of more therapies and specialist input.

8.2 Our experience also is that the parents who walk down this road realise, too late, that it does not lead to what they thought it would. Their young adults are completely isolated from their local communities, do not have social skills, have a very poor level of education, and are channelled down a route of further segregation, “discreet” courses in FE, or residential placements. In our view, this does not constitute “choice” for parents, it constitutes parents being forced to find refuges for their children because there is no real inclusion available to them. We also can see that this false choice denies their child certain basic rights—friendship with non-disabled children, an equal opportunity to gain an education, and a sense of belonging in the world and to develop their self esteem.

8.3 Most parents do not have choice with the professionals making the choices in most cases by selecting admissions. Choice of various state educational settings is not a human right. The right to education provided by the State is a human right. The Convention on the Rights of the Child 13(3) provides for the liberty of parents and legal guardians “to choose schools” for their children, other than those established by the public authorities. That is, parents do not have the right to choose a specific type of public educational system for their children (this has been affirmed by the European Court of HR)—they only have the right to take their children out of the public education system and place them in a private system or home-schooling environment—as long as that system or environment conforms to minimum educational standards laid down by the State. Thus the right to educational choice in current international law refers only to the right to remove a child from public education, not to choose within it.

8.4 Special Educational Needs' law states that parents can express a preference, but it is usually the education professional and the Local Authority who decide where a child disabled child will go to school. As long as there is a dual system of special and mainstream schools, LEAs have invested money and staff's jobs depend on filling the school roll there will be pressure exerted to fill those rolls. Of the £3.4 billion spent on special educational needs in England 60% is spent on maintaining the special school system (Audit Commission 2002).

8.5 The financial and professional investment in the segregated system and the vested interests that arise is the main reason for continuing dominance of special schools despite Government policy to:

“Promote inclusion within mainstream schools, where parents want it and appropriate support can be provided, will remain the cornerstone of our strategy”.

8.6 A second reason is that the development of the inclusive capacity of the mainstream is not a priority.

8.7 Thirdly, work on bullying and relationships is not seen a priority in most schools. This leads to some parents of disabled children in mainstream schools seeking alternatives and they become “Refugees” from the mainstream.

8.8 Prior to education professional being involved with disabled children many medical professionals will have expressed views to parents about their child needing special education in a special school. The SENDIST Tribunal system allows parents to challenge the placement of their children by the LEA. The Annual Report for the Tribunal (SENDIST 2004) identifies 617 Tribunals where placement was the issue last year and a further 635 which were withdrawn or conceded. It needs to be remembered that placement in a mainstream school or an alternative mainstream school may have been the issue.

8.9 This is clearly contrary to claims by David Cameron MP that:

“5,000 parents a year are now having to fight to take their children out of mainstream school and put them in special schools”—(Cameron September 2005).

The Tribunal appeals also need to be seen in the context of there being 250,000 children with statements of special educational need and 60% of them being in mainstream schools. Presumably the vast majority of parents are satisfied with the placement of their disabled children. The Tribunals are also used to get LEA paid placements at non-maintained special schools such as the Scope schools and the increasing numbers

of parents who are seeking a place in independent schools by this route. Parents for Inclusion (2004) have developed training for parents based on the thinking of disabled people to help them empower their disabled children and many have changed their minds about wanting a special school place for their child.

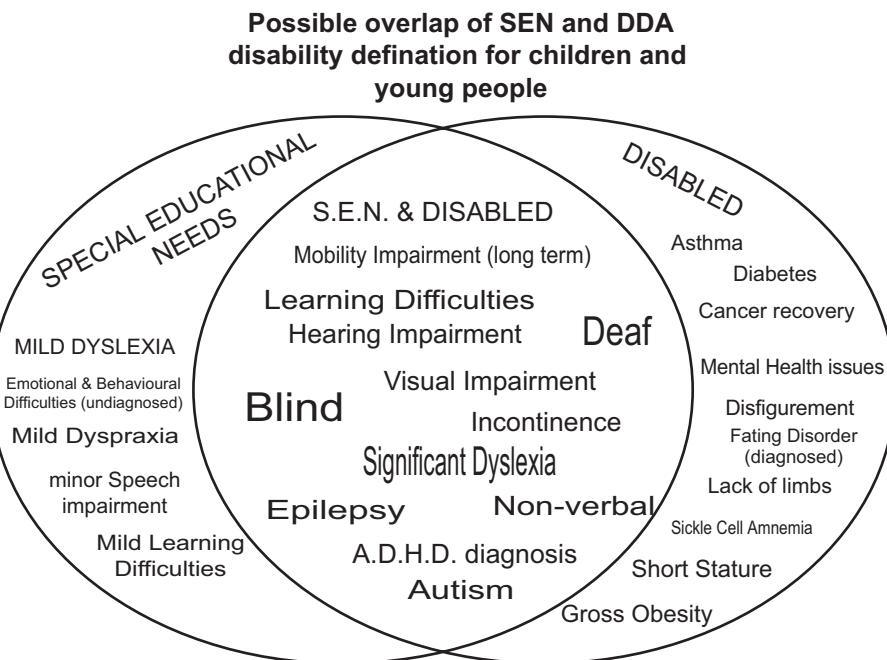
8.10 There is evidence from work DEE carried out with black and ethnic minority parents of disabled children in the London Boroughs of Brent and Ealing that a large majority had not been made aware of the rights or been made aware of mainstream as an option for their children (Birdy, 2005). As most parents generally went to school, at times or in places, where inclusion was not an option they do not think their child's needs can be accommodated in inclusive mainstream settings.

8.11 The poor outcome of segregated education compared to our experience of inclusive education has proved to us beyond doubt that the only choice a parent or child should have is between different mainstream schools. We are convinced that this will not happen until there is an end date set by the Government to the existence of Special Schools because unwilling mainstream schools have no motivation to change whilst they can "encourage" their challenging pupils to leave and go elsewhere. We also do not believe there will be a real commitment to put the necessary resources and training into teachers and school leaders whilst an expensive parallel education system is being maintained.

9. HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

9.1 As has been said there are since SENDA (2001) two ways of characterising disabled pupils and/or pupils with special educational needs which lead in different directions and lead to the pupil being viewed in different ways. This not only leads to confusion, but two different ways of thinking. See Figure 9.

Figure 9



DISABILITY RIGHTS/SPECIAL EDUCATIONAL NEEDS: CONFLICTING PARADIGMS

9.2 Special Educational Needs provides additional support or resources once it is established the child cannot function normally. They are seen as in deficit. This labeling very often leads to—integration or segregation in special schools. Disability rights approach based on anti-discrimination legislation for disabled children anticipates and identifies barriers and demands the restructuring of the policies, practices and ethos of the school so all pupils/students can be included to maximise their potential and educational and social achievements.

9.3 The experience of the last three years suggests these approaches are not compatible as was the idea in the legislation.

We now need to move to a full rights based anti-discrimination approach. This would mean that all pupils with differences in functioning due to an underlying impairment or because of the social situation would be entitled to have effective provision, as of right in the mainstream school.

10.1 Provision for different types and levels of SEN including EBSD.

DEE do not see meeting the needs of pupils with EBSD differently as other pupils who are different or disabled. Inclusive schools have never had an approach as characterized by their detractors of “One size fits all”

10.2 Integration is about one size fitting all, but inclusion is not. Inclusion is about restructuring to remove the barriers within the school so that all pupils can achieve and flourish. This therefore does not mean all pupils doing the same activity at the same time or in the same way. For example, a pupil in Year 9 Science with significant learning difficulties can be working in a group doing a experiment as the time keeper, as this is on her IEP target. Another approach would be for the teacher to identify the essential knowledge or understanding they want all the pupils achieve and present it in a way that they all can by having a range of activities to suit the learning styles and aptitudes of the different students in the group.

10.3 There is considerable evidence to suggest that peer tutoring and support can work in inclusive settings to the benefit of all students: they are getting different things out of the work.

10.4 How a group is to be organised can be varied from whole class teaching, group work, individual and pair work, taking account of the varying needs in the group. For example, in a group with deaf sign language users it proves very useful to withdraw the deaf students sometimes to work on algebra with deaf instructors or for a blind student to be withdrawn to learn Braille with a Braille teacher.

10.5 This whole approach comes down to collaborative working amongst the staff the management ensuring there is sufficient time for planning and resource development. This is not “one size fits all”, but inclusion in practice.

10.6 EBSD An Inclusive school must have an inclusive approach to challenging behaviour. Far too many schools see exclusion, either permanent or fixed term, as the answer. In reality, in all but a tiny number of cases, where the young person is a danger to themselves or others, this is an admission of failure. Schools have to develop systems that will prevent the need for exclusions. Educationalists need to see challenging behaviour in a wider context. The statement below puts the rise in challenging behaviour in this context of developing a “Social Model” of Behaviour.

10.7 A number of studies have demonstrated overarching principles that work in reducing exclusions and creating an environment in the school which can deal with challenging behaviour effectively. Some of this behaviour is caused by pupils with underlying impairments such as ADHD or mental health issues and some due to factors in the child’s social background which cause them to act out their hurt. Where schools have good whole school approaches which involve pupils the level of disruption and exclusions are much lower than in schools with similar intakes, but different approaches.

10.8 DfEE Research on Emotional & Behavioural Difficulties in Mainstream Schools by University of Birmingham found Successful Inclusive practice of pupils with EDB was supported by:
an emphasis on values.

Five common features were found underlying good practice.

- Leadership—Head teacher and senior management teams who provided effective leadership.
- Especially in Values.
- Ethos and Aspirations for the school.

Sharing Values—A core of staff who work together to promote values of the school. Working with all pupils in ensuring these aspirations are realised in practice.

Behaviour Policy & Practice—A consistent and well-monitored behaviour policy where approaches taken with EDB pupils are an extension of the behaviour policy for all pupils.

Understanding EDB—Key members of staff understand the nature of EDB and distinguish it from sporadic misbehaviour.

Teaching Skills and the Curriculum—Effective teaching skills for pupils with EDB are the same as those for all pupils, including learning from one’s actions and teaching an appropriately challenging curriculum.

In good practice schools, behaviour policies are periodically reviewed and revised by the majority of staff (DfEE Research report 90).

10.9 *Do We need a new generation of special schools?*

“We must invent a new kind of specialist school that can cater properly not only for children with specific disabilities which render them unable to function in large schools, but also for children with needs that arise from social disadvantage. It is my strong conviction that these must be small schools”. (less than 200) (Warnock 2005). As can be seen from Figure 1 there are very large numbers of pupils being educated in the mainstream who have identified impairments and count as disabled.

10.10 If those pupils with moderate learning difficulty, autism and behavioural emotional and social needs they amount to 331,120 on school action plus and statements these are divided into schools of 200 we would need 16,550 new special schools. At a cost of at least £1 million per year to run this would add an additional 60% to the annual education budget. Where does one stop in excluding from the mainstream? Remembering this does not take account of a further 800,000 at school action.

10.11 Historically the numbers in special schools grew throughout most of the last Century, peaking in the 1970s when some 50,000 children who had been deemed in-educable under the eugenicist Mental Deficiency Act were transferred into Learning Difficulty special schools (see Figure 10). Despite moves to inclusion as was seen in Figure 3 the numbers in special and segregated settings has remained very stable for the last seven years.

10.12 Demographically the main causes of impairment in the first half of the last Century have declined with polio, diphtheria and small pox in decline. Modern obstetrics is leading to a growing number of children with high medical dependency and profound and multiple impairments. There has also been a significant growth in the diagnosis of autism, ADHD and dyslexia in recent years. There is also a perceived growth in pupils with difficult behaviour, though research on behaviour identifies this more with a lack of whole school consistency and effective behaviour policies.

10.13 Following the Special School Working Report (2003) Government have been funding the rebuilding of new model special school to address the more severe needs and in 2004–05 allocated an additional £165 million to this task.

10.14 As a counter this Parents for Inclusion (Broomfield 2004) argue that it is precisely the pupils with the most significant degrees of impairment who need to be included to prevent the development of social isolation and low self-esteem that has been so commonly reported for special school pupils. There were only one parent who supported segregation and no disabled people represented on the special school working group. The rest were made of professionals with a vested interest.

10.15 What is needed is not a generation of new special schools but the consistent support for improving the capacity of mainstream schools. Any other approach would be a breach of Human Rights Law.

Figure 10

NUMBER OF CHILDREN IN SPECIAL SCHOOLS IN ENGLAND AND WALES: 1897–2005

Year	No of Children	Year	No of Children
1897	4,739	1955	51,558*
1909	17,600	1965	70,334*
1914	28,511	1967	78,256*
1919	34,478	1977	135,261* +
1929	49,487	1987	107,126* +
1939	59,768	1999	105,958* + @
1947	40,252*	2000	104,991* + @
		2005	104,790 +

* Hospital schools not included + Includes Severe Learning Difficulty Source Cole 1989 based on Chief Medical Officer, Ministry of Education, Dept of Education and Science Annual Reports and @ DfEE 13/99 15/2001, 24/2005 SEN Statistics includes Non Maintained Special schools and Pupil referral Units. From 1999 Wales excluded from figures.

11. THE LEGISLATIVE FRAMEWORK FOR PROVISION AND THE EFFECT OF THE DISABILITY DISCRIMINATION ACT 2001, WHICH EXTENDED THE DDA TO EDUCATION

11.1 Firstly there should be no moving back from the implementation of the DDA to cover schools. Many schools have shown themselves willing and able to meet the duties to not treat disabled pupils less favourably and to make reasonable adjustments. However many more do not take this duty seriously as has been demonstrated by Ofsted.

“It was clear from visits to a wide range of schools that attitudes and practices have been slow to shift. SENCO’s in almost half the primary and secondary schools visited identified the perceptions of staff as a major barrier to effective inclusion.”—(Ofsted Oct 2004 p 9)

11.2 The enactment of the Disability Discrimination Amendment Act (2005) will lead to new duties on schools, LEAs and Ofsted to promote disability equality from December 2006. When carrying out their functions public authorities must have due regard to the need to:

- (i) Promote positive attitudes towards disabled persons.
- (ii) Encourage participation by disabled persons in public life.
- (iii) Promote equality of opportunity.
- (iv) Eliminate disability related harassment.

- (v) Eliminate unlawful discrimination.

11.3 Ofsted will have a duty to check that all schools are implementing this duty. Any member of the public can seek a judicial review if they have grounds for believing the school or LEA are not carrying out this duty and the DRC or successor Equal Opportunities Commission can seek a court order if they have evidence that the school does not have a Disability Equality Scheme.

11.4 At the United Nations a convention on the rights of people with disabilities is being negotiated. At the August Ad Hoc Committee the UK Government led the European Union Delegation and put forward a strong position of the:

“inclusiveness of the general education systems. Where exceptionally the general education system does not adequately meet the needs of persons with disabilities, State parties shall take appropriate measures to ensure effective forms of education, bearing in mind the goal of full inclusion”—European Union Proposal Article 17, 3 August 2005.

11.5 The Draft Article 17 that was a result of a day and half debate at the United Nations currently emphasises an inclusive education system.

1. State Parties recognise the right of all persons with disabilities to education. With a view to achieving this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive [system, including pre-school, primary, secondary, tertiary, vocational training] [at all levels] and life long learning directed to:

- (a) The full development of the human potential and sense of dignity and self worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity.
 - (b) Enabling all persons with disabilities to participate effectively in a free society.
 - (c) The development of persons with disabilities, personality, talents, creativity as well as mental and physical abilities to their fullest potential.
2. In realizing this right, States shall ensure:
- (a) that all persons with disabilities can access inclusive, quality, free primary and secondary education to the extent possible in the communities in which they live;
 - (b) reasonable accommodation of the person's requirements;
 - (c) the development of initial and continuing training which incorporates disability awareness, the use of appropriate communication means and modes, educational techniques and materials to support persons with disabilities, for all professionals and staff who work at all levels of education; and
 - (d) persons with disabilities receive the support required, within the genera education system, to facilitate their effective education. In exceptional circumstances where the general education system can not adequately meet the support needs of persons with disabilities States Parties shall ensure that effective alternative support measures are provided, consistent with the goal of full inclusion.
 - (e) that persons with disabilities are not excluded from the general education system on account of their disability, and that [children with disabilities are not excluded from free and compulsory primary and secondary education on account of their disability . . .” Facilitators Draft, 11 August 2005.

If this is pointing the direction to international law in the area of inclusive education then the Government position needs to be more clearly working towards an inclusive school system.

11.6 *Removing Barriers to Achievement* (DfES 2004) talks of building the capacity of mainstream schools to include a wider diversity of disabled pupils. However, there is little evidence of concrete programmes or cash incentives to establish this. If as Ofsted suggest the major problem is one of barriers of attitude then this needs to be addressed as much more of a priority.

12. RECOMMENDATIONS

The following recommendations need to be implemented to address the current anomalies in the school system and to ensure the proper development of an inclusive education system:

1. We need an inclusive school system based on the principles of equality that has the capacity to meet the academic and social needs of all learners.
2. End the confusion between integration and inclusion by having a national definition and explanatory notes.
3. Schools and their leaders need incentives to prioritise the development of their inclusive capacity.
4. Set targets for all LEAs to reach increasing lower levels of reliance on special schools.
5. Support parents through Sure Start and other schemes who have a disabled child with Empowerment and disability equality training so they can become strong allies in the rights, growth and development of their child.

5. Mandatory inclusion training for all initial teacher training, much more effective beginner and in-service professional development programme.

6. Recognition of inclusion as a political priority in education policy.

7. What is needed is to replace statements is:

- (i) a national framework of resource levels which is nationally funded, but locally allocated to schools on the basis of need.
- (ii) There should be new Primary legislation to ensure that the school would have to provide for the needs of all pupils under an extension of the Disability Discrimination Act.
- (iii) Schools could be resourced for commonly occurring types and degrees of impairment.
- (iv) Low incidence needs would be determined by a multi-disciplinary assessment panel, which would visit the pupil at their school and determine the type of support they need, the training staff would need and the level of support and advice from LEA services. This would be carried out following the Italian model in a day or two rather than the six to 18 months currently.
- (v) The Local Authority would also provide inclusion monitoring officers who would regularly visit schools to observe practice and how provision is being made, to give advice and to generalise the good practice in the school.
- (vi) at a regional level specialist support teams would be developed to give advice and support for high tech support such as communication aids, support for blind, deaf and deaf blind pupils, those with extremely challenging behaviour and significant learning difficulties.
- (vii) All pupils should be on the roll of a local mainstream school with a phased run in time
- (viii) Special schools should be co-located with mainstream schools or their provision moved to resource base provision within the mainstream.
- (ix) Special schools should be taken out of the funding formula, as part of the long term phasing out of them, instead they should provide outreach support and specific timed and evaluated short and medium term support to pupils who would remain on the roll of their mainstream school. For a few pupils this might involve intensive 1:1 support and counselling away from the mainstream site.

8. The Government learns to take pride in, and publicly defend the wonderful progress which it has helped to bring about in the field of inclusive education and disability rights.

9. The Government put all its resources into building the capacity of the mainstream system to be fully inclusive by the year 2020.

10. The Government sets a related date by which time there will be no further need for segregated schools.

11. The Government does not build any new special schools but puts the resources into “enhanced” mainstream schools, following well documented and highly successful models all across the UK.

12. The Government creates a new post within mainstream schools called “The Inclusion Facilitator” to work with children with high level support needs. (This role would be informed by the social model of disability and behaviour, and the Independent Living Movement and would go a long way to alleviate the fears of parents.)

13. The Government helps to fund the highly skilled and knowledgeable voluntary sector, especially organisations led by disabled people and parents, who are uniquely placed to assist in the building of the capacity of the mainstream to become inclusive.

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Memorandum submitted by the Alliance for Inclusive Education

“The Movement towards more inclusive schools is one of the defining and most hopeful characteristics of schools in the last 20 years of the twentieth century, and one hopes and expects, the first 50 of the twenty first”

Professor Tim Brighouse
Chief Advisor for London Schools

1. INFORMATION ABOUT THE ALLIANCE FOR INCLUSIVE EDUCATION

1.1 The Alliance of Inclusive Education (Allie) is a national network of disabled people, parents of disabled children, teachers and other professionals, all of whom believe in the values and principles of Inclusive Education (IE). Our membership consists of many individuals and families, as well as approximately 60 organisations. It has existed for 16 years during which time its members have played a significant role in moving the education system in a more inclusive direction.

1.2 Our unique feature is that the organisation is led by users of the special education system, therefore bringing “the perspective derived from the real-life experience of the long-term effects of segregated education, or poor “integrated” education. More recently we have been able to bring the voice of the first generation of young people who have experienced inclusive education into the debate.

2. GENERAL STATEMENT

2.1 There are four main reasons our members have come to believe passionately in inclusion. One is that many of us have recognised the long-term educational, social and emotional harm caused to us by our separation from the mainstream as children. The second is that many parents of disabled children have come to recognise the potential harm of the “medical model”¹³ on their relationships with their children and have consequently redefined themselves as “Allies”¹⁴ to their children. The third reason is that many professionals who work within the Special Education System have become painfully aware of its inevitable shortcomings. The last reason is witnessing the success of inclusion, and realising the potential it has as it further develops and spreads throughout the education system and into society.

2.2 *Mistaken Ideologies underpin segregation*

We believe our “enemy” is a system of thought based on misinformation and prejudice, which we call the Medical Model. Special Education is based on the medical model. It has been the dominant system in Europe and the USA for hundreds of years, emerging from the superstitions/religions model of the middle ages. The relegation to second-class citizen of most people with physical or intellectual impairments, or mental health issues, together with lower standards of living, less opportunities for employment or social inclusion, or control over our own lives are all direct results of the dominance of the medical model. For most of us the enforced separation of us as children into special schools has been the fork in the road between a life together and a life apart.

The Evidence given in this Memorandum covers many of the issues identified by the committee and is organized under the following themes:

- Evidence that Inclusive Education works for everybody.
- The harmful outcome of segregated education.
- What young people are saying.
- The role of Parents in the education of children with SEN.
- Statements.
- Supporting Government policy.
- Recommendations.

3. OUR EVIDENCE

3.1 *Inclusive Education works for everybody*

During the 16 years of our existence we have supported many disabled children to enter and remain within their local mainstream schools and colleges. The results are very promising. In 2003 we carried out a study of 16 young adults with a range of impairments who have moved from inclusive schools into adult life. The study shows that they are self-confident, have high expectations of their future lives, have friends and

¹³ Seeing disability as a medical problem, belonging to the individual, who is treated like a perpetual patient.

¹⁴ A person who recognizes the oppression of the other and helps them to challenge it.

relationships, and are engaged in their local communities. A high proportion have moved into Higher Education. This would not have been possible if they had been educated within the special school sector. Some have created wonderful packages of paid work and further education:

“I have five jobs. The first job is part time teaching nurses about special education. I teach them that we’re not different. They always give me the best evaluation. It’s a fun job.

The second job is DJ’ing. My name is Joe90 and my business is called JK Entertainment. I do karaoke and disco’s at functions and DJ at pubs.

The third job is as assistant manager for a restaurant, I work two days a week.

My fourth job is recycling aluminium to keep the environment clean. I also recycle computer chips. When I leave college I will try and get a 2nd placement recycling so I work two days a week.

My fifth job is as vice-chair for People First. I have been a member since I was 16, It is an organisation run by people with learning difficulties about speaking up. It is disabled people run and we are all bosses.

I just bought my own home. It’s amazing really”.

Joe Gault

Not one is living an institutionalised life despite some having high-level support needs.

(See “Where Are They Now?”—enclosed)

Specialism and expertise in particular impairments, eg Autism, can and does happen as easily in a mainstream school as in a special school. Inclusive schools are not “One size fits all” but flexible centres of learning in which a diverse range of adults are involved in the design of each child’s individual Education Plan (IEP):

“Although K—is not as yet using words to communicate, his expressive facial reactions and Makaton signs let others know what he wants to do or where he wants to go. At nursery, he had many favourite activities, and friends. The other children learnt the Makaton signs with him, and continuously supported him in his play and learning. We worked very closely with his parents, physiotherapist, occupational therapist, and his speech and language therapist to devise an educational plan that was incorporated into the overall class plan covering all the areas of the foundation stage. His LSA worked closely with the class teacher as well as the other members of the class team to carry out the plan and to evaluate it daily. K—has now successfully transferred to his next school. He is continuing to be a very popular member of his class, and go miles beyond initial expectations.”

Zelda McCollum, Deputy Headteacher, Rachel Macmillan Nursery

3.2 Teachers can be supported to change their practice

We have met and worked with many teachers who were anxious and afraid to include certain children in their classrooms. The vast majority overcame their fear, fell in love with the child, and became strong advocates of inclusion. This has proved to us that it is lack of confidence and good information which makes some teachers resist inclusion. It is not the level or nature of the child’s impairments.

As teachers have become more confident, they have developed a different culture within their schools. In a study we carried out in 2004 of 21 mainstream nurseries, schools and FE colleges, common strands emerged. They believe that:

- All children need to feel they are wanted and belong to their local community.
- All children can think and learn.
- It is best to build on what children can do, not on their weaknesses or impairments.
- That children need help, not punishment, when their behaviour gets out of control.
- That difference is something to welcome and learn from.
- They respect young people.
- They empower young people.
- They involve parents.
- They do not think treating people equally means treating them the same.
- They see schools as a resource to families and to the local community.
- They apply their thinking about inclusion to the staff as well as the pupils.

All the schools had a low turn over of staff, rarely if ever invoked a permanent exclusion, and did well in their Ofsted inspections.

3.3 Mainstream Headteachers are Championing Inclusion

A new group has formed within Allfie called “Heading for Inclusion”. They have realised that their experience makes them best placed to encourage and train other teachers in developing inclusive schools:

“Headteachers and senior school leaders up and down the country are dismayed at the negative portrait that has been presented of inclusive education over the past weeks following Baroness Warnock’s recent unfortunate comments. We, of all people, are the first to admit that inclusion is not always easy; does not always provide quick fixes and needs to be properly funded. Equally, we have daily experience of seeing how inclusion is powerfully changing the world for the next generation of young people—for the better. Inclusion for us is ultimately about building a society in which all people are valued for who they are; where young people learn to throw away the prejudices with which we were brought up and can work together to create a new ‘inclusive’ world. Some of us are well on the way to modeling internationally renowned school environments which respond to the needs of each child—and develop them into the creative, intelligent, loving, thoughtful human beings that is their birthright. Many of us are at various stages on the way”.

Nigel Utton—Chair of Heading for Inclusion

3.4 The Harmful Outcome of Segregated Education

Many of our members have experienced special education including special schools, poor integrated mainstream schools, and inclusive schools and colleges. For many the contrast between these different types of provision are very stark:

“The experience of being hidden away, with the assumption that I was worthless, still haunts me with a terror I can’t describe. Nobody should be put through that. Yet there are hundreds forcibly excluded from life everyday” (Maresa Mackeith)

“The focus was on our physical impairments, not on giving you skills for your adult life. There was no ‘What is your career path?’—no focus, direction or outlook, School was a medical chemical bubble—sterile,” (Michelle Daley)

There is little actual statistical evidence anywhere about the outcome of segregated education and there is certainly not one single piece of evidence to show that inclusive education brings a poorer outcome for even the most “severely” impaired young people.

However there is a great deal of subjective evidence within the members of the Alliance. Some of this has been written as individual evidence and is currently being put together in a new publication. It highlights not just the harm done by the practice of segregation, but by the medical model itself:

“My parents had issues about my impairment. There was lots of animosity and blame. One wanted the best for me, the other couldn’t see the point My Mum felt guilty. She spent all her time trying to prevent the inevitable, There was lots of surgery. I knew it was wrong. I was not consulted, A tortuous experience. She couldn’t let me be the person I would have been, I felt cajoled and manipulated. She wasn’t coping and eventually had a breakdown.”

Ali Kashmiri

This experience is not relegated to the past. Young people who have very recently left special schools are telling us the same stories.

3.5 Leave no one behind

The idea that the most able disabled children will move to mainstream schools and that special schools exist only for those with complex needs or profound impairments is very frightening to those of us who have been to special schools. Children with high level support needs often need to be in very stimulating environments with plenty of noise, colours and movement. As the more able children get “creamed” off, those left behind suffer enormously

“Some of the brighter children who were more physically able than I was and did not have a speech impairment left M School, gradually there was a decline in the level of education as the school was left with fewer children. There were fewer subjects and the work became a lot less challenging. This is when I noticed that I was deteriorating mentally due to the lack of stimulation and it was extremely frightening.”

Sapna Rammani

There are many examples now of children with complex needs being included in mainstream schools where their learning environment includes many willing non-disabled children:

"I have a friend who is disabled. He is called Dominic. We were in Nursery together. He joined our school this year and we got really close. Sometimes I feed him at lunch time. You know when you meet that person they'll always be a friend . . . I understand him, the way he feels. He understands me and the way I feel"

Kirsty, Kirkhill Primary School

Some of the relationships which are formed are a real testimony to our belief that all young people need each other.

3.6 *What young people are saying*

Because of our close relationship with parents and young people the Alliance has been able to carry out some groundbreaking work with young disabled people and their friends and allies. We have carried out research projects and produced publications such as "Whose Voice Is It Anyway?" and "The Inclusion Assistant". This latter was listening to young people in mainstream schools who had highlevel support needs talking about the adults who were paid to support them. This has led to a big piece of work, funded by the DFES, to research, write, trial and publish a training course for what the young people called "An Inclusion Facilitator". (See recommendations)

We were especially proud of "Young and Powerful", a self-run group of young people who took a high public profile between 1996–2002. On 26 May 1998 one of their major activities was to take a giant letter to Tony Blair, asking him for the right to be educated together:

"Dear Mr Blair

We are a group of disabled and non-disabled young people and supporters who believe we should all have the right to go to our local mainstream school. We feel that children in special schools miss out on a decent academic and social education and those in mainstream schools who hardly ever see disabled people miss out on the opportunity to learn about and appreciate differences rather than only seeing disabled people through the patronising view of the media.

We feel we deserve each other's friendship and that the segregated education system denies us the chance to be together and see each other for what we really are.

We ask YOU to put an end to compulsory segregation by changing the law.

We want to be together!

Yours sincerely

The Young people of Great Britain, c/o Young and Powerful"

Young people have not yet achieved this right.

3.7 *The Role of Parents in the Education of children with SEN*

Parents of disabled children constitute a large section of our membership. They have been part of all our projects and have served on all the Committees and the Council of Management. We also work very closely (sharing an office and resources) with Parents For Inclusion, a sister organization dedicated to bringing the social model of disability to parents. This close relationship has enabled us to be part of the struggles of thousands of families during the course of our existence.

We have learned that most, if not all parents start out wanting inclusion, ie they want their child to be welcomed into the world and given the respect and the resources they need and deserve. Unfortunately many families do not experience this. The uneven nature of the development of inclusive services from one LEA to another—indeed one school to another—means that many parents still experience hostility and rejection in their search for inclusion. Some of these parents find a better mainstream, whilst others are drawn into the segregated system. Here, they may find a sense of safety and security which was missing from previous placements. If they have been sufficiently seduced by the medical model they may feel that their child will be made "better" in the special school because of the promise of more therapies and specialist input. Our experience also is that the parents who walk down this road realise, too late, that it does not lead to what they thought it would. Their young adults are completely isolated from their local communities, do not have social skills, have a very poor level of education, and are channeled down a route of further segregation, "discreet" courses in FE, or residential placements. In our view, this does not constitute "choice" for parents, it constitutes parents being forced to find refuges for their children because there is no real inclusion available to them. We also can see that this false choice denies their child certain basic rights—friendship with non-disabled children, an equal opportunity to gain an education, and a sense of belonging in the world.

The poor outcome of segregated education compared to our experience of inclusive education has proved to us beyond doubt that the only choice a parent or child should have is between different mainstream schools. We are convinced that this will not happen until there is an end date set by the Government to the

existence of Special Schools because unwilling mainstream schools have no motivation to change whilst they can “encourage” their challenging pupils to leave and go elsewhere. We also do not believe there will be a real commitment to put the necessary resources and training into teachers and school leaders whilst an expensive parallel education system is being maintained.

3.8 *Statements*

Many of our members have had direct experience of obtaining a Statement of SEN for their child. It has been a fraught and difficult experience for most, and is problematic in that the system is based on the highlighting of a child’s difficulties and failures. However, we have found over and over again that it was the only route to equality and inclusion for individual children.

In an inclusive education system Statements will not be needed. However we do not yet have an inclusive education system, and disabled children do not yet have a night to the resources they need at home or school. Charities are still raising money for kids’ wheel chairs. Children wait months, sometimes years for essential equipment or adaptations to be provided; schools are not always given the specialist resources to meet high level support needs in children. Peripatetic services are in short supply. Until such time as resources are included as a right in the DDA, statements remain the only safeguard for children to get the things they need in school.

3.9 *The Government’s Policy*

The Government have made great strides forward in recent years to help emancipate disabled people the move to inclusive education, the DDA, the DRC, the valuing people strategy and the most recent “Improving life chances for disabled people”. All of these are based on the social model of disability. There needs to be consistency in all government policies towards disabled people, especially when they are very young. This is the time the foundation is built upon which the whole of the rest of their lives will stand. If they start out being made to feel like broken toys needing to be sent away to be mended, those feelings will stay with them forever. They will also stay with the witnesses, those who watched it happen. The lesson they learn is that only “experts” can help disabled people, somewhere else. As most people have already absorbed this false belief, this is creating a problem in understanding the real nature of the “inclusion” debate:

“At present Inclusion is a learning process. The problem is that those of us who lead the schools have only experienced a non-inclusive education system. That clouds our thinking and tends to make us work along tried, tested and unsuccessful lines. Those of us who are dedicated to inclusion find ourselves working differently: asking questions; looking for solutions; seeking advice; supporting each other—but most importantly—THINKING”.

Nigel Utton, Head Teacher

4. RECOMMENDATIONS

Our recommendation are that:

- The Government learns to take pride in, and publicly defend the wonderful progress which it has helped to bring about in the field of inclusive education and disability rights.
- The Government put all its resources into building the capacity of the mainstream system to be fully inclusive by the year 2020.
- The Government sets a related date by which time there will be no further need for segregated schools.
- The Government does not build any new special schools but puts the resources into “enhanced” mainstream schools, following well documented and highly successful models all across the UK.
- The Government creates a new post within mainstream schools called “The Inclusion Facilitator” to work with children with high level support needs. (This role would be informed by the social model of disability and behaviour, and the Independent Living Movement and would go a long way to alleviate the fears of parents).
- The right to equipment and services is included in the DDA for disabled parents, children and teachers, and the system of Statementing is phased out.
- The Government helps to fund the highly skilled and knowledgeable voluntary sector, especially organizations led by disabled people and parents, who are uniquely placed to assist in the building of the capacity of the mainstream to become inclusive.

Witnesses: Ms Elizabeth Clery, RNIB, Ms Carol Boys, Down's Syndrome Association, Ms Simone Aspis, British Council of Disabled People, Mr Richard Rieser, Disability Equality in Education, and Ms Micheline Mason, Alliance for Inclusive Education, gave evidence.

Q573 Chairman: May I welcome you all to this session of our inquiry into special educational needs. It is very good to see you all here. Thank you for responding to our invitation. As you know, this is a major inquiry for us. The Committee has not looked at special educational needs for some time. In the light of Baroness Warnock's remarks and because we have been away from this for some time—a combination of those two things—we thought it was time we had a look at that area. It is a fascinating and interesting inquiry. As you know, we are about one-third of the way through, in time, but we are going to give it the time it deserves. Would you like to say very briefly which organisation you represent, so it is all clear on the record.

Ms Mason: I represent an organisation called the Alliance for Inclusive Education. It is a national organisation led by disabled people. It is a membership organisation. As well as disabled people, families and many allies, professionals, have joined. We have about 350 families and about 60 organisations which are part of this network.

Mr Rieser: My name is Richard Rieser, I am the director of Disability Equality in Education, which is a small charity and NGO, and we do training, mainly focused on the education system. To date, we have trained over 60,000 educational professionals in inclusion and disability equality. My own background is as a teacher and it has been very much designed to shift the way that the profession sees disabled people and how they work to include them. We also produce resources. Again, we are a disability-led organisation.

Ms Aspis: I am Simone, parliamentary and campaigns development worker for the British Council of Disabled People, which is an umbrella organisation representing 140 organisations run by disabled people. It is worth noting at this stage that the membership of the British Council of Disabled People has to consist of at least 75% of disabled people, so it is very clearly open for disabled people. We represent disabled people with different impairments; including Asperger's syndrome, autism, people with learning difficulties and emotional behavioural difficulties. We represent disabled people across the board. We started off 30 years ago, set up by the union of people with physical impairments, and have developed since then against segregation.

Ms Clery: I am from the Royal National Institute of the Blind (RNIB), which is the largest voluntary organisation for blind and partially sighted people, and I manage children's services. Children with visual impairment is quite a small group amongst children generally with disabilities: it is known as a low-incidence group.

Ms Boys: I am chief executive of the Down's Syndrome Association, which is a membership organisation with some 19,000 members or people with Down's syndrome, their families and those with an interest. We provide information and support and we campaign on behalf of people with Down's syndrome.

Q574 Chairman: One word to my Committee and also the witnesses. We will get much more out of this and we will get a lot in, if you can, team, make your questions to the point and brief, and could we have similar sorts of answers, and then we will get the most out of the session. I mentioned Warnock in my introductory remarks. Were you surprised, shocked, concerned about what seemed to be rather a change in opinion that Baroness Warnock had about the whole question of inclusion into mainstream education?

Mr Rieser: I was not very surprised. I was surprised by the high profile of it because Baroness Warnock had been making such remarks on the record since 1992, so it was not a transformation. For those of us who work professionally in the area of developing inclusion, she has been seen more and more as an irrelevance to it because what she says is totally out of touch with what is going on on the ground. I have to say I was asked to the launch of the paper, to be one of two people, along with Professor Dyson who I think you saw last month, to answer her. It was David Cameron and herself on the other side. We had quite a long debate for three hours at the London University on it. I was surprised, at that point when we pointed out the numerous inaccuracies in her paper, where she agreed that that was probably right and maybe she had got it wrong, so it did not seem to be a very firm idea. What concerns me is there are other forces at work who have taken what she said and are pushing it for their own agendas. I do not think most of what she is saying stands real examination. For instance, she talks as if integration—which is what the original Warnock 1978 Report was about—is the same thing as inclusion, and we are very clear that it is not. Integration is a matter of location. The physically, sensory, mentally disabled child is placed in the mainstream but not necessarily getting what many need in order to thrive and function. They could be there just for social means. We are having quite a lot of co-location now, so you could say that that was locational integration; social integration, where they may be mixed for lunch, assemblies, maybe art; and then functional integration. With all of that and the whole method that was used, the child had to try to fit into what was going on in the mainstream class. For us, who are arguing about inclusion—and there is a fair amount of agreement around the world about this now—that is not inclusion. Inclusion is where the mainstream school transforms itself by removing barriers and providing support so that all children can be successful, both socially and academically. There are schools like that. I have recently carried out a project with DfES, visiting schools all over the country, which is being published on 29 March. Your Committee may be interested in looking at that because we filmed, in 40 schools, good practice of inclusion taking place and it is very clear to me that it is not about the type or degree of impairment, it is about the ethos and attitudes of the school, and of course it is true, as Ofsted pointed out in their September 2004 report,

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that this is very patchy. But it is not about resources, it is not really about the type of children; it is about the attitude and the practice within the school and that depends very much on the leadership of the school and whether there is a welcoming ethos. Where inclusion is happening, for the sorts of children that Baroness Warnock identified as she thought needed to be in separate schools (such as those on the autistic spectrum, those with challenging behaviour and those with moderate learning difficulties—which overall come to 380,000 children who are currently in the system), she was arguing we should set up a new range of special schools. That would cost, as you would appreciate, somewhere near £20 billion per year to do that, and it does not seem feasible, nor is it advisable, because there is much evidence that those children thrive in mainstream schools socially and academically. There is also some evidence that they fail where schools are still operating an integration model rather than an inclusion model. My take on what you are saying is that we need more training for staff, more orientation of the large resources which are in the system but which are not necessarily being pointed in the right direction within the schools, so that that inclusive model can be developed in more and more schools.

Ms Clery: It is difficult to know where to start really. Going back to 1978, I shall always feel that Baroness Warnock at least put this whole notion of children with special educational needs on the map. Whatever we think of her, at least there was a lot of discussion around that time. I think that the Act that followed her 1978 report actually did move things forward. We looked at the policy paper that she recently produced that Richard has been talking about and she was focusing, it seemed to us, on a particular group of children with a particular group of needs. She talked a lot about children on the autistic continuum. She seemed to be making rather sweeping statements about “It doesn’t work for this group of children.” Obviously there is a whole range of children with special educational needs, there is a whole range of children with disabilities. There is some very successful inclusive practice going on around the country, but for RNIB there is still a worrying amount of variation in the quality those children get. We call it the postcode lottery: it depends on where you live as to what you get. That is very worrying for us. She was not particularly saying that, she was going more down the route of “Let’s create some more specialist schools.” This is a position RNIB does not support. We support good, properly supported inclusion in the mainstream sector for the vast majority of children who are blind and partially sighted, but we would want to see increasing capacity of schools to meet a wider range of needs. As Richard touched on, some schools are not very welcoming. Some schools have an ethos which does not encourage parents to feel very confident about what they can expect if their child goes to that school. Certainly from the point of view of children with low-incidence impairment, such as those children who are blind and partially sighted, which we think brings about a specific set of

problems, for schools to be well supported and for inclusive practice provision really to work you need very, very good specialist support services, to support schools to increase their capacity to make parents feel confident that their children’s needs will be met. That is really where we would come from.

Chairman: I have not been able to ask all five of you to answer that question, but I assure you everyone will get a fair share of questions. If you feel you are being left out—and I know how articulate you all are—just shout.

Q575 Helen Jones: I would like to try to explore the idea of inclusion with you. From looking at the evidence, Elizabeth and Carol have a slightly different view from some of our other witnesses. Am I correct to sum it up by saying that you would like the vast majority of children to be in mainstream schools but you would accept that there is a need for some special school provision? I am summarising—and I know the picture is a bit more nuanced than that.

Ms Clery: Yes.

Q576 Helen Jones: If so, where should the line should be drawn? How do you feel we should decide? Who should decide, most importantly, because there are often very different views held between parents and professionals, and there is also the view that the children themselves are often left out of this whole debate. Could you try to enlighten the Committee on that.

Ms Boys: For children with Down’s syndrome, you have to remember, there is a huge spectrum of abilities.

Q577 Helen Jones: As with many disabilities.

Ms Boys: Absolutely. There are some who achieve GCSE standard and then some at the other end of the spectrum who may have a dual diagnosis: Down’s syndrome/autism or Down’s syndrome/cerebral palsy. Parents now increasingly are looking for a mainstream place for their child with Down’s syndrome. Without a shadow of a doubt, all of the families coming forward, with few exceptions, are looking for a mainstream school. Through the primary school, if the right level of support for teachers, learning support assistants is there, the right levels of training, then the placement will survive to the end of primary school. We know that; we have evidence of that; we have some good examples of good inclusion—and, again, it differs around the country: the old postcode lottery comes into play. It starts to break down when the child moves into secondary school: the child goes to a comprehensive; a different member of staff for different lessons; having to move around the school. We also have evidence that social isolation starts to cut in at secondary schools as well. There is some quite significant research on that. We do not know at what point you need to make a decision whether that placement is right. I think it is an evolving thing. We do know that there are some excellent examples of outreach, where the child has gone into a secondary school, the placement has started to break

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down and there have been examples of the local special school supporting the mainstream school and vice versa. Supported units within the campus of the mainstream school have also been very successful. Some children manage to survive to the end of the secondary school, but it is generally speaking the children who are in the top 2% of abilities.

Q578 Helen Jones: It is interesting to me that you used the word “survive”. I think we would all hope that children do more than survive: that they thrive.

Ms Boys: I think for some it is survive.

Q579 Helen Jones: Exactly. That is an interesting point that I would like to pick up on with you. I am sure some of our other witnesses have a very different view.

Ms Aspis: The British Council believe it is a civil rights issue, that all disabled children belong to the community and have the right to be included in their schools. As soon as you start drawing the line in terms of who is in and who is out, you go back to the emphasis on integration as opposed to inclusion, because you start considering whether this child will fit into a school that is not adapted for their needs and thereafter you start employing a very arbitrary legal system which puts lots of families in distress and asks the question who is in and who is out of our society. Therefore, we believe that all children should be included. It is a civil and human rights issue. If we start from that point, then we start from the point that all children ought to be included and that is where it starts. We have evidence to support that children who go to special schools do have a very segregated life thereafter. They go to day centres, they go to residential care centres, and do not have the same opportunities as non-disabled people take for granted. Therefore, there is an issue about what the alternative has to offer.

Q580 Helen Jones: That is interesting. Perhaps you could let us have that evidence if you have not already.

Ms Aspis: The evidence has been provided by the 2020 campaign, and the evidence is also in BCODP and DE's written evidence well.

Ms Mason: I have been listening to this argument all my life—but, certainly, since I have been running the Alliance for Inclusive Education, for at least the last 15 years. This question—this red herring, really—of which child/which impairment/how serious/at what level should we then move them out of mainstream into a special, separate environment? While you still think like that, you are never going to understand what this issue is really all about. From our point of view, inclusion, as Simone and Richard were saying, is really about the deinstitutionalising of a group of people who have been put in separate homes, schools, work centres, sheltered workshops—you name it, it has been done to us. It has never been done with our will. Disabled adults have never chosen to live a separate life, and, as far as we know, no disabled child would either. I think it was very extraordinary to us that there was no differentiation

between the voice of those of us who have lived through this experience of segregation and are coming to it with hindsight, with the knowledge of both the harm that segregation can do as well as the possibilities of inclusive education, and inclusion in general. The fact that our voice is not really considered to be an important voice in this picture seems to me to be the absolute result of segregation. People are taught to think as if we do not really exist, that our lives, our futures, are dependent on our parents and professionals and our own experience is neither here nor there. Until it is really understood that the drive for inclusion has come from people who were segregated, who are passionate about their right to be in even a badly resourced mainstream—even in a messy world, which the world is: it is not a perfect world, but we can get in there and help change it—it will not change. That is what we have learned, that it does not change until we are present, there. You cannot prepare mainstream for us in advance. It does not work like that.

Q581 Helen Jones: Thank you. That is very interesting. I would like to take that view and go back to what Carol said. We want children to thrive. Richard said earlier—or someone said, I may have attributed it to the wrong person—that the quality of education in mainstream schools for children who have disabilities is very variable. Sometimes it is very good. Some of you have said. “We want all children in mainstream schools” and some have said, “We want more children there.” If we are going to do either of those, how do we raise the quality of education for those children? The last thing that anyone wants is children in mainstream schools who are simply falling through the net because the right provision is not there for them. How do we do that? How do we spread good practice? What does it need?

Mr Rieser: I think we have got to get the education world, the teaching profession, in particular, and those who work in schools—of which there are many more people now, particularly from special needs, 140,000 teaching assistants and so on—to see that this is not about adapting the child to fit what is going on. It is a human rights issue and they need to be given the perspectives and the tools to be able to work with that child. For instance, socialisation is a big issue, but we have the tools to deal with that. There are very successful “circles of friends” built around children who are isolated or vulnerable, and these have been working very effectively—evaluated, for instance, in Nottingham, by psychologists—showing that, just by building that, the isolated child does develop many more friends. You cannot make children be friends but you can create an environment from which it happens. A couple of months ago I was at Central Hall National Anti-Bullying day, and, I have to say, disability was not mentioned but of course physical and mental difference is one of the key issues which leads to bullying. Schools need to broaden their horizons and see that in dealing with bullying you have to deal with name-calling. With the Disability Discrimination Act—which I think Baroness Warnock had thought had gone too far—we have

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hardly scratched the surface. The reality is that most schools are not meeting their duties under that and the Government have decided, Parliament decided, that that would be extended to a duty, from this December coming, to promote disability equality. This is a fantastic opportunity to get all schools on board, to see what they need to do. We know what works. We know the type of pedagogy that can work. We know that it is peer support, collaborative learning. Where we are working, in a way, with different learning styles, the children can work at their own pace. In some ways, what is in the Education Bill will help that, the individualised approach to learning could help that, provided there is sufficient understanding and support for learning for all pupils. But it is also very important that children are not always isolated. When I used to be advisory teacher for inclusion in the London Borough of Hackney, schools used to ask me, "How much should children be with the form?" and I said, "If they are not in their class with their peers 85% of the time, it is not inclusion." Because you can have segregation in a so-called inclusive school: you are in the library with a support assistant or working in a small group. The National Curriculum Inclusion Statement is a very, very powerful document at the back of all volumes of the 2000 National Curriculum. It is hardly ever understood in schools or followed. That provides great guidance on how to adapt this, and you start by saying, "There should be suitable challenge for all children," then: "We need to take account of difference," and only after that do we look at individual adjustments that are necessary. Most people start with the individual adjustments and do not look at the wider picture to change their teaching. The last thing I would say is that we are not preparing teachers of the future for this. The School Development Agency (as I think it is called now) is looking at bringing disability equality and inclusion training on the three-year course, but actually 80% of teacher trainees now come through the one-year course and they are still not extending it to that. They have to. I think it is really important that your Committee argues that that has to be mandatory, because at the moment it is one hour on the Code of Practice. How does one hour on the Code of Practice tell you what to do in the classroom when you are faced with a lot of different children? It is the techniques of how you do all this that you have to empower teachers with. We have lots of good practice they can share.

Q582 Helen Jones: Thank you. That last point was very interesting. Could I ask you one more practical thing. The problem, it seems to me, not only with initial training but with in-service training, both for teachers and for teaching assistants, as people in my local authority said to me when I was dealing with a particular problem, is: "We can put on the training, but we cannot make the heads send people to it." Do you believe there needs to be any legal changes that would deal with that problem?

Ms Boys: I certainly think that should be the case. We provide in-house training at the Down's Syndrome Association and we can fill our courses

time and time again, but quite often teachers and learning support assistants will come along in their own time and pay for themselves to come along to the training course because they are so worried that they are not giving the right sort of level of support to the child and the school simply will not pay for that training.

Ms Aspis: Certainly from my experience dealing with tribunal work, the only way you ever get any training is you have to argue it at tribunal. Any way forward in terms of ensuring legally that every teacher and classroom assistant gets some kind of disability equality training would obviously be a strong recommendation. But it is not just any training, it has to be particular types of training and particularly disability equality training, because that sets a context for understanding how disabled people are disabled by society, and how the curriculum can be adjusted and classroom practices and the school to ensure that disabled children are included in the context of removing barriers. We find that some of the training that is on offer does not always provide that. It is not only any kind of training but particular kinds of training which underpin the social model of disability and disability equality of education.

Helen Jones: Thank you, that was very interesting.

Q583 Jeff Ennis: It is often said that children with disabilities are physically included but emotionally excluded. What evidence is there to say how many children with disabilities fall into that particular category of physical inclusion but emotional exclusion?

Mr Rieser: I think you would say it was the vast majority in most schools. From the latest figures from the DfES, 2005, there are 597,000 disabled children in school in England, and just under 15% are in special schools. The rest are in mainstream schools, so there is an awful lot of disabled children in mainstream schools and unless there is a really positive ethos of valuing difference . . . I went to a school, as part of the Reasonable Adjustment Project in Nottinghamshire, and it was very interesting that there the head had spent 15 years developing this way of including everybody. They had form councils and a school council. With the school council, they made a point of making sure the disabled children in the school were on the school council—I think that is really important, so they were there as a role model. They had their own assembly every Thursday morning. There are 340 children in this junior school and the head said, "It's the quietest assembly of the week." She is there, just for legal purposes, sitting in the corner, playing no role in running it. The children are running it themselves, and the children start saying, "I'm having a problem at break with so-and-so" and immediately a pupil—and these are only 10 and 11 year olds who have been trained in peer mediation—comes up and says, "I'll see you afterwards." We saw him seeing them afterwards, and he said, "What is the problem there? What is the problem here?" and he had sorted it out in five minutes. The staff had reflected this in the same way, so if they had a

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problem with a child, because they did not have to be on break duty, because the kids were looking after what was happening in the playground—there were some primary helpers, but the staff did not need to be there—they could do collective problem solving within a 20-minute problem. If someone had a problem, they all shared it. That is a very high level of working on the emotional level, but there was nothing different about that school in terms of resources, it was that they had gone down that road. So the models are there. We can make them work. I know the Alliance have passed you a book of 20 schools that they visited where similar sorts of things are going on. We find that there is largely a sea of emotional ignorance out there, but there are islands where people have taken these things and made them work and they are happy schools. The children are happy, the exclusion rates are practically zero. They are drawing on the same socially deprived areas as other schools, but, because they are working in a different way, they are able to move forward. There is a lot more we can do in this area.

Q584 Mr Carswell: I am very keen to tease out a bit more about the definition inclusion, as I am keen during this investigation to avoid having arguments at cross-purposes. You defined inclusion as making mainstream completely acceptable, and that seems perfectly reasonable. My understanding of inclusion, particularly in Essex, is very different. It means, if I may be candid, something completely different from making mainstream completely accessible; it means, in fact, a policy of forced inclusion: on the one hand, forcing children from special schools into mainstream schools, quite often where they then get excluded, expelled, or what-have-you, or *de facto* denying people, through the statementing process, access to special needs education in one form or another. There is a paradox here: ultimately what is done in the name of inclusion, as practised in places like Essex, ends up, in reality, with exclusion. Would you say, in terms of definition, that there is a difference between the theory that we can talk about in this room and/or agree on, and the reality as experienced and practised out there in the field, as it were?

Ms Mason: I think it is very interesting, on this definition of inclusion that, as far as I remember, it was not used as a term at all until about 10 years ago when it came over from Canada, where they completely transformed their education—not everywhere, but in certain places in Canada—where they closed down all their special schools and classes and made this huge effort to reintegrate all young people, on the basis that they felt it was about creating a different society where there were not barriers between people. They have made the effort. They developed all these terms of inclusion—the circles of friends, the paths and all those have all come from that basis—and we started using the term inclusion to move people on from this idea of just integration; where you take what we call the social model of disability and you look at the environment and you change the environment and the culture. What happened is that forces have taken this word

“inclusion” and redefined it. They keep redefining it. I heard only the other day somebody saying, “Of course inclusion is nothing to do with location; it is just to do with a good education wherever you are” and they were trying to say that inclusion is nothing to do with where the child is. Then there is this new idea—which I believe is coming from the Labour Party—that inclusion means clusters of schools, which include special schools, and that is an inclusive education system and you can do inclusion in special schools. You cannot. You simply cannot. The reason you cannot is that, however good that special school is—and it could be the most brilliant school under the sun—it can never rebuild a relationship between disabled and non-disabled people. That is the whole point of inclusion. The point is where you go after you leave school. It is not really what happens in school.

Mr Rieser: I think there is a difference between the way some local authorities take the term inclusion and what we meant by it. If you go back to the Green Paper *Education For All* of 1997 or the Action Programme in 1998 which came out of the National Advisory Group—which, I have to say, from 1997 to 2001 was making progressive moves in this direction—they were very clear what they meant. They said, “Just because a local authority has not included certain sorts of children does not mean that they should not think about it.” Equally, there has been downward pressure from government to ration the amount of resources that are available for special educational needs—in fact that came from the education officers themselves, saying, “Too much money is going on the statementing route, so we have to put the cap on that.” The Code of Practice is definitely based on a rationing of resources model, and therefore there are panels in every authority which ration which children should get the provision and which should not. I think that is wrong. I think the provision should be in all the schools, so that the schools can meet the needs. That seems to be unlikely, the way that policy is going, because we are getting these new flexibilities in the Bill that was published yesterday of trust schools and so on. I think we are going to see more and more pressure from parents to get that bit of the rationing, more statements and more of this conflict. The only way we are going to move forward, it seems to me, is by being very clear about what we mean an inclusive school is and by there being requirements on schools to move in that direction. It is not acceptable for one school to be saying that they are the ones who take the disabled kids, and then all the other schools saying, “We’re not very good at that. Try that one down the road.” If the head teacher is doing that, that is unlawful under the Disability Discrimination Act but it is happening all the time. The other point is that there are what I would call refugees of enforced integration in many of our special schools—and I do not mean refugees because they are from another country, I mean refugees from within the system—because they are experiencing being put into schools which are not prepared to meet that diversity of pupils. There are two ways you can address that. You can either say, “They’re not

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doing well, so we're going to rebuild the old model" or "We are going to look at what is going wrong in the mainstream and make sure it is going right." We are arguing that we need to put much more effort into making it right. We have done some training in Essex, but it was a drop in the ocean because it is a large area. There are good inclusive schools in Essex, but they are in the minority. The majority have not had the training or the change that needs to be done.

Q585 Mrs Dorries: Richard, are you a government adviser, or have you worked as a government adviser?

Mr Rieser: I have.

Q586 Mrs Dorries: Are you working as a government adviser at the moment?

Mr Rieser: Not in this area, no.

Q587 Mrs Dorries: Do you ever receive government funding or have you received government funding?

Mr Rieser: The Reasonable Adjustment Project is a particular project which was government funded. To put it on the record: we got £240,000; we filmed in 40 schools; shot 180 hours of film—

Q588 Mrs Dorries: I just need to know the answer to the question. Does that not give you a slight conflict of interest in that, the fact that you want to close all special schools down by 2020? If your reason, your *raison d'être* at the moment, is to close all special schools down by 2020, do you think it is appropriate that you have worked and do work or are still working as a government adviser?

Mr Rieser: I do not think there is any problem with conflicts. People can have their values and at the same time work for local government. I hope we are not going down the road that people can be challenged on their values and cannot work for government, because I know there are people in Cabinet positions who have all sorts of different views. One can do more than one thing at once. My view is that the Government itself has produced a document saying: *Improving the Life Chances of Disabled People*, and they have given us until 2025 you do that. Certainly the three of us are arguing—and there may be many others—that we are not going to do that without transforming the education system, because if we continue to have segregated schools we will not improve the life chances of disabled people. There was a cohort study produced by the Government which showed if you have gone to a special school as a disabled person (as opposed to a mainstream school as a disabled person) you were twice as likely not to get to college and twice as likely not to have a job, regardless of your level of impairment. That is damning evidence. It seems to me it is not for us to defend inclusion; it is for those who want to maintain a separate system to justify it, because I do not believe it should be justifiable.

Q589 Mrs Dorries: The figures you read out a few moments ago from the DfES, about the number of disabled children who are now in mainstream education, could you read them out again?

Mr Rieser: Yes. I said there were 597,000 children—this is according to PLASC data 2005—and only just under 15% are in special schools.

Q590 Mrs Dorries: So if 15% are in special schools, 85% of disabled children are in mainstream schools.

Mr Rieser: Yes.

Q591 Mrs Dorries: Why, then, are you so determined? I have to tell you that I am going on my own experience of having been around special schools—my own daughter is in a special school. The physically disabled children I encounter in special schools are very severely physically disabled. I think special schools have moved on dramatically over the last 10 years. The children I see—and we are talking about children on naso-gastric tubes, who are on intensive physio, very severely physically disabled children—could not possibly, for a moment, be included in a mainstream school. I wonder why you have this absolute ambition to close those special schools down which are serving those 15% of physically disabled children so well, when 85% of disabled children are in mainstream. You are there already, are you not?

Ms Mason: Firstly, it is not true that children with severe physical impairment cannot be included. They are. There is not a child with any level of impairment who I have not seen well included somewhere. I think those young people who are most challenging to the education system, the ones who are in special schools, the ones who really require change to happen with the mainstream for them to be included, are the very young people who we need most within mainstream because they are the ones who are the catalysts for change, if you like. They are also the ones who are most vulnerable to exclusion as adults. I was one of the many. The 2020 campaign—and Richard did not start it—is people who have been through special education, for the most part, who have recognised where it leads. It is not in itself—some people really enjoy their special schools. That is not my argument. The argument is that it leads to a segregated adult existence, particularly for those children with the most severe impairment, because they are the ones who the non-disabled people find the most difficult.

Q592 Chairman: This is a very important question and I want Simone to be able to answer as well.

Ms Aspis: We can never have influence on education unless we have a universal understanding of what inclusive education means. It seems to me that we have some integration and some inclusion. It is only when we have inclusive education, so that everybody belongs and we ensure everybody belongs—and it is a human rights issue—that we would include all children, including those who have high support needs and those who have very high support needs. One cannot really describe the effects of special education. Certainly, through the tribunal work I have done, special schools have not changed for the last 10 years. I am a special school survivor and I am horrified to find that for the disabled young people I have to fight for, to support their inclusion, their

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experience of special education is not much different from mine, which was 20 years ago. So I would say that special schooling has not changed over the years, and that inclusion would start from the point that we make mainstream schools adapt to include all children—the education system as a whole to do that. We start from the point that all children belong to mainstream regardless. We say this is about a benefit to disabled children but we also think it is a benefit to the community as a whole. We have not even anticipated that discussion today. Having all children together is a benefit for non-disabled children—they learn to be with other children who are not like themselves, they learn to build relationships, they learn to value each other, they learn to work with each other, they learn to be with one another. We have not spoken about the benefits that non-disabled children have and non-disabled adults have. We are in a situation where disabled young people are getting ASBOs because their behaviour is antisocial, criminalised. Why? Why? Because for some kids there seems to be a lack of understanding between non-disabled people and disabled young people and that only arises because we do not have the inclusive education, in terms of a wholesale inclusive education system, that we are wanting to work towards. We really need to be shifting this, so that it is not just: What is the benefit to disabled children? but: What is the benefit to society as a whole to include all children?

Q593 Chairman: Thank you, Simone.

Ms Clery: I do not think we would disagree at all with the general principle, the pedagogy of it, but our stand at the moment, with the education system as it is now, is that we find in RNIB that there are certain children who can be included perhaps in early years provision—and this again is very variable in different local authorities, different local authorities take different standpoints. But for those children who have profound and multiple learning difficulties—and I would like to put the emphasis on the learning difficulties rather than the physical attributes or otherwise of those children, children in a couple of our own schools who have very profound needs indeed—we at the moment in RNIB cannot see how those children could have a really meaningful experience in a mainstream school. If you are going to have a meaningful experience in a mainstream school—and there are certain groups that we feel are excluded in certain authorities from mainstream education who should be there and should thrive there—you have to connect with what is going on in the school, you have to make the connection with the curriculum. If you have profound and multiple learning disabilities and you are learning at a stage which is a very early stage of development and you are in a secondary school following a national curriculum, we at the moment in RNIB cannot see how that would work. We would like to see it work but at the moment we cannot. When I have asked for people to point me to where really good practice is going on for children with that level of need, nobody has really shown me where I can go and see it. I have certainly set up

provision in my past job for very disabled small children in early years provision and in early primary, and it has worked very well indeed, but I think the challenges come as the children get older. The curriculum becomes faster and easier, and at some point you have to make connection with that.

Q594 Mrs Dorries: If you want to close all special schools down by 2020 and you reach your ambition, and there are children who do not fit into mainstream, particularly high level autism or Asperger's children who cannot survive in a mainstream environment, where would they go?

Mr Rieser: That is a big assumption to say that they cannot survive. They cannot survive in the mainstream environment as it is now in some parts of the country. In other parts of the country they can—because there is a huge variation across the country.

Q595 Mrs Dorries: Why, in that case, are 27% of children with autism excluded from mainstream nationally?

Mr Rieser: Because of the variation across the country. I already mentioned that there are some schools with lots of children with autism who are never excluded. There are other schools where they are and those schools are acting unlawfully in excluding. Nobody does anything about it. There are many schools in Newham, for instance, where the exclusion rate is very, very low. Why is it low? Because they have structurally changed what they are doing. I know the Committee has discussed Newham before. The reality is that Newham does include a much wider diversity of pupils than any other borough in the country. It is true that some parents have exercised their choice and are going out of the borough, but they are a much smaller proportion of children out of the borough than in any other authority in the country. That has to be held as the balance. It is not perfect, but they have moved in that direction. We would like to see many more authorities moving in that direction, so that this postcode lottery which people have been talking about does not exist. I do not find it acceptable that if you happen to live in South Tyneside you have 10 times more chance as a disabled person of ending up in a special school than if you live in Newham. I do not find that acceptable in a democratic society. I think it is about looking at what exists. We will not reach 2020 or even 2025—we are not definite on the date, we just know there has to be a change—unless there is a real shift in thinking about this issue to saying, “Yes, we need to change our schools so that all children can thrive in them.” I have seen children with Asperger's and autism—and you can see the film, we will make sure all members of the Committee get it, I will talk to the DfES—who are there in ordinary mainstream schools, but those schools have a different way of approaching it to the majority of schools. I am saying we need to get all schools to be thinking like that.

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Q596 Mr Wilson: Could I explore this mainstream and special school theme for a minute. Many parents would not choose a mainstream school for their child and yet you are seemingly willing to force their choice by closing special schools. Do you not think those parents should have a choice about where they send their child?

Ms Mason: First of all, I would say that I am a parent as well: I have a disabled daughter. I have been part of an organisation called Parents for Inclusion for longer than I have been part of the Alliance. I am sorry you did not invite them to be part of this witness session because they have enormous experience of supporting parents. They would say, and I would say, that parents all seem to start out wanting inclusion, in their hearts. I have not met a parent who honestly wants their child to be segregated. They want their child to be safe, their child to be valued, their child to have their needs met, their child to have friends, for them, as parents, to be able to cope with the daily life of bringing them up. They try to find it. They do not find it in mainstream and then they find a welcome in a special school and they then believe that special schools are the answer.

Ms Aspis: I am a special school survivor. My parents chose for me to go to a special school, and certainly my parents, unlike other parents, cannot imagine how inclusion can work for disabled children, have never had positive experiences of seeing disabled children included in mainstream. That choice does not necessarily mean it is the right thing—and I will explain that further in a minute—but also parents sometimes choose special schools because they do not have the confidence in the mainstream at the moment, as it stands now, or have not had the appropriate support provided in mainstream, so it was never a choice *per se*. Providing choice is not necessarily the right thing anyway. If we take, for example, a homeless person: they decide that they want to be in prison because they get three meals a day as opposed to being outside in society where they are not getting their basic needs met and support. Does that mean we respond to that and say, “Give that person the right to go to prison”? It is the same sort of thing in terms of schooling. If mainstream is not working, should we be providing an alternative or should we be improving on the existing mainstream? I do not know any disabled child who comes out saying, “I want to be in a special school” and I do not know any parent, as Micheline says, when their baby is born who says, “Oh, love to have a special school placement.” So something goes wrong down the line. The issues, in terms of disabled, is that parents do not get the appropriate support to see how their children can be included, in terms of advice, disabled people as role models, and good experiences of how it works in mainstream provision—as we all know around the table.

Q597 Mr Wilson: Carol, you have been very listening very carefully at the end to what you have been hearing at this end of the table. Do you think that the three towards this end of the table are

chasing a utopia of a type of inclusion that can never and will never exist and forcing special schools to close by a certain date is just trying to force the issue?

Ms Boys: In an ideal world we would all like to see everybody included but I believe we need to maintain the breadth of provision so that parents have a choice. For some people with Down's syndrome a 52 week curriculum is necessary in some cases with really disabled, dual diagnosis, multiple problems. Are we going to say that we will take that away from them? It is true that some families feel they need to send their children to the local special school because they are frightened of what might happen to them if they go to the local mainstream school, they are frightened that they will not get the right level of support, they will be bullied, all kinds of social issues will ensue, but I do not think that is true for all families who have got their children in special schools, some of them choose to send their children to special schools because they think the special school is doing a good job.

Q598 Mr Wilson: You have got some research from your organisation. You have got 16,000 school age children with Down's syndrome and you are finding percentage of them want to move out of mainstream schools, having tried it, back into special schools.

Ms Boys: That is at secondary level.

Q599 Mr Wilson: So you are still finding that, are you not?

Ms Boys: Yes, we are still finding that. I can think of a number of families off the top of my head where the child has gone into secondary school and the placement has broken down.

Q600 Mr Wilson: That does not surprise you?

Ms Boys: No.

Q601 Mr Wilson: Would you like to comment on that, Elizabeth?

Ms Clery: I would actually. We speak to a lot of parents in RNIB and we also speak to a lot of children, and that is a point I really wanted to make early on. If you want to hear about how to raise quality, you must be speaking to children and young people themselves, you must be hearing their views. I wanted to say I have great sympathy with Douglas because I know that some authorities will say that they are inclusive in their approach. People do not understand the word inclusion, they understand it to mean different things. If we talk about inclusive education meaning education in the mainstream, some authorities lack the commitment to really make it work. It is not that they do not believe it should work, it is just that they do not quite know how to do it. I can give a very real example from our own research in terms of children who learn through Braille. These are children with either no sight or very little sight, not enough sight to read print. We know from parents who have to go to Tribunal to get places in special schools, it is not that they want places in special schools for their children but it is because the authority has not got the wherewithal to plan the provision properly, and yet we know in

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other areas of the country secondary age Braillists do extremely well in mainstream schools but it depends on the commitment of the authority, the attitude and ethos of the school, the provision of proper support to the school, to the pupils and to the families. I think there are a lot of factors at play here. It is very easy to simplify it. There was just one other thing I wanted to say. It concerns us in RNIB that in some authorities they are going down the route of additionally resourcing a number of schools and actually taking away choice for parents to look at local provision. We would want parents to have that choice of a local school as part of a range of options.

Q602 Stephen Williams: A lot of the questions I would have asked have been picked up already. Just to go back to Carol on Down's syndrome, Rob said a percentage of parents, having experienced an attempt at inclusion, then want to go to a special school. Is it right that it is 2%?

Ms Boys: No, it is not 2%.

Q603 Stephen Williams: That was part of the evidence we have been given.

Ms Boys: Yes, it must be 2% if it is in our figures. I was going to say I would not like to say off the top of my head but if you are quoting our survey it was 2% of people who responded to our survey, but there are a lot more families out there who did not respond to our survey. It was 2% of the respondents.

Q604 Stephen Williams: I just wanted to clarify that for the record. Can I come back to Elizabeth on some points that were not picked up, again from evidence that I believe the RNIB has provided to the Committee. Roughly half of children of school age who have a visual impairment just have the visual impairment and then 30% have that visual impairment compounded by all sorts of other learning difficulties. Of those 30% who have other learning difficulties, in essence are you saying you would prefer it if those children were educated in a special school environment rather than an inclusive environment?

Ms Clery: Not at all. Our figures show of the number of children with visual impairment, 59% are in the mainstream sector. That figure has not shifted over the last eight or nine years, it is still 59%. Within the grouping of children with visual impairment, the number of children with very profound and complex needs is rising. The number of children with visual impairment is not going up but that number within is rising. We would not say that we would want to see them all in special schools but we would want to see appropriate provision made for them so that their experience in whatever school they are in is a very meaningful experience and they have those needs properly met. The majority of children with profound and complex needs and visual impairment are in the maintained sector mostly in schools for children with severe learning difficulties and one of RNIB's big concerns is they are not having their needs arising from the visual impairment met because they are in generic special schools. We would like to push the boundary and, if it works for

children with those sorts of needs, to start off in the mainstream sector and really put everything in to make it work but we still think for a number of them, at this moment with the education system as it is, their needs will probably be better met in special schools.

Q605 Stephen Williams: I know we have got little time left so I will come on to a broad sweep-up question at the end of this section. Perhaps I can start with Richard because he was quite trenchant at the start about Baroness Warnock. In some of her remarks that have been reported to us she has talked about the definition of SEN as being far too broad because it includes everyone who has a physical handicap to somebody with Asperger's. She has described this SEN category as a "disaster". That is her word, not mine. Would you agree with that?

Mr Rieser: I think we should move to saying we are talking about disabled children, that they have human rights and provision should be provided to the establishment so they can meet that need, therefore we should move away from the SEN category because I think it is confusing now that we have moved on to disability. Disability is not dependent on the level of support or medication you get, if you have an underlying impairment then you are disabled. With the broadening of the definition all children who currently have SEN will be classed as disabled children and, therefore, they have rights and those rights should be maintained and the provision they need should be, as it is in FE and HE at the moment, provided by the schools automatically, and that should be monitored. That is how I would like to see it moving.

Q606 Jeff Ennis: One of our witnesses earlier—I cannot remember whether it was Elizabeth or Carol—mentioned the postcode lottery of provision across many different local education authorities. How big a problem is this lack of consistency of provision across the LEAs?

Ms Clery: It is a big problem actually and there is huge variation. Just taking blind and partially sighted, but I think this applies to lots of other children as well, we have quality standards for blind and partially sighted children published by the DfES that are recommended but they are not actually enforceable, so local authorities can still go their own way. Until we have actual minimum standards that say children are entitled to this right across the country and it is monitored and evaluated through some mechanism, it could be through Ofsted, it could be something else, that problem is always going to remain and to us that is one of the biggest concerns.

Q607 Chairman: Should not local people in local democracy make up their minds about the level of provision?

Mr Rieser: I do not believe it is local democracy, it is about inherited structures and inherited values from the local authority itself and it is largely the local authority that determines where children go rather than the other way round because they will say to

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parents, "We don't think you should go here" or "you should go there" and most parents will go along with what the local authority are saying. I sit on the SEN Disability Tribunals and it is not true that every parent is appealing that, the vast majority of the 256,000 parents who have got statements are happy with where the location is in that statement but the location is largely decided by the local authority, not by the parents although parents are given a choice. I think that is the problem, if you have a set of schools you will direct children to fill those schools up. We need to bring down the level of special schools across the country. For instance, there are still 28,000 children with moderate learning difficulties in special schools but in many parts of the country none of those children are in special schools and they are getting exam results.

Q608 Jeff Ennis: Moving on to disability legislation, how does the new disability legislation overlap with the SEN legislation? What are the implications for how well they will work together to meet the needs of all disabled children?

Ms Mason: I think Richard said it really. Bringing the DDA into education is one of the best things that have happened. It is like the DDA outside education, it was only when it suddenly became law that I could get into the bank at last after 30 years. Miraculously ramps were appearing everywhere. It is very sad that people need the legislation, it would be much better if they did not, but unfortunately they do. It seems to me the reason we say there needs to be an end date to segregation is so that all those people who would really rather not bother going down this inclusion route, because it is not an easy one, will have to because there is not an alternative so they can say "that authority is interested but we are not". I completely agree with Richard, I believe all children who are currently under the SEN label are considered to be disabled children protected by the DDA and have rights and you will get to understand this issue a great deal better than it is currently being understood.

Ms Aspis: Building on what has been said, but also in terms of ensuring that all provision is entitled by law under the Disability Discrimination Act because one of the benefits of the SEN statementing process is once it is seen you need it you are provided with it, unlike the Disability Discrimination Act that we would like to see extended so if you need provision in the mainstream that should be provided for as a right as well. The definition should be widened to include all disabled children, including those who have emotional and behavioural difficulties where we do not know where the "cause" lies. They should be covered by the DDA. There should be a clear enforceable right for all children to go into the mainstream so we do not have to go through a tribunal system where we decide who is and who is not out and thereafter provision in terms of ancillary equipment and support to be provided as a right as well. Then you have got the legal system in place to ensure that disabled children have the right to attend mainstream school as the very basic.

Q609 Dr Blackman-Woods: I want to ask you a couple of questions about evidence really. What evidence do you have that if parents were able to choose across the state sector they would choose mainstream rather than maintained special schools? I am asking what evidence is there that they would do that.

Mr Rieser: I think the evidence I have quoted from Newham is strong evidence. Parents do have a choice under the SEN structure to name the school and if the authority does not agree then go to the Tribunal and get it. Some parents have done that but what I am saying is where there is a strong, supported, inclusive system with the value that children first of all go to their local neighbourhood school and if parents are not happy with that they can go to resourced schools, of which there are 21 across the borough, parents are voting with their feet and mainly going for that. A very small minority are still going for something else. You have to compare that to the authorities that do not have that range of provision where far more parents are choosing alternatives. It seems to me that is quite strong evidence that needs to be looked at.

Q610 Dr Blackman-Woods: I think your organisation has said, however, that you think local authorities respond badly to some of the demand for mainstream education from parents because they have pressure to fill special school rolls. Have you got evidence for that as well?

Mr Rieser: Yes, there is evidence of that in that there are significant numbers of parents who have had to go to tribunal to argue for wanting mainstream places where the authority has said, "No, we have got this special school and you need to go there because that is where your needs can best be met" and the parents have had to fight very hard and a number of those cases have gone right the way up to the High Court. They are a minority of children so you need to look at the SEN Disability Tribunal Annual Report and there are statistics in that which show the movement is both ways. There are parents fighting in certain authorities to get into mainstream schools and there are equally, in Essex for instance, parents who are fighting to go the other way because things have failed in the mainstream. It seems to me that there is direction going on there by the local authority.

Q611 Dr Blackman-Woods: Yes, but the local authority could argue that is in the best interests of the child, not because they are trying to fill school places.

Mr Rieser: The local authority does not have the right to argue what is in the best interests of the child, under section 316 they can only argue that this child will interfere with the education of other children otherwise if the parents want to choose mainstream that is where they need to provide the provision and they are not doing that in all authorities.

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Q612 Dr Blackman-Woods: Lastly, what evidence do you have that parents who choose the special school route realise too late that it is not helping their child in terms of education results, social integration, et cetera?

Mr Rieser: It is qualitative research which has looked at the lives of disabled people once they have been through. We did a small piece of research which showed what it looked like and they said, "If that is what you mean, I would have preferred to have been offered that". There needs to be more research on that because I think it is too easy to say, "Do you want what is currently here in the mainstream or in the special school?" and it depends very much what is available locally. We know hundreds of parents have said, "Why can't we have what they have got in the next borough or across there?" One piece of evidence there is that numbers of parents of disabled children have moved house to authorities where they know their children can get into the mainstream as opposed to others. That is not just in Newham, it has happened in the North of England.

Q613 Chairman: And the other way round?

Mr Rieser: Maybe. I do not know because they do not have to the other way round because they have the right if they want to go for segregation to have it, and that is there in the law.

Q614 Mr Carswell: A very short question, one word answers, please, starting with Richard. I know you have got very strong views about what is appropriate for other people's children but as a matter of public record—yes or no—do you think parents should have the final say choosing between whether their children should go in mainstream or special schools? Should parents have the final choice?

Mr Rieser: Not the final choice.

Q615 Mr Carswell: They should not?

Mr Rieser: I think the disabled child should have the final choice.

Chairman: It has been a fantastic session, a very good session, controlling this lot asking more and more questions, and David did not even get called. You have been a very good group. Will you remember that this is only an oral session, we want to remain in communication with all five of you and if you think there is something we did not ask you please be in communication with us by email or whatever. Thank you very much all of you.

Memorandum submitted by the National Autistic Society

EXECUTIVE SUMMARY

The National Autistic Society (NAS) is the leading charity for people with autistic spectrum disorders in the UK. We run a specialist advice and casework service on special educational needs for parents. We also run six autism specific schools.

The NAS prevalence estimate for autistic spectrum disorders (ASD) in the total population is one in 110.¹⁵ As such, all schools should expect to teach children with autism¹⁶, and have the understanding, resources, training and specialist support to meet their needs.

The autistic spectrum includes children with severe learning disabilities with little or no verbal communication, through to those with an average or high IQ, including those with Asperger syndrome. This wide spectrum of needs requires a wide spectrum of educational provision including mainstream schools, special schools, specialist units attached to mainstream schools and residential provision. All NAS recommendations in this document are listed in full in Appendix 1.

CURRENT EDUCATIONAL OUTCOMES FOR CHILDREN WITH AUTISM

"The admission and retention of pupils with social and behavioural difficulties continue to test the inclusion policy"¹⁷ (Ofsted, 2004)

"There have also been significant increases in the number of children identified with autistic spectrum disorders . . . Our provision needs to improve to meet that need. We need a spectrum of provision to meet a spectrum of need."¹⁸ (Lord Adonis, Parliamentary Under-Secretary of State)

- Over a quarter (27%) of children with autism have been excluded from school at some point, and most of these (23%) have been excluded on more than one occasion.¹⁹

¹⁵ How many people have autism spectrum disorders? (2003) NAS: London.

¹⁶ Throughout this document the terms "autism" or "ASD" are used to apply to all people with autistic spectrum disorders including those with "high functioning autism" or Asperger syndrome.

¹⁷ Ofsted (2004) *Towards Inclusive Schools*, p 5.

¹⁸ Hansard Official Report 14 July 2005.

¹⁹ Office for National Statistics (2005) Mental health of children and young people in Great Britain, 2004.

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- 72% of children with autism are behind in their overall scholastic ability, two fifths are more than two years behind.²⁰
 - One in five appeals to the SEN and Disability Tribunal concern children with autism, although less than one in 20 children with SEN in England and Wales have autism.²¹

THE NATIONAL AUTISTIC SOCIETY

1. The National Autistic Society is the leading charity for people with autistic spectrum disorders in the UK. The NAS has a membership of over 12,000, a network of 60 branches, and works with more than 90 partner organisations in the autism field.
2. The NAS exists to champion the rights and interests of all people with autism, including Asperger syndrome²², and to ensure that they and their families receive quality services, appropriate to their needs. There are approximately 535,000 people with autistic spectrum disorders in the UK.
3. The NAS Advocacy for Education service provides advice on special educational needs provision and entitlement for parents and carers. Since its launch in 2000 it has provided advice and assistance to over 7,000 families. The service provides advice on entitlements and helps parents to understand the process for obtaining additional support for their child. It also provides casework support for parents appealing to the SEN and Disability Tribunal. Where possible we aim to help parents represent themselves at Tribunal, but where necessary we provide pro bono representation through our alliance with law firms Clifford Chance and Addleshaw Goddard.
4. In addition to this specific advice and advocacy service on special educational needs we also run a UK wide Autism Helpline where 5.5% of the 35,000 calls last year related to problems with education.
5. The NAS also runs six autism-specific schools across the UK for students of all ages. NAS schools cater for widely varying needs, including more able students and those with high support needs arising out of challenging behaviours. All schools aim to be centres of local expertise and support inclusion.
6. The NAS welcomes this opportunity to submit written evidence. The NAS is a member of the Special Educational Consortium (SEC) and we fully support the evidence submitted by the consortium. This paper aims to supplement this, by highlighting the particular experiences of children with autism. As a membership organisation we seek to represent the experiences of over 12,000 members whose lives are touched by autism. As the NAS both provides autism specific education and supports families of children with autism in mainstream schools through advocacy, casework and support services, we are uniquely placed to comment on the experience of children with autistic spectrum disorders in the education system today. The NAS would welcome the opportunity to supplement this written evidence by giving oral evidence to the committee.

AUTISTIC SPECTRUM DISORDER

7. Autistic spectrum disorder is a lifelong developmental disability that affects the way a person communicates and relates to people around them. People with an autistic spectrum disorder experience difficulties with social interaction, social communication and imagination—known as the “triad of impairments”.²³
8. The scientific consensus is that autistic spectrum disorders can be identified in one in 166 children under eight years old.²⁴ The NAS prevalence estimate for autistic spectrum disorders in the total population is one in 11²⁵ and this is supported by recent research from the Office for National Statistics which indicates 0.9% of children aged five to 16 years have an ASD²⁶. As such, all schools should expect to teach children with autism, and have the understanding, resources, training and specialist support to meet their needs. Some children with an ASD will have accompanying learning disabilities, and almost all will have some level of special educational need (97% according to the Office of National Statistics).
9. The only economic analysis of autism in the UK to date highlighted that, from an annual total cost of autism of at least £1 billion, only 7% was spent on education. The authors concluded that “evidence suggests that even moderate increases in educational provision could potentially result in major savings in later living costs.”²⁷

²⁰ Barnard *et al* (2000) *Inclusion and autism: is it working?* NAS: London.

²¹ Hughes, Rosemary (2005) *The SENDisT—10 years on*, Education, Public Law & the Individual, vol 9.

²² Asperger syndrome is a form of autism. People with Asperger syndrome have the same traits as those with autism—difficulties in communication, social understanding and social interaction—but will not usually have accompanying learning disabilities.

²³ Wing, L and Gould, J (1979) Severe impairments of social interaction and associated abnormalities in children: epidemiology and classification. *Journal of Autism and Developmental Disorders*, Vol 9(1), pp 11–29.

²⁴ Medical Research Council (2001) *Review of Autism Research: Causes and Epidemiology*.

²⁵ How many people have autism spectrum disorders? (2003) NAS: London.

²⁶ *Mental health of children and young people in Great Britain, 2004* (2005) Office for National Statistics.

²⁷ Knapp M and Jarbrink, K (2001) The economic impact of autism in Britain. *Autism* vol 5(1), pp 7–22.

AUTISM AND INCLUSION

Recommendation: Autism is a spectrum disorder. This wide spectrum of needs requires a wide spectrum of educational provision including mainstream schools, special schools, specialist units attached to mainstream schools and residential provision.

Recommendation: The child's needs should be the starting point for identifying what type of school they should attend and the support they need in that setting.

Recommendation: Whatever the setting, educational provision for children with autism needs to be appropriately resourced and teachers need relevant expertise.

10. Autism is a spectrum disorder. The autistic spectrum includes children with severe learning disabilities with little or no verbal communication, through to those with an average or high IQ, including those with Asperger syndrome²⁸. This wide spectrum of needs requires a wide spectrum of educational provision including mainstream schools, special schools, specialist units attached to mainstream schools and residential provision.

11. Inclusion is about the quality of a child's experience; how a child develops his or her skills, participates in the life of the school and learns and plays with children from a range of backgrounds. Many children with autism can be supported to play a full role in mainstream schools, however some children will be able to have a more inclusive experience in a specialist setting.

12. The principle of inclusion should not be confused with the terms "integration" or "mainstreaming" which describe a situation where the child is placed in mainstream education and expected to adapt to the curriculum and classroom environment. For inclusion to take place, educational provision must be adapted according to the pupil's individual needs. The child's needs should be the starting point for identifying what type of school they should attend and the support they need in that setting.

13. Whatever the setting, educational provision for children with autism needs to be appropriately resourced. All mainstream schools should expect to teach children on the autistic spectrum, and have the understanding, resources, training and specialist support to meet their needs. Where training and resource needs are not met, the principle of inclusion is undermined.

SPECIALIST SUPPORT FOR CHILDREN WITH AUTISM

Recommendation: Development of partnership working between mainstream and special schools

Recommendation: Assess and plan to reduce the barriers to partnership working experienced by independent special schools, so that they can share valuable skills and expertise.

Recommendation: School placements should be based on the individual child's strengths and need, and these may change over time. The principle of inclusion should not take precedence over a child's best interests.

Recommendation: The presumption for mainstream should not be used to reduce access to special school placements for younger children which may aid inclusion in the long term.

Recommendation: Funding needs to be retained centrally by LEAs to provide autism specialist support and advisory services to schools.

14. The NAS believes that special schools have an important role to play in an inclusive education system, both educating children with complex needs, and sharing their skills and expertise with mainstream schools. We welcome that the government recognises the valuable role of special schools in its SEN Strategy, *Removing barriers to achievement*.²⁹ We also support the government's focus on breaking down the barriers between mainstream and special schools, although partnership working is currently limited. NAS schools are independent schools where all pupil placements are local authority funded. This status creates many barriers to partnership working, for example teachers working in our schools cannot gain qualified teacher status. This inhibits staff movement between our schools and mainstream schools, and opportunities for trainee teachers to gain experience of teaching children with autism are lost.

Good practice example: Specialist provision equipping a young person to return to mainstream education

The NAS Helen Allison School in Kent provides specialist provision for children with autism aged three to 19 years. Edward, a pupil at the school had been excluded from his mainstream school and had not received any education for 18 months before arriving at Helen Allison with very low self esteem. He has now been at the school for two years and is 17 years old.

Edward has been supported by the school to take evening classes in IT at a mainstream college nearby whilst staying on in the school's residential service. This means that Edward still has access to a team of professionals and support staff including a speech and language therapist and psychiatrist. The continuation of holistic

²⁸ Asperger syndrome is a form of autism. People with Asperger syndrome with have the same traits as those with autism—difficulties in communication, social understanding and social interaction—but will not usually have accompanying learning disabilities.

²⁹ DfES (2004) *Removing barriers to achievement*, page 34, para 2.12.

support and the opportunity to stay on in a familiar environment meant that Edward was able to manage the stresses and changes to routine involved in starting a new course and he is progressing well. He now hopes to attend a further education college to study IT, returning to the mainstream full time.

15. The principle of inclusion should never be used as a rationale for cutting specialist provision, as long as that provision continues to be necessary for any child with autism. Children should not be placed in special schools as a last resort when mainstream placements fail. Early access to specialist placements or support can facilitate greater inclusion in the long term. NAS schools are experiencing a changing population of pupils, with a higher percentage of older, more able children with very challenging behaviour and mental health problems who have had negative experiences in mainstream schools. In many cases these individuals may well have been able to move from our schools into mainstream, if they had access to specialist support in the first place, rather than as a last resort.

16. There are an estimated 90,000 children with autism in the UK and approximately 7,500 specialist educational placements exist for this population.³⁰ This indicates an under provision of specialist placements for children with autism. A lack of specialist support is evident across all settings, from early intervention programmes, specialist outreach and advisory services through to autism-specific units in mainstream schools and autism-specific schools.

17. In light of the current deficit in teacher and whole school training in ASD, specialist advisory and support services are an invaluable resource. The Ofsted report *Inclusion: the impact of LEA support and outreach services*, found that support and outreach services promoted inclusion and improved the life chances of many vulnerable pupils. However, specialist autism support services are limited and patchy across the country, and the NAS is concerned that existing outreach services are currently being eroded as a result of the delegation of SEN funds from LEAs to schools. The Ofsted report found that where funds were redirected to schools they did not necessarily use them to buy back central support services. In some cases this was because schools did not have enough money to buy back the services they needed. In other cases teachers were not aware of the support that could be made available or understand the difference it might make. The report concludes:

“Where the funds were delegated, it disadvantaged groups of pupils with complex special needs who did not have access to specialist support because funds had been used for other purposes.”³¹

PROVISION FOR PUPILS WITH AUTISM IN MAINSTREAM SCHOOLS

Recommendation: As approximately 90% of children are currently educated in mainstream schools it is vital that schools have the necessary resources and expertise to support them.

Recommendation: The NAS is calling for renewed government commitment to delivering its SEN Strategy, *Removing barriers to achievement*.

Recommendation: DfES to review implementation and promote the use of the *Autistic Spectrum Disorders: Good Practice Guidance*.³²

18. In light of the limited number of autism-specific places for children with autistic spectrum disorders, the majority will be educated in mainstream schools with varying levels of support.

19. The NAS recognises the genuine challenges in developing appropriate mainstream provision for children with autism. The NAS has welcomed the significant government commitments to developing the capacity of mainstream schools to provide for pupils with SEN as set out in the ten-year strategy, *Removing barriers to achievement*. However, progress has been disappointingly slow, and the NAS is calling for renewed government commitment to delivering the strategy.

20. DfES established an autism working group in 2001 which led to the publication of *Autistic Spectrum Disorders: Good Practice Guidance*. The NAS welcomed this excellent and practical guidance, and feel that it is an under utilised resource. We recommend that the autism working group is re-convened to review progress made since publication, identify priority areas for future work and to promote awareness amongst schools and LEAs.

³⁰ Jones, G (2002) *Educational Provision for Children with Autism and Asperger Syndrome: Meeting Their Needs*. London: David Fulton Publishers.

³¹ Page 1.

³² DfES (2002) *Autistic Spectrum Disorders: Good Practice Guidance*.

**The following sections identify the key barriers to appropriate education for children with autism.
Each section includes NAS recommendations, which are listed in Appendix 1**

TRAINING

SENCO: "*I don't believe in Asperger syndrome*"
(to parent of child diagnosed with Asperger syndrome)

Recommendation: Initial teacher training to include training in autistic spectrum disorders to enable teachers to recognise the alerting signals of a possible developmental disorder, support children with ASD and know when to seek specialist advice.

Recommendation: Continued professional development in autism to enable teachers to address skills gaps and gain develop more specialist skills and knowledge.

Recommendation: DfES to identify core competencies in autism training for all professionals working with children.

Recommendation: Schools to be supported to adopt a school-wide approach to autism awareness training.

21. Schools need training, resources and specialist support to enable them to support pupils with ASD. At present the scale of the need for training cannot be overstated. NAS research indicates that 72% of schools are dissatisfied with the extent of their teachers' training in autism. In schools identified as having pupils with ASD, only 22% of teachers had received any autism training, the majority for between one to four hours.³³

22. *Removing barriers to achievement* states that every teacher should expect to teach children with SEN, and must be equipped with the skills to do so. The Strategy proposes a tiered approach to training, where all teachers have core skills, some teachers in all schools have specialist skills and some teachers in some local schools have advanced skills. We feel that this is a sensible approach and necessarily ambitious. The Strategy also outlines well overdue proposals for a strategic emphasis on SEN within initial teacher training and professional development.

23. Whilst the NAS welcomes the fact that the Training and Development Agency for Schools (TDA) has now commissioned the development of a programme to support teacher training on SEN and disability, the delay since the Strategy was launched in February 2004 is unfortunate. The NAS notes that there is still no guarantee that teachers will receive any SEN training in initial teacher training or continued professional development. Furthermore specific autism training is notably absent from the initial programme outline.

24. The National Autism Plan for Children states that all professionals working with children need to be able to recognise the alerting signals of a possible developmental disorder, support children with ASD and know when to seek specialist advice.³⁴ The NAS believes that it is vital that this principle is applied to teacher training.

25. Without an understanding of autism, teachers are not equipped to adapt their classes and the environment to enable children with autism to access learning. The following good practice examples demonstrate that where there is an understanding of the individual's impairments, making adjustments in order to include children with autism can be both straightforward and effective.

Good practice example: a reasonable adjustment

A five year old boy with ASD would refuse to say his name when the teacher took the class register.

Staff regarded autism as something that led to children not making eye contact, sitting in corners on their own and rocking, whereas he was quite verbal and able. So they simply saw him as being non-compliant and became increasingly frustrated. The school gave the parents the impression that it was their fault and the parent-school relationship deteriorated.

A trainer on an NAS parenting support programme came in to explain that the communication problems were down to the boy's autism. He wasn't answering the register because he didn't understand why he needed to communicate.

The school was receptive and introduced a new way of registration. Each child has a card with their name on it. After calling out their name for the teacher, they drop it into a post-box. Because this was a more physical rule, the boy could make sense of it. Gradually he started to say his name out loud as well, as he was able to make sense of the situation.³⁵

³³ Barnard et al (2002) *Autism in Schools: Crisis or Challenge?* London: NAS.

³⁴ NIASA (2003) *The National Autism Plan for Children*, NAS: London.

³⁵ Children Now (May 2005).

Good practice example: a school's response to behavioural difficulties

An eight-year-old boy with ASD in a Staffordshire primary school kept kissing his teacher throughout the day. The social impairments associated with autism manifest differently in each individual. While many people with ASD find physical contact difficult, others are overly friendly and will seek to hug and touch virtual strangers. Teachers who are not aware of the group of children with ASD are prone to view this physicality as a form of sexual harassment. In this case the school identified that the child's behaviour was related to his condition, and provided suitable support. The sign for "no kissing" (words on a card) was used by the teacher at all times apart from at the beginning and end of sessions when she would enthusiastically let him give her a kiss. This card was gradually phased out over time and the kiss replaced by a high five hand clap.³⁶

26. In both of the practice examples above, it is evident that if teachers were not equipped with an understanding of autism the situations could have developed very differently and could have resulted in an escalation of behavioural difficulties and possibly to exclusion.

27. All school staff, not just teachers, need training in autistic spectrum disorders. In 2003 the NAS held Inclusion Awards to celebrate good practice. The awards highlighted that all school staff have an important role to play and this demonstrates the need for whole school awareness of autism. For example, pupils with autism find it hard to cope with unstructured time and are also vulnerable to bullying, this means that break times can be particularly difficult:

"Lunchtime supervision has been an issue for our son. He has a statement for 25 hours/week, which covers time in class but he is vulnerable at playtime and lunchtime. All midday assistants in school require training and information about each child with an SEN." (Parent)

RESEARCH

Recommendation: Funding for research into educational and behavioural interventions for children with autism.

Recommendation: Establish networks for the monitoring and distribution of autism research activity, to identify needs for future research and to promote evidence based policy and practice at national, local and school level.

Recommendation: Better dissemination of information and research activity to parents to enable them to make more informed decisions, possibly through the proposed National Early Intervention Centre of Excellence.

28. The evidence base for the relative efficacy of autism-specific interventions is weak. Few intervention methodologies have been subject to rigorous objective assessment against scientifically-credible criteria. This leaves parents vulnerable to "fad" interventions, and creates tensions between parents and LEAs over whether specific interventions should be funded.

29. The NAS has worked with the Institute of Child Health on *Mapping autism research: Identifying UK priorities for the future*.³⁷ The report identifies research into interventions as an area of significant weakness in the UK. The proportion of researchers evaluating interventions in the UK was a third of that in the rest of the world. Comparison between autism research in the UK and the USA, found that more research is funded, and that research funding for autism is coordinated across government agencies in the USA. Following the publication of the report, the government has established a cross-departmental committee in order to share information and co-ordinate autism research.

ADMISSIONS

Recommendation: Expanding school control over admissions policy must be supported by a strong monitoring and accountability framework to ensure that children with autism are not disadvantaged.

Recommendation: Forthcoming Education Bill to protect access to appropriate school transport services for children with SEN and/or disabilities.

30. The NAS has been contacted by a small number of parents experiencing difficulties in relation to admissions and exclusions from City Academies. The NAS is monitoring evidence from our helpline as we wish to explore the issue of the provision of conciliation services by DfES to resolve difficulties between Academies and LEAs, in respect of the admission of children with a statement of SEN. There is concern that these children have a lesser right of access than their peers, and that parents are not involved in the admissions process. It is expected that the forthcoming Education Bill will give schools greater control over admissions procedures. In this context, it is vital that school admissions policies are closely monitored to ensure that pupils with autism who may be perceived to be challenging or difficult are not turned away.

³⁶ Teachernet website.

³⁷ Institute for Child Health (2004) *Mapping autism research: Identifying UK priorities for the future*.

31. School transport services can limit access to an appropriate education for children with autism. Many children have to travel long distances to access school which can mean that they are not in a fit state to learn when they arrive. Where LEAs do not provide adequate specialist provision, children with autism may need to access an out of county placement. However, school transport costs can limit access to a school that can meet the child's needs. The case below demonstrates how school transport can be a barrier to a child accessing appropriate educational provision. It is important to note that the dispute below was not a matter of parental preference.

Real life example: School transport and admissions

The parents of a 10-year-old child with autism agree with their LEA that the most appropriate educational provision for their child is a named school that is out of borough. This school is named in the child's statement of SEN, but with the proviso that if the parents are unable to provide transport to the school, the place will not be provided. The parent cannot drive and there are other school age children in the family making it difficult for the parent to take the child to school. The journey (between 30 and 40 miles) would involve trains, buses and walking so it is clearly inappropriate for primary school age child to make the journey on his own.

If the parents were unable to provide transport to the agreed school, a place would be denied, and an alternative place provided at a second school. This school is agreed to be less appropriate and it is also out of borough, but it is more convenient for the LEA to provide transport to it. Unlike the first choice this school only takes pupils until age 11 years so the child would have to change schools again in a year's time (September 2005).

The SEN and Disability Tribunal cannot rule solely on transport cases, as there is no legal basis on which they can make a decision. Therefore the parents need to find an alternative basis, or legal loophole, in order to appeal. The parent's appeal under the Disability Discrimination Act was rejected as although the SEN and Disability Act (2001) covers school trips it does not apply to school transport.

Therefore unless parents in this situation are prepared to undertake the expensive and long-winded route to judicial review, they will have to accept less appropriate provision for their child, although "less favourable treatment" on the basis of disability is illegal under the Disability Discrimination Act.

(Parent advised by the NAS Advocacy for Education Service)

EXCLUSIONS

"My son was permanently excluded from nursery and from two schools by time he was seven years old. He has now been out of school for 15 months."

Recommendation: Promote understanding of Disability Discrimination Act (2005) (1995) to seek to reduce high level of informal exclusions of pupils with autism.

Recommendation: Training in autism and behaviour management for all school staff.

Recommendation: Development of LEA support services and partnership working with autism-specific schools and units, to enable schools to access specialist advice and training in managing challenging behaviour.

Recommendation: Schools should be guided to review child's support needs before taking disciplinary action, and where appropriate initiate statutory assessment.

32. Over a quarter (27%) of children with autism have been excluded from school at some point, and most of these (23%) have been excluded on more than one occasion.³⁸

33. An NAS survey found that the most common reason given to parents when their child was excluded was that the school could not cope with the child.³⁹ This indicates that exclusion is often linked to inadequate support and failure to make reasonable adjustments to enable children with autism to access school life.

34. The mainstream school environment throws up a range of challenges for pupils with autism, including Asperger syndrome, especially at secondary level. Environmental triggers or disruption to routines can lead to high anxiety. In terms of peer relationships, difficulty with social interaction and communication can lead to frustration, bullying and low self-esteem. A classic pattern for children with ASD who exhibit challenging behaviour is that low-level bullying and teasing from other children, or stress built up in the classroom, triggers a sudden and violent response. In other instances, apparent aggression may become the only means of expression for a child frustrated by their impairments.

³⁸ Mental health of children and young people in Great Britain, 2004 (2005) Office for National Statistics.

³⁹ Barnard et al, (2000), *Inclusion and autism: is it working?* London: National Autistic Society, p 19.

35. The Code of Practice for Schools on the Disability Discrimination Act (1995) includes the following scenario:

A pupil with autism goes to the front of the dinner queue. A teacher standing nearby tells him not to "barge in". The pupil becomes anxious but does not move. The teacher insists that the pupil must not "jump the queue". The pupil becomes more and more agitated and hits the teacher. The pupil is excluded temporarily from the school.

36. The Code of Practice notes that this child has difficulty in managing social situations as a consequence of his autism. He has difficulty in understanding the purpose of a queue, he has difficulty understanding figurative language such as “jump the queue” and “barge in” and he has difficulty in managing escalating levels of anxiety. In determining whether the exclusion is justified the school should consider if they have taken reasonable steps to prevent the incident happening. These could include:

- Staff training about autism and how the disability manifests itself.
- Staff training on strategies to avoid difficulties, for example, avoiding negative instructions and symbolic language such as “jumping the queue”.
- Staff training on strategies to overcome difficulties if they do arise.
- Training for the pupil in coping with social situations, such as queuing.
- The development of strategies for communicating that he is upset or confused.

37. The Code of Practice concludes that if the school could have taken steps of this type, but did not, it may not be possible for them to justify the exclusion. The NAS does not condone violence against teachers. However, this scenario demonstrates that it is inappropriate to take punitive action against a pupil where the appropriate reasonable adjustments, training and support have not been made.

38. Many of the exclusions experienced by children with ASD will be “temporary” or “informal” fixed-term exclusions which are frequently omitted from exclusions data. If most permanent exclusions for children with autism result from a failure to understand and manage their challenging behaviour, these informal exclusions occur when a school simply cannot cope with the child at all. This situation most commonly occurs at lunchtime, when schools do not have the necessary resources to ensure the safety of the child and his or her peers in the playground. Parents might be asked to come into school to look after their children during break times, or they may have to collect them when their child’s peers are going on a school trip or preparing for a school play.

39. The large number of these fixed-term exclusions demonstrates the need for whole-school autism awareness training to give all members of staff an understanding of how to cope with children with ASD. Informal exclusion is contrary to the Disability Discrimination Act (1995), and the level of informal exclusions highlights the need for greater awareness of disability discrimination law.

“We were frequently asked to take our son home at lunchtime. When we queried whether the school was saying they could not support our son, they told us that either we continued or Charlie would be actually excluded and it would go on his ‘record’.”

“Jenny was not allowed on school trip even though she wanted to go. The school said they didn’t have enough staff to cope with her.”

“Can you sign this holiday form for the rest of the term—we’re all stressed and cannot cope with him” (School to parent near to Christmas).

40. The level of informal exclusions of pupils with autism, needs to be considered in light of government policy for extended schools and the development of breakfast and after school clubs as part of “wraparound childcare”.

“I have two children with ASD. I have asked about inclusion policy/practice about after school clubs and trips away and there has been no policy or thought about including children with additional support needs.”

Good practice example: NAS Robert Ogden School, South Yorkshire

30% of pupils at the NAS Robert Ogden School were permanently excluded from both mainstream and special schools before they came to the school.

A proportion of these pupils with challenging behaviours were spending a significant amount of time out of classes because they were inhibiting the learning of other pupils. In order to meet these pupil’s needs, the school has established at Key Stages 3 and 4 an “Inclusion Resource”. Each pupil is given a personalised “inclusion” timetable which enables them to negotiate their access to learning groups, or particular teachers with whom they feel comfortable. There is not an expectation that these pupils will attend all classes with their peers. Each pupil has an individual inclusion target each week, for example to attend an after school club. Pupils have been able to build up their tolerance of group learning, and have a personalised learning programme and their own space when they choose to use it.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

"I can't imagine anyone anywhere having anything good to say about your son"
(Head teacher to parent of child with autism)

"It doesn't matter if she doesn't do her GCSEs. She can do them later."
(Teacher to parent)

Recommendation: Review and strengthen accountability for children's progress, provision and outcomes, particularly as the school improvement process moves towards the use of school improvement partners.

41. Educational outcomes for children with autism are poor, and only 6% of all people with an ASD proceed to full time paid employment.⁴⁰ The Office of National Statistics found that 72% of children with autism are behind in their overall scholastic ability, and that two fifths are more than two years behind.⁴¹ The Ofsted report *Towards Inclusive Schools* concludes that:

"Expectations of achievement are often neither well enough defined, not pitched high enough. Progress in learning remains slower than it should be for a significant number of pupils."

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS

Recommendation: Implementation of DfES guidance on the Management of SEN expenditure to be rolled out and monitored.

Recommendation: Avoid using the level of statementing as an indicator of good practice, to ensure LEAs identify reduced statement as an outcome of good practice and parental confidence rather than as an input.

Recommendation: Maintain access to an equitable statutory assessment process, so that children with complex needs can access resources in a delegated system.

Recommendation: Develop clear accountability framework at LEA level, so parents are not passed from school to LEA.

Recommendation: Develop clear accountability framework at school level for provision, progress and outcomes.

Recommendation: Government to review cases where implementation of Tribunal orders exceed statutory timescales and identify patterns of non-implementation; investigate instances of last-minute settlements by LEAs.

Recommendation: The forthcoming Courts and Tribunals Bill needs to address the experiences of parents at the SEN and Disability Tribunal, particularly around non-implementation of Tribunal decisions, and ensure fair and equal access to systems of redress.

42. In our experience parents value the SEN statutory framework and the role of the SEN and Disability Tribunal as they provide a clear baseline of rights and entitlement. However, parents are often frustrated by the complexity of the system and the way in which it is administered locally.

43. The statementing system provides a comprehensive system for identifying a child's needs and the provision needed to meet those needs. It guarantees provision for the child and as such parents highly value it. However, the NAS appreciates that the statementing process is sometimes perceived as bureaucratic, confrontational and complicated by both local education authorities and parents. Too often parents feel that they are in conflict with their LEA, and the process can cost families both financially and in terms of stress. Delay to the support or placement that a young person needs can have significant impact on their educational progress, self esteem and mental health.

44. Parents do not start out wanting a statement for their child, but many find that statutory assessments and statements are necessary to secure the appropriate provision their child needs. As statements provide access to the additional resources there will always be a need to use some form of assessment in order to determine entitlement to those resources.

45. Many parents have to challenge their local education authority's decision at the SEN & Disability Tribunal. One in five cases appearing before Tribunal now concern a child with autism. This figures suggests that there is a problem in agreeing and providing appropriate provision for children with autism.

46. An NAS survey exploring experiences of the SEN and Disability Tribunal highlighted significant parental concerns with Tribunal processes and the outcomes. Key concerns include the emotional and financial cost to parents; the lack of sufficient support and advice for parents; LEA failure to implement Tribunal orders; "eleventh hour" settlements before Tribunal hearings take place and the accessibility and

⁴⁰ Barnard *et al* (2001) Ignored or Ineligible? NAS: London.

⁴¹ Mental health of children and young people in Great Britain, 2004 (2005) Office for National Statistics.

equality of the process. However, overall parents very much valued the role of the SEN and Disability Tribunal as an impartial body resolving disputes between themselves and Local Education Authorities (LEAs).

“My seven year old son started to cut his arms whenever he went to school—he was so unhappy there. I know my LEA wouldn’t have provided the provision he needed if I hadn’t gone to tribunal. He now loves going to school!”⁴²

DELEGATED FUNDING

47. The government has identified the delegation of SEN funding from LEAs to schools as good practice since 2001.⁴³ By delegating resources for children with statements, it is intended that schools will be able to meet pupil’s special educational needs promptly and with greater flexibility. *Removing barriers to achievement* states that in turn this approach reduces demand for statements as parents become more confident that their child’s needs can be met without the need for a statement.⁴⁴ The government has produced some clear and welcome guidance on how funding for children with special educational needs should be delegated, entitled *Management of SEN expenditure*. This guidance should be driven forward and monitored as we are concerned about the way in which this policy has been implemented.

48. The Ofsted report *Towards Inclusive Schools* highlights a systematic lack of monitoring of progress, provision and outcomes for children with SEN in schools. The report found that few schools evaluate their provision for pupils with SEN systematically so that they can establish how effective the provision is and whether it represents value for money. The availability and use of data on outcomes for pupils with SEN continue to be limited.

49. In this context the NAS is concerned about the monitoring and accountability for SEN resources. We appreciate the need to reduce bureaucracy and paperwork burdens on schools, but where SEN budgets are delegated, schools must be accountable for the funding.

“The LEA pays my school £9,260 per year to provide her with resources to meet her needs. The Governors use the budget to make classes smaller. My LEA have been wonderful and support me but it seems their hands are tied.”

“When we suggested to the LEA that they employ a couple of internal auditors to go round, checking on what schools do with their SEN budgets, they look astonished at the very idea. They also say what can they do about even if they find the school is misusing the money—withdraw the school’s SEN budget? The SEN children will suffer.”

50. *Removing barriers to achievement* rightly identifies building parental trust and confidence in mainstream provision as a pre requisite for successfully reducing reliance on statements. However, the NAS is concerned that in some areas reducing statements has been perceived to be an explicit strategic aim in itself rather than an outcome of good practice and improved provision.

51. Calls to our Advocacy service indicate that some parents feel that the policy of reducing reliance on statements is leading to reduced access to statements in practice. We are therefore concerned that the delegation of funding is making it more difficult for children with complex need to access support. This is reflected by the fact that more parents of children with autism are appealing against LEA refusal to make a statutory assessment, and the majority of appeals are upheld. The number of appeals on refusal to assess has nearly doubled percentage terms over the 10 years of SENDIST. Refusal to assess is also the type of appeal most likely to be withdrawn or conceded before a hearing, of 320 appeals last year 61% were upheld.⁴⁵

52. The following quotes are all from parents of children with autism who are members of the NAS.

Experience: Access to Early Intervention and Support

“It took five months of battling with the LEA to get them agree to undertake an assessment, by which time we had lodged an appeal with SENDIST and the LEA had been asked to prepare a case statement. I am very concerned about the amount of valuable time Daniel is losing in the early years of his education, which is a critical period. The limited amount of help which the school has been able to provide with delegated funds is not enough.”

“The statementing process is necessary in that complex children need a multi-disciplinary assessment to find out the nature and severity of their SEN. Schools do not have the expertise to assess these children.”

⁴² PACE Tribunal Report (2003) London.

⁴³ The Distribution of Resources to Support Inclusion (2001) DfES.

⁴⁴ Removing barriers to achievement (2004) DfES.

⁴⁵ Hughes, Rosemary (2005) The SENDisT—10 years on, Education, Public Law & the Individual, vol 9, issue 1.

Experience: Conflict of Interest Between School and LEA

“In my local authority, if a statement is issued, LSA time is funded as follows:

- *under 15 hours must be funded by the school;*
- *15 to 25 hours, first 15 hours funded by the school, remainder funded by LEA; and*
- *over 25 hours, fully funded by LEA.*

This system clearly creates a conflict of financial interests between the LEA : it is in the school’s interest for a child to have more than 25 hours, and in the LEA’s for a child to have no more than 15 hours.”

Experience: Impact on Relationships Between Parents, Schools and LEAs

“We felt that statementing was the only legal vehicle we as parents had in acquiring help for our child and now even that is being taken away from us. I think the present system of funding is deliberately divisive-setting government against local authorities-local authorities against schools-schools against parents-and parents against each other—as we are all fighting for limited funds.”

Experience: Confusion Between Role of LEA and Schools

“All Schools will have the same problem of a cash limited budget as the LEA—it is just pushing the LEAs’ problems onto schools.”

ACCESS TO SPEECH AND LANGUAGE THERAPY AND OTHER PROFESSIONAL SUPPORT

Recommendation: Government to resource and inspect implementation of the standards on speech and language therapy in the *National service framework for children, young people and maternity services* standard 8.

Recommendation: Restructuring of the assessment process so that professional reports are independent of local authorities.

53. A shortage of health and education specialists cause delays and limit access to early intervention and support services. Large waiting lists for speech and language therapy mean that opportunities for early intervention are lost and children are at risk of developing behavioural difficulties, deteriorating social relationships, and failure to access the curriculum and their learning potential.

54. Access to speech and language therapy services is very much valued by parents of children with autistic spectrum disorders. A NAS survey asked “If one single change was to be made to teaching and support of your son/daughter to improve their learning or experience what would it be?” Out of all the responses, “more speech therapy” was the third most popular change called for after “more one-to-one support” and “more autism awareness training”.⁴⁶

55. A 2003 report by the Welsh Assembly Government found that in some NHS Trusts in Wales, children can wait up to, and sometimes over, 72 weeks for an initial appointment to see a therapist.⁴⁷ It is estimated that 40% of the children in need of therapy services in Wales are currently on waiting lists.

56. Workforce and recruitment challenges are illustrated by the fact that 90% of the 2001 graduate cohort from University of Wales Institute Cardiff demonstrated a preference to work with adult patients. The NAS is concerned that the vital zero to four year old age group is not attracting more newly qualified therapists, as it tends to have the largest caseloads.

57. The NAS is aware that many parents pay for independent assessments and reports from educational psychologists and occupational therapist because they want a thorough, quick and impartial assessment of their child’s needs. Some parents contacting our advocacy service express concern that professional reports commissioned by their local authority do not provide an accurate description of the child’s needs and provision required. This includes reports by educational psychologists, occupational therapists and speech and language therapists. Concerns arise where the professional spends very little time with the child. Parents feel there is a conflict of interest because the independent report is LEA funded and used to determine the level of support the LEA needs to resource for that child.

⁴⁶ Barnard, J, et al (2000) Inclusion and autism: is it working? London: NAS, p 17.

⁴⁷ WAG (2002) Speech and language services for children and young people in Wales.

58. This professional shortage is a key issue across government departments and progress towards meeting the relevant standards in the National service framework for children, young people and maternity services needs to be resourced and monitored.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

"When my son was seven years he was diagnosed with ASD. I had to fight the school to get him a statement. At Tribunal it came up that the school had tested him and he had a reading age of four and a half years yet I had never been told. School should have to tell parents about any tests they do."

Recommendation: Improved access to impartial advice and advocacy services, to enable parents to participate in decisions about their children's education.

Recommendation: Re-assess the Education Act 2005 regulations to ensure that information legally required by the SEN and Disability Act 2001 continues to be provided to parents.

59. The Government's drive to increase choice in education is welcome, but parents can only be genuinely involved in decision-making about their children's education as part of a two-way relationship. The school and LEA must keep parents sufficiently informed about their children's progress; and parents must have genuine opportunities to participate in decisions about their children's education.

60. Parents need assistance to be properly enabled to participate in the decision-making process. Yet there is insufficient provision of independent advice and advocacy for parents. The National Autistic Society runs a service for parents of children with autistic spectrum disorders, providing advice on entitlements and helping parents to understand the process for obtaining additional support for their child. We also provides casework support for parents appealing to the SEN and Disability Tribunal. Since its launch in 2000 the NAS Advocacy for education service has provided advice and assistance to over 7,000 families, but we always have a backlog of calls and cannot meet demand.

"I had to fight for every piece of information above from school, LEA and in the end I had to go to independent bodies or charities to receive information. I never did receive school policies; our last resort was taking the school to tribunal for disability discrimination. Our son is at a different school now!"

61. Expected provisions in the forthcoming Education Bill will allow Ofsted and Local Authorities to act upon complaints from parents. In addition, though, it should be remembered that parents' complaints are not always with the school, but often with the Local Authority. The Bill could be extended to allow Ofsted to act upon parents' complaints about Local Authorities.

62. The NAS, both individually and as part of SEC, have expressed concern that the Education Act 2005 removed the duty to produce a Governors' Annual Report (GAR) and hold a parents' meeting as part of the school inspection. The GAR is valued by parents of disabled children as a way of obtaining vital information about schools, including their SEN policy, a financial summary and arrangements for accessibility and admissions.

63. The Education Act 2005 introduced a school profile to include some of the information that was previously made available in the GAR; information about SEN was to be made available in a school's prospectus. However, parents do not automatically receive a school prospectus—it must be requested—thus placing parents of children with special needs at a disadvantage. The NAS has been dissatisfied with proposals for the school profile which excludes valuable information on SEN.

64. The Education (School Information) (England) (Amendment) Regulations 2005 set out the requirements for the school prospectus, but it does not contain the information required by the SEN and Disability Act 2001. This must be acted upon immediately to ensure that parents are provided with necessary information.

65. In addition, Local Authorities are not fulfilling their legal duties on publishing information about SEN on the internet. A recent survey by the Advisory Centre for Education (ACE) found that two thirds of 12 recently inspected Local Educational Authorities in England, were not publishing on their websites vital information regarding SEN, that they were legally required to publish.⁴⁸

⁴⁸ ACE (2004), <http://www.ace-ed.org.uk/news.html>

APPENDIX 1

Summary of National Autistic Society recommendations

AUTISM AND INCLUSION

Recommendation: Autism is a spectrum disorder. This wide spectrum of needs requires a wide spectrum of educational provision including mainstream schools, special schools, specialist units attached to mainstream schools and residential provision.

Recommendation: The child's needs should be the starting point for identifying what type of school they should attend and the support they need in that setting.

Recommendation: Whatever the setting, educational provision for children with autism needs to be appropriately resourced and teachers need relevant expertise.

SPECIALIST SUPPORT FOR CHILDREN WITH AUTISM

Recommendation: Development of partnership working between mainstream and special schools.

Recommendation: Assess and plan to reduce the barriers to partnership working experienced by independent special schools, so that they can share valuable skills and expertise.

Recommendation: School placements should be based on the individual child's strengths and need, and these may change over time. The principle of inclusion should not take precedence over a child's best interests.

Recommendation: The presumption for mainstream should not be used to reduce access to special school placements for younger children which may aid inclusion in the long term.

Recommendation: Funding needs to be retained centrally by LEAs to provide autism specialist support and advisory services to schools.

PROVISION FOR PUPILS WITH AUTISM IN MAINSTREAM SCHOOLS

Recommendation: As approximately 90% of children are currently educated in mainstream schools it is vital that schools have the necessary resources and expertise to support them.

Recommendation: The NAS is calling for renewed government commitment to delivering its SEN Strategy, *Removing barriers to achievement*.

Recommendation: DfES to review implementation and promote the use of the Autistic Spectrum Disorders: Good Practice Guidance (DfES: 2002).

TRAINING

Recommendation: Initial teacher training to include training in autistic spectrum disorders to enable teachers to recognise the alerting signals of a possible developmental disorder, support children with ASD and know when to seek specialist advice.

Recommendation: Continued professional development in autism to enable teachers to address skills gaps and gain develop more specialist skills and knowledge.

Recommendation: DfES to identify core competencies in autism training for all professionals working with children.

Recommendation: Schools to be supported to adopt a school-wide approach to autism awareness training.

RESEARCH

Recommendation: Funding for research into educational and behavioural interventions for children with autism.

Recommendation: Establish networks for the monitoring and distribution of autism research activity, to identify needs for future research and to promote evidence based policy and practice at national, local and school level.

Recommendation: Better dissemination of information and research activity to parents to enable them to make more informed decisions, possibly through the proposed National Early Intervention Centre of Excellence.

ADMISSIONS

Recommendation: Forthcoming Education Bill to protect access to appropriate school transport services for children with SEN and/or disabilities.

Recommendation: Expanding school control over admissions policy must be supported by strong monitoring and accountability framework to ensure that children with autism are not disadvantaged.

EXCLUSIONS

Recommendation: Promote understanding of Disability Discrimination Act (2005) (1995) to seek to reduce high level of informal exclusions of pupils with autism.

Recommendation: Training in autism and behaviour management for all school staff.

Recommendation: Development of LEA support services and partnership working with autism-specific schools and units, to enable schools to access specialist advice and training in managing challenging behaviour.

Recommendation: Schools should be guided to review child's support needs before taking disciplinary action, and where appropriate initiate statutory assessment.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

Recommendation: Review and strengthen accountability for children's progress, provision and outcomes, particularly as the school improvement process moves towards the use of school improvement partners.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS

Recommendation: Implementation of DfES guidance on the Management of SEN expenditure to be rolled out and monitored.

Recommendation: Avoid using the level of statementing as an indicator of good practice, to ensure LEAs identify reduced statement as an outcome of good practice and parental confidence rather than as an input.

Recommendation: Maintain access to an equitable statutory assessment process, so that children with complex needs can access resources in a delegated system.

Recommendation: Develop clear accountability framework at LEA level, so parents are not passed from school to LEA.

Recommendation: Develop clear accountability framework at school level for provision, progress and outcomes.

Recommendation: Government to review cases where implementation of Tribunal orders exceed statutory timescales and identify patterns of non-implementation; investigate instances of last-minute settlements by LEAs.

Recommendation: The forthcoming Courts and Tribunals Bill needs to address the experiences of parents at the SEN and Disability Tribunal, particularly around non-implementation of Tribunal decisions.

ACCESS TO SPEECH AND LANGUAGE THERAPY AND OTHER PROFESSIONAL SUPPORT

Recommendation: Government to resource and inspect implementation of the standards on speech and language therapy in the *National service framework for children, young people and maternity services* standard 8.

Recommendation: Restructuring of the assessment process so that professional reports are independent of local authorities.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

Recommendation: Improved access to impartial advice and advocacy services, to enable parents to participate in decisions about their children's education.

Recommendation: Re-assess the Education Act 2005 regulations to ensure that information legally required by the SEN and Disability Act 2001 continues to be provided to parents.

October 2005

Memorandum submitted by the British Dyslexia Association

INTRODUCTION TO THE BDA

The BDA is the umbrella membership organisation representing those of any age who are affected by dyslexia. They offer advice, guidance and support to parents, children and adults indeed all those affected by dyslexia, including professionals. Many of these calls highlight the difficulties some parents face when trying to access suitable provision for their dyslexic child within mainstream schools.

Working through specific projects we aim to improve participation within life long learning opportunities for dyslexic people through a variety of access points; schools, colleges, universities, private and public sector employers, prisons and young offender units etc.

The BDA identify and accredit suitable courses for professionals working in the field of dyslexia and specific learning difficulties. This service was developed at the request of teachers themselves who identified the need for improved training in dyslexia and SpLD but needed to know which courses were to be recommended. A national network of local associations and support groups themselves provide one-to-one support for families through the process of statementing.

We run a dyslexia friendly quality marking project where LEAs accredit their individual schools against a set of standards. These standards have been agreed by a BDA steering group comprised of exponents of good practice over recent years.

We run a comprehensive website with a unique dyslexia/disability friendly accessibility tool aimed at better informing those who are disadvantaged by their dyslexia. We also publish a range of facts sheets, publications, regular newsletters and an annual handbook.

We try to level the playing field for those who struggle to receive the dyslexia friendly education they require in order for them to reach their full potential at whatever level that may be.

PROVISION FOR SEN PUPILS IN MAINSTREAM SCHOOLS

The BDA is a committed champion of inclusion for those with special educational needs where ever possible. However, this service needs to be adequately resourced and provided uniformly across the country. We recognise that for some children with specific care needs, for example those with degenerative life limiting disorders, main stream schools, whilst still preferable should not be the only option on offer.

Small class size and a higher ratio of specialist trained teachers are the reason many parents select a specialist school for their child with dyslexia. The same reasoning applies to many parents of children with autistic spectrum disorders.

Until the resources for SEN within mainstream better match the need, and efforts are made to get the right skill mix amongst staff, SEN will continue to be seen as a “problem” and children with SEN will still appear to be the ones that “do not matter.” These children should have their education needs met as of right because they are children. In practice it is often delivered almost grudgingly, frequently after a personal battle by parents involving expensive solicitors and tribunals. These families often only keep going because of the individual support and advice received from charities.

TEACHER TRAINING

Good practice in SEN teaching has been shown to be effective for all. Teacher training must change to reflect this fact. This would move us towards true inclusion. Special educational needs are no longer an exception. Only by changing the starting point as per *Every Child Matters* will we truly include those with SEN. By teaching to a multi sensory model that is equally applicable to those more able students as well as those with mild to moderate SEN we can be truly inclusive.

At present the BDA accredit courses that trained teachers can undertake in order to achieve their specialist teacher status. Many of these teachers fund these courses themselves having recognised the benefits for their pupils but being unable to convince their schools of the need. They cannot acquire the funding or the time off from their full time posts to attend the course and do this as distance learning or in evenings.

AVAILABILITY OF RESOURCES AND EXPERTISE

Two key problems need addressing if inclusion within mainstream schooling is to succeed for pupils with SEN:

- SEN funding needs to be adequate and ring fenced for that purpose alone. The SEN funding stream needs to be transparent within the accounting system allowing identification of the unit cost per child with SEN at a tiered level with increases for those with higher needs. Parents should be involved with the setting of these tiers.
- Parents are often told there are “insufficient resources” with nothing to substantiate that fact. This is exacerbated by the current obscurity of SEN funding. Anecdotal statements such as “the entire SEN budget for last year went on new fencing” cannot be disproved. Transparency would help.
- Initial teacher training needs to be changed urgently if *Every Child Matters* is to be seen as more than just rhetoric. The number of children with SEN in each class is now sufficient to warrant them being considered less “special” and more mainstream. This needs to be addressed urgently.
- SENCO posts (seen as key by parents) are often part time with duties attached to the job description of an already working teacher or even head teachers.
- Parent Partnership schemes, although now provided across the country, vary in quality and staffing due to variable commitment from LEAs.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

We champion well resourced inclusion for pupils with SEN in almost all cases. However we recognise that there may be some special needs for example some life limiting and degenerative disorders where special schools could provide better care facilities than may be possible within mainstream.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN

Improving the standards of achievement for those with SEN is an important sign of a commitment to equality and inclusion. P levels and the new Ofsted requirements to review SEN in their inspection process are a positive start to the process but will need strengthening if progress is to be made long term.

The BDA is seriously concerned that within the current model unmet special educational needs lead some pupils to act out their frustration at repetitive failure by increasing disruptive behaviour and truancy.

We are equally concerned that unrecognised dyslexia may account for some of the low literacy levels in young school leavers reported by employers and also within the youth offending teams.

THE SYSTEM OF STATEMENTING

The Code of Practice and SENDA give some structure and rights to the assessment of special educational needs. Parents may not like this adversarial system but they do at least feel they have some rights on behalf of their child.

Given the battles they describe even when these “rights” legally exist, they will be hard to convince that moving away from this model could actually improve the resources for their child. Transparency and true partnership may be a catalyst.

ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILD'S EDUCATION

Many parents in touch with our helpline tell us of “their constant battle” to get the best for their children. This often starts after their first visit to school when they first identify the concerns about their child. They are too often dismissed as over anxious or over ambitious parents. Parents do have unique knowledge about their child and a true working partnership with parents requires an acknowledgement of this fact and respect in their role.

The BDA recently funded an Action Research Project at Exeter University, led by Professor Brahm Norwich looking at these issues.

It covered five LEA areas in the South West and is entitled “I am glad I did not take no for an answer.”

The BDA commend this report to the committee as part of this review.

HOW SPECIAL NEEDS ARE DEFINED

The current PLASC categories list dyslexia, dyscalculia and dyspraxia as Specific Learning Difficulties. This particular category is fairly tight but others are less defined.

We are concerned that a child with unmet special educational needs within the schooling system could end up moving to the EBSD category because of their deteriorating behaviour. Here, behaviour modification may then take greater priority than addressing their original and probably still unmet educational needs.

PROVISION FOR DIFFERENT TYPES LEVELS OF SEN INCLUDING EBSD

We feel the majority of levels of SEN including EBSD can be addressed within mainstream. It would require adequate resourcing, a wider skill mix amongst staff and possibly small group work within the main stream setting.

SENDA

This legislation is seen generally by parents as being an excellent piece of national legislation giving rights, structures and timescales that allowing transparency for parents as the assessment process moves on.

The problems start with local LEA variations in interpreting national legislation and general lack of dyslexia/SEN awareness and knowledge amongst the staff of some schools.

There is also no adequate policing of those LEAs who pay lip service to SENDA exacerbating an adversarial system that is expensive to administer in financial and emotional terms for those families involved.

Memorandum submitted by I CAN

1. INTRODUCTION

This document is I CAN's written evidence to the Parliamentary Select Committee on Education and Skills' Inquiry into Special Educational Needs. I CAN is the charity that helps children communicate. Our special focus is the children who find that hardest: children with a communication disability.

Section 2 of our evidence sets out I CAN's position on the development of communication skills for all children and young people in the UK. It highlights the special needs of children with an "invisible" communication disability—a disability that is too easily overlooked. Section 3 highlights the need for a strategic approach that will address the communication needs of all children and focus scarce resource to include those for whom this is the most difficult.

From Section 4 onwards, I CAN gives evidence on the specific topics highlighted by the Select Committee.

I CAN would welcome the opportunity to supplement this written evidence by an invitation to give oral evidence to the Select Committee.

2. COMMUNICATION: AN ESSENTIAL SKILL FOR LIFE

Communication is a foundation life skill for all children. Through speech and language children build relationships, share experiences and learn⁴⁹.

One in 10 children have a communication disability—an estimated 1.2 million children across the UK. On average, there will be three children with some form of communication disability in every primary school classroom in the UK.

Children with a communication disability have problems in one or more of these areas:

- Understanding and using words.
- Discriminating between speech sounds.
- Using words to convey meaning.
- Using and understanding language correctly in different social contexts.

Children's "invisible" problems with communication mean that they find it difficult to express themselves and develop the learning and literacy skills they need to become independent adults and thrive in a 21st century world. There is a clear relationship between this hidden disability and later literacy problems⁵⁰, and poor educational attainment at 11 and 16 years of age⁵¹.

Many children with other primary disabilities have their special educational needs compounded by communication problems. To give some examples, all children with autism have difficulties with social communication; most children with dyslexia have problems with distinguishing between speech sounds; some 60% of children with cerebral palsy have additional communication disabilities; as do a very high proportion of deaf and hard of hearing children.

Being unable to communicate effectively is deeply frustrating: well over half of the children classified as having emotional, behavioural and social difficulties (EBSD) have a communication disability too. An unaddressed communication disability often leads to behavioural problems. This strong inter-relationship is all too often overlooked. As a result, children with EBSD often fail to have their communication disability addressed, with the outcome that their frustrations continue and they become locked in a vicious, self-perpetuating cycle. Isolation and social exclusion is the frequent result.

For some, these problems can be relatively short term. Others suffer from a severe and persistent communication disability that affects them throughout their education and beyond. Without the right help, at the right time, these children will be left out and left behind. The impact of this invisible disability on children is profound. It can last a life-time and the cost to children, their families and to wider society is unacceptably high.

3. COMMUNICATION SKILL: MAKING THE DIFFERENCE NOW

I CAN believes that much more needs to be done to support children and young people to develop the communication skills vital for today's world. There needs to be a special focus on those who find this hardest: children with a communication disability.

The Basic Skills Agency reported a significant drop in the speaking and listening skills of British children⁵². In a report issued in 2002, the Agency found that 66% of primary school head teachers believe that only half of all children entering school have the communication skills they need for an effective start to learning.

⁴⁹ Silva P, Williams S—& McGee R, (1987): *A Longitudinal Study of Children with Developmental Delay at age three years; later intellectual, reading and behaviour problems*. Developmental Medicine and Child Neurology 29, 630–640.

⁵⁰ Catts, H and Kahni, A, (1999): *Language and Reading Disabilities*. (Boston: Allyn and Bacon).

⁵¹ Howlin P & Rutter M, (1987): *The consequences of language delay for other aspects of development*.

⁵² Basic Skills Agency (2002): *Summary Report of Survey into Young Children's Skills on Entry to Education*.

Early intervention can prevent children with a communication disability needing intensive and costly support throughout their lives. So can the right support, tailored to meet children's individual needs, at every stage throughout their school career.

There is evidence that many educational settings are providing good support for children with a communication disability. Recent policy and guidance has highlighted the need to address communication development for all children and offered opportunities for good practice to be developed and disseminated.

However, despite both the importance of communication for all children and the high incidence of communication disability and its impact on children's life chances, there are major gaps in effective provision. Research carried out for the Department of Education and Skills (DfES)⁵³ identifies that this is because:

- Parents and professionals working with children are insufficiently aware of the importance of children's communication development. They also need to know how to identify and support children with this invisible disability. This is true both where problems with communication are a child's primary disability and where communication disabilities compound special educational needs created by associated disabilities from other causes.
- The skills and resources available on the ground are still too limited and variable to address children's needs consistently.

I CAN is calling for a three-pronged strategic programme to foster children's communication development at all levels within the education system:

Action 1. A national delivery model must be developed and implemented across all schools and educational settings in the UK to actively support children's speech and language development and, at the same time, successfully include those with a communication disability. This will require:

1.a Standards for all educational settings need to be set by the DfES. These then need to be implemented using a range of tools, including a programme of advice for all educational and child care settings on how to achieve the standards. Auditing would take place through existing inspection channels. These standards should be developed at three levels, so that early years, schools and further education settings are able to meet a wide range of needs at the appropriate level:

- Level One "Universal"—These settings will have the resources and staff with skills and knowledge to support all children's communication development, linking with existing speaking and listening curriculum areas. They will also be able to identify those with a disability and access adequate support from other professionals, such as educational psychologists and speech and language therapists.
- Level Two "Enhanced"—These settings will be additionally resourced with staff whose skills and knowledge provide an inclusive environment for children with a moderate disability, in collaboration with local experts, as well as supporting all children.
- Level Three "Specialist"—These settings will deliver a collaborative service, provided by teachers and speech and language therapists, for children with a severe and complex communication disability.

All settings should achieve Level One; designated and additionally resourced settings in each Children's Trust area should achieve Level Two; and specialist/regional provisions should achieve Level Three. The aim is to create "communication friendly" schools and settings for all children and regional centres that are able to support children with the most complex needs. Flexible pathways between settings should be created for children with a communication disability to give them timely and appropriate support. This may include part time or temporary placement in specialist provision to meet their very specific needs. A more substantial regulatory framework needs to be put in place to enable dual registration of pupils to take place more easily to facilitate flexible placements.

1.b Teachers, teaching assistants and early years professionals need to be given the tools, particularly the skills and knowledge, to become proficient in developing provision at each of the three levels described above. Specified levels of training in communication development must be achieved by teaching staff within the first three years of practice. This would have the significant advantage of linking to and strengthening the existing speaking and listening curriculum for all children. Health staff, particularly speech and language therapists, also need to undergo training so that they are able to work collaboratively with teaching staff to deliver this service.

1.c New workforce arrangements need to prioritise and enable collaborative working between educational and health staff so that they can jointly develop, plan and deliver services for children with a communication disability. There should be planned periods for health and educational practitioners to network and train together in order to share skills and knowledge of best practice.

⁵³ Law et al, 2000: *Provision for Children with Speech and Language Needs in England and Wales*. DfEE Research.

1.d Specialist provisions, particularly Non-Maintained Special Schools (NMSS) should be given the resources and mechanisms through which to share their expertise and good practice with others, particularly mainstream schools. The following changes are needed to make this happen:

- National strategic mapping of special school provision against need is required to enable NMSS to become an integral part of the full, national range of provision for specific groups of SEN children.
- Information on the range of available resources by SEN type needs to be made accessible on a national database.
- Funding and a clear policy drive are required to enable the development of productive partnerships between mainstream and special schools. This requires improved targeting of existing resources, rather than the deployment of additional resources.

NMSS are centres of rare skills and scarce expertise, as well as being major providers for the groups of SEN children that they serve. As such, they are an important national educational resource. They must be recognised as such, and included appropriately within local, regional and national strategic plans. Without sustainable funding sources, and high level policy backing, they will wither on the vine and their unique expertise will be lost.

Action 2: A national strategy must be developed to ensure that all families have access to appropriate and timely information and advice on supporting children's communication development and accessing help for those with disabilities. To achieve this, there is a need to:

- Audit information services, to identify and shore up gaps in provision. Standards need to be set and audited regularly to ensure on-going development and performance of services. Existing sources of evidence can be utilised to carry out this exercise through information services such as Parent Partnerships.
- Proactively promote services to all parents, particularly targeting new parents and those at most risk.
- Train key, front-line educational and health staff to support families in this area-of children's development and on how to access help for children with a disability.

Families play a pivotal role in the development of their children's communication skills. All too often, they are not fully supported to do this well. As a result many lack the knowledge, skills and confidence to help their children develop to their full potential. Without timely support, parents can miss the early signs of a communication disability and then find it difficult to access the support and advice vital to ensuring adequate support.

As for many other SEN groups, accessing the right kind of educational provision for children with special needs can be extremely problematic. Families of children with a communication disability experience special difficulties in accessing the right kind of advice, help and provision at points of transition, for example when their children start school and at primary/secondary transfer.

Action 3: A radical review of the statementing process with the aim of:

- developing equality of entitlement and provision for all children with SEN, not just those with statements;
- reducing the current costly, cumbersome and time consuming statementing process, which would release funds and staff to better support SEN children. The inflexible and confrontational positions encouraged by the tribunal process results in damaged relationships, a prolonged process of negotiation and an on-going leeching of funds and resources ultimately to the detriment of all concerned;
- promoting contractual arrangements between partner agencies, rather than issuing statements; and
- ensuring joint ownership of the assessment of children's needs and the recommendations of provision by the agencies responsible for providing the services. Currently LEAs own the statementing procedure. This could be achieved within the responsibilities of the new Director of Children's Services. This would end the current unacceptable anomaly for children with communication disability whereby health services assess and make recommendations for speech and language therapy but are not bound to provide services meeting the recommendations they have made.

4. I CAN'S SPECIFIC RESPONSES TO AREAS HIGHLIGHTED BY THE SELECT COMMITTEE

4.1 *Provision for SEN pupils in "mainstream" schools: availability of resources and expertise: different models of provision*

The majority of children with a communication disability, with and without statements of SEN, are educated in mainstream schools. With an average of at least three children with a communication disability in every primary classroom, it is essential that all schools are able to support these children.

The quantity and quality of support for children with a communication disability in mainstream schools is partially dependent on whether the child has a statement. This does not depend on severity of disability/needs but on where the child lives, the school attended and the approach of parents.

Schools which have an appropriate framework and trained staff could provide the day-to-day support for children with a mild to moderate communication disability. This would free up specialist speech and language therapists to prioritise their work and focus on children with more severe and complex disabilities, as outlined in Action 1 of Section 3 of I CAN's evidence to the Select Committee (see pages 4–6).

Children with communication disability who attended appropriately inclusive schools would not be dependent on holding a statement in order to have their needs met. Equipping schools to provide support for children with a communication disability will have the additional benefit of promoting the communication development of all children, an area of increasing concern.

Mainstream schools could offer appropriate support for children with a communication disability by benefiting from the good practice currently demonstrated in other settings. This would be achieved through the development and implementation of the standards frameworks and staff training, described in Action 1 of Section 3.

This would provide a tiered system of support, enabling children to remain in mainstream, where possible, and/or to be placed in a more specialist setting that offers a greater degree of environmental adaptation and more specialist and intensive support for some or all of their education, if required.

There are examples of good practice in the inclusion of children with a communication disability. I CAN works with LEAs, early years settings and schools to develop and replicate good practice through consultancy, advisory work and standard setting. We also provide training and information to disseminate good practice more widely. I CAN is keen to work in partnership with government and non-government organisations to develop these standards as part of a national, cohesive strategy to meet the communication needs of all children.

4.2 *Provision for SEN pupils in Special Schools*

To support children with a severe and complex communication disability, schools and early years settings need to demonstrate the following features in their practice:

- high staff/pupil ratios;
- staff with appropriately high levels of training and expertise;
- highly collaborative work between education and health professionals;
- the systematic use of augmentative communication including signs, symbols and IT-based systems; and
- skills in behaviour management.

These features are currently more widely available in special than mainstream schools. Some children with a communication disability, therefore, need to attend a special school that is able to provide this highly specialist and intensive support in an adapted environment, for some or all of their education.

Many special schools, which provide for specific sub-groups of children with SEN, are in the Non-Maintained Special Schools (NMSS) and independent sectors. NMSS provide for children where there is a gap in maintained provision. Specialist provisions, particularly NMSS, need to be given the resources and mechanisms through which to share their expertise and good practice with others, particularly mainstream schools. It is becoming increasingly difficult for NMSS to innovate and develop in line with national policy because nearly all funding systems are directed at maintained schools. One important example is that NMSS are currently excluded from capital funding programmes, such as *Building Schools for the Future*.

4.3 *Raising standards of achievement for SEN pupils*

Examples of good practice in supporting pupils with a communication disability do exist. This support, including the provision of outreach from special to mainstream schools, needs to be standardised nationally in order to follow through appropriately on the Government's policy commitments given in *Removing Barriers to Achievement*.

There is very little evidence available with which to compare the achievement or inclusion of children with SEN in different schools or sectors (mainstream or special)⁵⁴. In order to compare achievement levels in different settings, data needs to be collected on SEN type and severity, age, sex, ethnicity and location. Comparison is further confounded because the results for pupils with SEN at mainstream schools are buried within the results of mixed cohorts. Evidence from special schools regarding pupil attainment is still limited, despite the introduction of PLASC and P scale benchmarking. This issue deserves review.

When evaluating the effectiveness of inclusion, two areas need to be reviewed in addition to individual pupils' outcomes:

- the financial cost and the difficulties experienced by other agencies providing peripatetic assessment, learning and support staff, speech and language therapists and occupational therapists in servicing a more widely dispersed SEN population; and
- the resources needed by mainstream schools to manage large cohorts of SEN pupils in schools to deliver an appropriate standard of service to all pupils.

4.4 *The system of statements of need for SEN pupils ("the statementing process")*

The statementing process should be reviewed with the aim of:

- Developing equality of entitlement and provision for all children with SEN, not just those with statements. Inequality has arisen because the responsibility of both schools and LEAs to meet the needs of statemented children significantly limits flexibility in providing for those without statements. For example, 69% of the £3.6 billion 2002 SEN budget for England and Wales was spent on the 15% of children with SEN who had statements. The severity of a communication disability required to trigger a statement varies hugely between geographical areas, and between individual schools. The proportion of children with statements varies five fold between LEAs.

Children with very similar communication disabilities and SEN are receiving very different levels and types of support. Support depends on where children live, the school attended and the tenacity with which parents seek enhanced provision. This situation amounts to a postcode lottery. As such it is both unacceptable and untenable in a society committed to equality of opportunity.

- Reducing the current costly, cumbersome and time consuming statementing process, which would release funds and staff to better support SEN children. The sums involved in the current statementing process are large. In addition town average cost in the region of £3,000 for each child statemented, there is the cost of the tribunal process which was over £6 million in 2003–04. The emotional cost of the process to families is less quantifiable but no less concerning.

In addition to being expensive, the statementing process is unacceptably slow for children who rely on it to have their needs met. Timely and early intervention is critical for children with a communication disability, if they are not to develop secondary educational and behavioural difficulties.

- Developing a collaborative service that places the child and family at the centre. The statementing process is currently managed by LEAs. This situation creates real problems for children with a communication disability, who need significant, well integrated support from health professionals as well as education. As a result, critical support stipulated in a statement is frequently unforthcoming because the agency responsible for it is not obliged to meet the statement's recommendations. This is a source of enormous frustration and distress for the families of children with a communication disability. It means that significant disabilities go unaddressed or fail to be met at the right time for the individual child's development.

I CAN believes it is finally time to review this process in order to provide timely and appropriate services to meet children's needs and secure equality of opportunity.

4.5 *The role of parents in decisions about their children's education*

I CAN supports advocacy and information services that enable all parents and carers to become well informed about educational provision and the choices they make with and for their children.

I CAN acknowledges the improvements to parent: empowerment that have arisen as a result of the 1981 Education Act (now SENDA), the continued growth of Portage and other specialist support for children with disabilities, the development of parents' groups, the Code of Practice for SEN, the development of Parent Partnership Schemes and the development of a host of recent programmes such as Early Support Pilot Partnership and the Parenting Fund.

Families of children with SEN should have a "menu" of options for school placement equivalent to that available to other families. Equal opportunity principles should apply: access to the right provision should not depend on where children live or on the persistence and tenacity of individual families in accessing the help their children need.

⁵⁴ Farrel *et al*, 2004 *Inclusion and Pupil Achievement* Newcastle and Ofsted publications.

To help, I CAN recommends that more information and resources are made available and promoted proactively to families, particularly targeting new parents and those at most risk. I CAN also recommends that educational and health staff are trained to support families in this area of children's development and on how to access help for children with a disability.

4.6 How special educational needs are defined

The Code of Practice blocks SEN into four broad bands. However, the criteria for differentiating between the bands of specific needs are insufficiently defined. This results in LEAs and other agencies defining needs differently. It is particularly true of communication disability where diagnoses of speech and language needs, autistic spectrum disorders and attention deficit disorders (ADHD) are inconsistent. There is no national moderation of SEN categorisation. Clear categorisation is essential if it is to be used as a basis for allocation of funds and comparison of the effectiveness of different provision.

4.7 Provision for different types and levels of SEN, including emotional, behavioral and social difficulties (EBSD)

In order that they can realise their individual potential, and take full and active roles in their communities throughout their lives, I CAN believes that children with a communication disability are entitled to:

- educational provision which allows full access to the whole of school life, including the curriculum; and
- appropriate support to develop their communication skills.

There is a lack of sustainable funding available to ensure that initiatives, that are proven to work for children with a communication disability, are disseminated and adopted on a wider scale. The proposed consolidated grant system will not address this problem adequately.

There are many different models for meeting the needs of children with a communication disability. A national bank of knowledge is needed about the full range of resources available within LEAs and their schools; its costs, admission criteria, monitoring arrangements, partnership arrangements and outcomes.

Removing Barriers to Achievement and subsequent work require special schools to share expertise with mainstream schools, especially via outreach models. Partnerships of this kind are much needed, but there are a number of issues to be addressed:

- Outreach work needs to be built into the LEA/Children's Services and wider Local Authority strategic plans so it can be focused and fit for purpose rather than *ad hoc*.
- Schools (especially in the primary sector) make limited use of the option of out-sourcing specialist support for children with a communication disability. This means that many children do not receive the help they need at the right stage in their development.
- Special schools are mostly small with restricted and inflexible staffing structures (defined by circular 11/90). Successful development of outreach and sharing of good practice is dependent on special schools releasing their effective teachers, which is often not possible within current structures, without additional funding for outreach and training programmes.
- Including children with EBSD presents a great challenge to many schools. There is a well documented link between communication disability and secondary EBSD, which argues strongly for the provision of appropriate support for children with a communication disability in whatever school they are placed.

4.8 The legislative framework for SEN provision and the effects of the Disability Act 2001, which extended the Disability Discrimination Act to education

I CAN welcomed the legislation which established the right of children to attend mainstream schools and embraces the theme of "removing barriers" which would hinder children's participation in wider society. Many pupils with SEN could benefit from dual placement in a special and mainstream school. However, the development of dual placement as a widespread option is hobbled by lack of clarity about dual registration. I CAN believes that this problem needs to be urgently addressed.

Teachers and teaching assistants are insufficiently trained to support children with a communication disability. National standards and appropriate related training are required to address this.

Schools' accessibility plans currently concentrate on accommodation. While access to buildings is essential, more should be done to emphasise wider issues of children's and families' access to information, curriculum entitlement, appropriate specialist support and social programmes.

The framework needs to harmonise with the government's *Every Child Matters: Change for Children* agenda, both in requiring joined-up, multi-agency working, at strategic and operational levels, and in delivering unified, universal, targeted and specialist services. Now is therefore an ideal moment to move away from the notion of a separate SEN pedagogy and towards one that is inclusive for all children, as outlined in Action 1 of Section 3 of I CAN's evidence to the Select Committee (see pages 4–6).

4.9 *I CAN—the charity that helps children communicate*

I CAN exists to help children communicate. Our special focus is the children who find this hard: children with a communication disability.

We are ambitious for children with a communication disability and impatient for improvements in services that will enable them to achieve their potential. The charity is seeking to use its experience, expertise and resources to break down the barriers for children with a communication disability and leverage substantial improvements in services for tens of thousands of children across the UK.

I CAN provides a combination of specialist therapy and education for children with the most severe and complex disabilities, information for parents and training and advice for teachers and other professionals. We also work to ensure that the needs of these children are taken into account in all children's policy and carry out research to find the best ways to support these children.

The charity has pioneered provision in mainstream education and has developed a range of initiatives to share its experience and expertise with other providers. For example, I CAN runs the Early Talk programme that aims to help pre-school children develop the communication skills they need and to identify and support those with a communication disability. Through this programme, I CAN will be working in partnership with up to 56 LEAs, Children's Trusts and NHS Trusts to help at least 54,000 pre-school children with a communication disability.

I CAN also runs two special schools for children with a severe and complex communication disability. We are continuing the development of our special schools into specialist centres. We were delighted that the *Report of the Special Schools Working Group* reflected I CAN's vision for its special schools by recommending that they should:

- continue to provide high quality education and care for pupils with complex difficulties;
- work in partnership with others to meet the needs of these pupils in an holistic way;
- innovate and develop different ways of providing for pupils and facilitate their inclusion into the mainstream;
- act as centres of excellence providing advice and training for others, carrying out research and developing and sharing models of best practice; and
- play an active role in the wider educational agenda.

September 2005

Memorandum submitted by Mencap

1. INTRODUCTION

1.1 Mencap welcomes this opportunity to contribute to this inquiry.

1.2 Through our 13,512 members and 756 affiliated and associated groups and the learning disability helpline, Mencap has substantial contact with parents and carers who are seeking the most appropriate and highest quality of education for their child.

1.3 Mencap is the leading UK charity working with people with a learning disability, their parents and carers. We aim to ensure that people with a learning disability have equal access to choice, opportunity and respect.

1.4 Approximately 2.8% of all pupils have a learning disability. Approximately 40% of pupils with statements of SEN have a learning disability. There are varying degrees of learning disability, from moderate learning disability and severe learning disability to profound and multiple learning disability. The needs of a child will vary greatly depending upon their learning disability.

1.5 Mencap supports *Removing Barriers to Achievement*, the Government's strategy for SEN, but is concerned that local authorities are not delivering the strategy how it is intended.

1.6 Mencap supports the concept of inclusive education, which means that every child should have access to education appropriate to their needs and potential. Access in Mencap's view means a relevant and suitable curriculum delivered by staff with high quality teaching skills.

1.7 Mencap's view is that all children with a learning disability should receive an education of the highest quality that enables them to be a full member of their school and local community.

1.8 Parents should have the choice as to where this education is provided, in a mainstream school or in a special school.

1.9 As an active member of the Special Educational Consortium, Mencap is working to ensure that there is appropriate provision and a high quality of education for all children with SEN.

1.10 As a member of the Early Childhood Forum, Mencap supports their call for the Select Committee to examine early years provision for children with special educational needs.

2. PROVISION FOR SEN PUPILS IN “MAINSTREAM” SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF EXPERTISE

2.1 At the primary stage of education, for many parents of children with a moderate learning disability a local mainstream school would be their first choice. Although some local authorities are able to successfully include children with a moderate learning disability in a mainstream school, in too many other authorities parents have no confidence in the quality of provision.

2.2 Mainstream schools often lack experienced and qualified teachers so children with a learning disability who attend mainstream school are taught almost entirely by teaching assistants.

2.3 Parents of children with a severe learning disability are often not offered the choice of a mainstream school.

2.4 Parents of children with a learning disability have told Mencap that mainstream schools are not often able to include children with profound and multiple learning disabilities or children with complex health needs. Children with complex health needs are often excluded because staff are either not trained in health procedures or are reluctant to administer medicine, which leaves many children at risk of exclusion.

Jess, who is eight, attends her local mainstream primary school where she receives a high quality of education and has a curriculum that is appropriate for her needs. Jess has a learning, disability and extremely complex health needs, which means that when she attends school, she needs to have a nurse with her at all times. Unfortunately, a nurse is not available to go to school with Jess every day, which means that Jess is not able to go to school, when there is no nurse there to support her.

2.5 When parents, who feel that their local mainstream primary school is unable to provide the quality of education that their child needs, they opt for a special school. This is often not an option of first choice but an option of last resort.

2.6 For parents of children with a learning disability who are attending secondary schooling, the choice of school narrows drastically. Bullying in secondary schools is causing significant numbers of children with a moderate learning disability to move out of mainstream and into special schools by Year 9. This is not through choice but because they are a place of refuge. This can have an extremely damaging impact on the self-esteem of the young person with a learning disability. Robust anti bullying strategies need to be in place so that mainstream schools can address this discrimination faced by children with a learning disability.

2.7 Mencap recommends that there needs to be more specialist teachers and better qualified teaching assistants who should expect to teach children with a learning disability. This would ensure that all schools would be able to provide a high quality of education for all pupils, which in turn would increase parental confidence in choosing a mainstream school for their child with a learning disability.

3. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

3.1 At present special schools play a vital role within the overall spectrum of education provision for children with a learning disability and especially for children with a severe or profound learning disability.

3.2 In January 2005 there were approximately 88,000 children attending a special school and 1,122 special schools in England.

3.3 Special schools are essential, for the foreseeable future, to meet the needs of most children with profound and multiple learning disabilities.

3.4 There are many special schools which provide a high quality of education for their pupils, but this is not the case for all special schools. Ofsted have reported that in December 2003, there were 22 special schools in special measures. It is important that all special schools are provided with the support they require, from both national and local government, to provide a high quality of education.

3.5 Currently, many special schools feel uncertain about their future role and this has a knock on effect for parents who worry that their child’s school may not be available in the future while the mainstream alternative remains a poor substitute.

3.6 *Mencap recommends* that special schools should be supported by both national and local government to provide high quality education and to increasingly share their expertise with mainstream schools through joint training and shared appointments.

4. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

4.1 In mainstream schools there is a strong focus on academic achievement. For children with a learning disability, this is not always an appropriate measurement of achievement. For many children with a learning disability they are unlikely to be able to sit GCSE's but their ability is greater than that which is recorded by P-scales. (P- scales are an assessment criteria to measure the progress of pupils aged five to 16 who are working below level one of the national curriculum). For children with a learning disability who fall into this group, there is no way of measuring their achievement.

4.2 Parents have told Mencap that currently few mainstream schools place enough focus on both life and social skills, because of pressure to do well in league tables. More emphasis needs to be placed on life and social skills.

4.3 Children with a learning disability often have an Individual Education Plan (IEP) to ensure that they continue to progress and achieve. Parental experience of IEPs shows that often IEPs are not always effective. This is because often teachers do not have the full competence to write IEPs and parents are often not fully involved in the writing of the IEP. This can result in inappropriate targets being set in IEPs. The overall impact of this is that if a child with a learning disability has a badly written IEP, this will have an impact on their level of achievement.

4.4 *Mencap recommends* that ways to record progress and achievement for children with a learning disability in mainstream schools are developed.

4.5 *Mencap recommends* that schools ensure that their focus is not solely on academic achievement but also ensures that children with a learning disability are receiving education that is suitable to their needs and focus on other achievements such as life and social skills.

4.6 *Mencap recommends* that all teachers in both mainstream and special schools receive appropriate training to ensure they can competently write an IEP that is appropriate for the individual child.

5. CONCLUSION

5.1 Mencap recommends that commitment is given both by national and local government, to improve the quality of education for all children with a learning disability.

5.2 The quality of education can be improved by:

- increasing the number of specialist teachers;
- for teachers assistants to be better qualified;
- for national and local government to provide support to special schools;
- for special schools to share their expertise with mainstream schools through joint training and shared appointments;
- that ways to record progress and achievement for children with a learning disability in mainstream schools are developed;
- that schools ensure that their focus is not solely on academic achievement but also focuses on other achievements such as life and social skills; and
- that all teachers in both mainstream and special schools receive appropriate training to ensure they can competently write an IEP.

5.3 Once the quality of education has been raised this will provide parents with a true choice to make over which school their child will attend. In too many parts of the country parents have had their choice curtailed by the lack of readiness of schools to meet the needs of children with a learning disability.

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Witnesses: Mr Mike Collins, National Autistic Society, Dr Susan Tresman (Visiting Professor), British Dyslexia Association, Ms Virginia Beardshaw, I CAN, and Mr David Congdon, Mencap, gave evidence.

Q616 Chairman: Can I welcome Mike Collins, Susan Tresman, Virginia Beardshaw and David Congdon. Can I start with an apology. So many people want to give evidence to this Committee on these hearings that we do have to cram a lot of you in, I am awfully sorry about that, and on a Wednesday we then start budging right into Prime Minister's Questions, so you do get squeezed, apologies. It is going to be pretty much rapid fire and rapid response, is that all right? I am sorry about that. Starting with David, tell me which is your organisation and why you have asked to give evidence.

Mr Congdon: David Congdon, Head of Campaigns and Policy at Mencap. We have a long history of campaigning in the field of equal rights for people with a learning disability. We wanted the opportunity to get our message across that we believe in a mixed approach to education and inclusion is the long-term goal but both mainstream and special schools have a role to play.

Ms Beardshaw: I am very pleased to be giving evidence to the Committee representing I CAN which helps children communicate. Our special focus is children who find that extremely difficult, children with communication disabilities. Having a communication disability means you have got problems in using and understanding words, discriminating between speech sounds, using words to convey meanings or using language in a social context. An important point here is that many children have speech and language difficulties as a primary disability but this is a pan-disability issue because many children who have disabilities, like Down's, autism, dyslexia, have an element of communication disability which has a knock-on effect on their learning and literacy capacity and also on their behaviour. Behavioural difficulties in many, many, many instances have a communication route.

Mr Collins: Mike Collins, Head of Education with the National Autistic Society. We have over 14,000 members. We have a variety and a range of services for parents, including advocacy, supporting them to tribunal and so forth. Also we work with local education authorities at a strategic level in developing specialist provision within authorities and directly with teachers through training. In the last year we trained over 5,000 teachers in responding to the needs of children with autism in mainstream schools.

Dr Tresman: The British Dyslexia Association is the leading membership organisation representing those with dyslexia and those who support people with dyslexia. The membership spans individuals, organisations, support groups and an extensive network of local charities, small charities. The national helpline and the website take in excess of tens of thousands and a million hits respectively and that is free and confidential advice at the point of service.

Chairman: Thank you. I hope my team has noticed the self-denying ordinance of the Chairman.

Q617 Mr Chaytor: Could I ask about the question of what might be called the invisible disabilities, in particular the scale of these and the question of how

good are we at recognising them and responding to them. How many children are identified at the primary phase of education? Maybe, Mike, if you could kick off from the Autistic Society's point of view. Our interest is in the emergence of autistic spectrum disorders as a serious area of concern over recent years.

Mr Collins: When I was nine years old the boy at the desk next to mine actually had Asperger's syndrome but we did not know anything about it at the time. He went on to the grammar school and I went to the secondary modern, which says something. There are particular groups across the autistic spectrum that are beginning to emerge. The classic Kanner type child, very obvious with socio-learning difficulties, may well also have Down's syndrome and so on. The invisible children in the autistic spectrum have been the Asperger's, those who appear odd, eccentric and so on in their school careers and perhaps have been subject to bullying throughout their school careers and felt quite socially isolated. The other group that concerns me greatly from my work with authorities in our own school are those children with autism who exhibit very passive behaviours; if you do not engage with them, they do not engage with you. From the point of view of teachers both in special schools and mainstreams these children are no trouble and they can be often overlooked and their needs are not met. This is the group that particularly concerns me and I know increasingly concerns teachers.

Q618 Mr Chaytor: In terms of the identification of needs, what needs to be done to improve the early identification?

Mr Collins: The key is training. Children's services and diagnostic services are now much more aware. There are national standards and instruments and so on which will assess children. The key is the interpretation of that information, what is the impact of the condition on the child and, therefore, how do we need to respond to that condition to give them every chance of success. Whilst health professionals—there are still a few—are getting better at that, where the next tranche of major training needs to be placed is for teachers, particularly those in mainstream. Primary schools are beginning to get there but some children are not picked up until nine, 10 or even later and they suddenly arrive at secondary school and their world collapses. The key there is training, particularly for SENCOs because usually they are the first line of contact teachers with concerns about children.

Q619 Mr Chaytor: What is your estimate of the total number of children with Aspergers, particularly the proportion of those who are not identified until the end of their primary school careers?

Mr Collins: Because they are not identified we cannot count them.

Q620 Mr Chaytor: They are identified later presumably.

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Mr Collins: Yes, sorry. We know there are around 90,000 children with autism across the education service. We know that those who are identified make up 14% of those with statement who are on School Action Plus, so those are being picked up, but in terms of responding to their needs we also know that there are only 7,500, I think it is, specialist—that is the difference, not special but specialist—places for these children who are often in mainstream schools through either resource bases that children can access for various times and so on, or they may be within special schools or specialist schools.

Q621 Mr Chaytor: Could I ask Virginia about the question of communication difficulties and the link with behavioural problems and ultimately exclusion. Is there a strong link? How should schools respond to this failure to identify children with these invisible communication problems?

Ms Beardshaw: Overall there are 1.2 million children with communication disabilities in the UK. That is three for every primary school classroom. There are problems of early intervention and I would agree that the key here is early intervention. I CAN works inclusively every year with a group of nearly 12,000 pre-school children to do just this. In the many, many parts of the country where education and health services are still not properly integrated children do fall through the net and there is conclusive evidence that links communication disabilities with behavioural disorders and it is obvious why this is so. All of us as parents know that if our children cannot express themselves they get very, very frustrated and angry and two things happen. One is that they create mayhem in one way or another, and these are children that schools find very difficult to cope with. The other is the left-out bit, they withdraw and become isolated. I CAN says our worry is for children who are left out and left behind, either left out because they cannot be coped with in the classroom or because, in a sense, they exclude themselves because they cannot understand what is going on and they cannot make their needs known.

Q622 Mr Chaytor: Is this a significant factor in the rate of exclusions?

Ms Beardshaw: Yes.

Q623 Mr Chaytor: Is that documented?

Ms Beardshaw: Yes, there is good research evidence and I can make more available to the Committee. There is quite a bit in our written evidence. Anecdotally, in April I CAN is holding a national conference on this very subject and we have got 600 practitioners beating a path to our door and we are having to turn them away. That is the degree of interest among practitioners in this link which is best dealt with by early intervention. I believe what we cannot continue to do is wait for children to fail because they have not got the expert help in the system that they need. If I may, I would underline the importance of what Elizabeth from RNIB was saying in the speech and language context. We need a system of national standards with professionals

trained appropriately to meet those standards. We outlined in our written evidence to you what we believe those national standards should be. On the point about local democracy that was made earlier, it is not democracy for children to miss out on learning and literacy and to miss out on making friends because their needs are not met by techniques and skills that we know about now, we can put in place now and we must put in place now.

Q624 Mr Chaytor: Could I just pursue that and pick up on a comment from Elizabeth Clery in the previous session because she argued that certain children have such profound needs that it is completely impossible to expect that they should follow the National Curriculum. My question is, is not really the heart of the problem why should they follow the National Curriculum? Do you think that the proposals in the Education Bill published yesterday for the changes to the curriculum will in any way help the process of inclusion for the kinds of children we are describing?

Mr Congdon: I will try and answer it but I think it is a very broad and very important question. Our stance would be—echoing some of your earlier evidence—the goal should be to try to include all children but we have an awful long way to go and we could dwell on that in further answers. There are all sorts of issues about quality of teaching and too great a dependence on teaching assistants. Taking the specific aspects of your question, we know there are a larger number of children with complex health needs entering the education system and they do pose an amazing challenge for the education system. We know that their health needs in school settings are very badly met, there is a lot of evidence on that. We have recently done quite a bit of work with the DfES and produced a guide for teachers called *Including Me* designed to deal with some of those aspects. If you cannot get the health needs right you are certainly not going to get the educational needs right. Whilst the goal should be to get more inclusion, the reality today is for a lot of those youngsters with profound and multiple learning disabilities, struggling with their health difficulties, struggling to learn, the challenge is how can you improve their education in the broadest sense but recognising you have probably got to have a differentiated curriculum for them. You have got to be realistic. Equally, we would not want to go back to the days when they were necessarily just stuck in a school miles from anywhere learning very little. You have got to be challenging. There is nothing wrong in being challenging and saying you do need to have a differentiated curriculum. The biggest overall challenge is to get schools to take their educational needs seriously. We would want to echo some of the points you heard earlier. There is a need for all schools to try to be inclusive but that should not be at the exclusion of retaining choice of special schools for parents. I think that is the biggest challenge now facing the education system and how can they deliver that.

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Dr Tresman: In terms of dyslexia, the biggest challenge to including those children who we would argue for placing in the mainstream is adequate training for their teachers. I absolutely support the line of a welcoming ethos, a socially welcoming and open environment, but I would say without access to literacy, without access for those with dyslexia and other communication difficulties to the written word, there will be no connection with learning or very limited—I was very struck by Elizabeth's comment—and without that there can be no inclusion for these children in the written world and, therefore, no access to learning. The key challenge is we have to build capacity within the system. We know what works and we know how to do it. The great benefit is what is good for learners with dyslexia is good for all children, so we are in a win-win situation.

Q625 Mr Chaytor: The sections in the Education Bill about the greater personalisation of the curriculum will be helpful in particular to children with dyslexia and communication difficulties.

Dr Tresman: They will be helpful and very powerful but only if those who are charged with facilitating those understand how to look out for children with problems caused by dyslexia or other learning difficulties and deal with them before they become a difficulty or a disability. Then those things will be very powerful.

Ms Beardshaw: That is exactly right. It is about skilling up the whole system to be able to use the techniques and the expertise that does exist but patchily, that is why you get the postcode lottery that Elizabeth referred to and we referred to in I CAN's written evidence. It is about bringing the rest up to the standards of the best, as everybody has said, and I do not think you can do that without some national standards which must revolve around the basic skills that children need to access the curriculum.

Q626 Dr Blackman-Woods: This is a follow-up question for Susan particularly. You are probably aware of the research from Durham University that I think is based on a lot of Canadian research challenging the whole notion of dyslexia and it is saying instead of putting efforts and money into the diagnostic testing and following up with resources for this particular group that, in fact, the issue is about a whole range of learning and reading difficulties across the population and what we should be doing instead is having a wider availability of reading schemes in school, more personalised learning, so that their problems are picked up much earlier. I just wonder what the opinion of your organisation is on that research because you seem to be coming to similar conclusions about the way forward.

Dr Tresman: Thank you for that question. It does offer me the opportunity to refer you to the comments raised by Lord Adonis in the Lords debate on 7 December, who I met this morning in this very building, in fact, where he was pleased to put on record the Government's unequivocal

support for the existence of dyslexia certainly as a spectrum condition but one that can be well-diagnosed. The key point to mention beyond the Durham hypothesis is that dyslexia ranges far beyond reading, so while there are many interesting and well-developed tools that will enable teachers to teach reading, along with their assistants, to a wide spectrum of children, we are talking here about building capacity for a system that can spot when things are not working, can spot when phonics is not working—we would all support that as an approach to reading—when children are not able to absorb those systems because of their spectrum of learning needs. One has to have capacity in the system of skilled professionals to know how to deal with those and provide solutions. The tools alone, the reading schemes, the 12 weeks of phonics teaching, will not do that. It is very much a step in the right direction which we would support but there is the greatest consensus ever around the neurological basis of dyslexia and related learning difficulties as a condition and I think it is quite, quite unhelpful that the Durham hypothesis is put forward that really detracts energy away from where we should be concentrating our efforts, which is to build capacity in the system to deliver inclusion successfully.

Q627 Chairman: Is that because you do not like the research? It makes it easy not to like a bit of research because it goes counter to the existence of some of your work.

Dr Tresman: I think it would be fair to say in terms of the Durham episode, which is the one we are thinking of here,—

Chairman: You are talking to the MP who represents Durham, so it is going to be a sensitive area.

Q628 Dr Blackman-Woods: Can I just say I asked a very specific question which was although they are challenging the existence of dyslexia I thought you were coming to the same conclusion which is the way to tackle this is through a general availability of a wider range of reading schemes, more effort being put into how all children learn to read, to more personalised learning, and that would deal with a lot of the problems of dyslexia without having to label a separate group of children.

Dr Tresman: We are talking about matching need and, however we label it, those children who are currently labelled with dyslexia have needs which extend far beyond reading and their learning is not met by a particular reading scheme. If you look at evidence such as the Clackmannanshire study, when that phonics-based reading scheme was introduced with the children, 14% of children who worked with that scheme were not able to improve their reading comprehension, 10% could not improve their spelling, 5% could not improve their reading accuracy, so in a sense there was still a significant proportion of children who were not able to access the sorts of approaches that the Durham research is purporting to provide the solution to. If we are going for inclusion we are not including 14% of the children in terms of reading, comprehension and

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learning if we deal solely with the outcome. I think the research does not stack up in terms of that approach.

Dr Blackman-Woods: I saw it and I happen to have read a bit about the research, but their point is there are a lot of resources going into identifying dyslexia and diagnostic testing that would be better spent on the very types of reading schemes that you are suggesting and they should be available to all children from an early stage because children learn to read in different ways.

Q629 Chairman: In a sense all of you have a vested interest, do you not, and as a Select Committee we have to say we understand where you are coming from but is there not a temptation for you to exaggerate the problem of dyslexia, say, in that you will take the best survey of how many people suffer from dyslexia who are diagnosed or undiagnosed. If you were sitting in our seats you would have to take with a pinch of salt that all of you will say that the problem is rather worse than it is.

Dr Tresman: I can quite see where you are coming from and maybe offer just a couple of examples in terms of are we exaggerating this. Within our prisons, and we work extensively within our prisons, 20–25% of prisoners have undiagnosed dyslexia. That is a piece of action research that is now being reported on.

Q630 Chairman: You agree with that bit of research but you reject the Durham research because it does not help you.

Dr Tresman: I am not rejecting it. The Durham research is about learning to read and what I am saying is dyslexia is about far more than reading.

Q631 Chairman: You do understand this Committee likes to check that you are basing what you are saying on good research.

Dr Tresman: Yes. The Durham research is research about reading and the research I am referring to you is research about incidence of dyslexia in prison. For those people who have been marginalised and made vulnerable through their dyslexia that would be—

Q632 Chairman: We have done a recent inquiry into prison education where we picked that up very strongly indeed. What about the rest of the vested interests? Virginia?

Ms Beardshaw: In terms of young people and children with communication disabilities, I would like to build on the point that Susan made about building capacity for children who find communication hard, that that builds capacity that is needed for all children. There is a lot of quite worrying evidence that communication skills overall are slipping in schools. Again, all the parents in the room can think of lots of reasons why that might be true which basically come under the heading of modern life. If you have good techniques and good ways of encouraging, involving and including children for whom communication is difficult with the attendant literacy and emotional and behavioural problems that brings, you improve the

life of the whole school. It is building capacity for everybody at the same time as you are avoiding the downstream problems that Susan so ably talked about in terms of prison and real exclusion from society.

Mr Congdon: I would say our vested interest, to use your terms, Chairman, is simply to ensure that all children with a learning disability fulfil their potential in education. We are delighted at the progress that has been made over the last 20 years in having more children with a learning disability included in mainstream schools but relying on research, say the Audit Commission report, which I know has already been quoted, which talked about: “Not enough use is made by mainstream schools of the potential for adapting the curriculum and teaching methods so that pupils have suitable opportunities to improve key skills”. In other words, there is a lot more to do. Although we do not do a lot of research, we have not got the resources to do large scale research, a few years ago we commissioned a report from the University of Birmingham called *On a Wing and a Prayer* to look at the role of teaching assistants. One of the problems is in classrooms up and down the country too little responsibility is accepted by the ordinary school form teacher for the responsibility to ensure all children develop their potential and the responsibility is loaded entirely on to teaching assistants who are often untrained and not involved in planning the curriculum. The challenge is to raise the game. We see our role as trying to challenge to ensure the game is raised in education to give those children the best possible education. The final comment I would make is that most children with a moderate learning disability are in mainstream schools, which is good. Most children with a severe learning disability or a profound learning disability are in special schools. Certainly we want to see more of them have the opportunity to get involved in mainstream schools but that is going to take a long time for the reasons I alluded to earlier.

Stephen Williams: I do not think we have covered exclusion from schools as we did with the previous witnesses.

Chairman: You are free to ask anything you like.

Q633 Stephen Williams: Mike, some of the evidence that has been given to us suggests that 23% of children with autism have been excluded from school more than once, in fact, and 4% have been excluded once. Why do you think that is the case?

Q634 Mr Collins: I was going to respond to the Chairman's comment. In terms of evidence, of research, we can show it to you but we can also give you hard facts. If you look at the children who are educated directly in the six schools run by the National Autistic Society, which is just over 400 children, a significant number of them have been excluded from every form of mainstream school, and in that I include mainstream special schools as well, before they have arrived with us. The reasons why that may well be are that it is this lack of understanding and lack of capacity and, in some

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instances, lack of will and intention to look at why these children are being excluded. It tends to be because their reaction to situations is unusual in that they may panic, they may become very distressed and then engage in behaviours that are inappropriate for a mainstream school setting. The system as it currently is then excludes them and then they begin to make their journey through PRUs and wherever they end up, sometimes with us, as I say. The flipside of that is where schools are aware of the need and take the time to look at why a child might be excluded. I can think of one where the young man did not get the right plate in the dinner queue that he always had flipped completely, ended up in a brawl with the deputy headteacher and the school excluded him, but the school then worked closely with the parents and with the young man himself to go through the reasons why, so justice was seen to be done. They then recognised this was a problem they could deal with, sort out and get him back into school, which was what they did. That is the difference. You can either get on to this road to exclusion based on lack of understanding, lack of time to respond to that child's needs and understand why they have reacted in the way they have, and most of the time it is because they do not understand, they are panicking, they are anxious, they are distressed, it is not a deliberate intention on their part to cause mischief.

Q635 Stephen Williams: Are these exclusions concentrated in any particular point in the autistic spectrum or are they across the spectrum?

Mr Collins: They are across the spectrum and it might be for a child who is in a maintained special school that the level of perhaps self-injury or aggression or what appears to be aggression towards other children is at such a level that the other children are not deemed to be safe. In the mainstream settings again the ethos of secondary schools can be quite challenging for young people who are often of at least average ability and intelligence, but find the whole way in which secondary schools operate, which can often be on a very confrontational basis which children with autism do not understand, it is all to do with the empathy and so on, that they are being challenged by teachers and it passes them by. That is seen as passive, I have lost the word, but challenging the teachers' authority, so consequently they find themselves being short-term expelled and so on.

Q636 Chairman: You are all mentioning this difference between the cut-off at 11 going into secondary school and somebody mentioned that was to do with training. Is it to do with training? Are the early years' teachers better trained or is it a sense of size?

Mr Collins: It can be both. The case I gave is of an inner-city, split-site school with over 2,000 young people on the roll with very, very high achieving academic standards, yet they took the time to work with this particular individual. I think what we are finding, certainly with autism, is that over the past five or 10 years firstly children were being identified

as they entered school, so primary schools were beginning to react and respond, and specialist provision and resource units were established and outreach teams from local authorities. Those children then arrived at secondary-age education, so in a sense a number of local authorities, even though they have seen them coming, have been caught on the hop, and certainly much of the work I have been doing over the past two or three years has been working directly with secondary schools who have established, or are establishing, specialist resource bases within the main body of the school.

Q637 Stephen Williams: I would follow that up with a general point. I do not know whether the witnesses were listening to the previous evidence session, but it just seemed to me, and I hope this is not a caricature, that the witnesses who were from a more general campaigning standpoint for disability rights in general, the Disability Equality in Education Association, appeared to favour phasing out special schools, whereas those representatives who came from a specific disability or learning difficulty seemed to favour the retention of special schools. Can I just ask the witnesses whether that is reflected in this evidence session as well?

Dr Tresman: If I take primarily dyslexia and talk from that standpoint, we do believe, as an association, that for dyslexia and related perhaps dyspraxia and dyscalculia, almost all children, if the capacity was there in the system, could be educated and reach their potential in the mainstream and they could be included, but that is a very long way from where we are at the moment. I really want to pick up on comments which Elizabeth made, that, taken where we are at present, we have a fraction. We did a small piece of research with our colleagues, Extraordinary People, and 96% of teachers said they had had three hours' training or less either in their PGCE or in their three-year undergraduate teacher-training to cover all special needs, so they are desperate for additional training in order that they can remove the barriers to achievement and fulfil that agenda. Therefore, with that proviso, I would say we could meet the needs within the mainstream.

Ms Beardshaw: I CAN believe that much more can, and should, be done to include children with communication disabilities. We think there are particular problems at secondary, but also that problems emerge, and this came up in the evidence earlier, as children begin to struggle with literacy. Where those are not addressed, then you get the problems of exclusions. I would agree with Susan, that I would like to see a world, and I am working for a world, where all children can be included, but I do believe in, and support, parents who send their children to schools, like the I CAN schools and the I CAN FE college where they can get the very specialist help that they need to access the curriculum and have some hope of getting the skills to engage in 21st Century life.

Q638 Chairman: Virginia, that is all right if you come from a supportive home which would partially help with identified problems and special needs, but

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what is your research, and I have not heard this yet, though it may have been in some of the stuff you sent to us which I have not seen yet, but what is your research on which kinds of children are more prone to having these communication difficulties? You mentioned modern life. Well, is it modern life where no one talks over the dinner table? Is it modern life where nobody drags the child away from the television or ever talks to them? What sorts of homes, for example, are more prone to producing a child with dyslexia or with other communication difficulties? Do we know? Have you done that research?

Ms Beardshaw: We know a good deal about it. As for dyslexia, there is a very strong genetic base for all communication disabilities.

Q639 Chairman: It is equally spread across all social classes, dyslexia, and you have got the research to show that?

Dr Tresman: Yes.

Ms Beardshaw: In fact there is a genetic base, and I know all about that because I am one of those families, middle class, as I am sure you will see that I am.

Q640 Chairman: I would rather you were really basing it not on personal experience, but on research.

Ms Beardshaw: But, as ever with research evidence, it is a complex picture and, I am sure like Susan, I get very impatient with these class-based simplicities. There is a genetic base—

Q641 Chairman: But we are not talking about simplicities; I am asking for research. It is not simplistic to say that in every other piece of research we look at, as the Education Committee, we would like to see research to say that there is a relationship between this and social class, for example. It is not a bad question to ask, but it may be that there is none.

Ms Beardshaw: Chairman, there are two things to take into account here. One is the very strong and conclusive genetic evidence which links neurological differences in the brain with communication and other problems like dyscalculia and things Susan has been talking about. The other is a deprivation link, so, as with many, many, many conditions, there is both an environmental aspect and, if you like, a thematic aspect, and that is true in many other conditions as well.

Q642 Chairman: Is it true in autism?

Mr Collins: Yes, there is overwhelming research that shows there are genetic links in terms of autism. It is culture-free, it is society-free and people with autism all over the world are as they are, but certainly there are very strong genetic links and that is known. Thinking about what the questions were and so on, I think you are getting a consensus of view certainly in terms of inclusion and we, as an organisation, recognise, and support, the number of children in mainstream schools, but one thing that has not come through to me is the fact that a child's education is not a fixed thing. A child of five is not the same as a

child of 10 or a child of 15 and their needs may change as they move through their education. It may well be that there are times when they need very specialist support and later perhaps not.

Q643 Chairman: But that is true of every child surely.

Mr Collins: Indeed, but let me give you an example of one authority that placed a group of young children in a specialist provision with the intention of that specialist provision giving the children the skills and the strategies that they needed in terms of structure, organisation and communication forms to make sense of the world. Once those skills had been imbibed by the children, they were then able to move back into their mainstream school, go through their mainstream career and, certainly in two cases, go on to higher education very successfully, but they had that specialist input at the right time.

Chairman: That is a good point.

Q644 Jeff Ennis: My question is directed towards Mike because Mike knows I have got the Robert Ogden School, which is the biggest NAS school in the country, in my constituency, in Rotherham, and I will be going to the school again on Friday morning. What I think is very good about the Robert Ogden School is that it is very much based on, what I call, "child-centred education" and there are certain techniques used in the school, Mike, which have been especially developed. Are there any of these types of techniques which you use with the children at Robert Ogden that do not really readily lend themselves to being transferred into the mainstream setting? Obviously we are looking at whether a child should be educated in the mainstream or in a specialist school, so are there any techniques which have very difficult transferability elements?

Mr Collins: I think, given the nature of a number of the children at the school, and you yourself know, Jeff, they do have complex and challenging behaviours that manifest themselves in a physical way, they do, therefore, need a very skilful management to ensure that the child remains physically safe and that other children do and staff do also. Now, the transference of those particular sets of skills into mainstream schools will be a real challenge into the future because it is not only the way in which the child is physically managed, but it is also the environment within which they are managed, so if you are in a class of five or six youngsters and one becomes very distressed and you have experienced, trained staff in those techniques, then you can more readily resolve the difficulties that the child is having. If you are in a secondary school of 30 children and it is a science lesson and you have got an experiment going on with Bunsen burners and things, you are in a different ballgame, so I think in that sort of area it is those techniques which will not transfer. Having said that though, the underlying principles of NAS schools, what we call the "SPELL Framework"—structure, positive, empathy, low arousal and links with families and mainstream education—those can be applied to a mainstream

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school, to a mainstream classroom and for an individual child in the mainstream and they transfer very readily, and we are doing a lot of training work with teachers across the country on that.

Chairman: There is some good stuff coming out here. Are we a secret session today or are there any members of the press here today? So we have someone from *Disability Now* and someone from the De Havilland News Agency. It is interesting that the great educational press of this country, as soon as you get on to special needs, they have the attention span of a gnat! We should send a message to the education editor of the so-called great conscience, *The Guardian*—where are they this morning? It is some of the best evidence we have had. Are they here? No.

Mr Marsden: Looking at the idea of solutions and the question I have been thinking about as to what Mike and Virginia might have to say about it, I was very pleased to read in your evidence that you seem to be keen on the idea of choice. You write in your written evidence that we need to have a wide spectrum of educational provision, including mainstream special schools, specialist units attached to mainstream schools and residential provision. You go on to say that many children with autism can be supported to play a full role in mainstream schools, but some children may do better in a more inclusive experience in a specialist setting. It is so refreshing to hear commonsense in a place of so much dogma!

Chairman: That is a comment rather than a question.

Q645 Mr Marsden: Absolutely. Today we also heard though some people say that they did not want choice, they did not believe in parents having choice, or rather they said that the child should decide. How a five- or ten-year-old disabled child decides, I do not know. I rather suspect that saying a child decides is a way of saying that the expert should decide on the parents' behalf. Solution: would you consider a radical change, first of all, to the statementing process that would see the statementing made far more specific and perhaps even quantify the amount of money that the child should have to get that level of education, and, secondly, would you consider possibly giving a legal right to the parents to request and receive that share of funding? When I say "receive", I mean receive control over that share of the funding. It may certainly upset the establishment, but do you think it would help improve special educational needs for children?

Mr Collins: I happened to be a statementing officer once, so when I work with parents, that usually gets a round of boos, but yes, I do think that the system we have got overall can, could and should work. We might want to tweak with it and we might want to improve it, and it could certainly do with improvement, but, having said that, it serves a function and I think, and this goes right back to Baroness Warner, it does have the child at the centre of it, at the heart of what it is trying to do. Our challenge is to make the damned thing work basically and that is for all organisations to come together under the direction of government,

including local authorities. In terms of the second question about giving money directly to parents, I want to think about that one. The reason for that is it would be about making sure, in order for them to spend that money as wisely and in the best interests of their child as possible, that they have the information that they need as to what a range of provision was within the local authority, which I would like to think was the first choice, within their local school. I could see perhaps some arrangements where a family could work directly with their local primary or secondary school, saying, "We have this money. This is what it will buy". It would certainly get over the problem of money going out to a school and then disappearing and nobody seeming to know where it is and how it links to the child. I think there is some merit in that, but I think we need to give it some further thought.

Ms Beardshaw: On statementing, I CAN, I think, is a bit more critical of the statementing process, but we too believe that parents need rights and that is one aspect of the statementing that needs to be retained. I would recommend to the Committee a really important point which we put in our evidence about ensuring and enforcing joint ownership between education and health. Many, many I CAN parents are driven to distraction and despair by the fact that, although there are recommendations about speech and language therapy in a child's statement, they cannot be accessed because the statement is not enforceable on health. I believe that, with the changes to children's services and particularly the implementation of integration across children's trusts, we have a once-in-a-generation chance to address that, and I would recommend that to the Committee. It needs to be enforceable on all the agencies concerned. It is quite wrong to make recommendations which have budgetary impacts on other agencies and then there is no way of families enforcing that, so I am making that point very strongly.

Mr Congdon: What I really wanted to add is that we certainly do support the statementing process because it does underpin parents' rights, and I think in some of your evidence the contrast was made between rights in this field compared with the health and social care field, and I think there is an important distinction there, and retaining the rights implicit in the statement is important. I well recall, when SENDA was going through the Houses of Parliament, a lot of very strong lobbying to avoid any watering down of statements, that things in the statement had to be specific and quantifiable, and there was quite a parliamentary row, if I remember reading all the reports of that, so that is very important. The other thing is that I would like to reinforce what Virginia said about the health side. I mentioned earlier about health needs and education, and we know there is an awful lot of evidence, although parents are reluctant to come out of the woodwork and shout about it because they eventually get their sons and daughters to settle in a school, but they have a lot of heartache when their children have got health needs which are not being met, children being sent home because the school

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cannot give medication, as simple as that, or children not being able to be tube-fed. All those sorts of things are a growing problem and that is where, I think, the statements could be strengthened along the lines Virginia was saying, making that side of it as strong as the educational side of it. That would be a significant improvement and would actually help the education system to deal with the bigger cohort of children now going through education with complex health needs.

Dr Tresman: As to the first question, a qualified yes. I think the key issue would be that we have to in some way enforce a consistent interpretation and implementation of the statementing process because I think lots of the money, the £90 million, is caught up in the legislative and then tribunal kind of process where LEAs and children's services are not enforcing equally, so make that work and let us remove the postcode lottery and some of the wasted money. As to the second question, a qualified yes. I think if we could make that funding much more transparent and possibly set sort of tiered levels and amounts of money and involve parents and the children in those decisions, that would be a great step forward, so I would commend additional investigation of that.

Q646 Mr Marsden: Can I ask a couple of quick questions. First of all, I am very interested in the issue of how children with behavioural, emotional and social difficulties are dealt with in school and can I ask if you have any evidence, bearing in mind the Chairman's strictures, that issues around the transience of children, particularly children perhaps at the secondary level, have a major impact on how they behave in schools? You are nodding your head negatively, Virginia. Is that because you are not aware of any research?

Ms Beardshaw: There is no evidence.

Q647 Mr Marsden: So no research has been done on that, as far as you are aware?

Ms Beardshaw: I am not aware of research having been done on that, but I am not the right person to ask either.

Q648 Mr Marsden: Does anybody else have any experience in this area? I am raising this particularly because in my own constituency of Blackpool there is a high level of transience in schools, particularly in autism and Asperger's. It is something which has cropped up on a fairly regular basis and I was just interested if there was anything.

Mr Collins: From experience, there are some families that do move because of the services that they are or are not getting. It is true to say that some families understandably have a real difficulty in coming to terms with the diagnosis. I can think of three or four instances in my own experience and within our schools where we have worked significantly and successfully with families to return children to mainstream school and the families have gone and left because they wanted a specialist school and they have gone elsewhere and started again and we have worked with the authority to return them to

mainstream, so there are probably a range of different reasons as to why that might be within autism, but why I did not initially answer is we do not have any research on that.

Q649 Mr Marsden: Can I ask a follow-up question on that whole issue of management in mainstream schools because I was very interested in the range of answers earlier on. There seemed to be a slight implication that you might have a very different attitude towards inclusion in the primary sector than in the secondary sector. Would that be fair? I mean at the present time and I am not talking about in the ideal world, but at the present time. Would that be a fair assessment of your view?

Mr Collins: I think within primary schools the teachers tend to be more genetic across subject areas and so on and there is a greater partnership between a class of children and their teacher. When you arrive in a secondary school, you can be taught by up to 12 or more teachers in a week, so the opportunities to form and establish those sorts of relationships and understanding on both parts is not as great, so that might be one factor.

Mr Congdon: In some respects, it is very, very disappointing. I remember having a conversation with a parent recently about that very issue. She was very, very supportive of inclusion. Her son was in a mainstream primary school that was providing good education which she was delighted with. He was nine and I said, "What are you going to do at secondary level?" She said, "Well, undoubtedly I am going to get him into a special school". I said, "Well, why is that?" and, echoing some of the evidence you had earlier, there were a variety of reasons, one being one of the things that Mike was talking about, the way secondary schools operate with children charging around from lesson to lesson where, incidentally, a lot of the bullying goes on at schools at that stage. Bullying is a second point as well. Bullying of children in schools is appalling. We all know it goes on. Some schools deal with it well, some schools deal with it badly and I think, when you actually start questioning more and more parents about their children's education, the issue of bullying really comes out. For youngsters, when they have been through schools, it is undoubtedly the case that some schools handle bullying very well, and you heard an example earlier today, but it is not across all the schools. Therefore, what you have got is a situation where today in general people are much more supportive of their sons and daughters going to a mainstream primary school if they have got special educational needs and much more hostile towards secondary schools for the sorts of reasons given.

I think there are curriculum reasons and Mike might be better able to develop those better than I would be able to, but it is quite a daunting curriculum when you have gone from the comparatively more limited curriculum of primary school to secondary school, taking on some subjects for the first time. If you are a youngster who is struggling to cope with reading and writing, faced with some of the other subjects, it poses other problems and all those factors contribute towards parents being more concerned.

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Q650 Chairman: But is that not true for any child?
Mr Congdon: I think it is.

Q651 Chairman: It is a nonsense, is it not, if a child arrives in secondary education at 11 for all sorts of reasons not being able to handle the basics of communication, and it seems amazing that in so many schools they are then pushed into the curriculum which must be absolutely daunting for them rather than being given intensive help with the communication difficulties and for those views and all the experiences to be analysed and for those to be sorted before throwing them into the curriculum. Is that not just commonsense?

Mr Congdon: I am sure that is right, but I think over the years it has been proven, and I cannot quote you the research, I do apologise for that, but I have read reports in the past which have shown the poor transfer of information about children, for instance, when they go from primary to secondary school, so there is almost a starting again. You have been in that more protective environment, though that is probably not the right way to describe it because it is not always, of a primary school into what will appear to be a much more hostile environment. You are right, that schools need to focus on those sorts of things because children do go to secondary schools at vastly different levels of development. When you have got a child, say, with a severe learning disability, struggling to get some of those basics right, their problems are going to be magnified and that is why schools need to pay much more attention to it and take it seriously. I think that is the other side of it, that if schools do not value having youngsters in them with severe special educational needs, if I can use that term, then they are not going to get the quality of education and I think, sadly, too many schools are not as welcoming as they should be to youngsters with those sorts of needs.

Q652 Mr Marsden: That is very useful. You alluded earlier, Mike, to a lack of instruction of teachers and teaching assistants. Can I ask all of you, in your own capacities in your own organisations, whether you feel that (a) the Department for Education and (b) the schools with which you have had dealings are using you enough in terms of perhaps providing training or guidance manuals or instruction particularly for those teachers they are talking about?

Dr Tresman: I would say that in the very recent months we have felt we have made a breakthrough with the Department for Education in terms of recognising the need to put into the initial teacher education and into the teacher development standards a large piece of curriculum which is not optional, but that is really not yet mandatory and has to be. There has to be, I think, a radical rethink of what is in the curriculum of the initial teacher education programmes and only then can we build the capacity. It is almost less important to have the content of history or science or whatever and everything is about enabling the individual educational programmes of learning and teachers to deliver those.

Mr Collins: There are two areas. One is in terms of direct contact with teachers and providing training. In trying to respond to the need and anticipate the need, we are developing a three-day course for both primary, secondary and for those in special schools, alongside the existing courses that we provide. Those are one hits and what is also needed is ongoing support and resources for teachers, and I think to that end the Department's good practice guidance that it issued some time ago, although we spelt "autism" wrong on the cover—no matter, these are now collectors' items—and on the website as well there are examples for authorities, for individual schools and for subject teachers as to what works for children with autism, so I think that is something that is almost again for the Department to look at and really raise its profile.

Ms Beardshaw: I would like to see much more recognition of the fundamental links between communication and skills or the absence of them and learning and literacy problems and behaviour problems and with that recognition needs to go a much more sophisticated and nuanced understanding of exactly how you skill up the system. As colleagues have said, that is of course always inevitably done by teachers, learning support assistants and SENCOs who do need higher levels of understanding about the techniques that really work. Then there is a second aspect, which we have not touched on at all today, which is about getting the expertise that is in special schools actually out informing the whole network of the school system. It is absolutely true that we have got enormous expertise in the schools, but it tends still, and this is very sad, to be locked within those school walls. What again I would recommend to the Committee is a set of recommendations from you about how outreach work, dual placements and a whole range of things that are done in some places, but not others, hence the postcode lottery, can become the generality so that we can actually get the support to the children wherever they are.

Mr Congdon: I think most of our work with the Department is around things like health needs and education, bullying and things like that rather than on the curriculum *per se*. I think my message would be slightly broader than that. There are certainly some officials in the DfES who are very keen on driving forward the SEN agenda, as evidenced by the strategy barriers to achievement, which is a very good policy. The problem is lack of consistency within the Department and, bluntly, having interest across the Department. There have been examples, though I cannot remember them off the top of my head, over recent years of documents coming out not even mentioning special education and disabled children, which is incredible when actually some of the policies in place are excellent. Therefore, one of the key messages is that it needs to be embedded across all aspects of the Department's work and then it would inform all those other activities.

Chairman: Thank you for that. It has been an excellent session. I hope that, as you leave, on your way home or back to your offices, you will think about the questions which, as Virginia pointed out,

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we have not asked and we should have asked and also some of the things you might have told the Committee, but you have not, either today or in your written submissions, done so. Again make the

relationship ongoing; we want to make this as good a report as we possibly can and we can only do that by listening to the resonances out there. Thank you very much.

Supplementary memorandum submitted by I CAN

Following I CAN's evidence which I presented to the Education and Skills Select Committee as part of the Inquiry into Special Educational Needs on 1 March, I enclose, as promised, the following information:

1. Background evidence on the link between communication disability and behavioural problems.
2. Evidence of genetic and environmental factors that are important in the aetiology of communication disability:
 - Locke A, Ginsborg J and Peers I (2002) *Development and disadvantage: implications for the early years and beyond*. International Journal of Language and Communication Disorders. Vol 37, No, 3–15.
 - Viding E, Price T, Spinath F, Bishop D, Dale, P, Plomin R (2003) *Genetic and Environmental Mediation of the Relationship Between Language and Nonverbal Impairment in 4-year-old Twins*. Journal of Speech, Language and Hearing Research. Vol 46 1271–1282.

In addition, as I mentioned in my oral evidence to the Committee, I CAN's conference on 21 April will focus on the link between Communication and Behaviour. Speakers include Professor James Law, QMU Edinburgh and Dr Judy Clegg, Sheffield University. Areas of discussion include the most recent research on the strong link between children's language, emotional, social development and communication disability and examples of successful intervention with young people with behavioural emotional and social difficulties and communication disability.

March 2006

Wednesday 8 March 2006

Members present:

Mr Barry Sheerman, in the Chair

Mr Douglas Carswell
Mr David Chaytor
Mrs Nadine Dorries

Jeff Ennis
Stephen Williams
Mr Rob Wilson

Memorandum submitted by Ofsted

RESPONSE FROM

Eileen Visser HMI on behalf of the Curriculum and Dissemination Division and SEN Forum in Ofsted.

BACKGROUND

Her Majesty's Inspector's of Schools submit this evidence based on first hand observation of provision and practice for learners with SEN in schools and colleges across the sector.

KEY POINTS

1. Focus of inquiry

1.1 Ofsted welcomes this important inquiry as a contribution to taking us beyond the constraints of the current debate within the field of Learning Difficulties and Disabilities (LDD) which includes SEN and inclusion. We need to move away from developing a future based on historical issues related to place and systems, to a future focused on successful learning and social outcomes through flexible provision which ensures good value for money.

1.2 SEN is becoming more of a confusing and litigious area than ever before. We need to agree how all children and young people learn well while maintaining, and improving, the element of parental choice.

1.3 There is considerable evidence to show that learners make good progress in a range of types of provision and that neither one nor another by virtue of its type is more or less successful. If we ask the question: does the setting matter? there is an unequivocal reply of no IF certain features are always in place. The key indicator is effective and skilful leadership with the ability to apply skills and knowledge and enshrine principles into practice for all learners.

Implications:

The fundamental argument in this evidence is that:

— we need a sharper focus on outcomes;

set within a:

— very different way of defining groups of learners;

and identify clearly:

— the scope for change.

2. Pupil Achievement

2.1 There is a conflict between the language of assessment and categorisation that has given rise to the unacceptable variations of identification of need and appropriateness of provision across the country (Ref HMI 511,587,2276.) This requires urgent resolve.

2.2 Until recently there has been insufficient data available to track accurately the progress of learners with LDD. We are now in a much better position than ever before to accurately make judgements on how well learners with LDD progress using PLASC and CVA data. The efficient use of such data at school, local authority and national level gives us a new framework for rationalising provision and ensuring all learners make the maximum gains in learning irrespective of their placement.

2.3 The smaller group of learners working towards level 1 of the National Curriculum should contribute to the overall standards debate. The lack of nationally agreed moderation of P-Sales is essential to assess and report accurately for this group (Ref HMI462,751).

2.4 The exclusion of learners with LDD (SEN) from the National performance Framework (NPF) is a barrier to inclusion currently and undermines the concept of valuing all equally.

2.5 The lack of a robust analysis of attendance and exclusion data at individual pupil level fails to identify the reasons why certain groups of learners absent themselves from school.

Implications:

- Refer to progress indicators as percentage of cohorts at lower levels of achievement.
- Develop a nationally agreed moderation assessment procedure for groups of learners working towards NC level 1.
- Implement national target setting for all learners- ie those achieving below level 4.
- Ensure the NPF includes the achievements of all learners.
- Improve the trailing of links between attendance and exclusion on achievement.

3. Curriculum

3.1 The use of flexibilities at Key Stage 4 is having some profound effects on engagement and progress.

3.2 The organisation and curriculum opportunities at Key Stage 3 are less flexible.

3.3 There is a lack of consistency in the curriculum expectations at 16–19 between school and specialist college provision.

3.4 The use of individual education plans are bureaucratic and, on the whole, do not provide measurable targets to show progress in aspects of the curriculum.

3.5 The best practice in schools clearly indicates that when personalised learning is part of the culture of a whole school approach to curriculum development, the systems for assessing, planning and teaching match the needs of all pupils. This reduces the need to define learners according to categories of need.

Implications:

- Review the Key Stage 3 curriculum and the organisation arrangements in Years seven to nine.
- Continue the 14–19 reforms but look more closely at progression.
- Provide consistency in expectation for 16–19 learners at school and college.
- Develop the personalisation agenda to focus on individual targets for all.

4. Levers for change and the process of statementing

4.1 It is arguable that all parents should have rights and responsibilities that are equal irrespective of the level of difficulty or disability a child faces.

4.2 A way forward is through the ECM and Children's services agenda that brings the dimensions of children and young people's education, care, and health together through pooling of resources.

4.3 If a fresh look at the rights and responsibilities for all parents can be embedded within the five-year strategy and the change for children agenda, a consequence could bring the current SEN lobbyists into the mainstream agenda.

Implications:

- Gradually reduce the reliance on statements to provide the resources for those with the severest need with the confidence of parents.
- Free up budgets to focus on prevention and intervention at the point of need.
- Re-direct front line services, for example, Educational Psychologists, to better support schools and families through planned intervention with a child.
- Provide a more coherent approach to the use of independent and non-maintained special schools within regional provision. Underpinned by consistent inspection arrangements by bringing the inspection of independent schools with publicly funded learners under one regime.
- Provide a much closer interface between the different types of specialist provision and more effectively meet a range of needs within a flexible approach.

Memorandum submitted by the Audit Commission

SUMMARY AND RECOMMENDATIONS

Summary

1. The Audit Commission welcomes the focus of the Committee and is pleased to submit evidence to this inquiry. The issue is a very important one. The education provision for children and young people with a disability, and other vulnerable children, can be a key determinant of their quality of life and their life chances in adulthood. Around £1.5 billion per annum is spent on special education.¹ This figure does not include statemented money delegated to schools, as this is no longer analysed nationally. It is important to demonstrate that these sums are well spent and that they are delivering optimum value for our children and young people, their carers and families, and taxpayers.
2. The Commission has undertaken several national studies, and a range of local audits, into the support provided to children and young people designated as having special educational needs.
3. We, like others, continue to have concerns about the availability and consistency of support across the country. We are especially concerned about pupils with low incidence needs (such as autism and multi-sensory impairment) and those with a disability, who are potentially the most disadvantaged pupils in the educational system. The lack of suitable local provision means that the needs of some pupils may not be fully addressed, or they may have to be educated in specialist settings at a significant distance from the family home.
4. In our previous work we have identified a role for special schools in providing for more complex needs, and in sharing their specialist skills and knowledge with mainstream schools. We now intend to expand on this by examining the role, potential contribution and costs of non-maintained and independent special schools, which tend to cater for those pupils with the most complex needs. We consider this to be an important issue for local authorities, children and parents and will be producing a national report on third party placements by May 2006. Between 2002–03 and 2004–05 there has been a 43% increase in spending on these placements.

DETAILED RESPONSE

Introduction

5. In this memorandum we outline the main findings from our work in this area. To date we have produced three major national studies into the provision of services to children and young people with Special Educational Needs (SEN):

- A policy briefing on statutory assessment and statements of SEN: In Need of Review (2002).
- Special educational needs: A mainstream issue (2002).
- Services for disabled children (2003).

Statutory Assessment and Statements of SEN: In Need of Review (2002)

6. The Audit Commission policy briefing Statutory Assessment and Statements of SEN: In Need of Review in June 2002 highlighted the fact that:
 - demand for statements was rising;
 - statutory assessment was costly and bureaucratic, stressful for parents and added little value in meeting a child's needs; and
 - statements were leading to an inequitable distribution of resources, and failed to support early intervention and inclusive practice.
7. The briefing recommended how Local Education Authorities (LEAs) and schools could work better within the existing framework, including:
 - developing systems for schools to review their work on SEN and LEAs to challenge their work;
 - providing information and training so that governors can play a more active role in monitoring SEN provision;
 - expanding parent-partnership services to support more parents;
 - introducing enhanced monitoring systems;

¹ DfES tables 2004–05 (based on local authorities' Section 52 budget returns to the DfES). The figure includes: SEN Centrally retained from the School Budget (SFSS)—this includes statemented pupils, non statemented pupils with SEN, support for inclusion, inter-authority recoupment, fees for pupils in special schools or abroad, Pupil Referral Units, education out of schools and behaviour support services; and SEN Centrally retained from the LEA Budget (FSS)—this includes, inclusion and assessment, educational psychology service, monitoring of SEN, therapies and child protection services.

- introducing common definitions of need to enable comparative data on pupil outcomes to be developed; and
- developing a phased approach to delegating more SEN resources to the school level.

8. Our report also pointed to tensions within the framework:

- LEAs are responsible for arranging provision, while resources are increasingly controlled by schools;
- some children require the support of health and social services, but these agencies are only required to respond in so far as their resources and priorities allow; and
- statements place unlimited demands on limited LEA budgets.

9. We recommended that the Government establish a high-level independent review, involving all key stakeholders, in considering options for future reform.

Special Educational Needs—A Mainstream Issue (2002)

10. In November 2002, the Audit Commission published a further report *Special Educational Needs—A Mainstream Issue*. It identified great variability in how well the needs of children were being met. We found that their gender, ethnicity, family circumstances, where they lived and the school they attended, all influenced the amount, quality and type of support they received. Although more children with special needs were being educated in mainstream schools, progress towards inclusion had slowed over the last decade, and some children and young people continued to face considerable barriers to learning. These barriers included inaccessible premises, unwelcoming attitudes, shortfalls in specialist support, and exclusion from aspects of school life. We also found that children with SEN were more likely to be persistent non-attenders and to be permanently excluded. Too little was known about the educational achievement of children with SEN, or about how they fared beyond school.

11. Our report welcomed the new duties on LEAs and schools resulting from the SEN and Disability Act 2001, but pointed to the requirement for sustained investment in school facilities and staff skills, as well as an attitudinal shift. While recognising that children with severe, complex and lifelong needs would continue to benefit from special planning and support mechanisms, we argued that for many children the SEN label might no longer be necessary. The needs of these children with less complex conditions would be best addressed by focusing on mainstream practice, and in particular on how our system of education responds to diversity. Many of the report's recommendations to the Department for Education and Skills were addressed in the Government's strategy for SEN—*Removing Barriers to Achievement*.

Services for Disabled Children (2003)

12. In our report *Services for disabled children (2003)*, we found that the services that disabled children, young people and their families are offered depend largely on where they live and on how hard parents are able to push. Families often have to struggle through a maze of services to track down essential information and gain access to support. Service provision is rarely based on the priorities and needs of individual families, and what is provided is often too little and too late. In addition we found that practitioners struggle to turn innovative projects into long-term secure provision.

New study on “third party” placements

13. The Audit Commission has recently started a study of the use made by LEAs of non-maintained and independent special schools. We intend to report on its findings in 2006. An initial scoping study has identified that between 2002–03 and 2004–05 there has been a 43% increase in the expenditure on these placements. The study relates to pupils, many of whom have low incidence special educational needs, who are potentially the most disadvantaged pupils in the educational system. Analysis by the SEN regional partnerships shows that in 2004, pupils with emotional, behavioural and social needs were the largest single group in out of borough provision and also the most expensive in terms of placement costs.

14. The key issues to be investigated in this study are likely to include:

- Why are the costs of external placements increasing so quickly? The unit costs of external provision are increasing at much faster rates than other costs in education. Expenditure on low incidence special education needs may generate a considerable burden and distortion to a council's education budget and may run in parallel to pressures on the social care budget.
- Why is there such a wide variation between different LEAs' expenditure on out of authority placements? In 2004–05, there was a seventeen-fold difference in expenditure per pupil, between the highest and lowest spenders. Initial analysis indicates that high spending on external placements is not linked to lower expenditure on in-house provision.

- Why is there regional variation in the use of external provision? Nationally, 4.5% of pupils with statements are educated in non-maintained or independent special schools. However, the proportion is only 2.1% in the West Midlands region, whereas it is 6.0% in the South East and 7.2% in London. A very similar regional variation occurs in the number of appeals registered with the Special Educational Needs and Disability Tribunal. Does this reflect variation in LEA policy, variation in regional provision or variation in the ability of parents to articulate the case for more expensive provision?
 - Does the assumption of parental choice inhibit the cost effective use of resources? LEAs and tribunals must “have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure”. There is a danger that the needs of the child are given insufficient attention when balancing the twin pressures of meeting parental preferences and controlling costs. It can also be argued that the current system favours more articulate, informed and better resourced parents, with those from disadvantaged backgrounds being less likely to achieve favourable outcomes for their children. The study will examine the processes, outputs, outcomes and value for money involved in a number of the aspects in this increasingly significant area.
 - How do LEA special schools compare with non-maintained and independent schools in terms of value for money? There is little reliable information available on the relative costs of different types of provision. There is even less available information on the comparative outcomes that they achieve.
 - Why are some LEAs better than others at managing their placements budgets? Some authorities suffer perennial overspends on their placements budgets. A few high cost and unanticipated (or contested) placements of pupils with complex needs can seriously distort the budgets of small LEAs, thus draining funds away from mainstream schools. Some authorities are better than others in co-ordinating with other agencies in providing for children with multiple needs. There is also variation in the extent to which authorities monitor the progress of children they place in out-authority provision.
15. The initial scoping of this study suggests that there are four broad areas that underpin the effectiveness of performance of local authorities in the area of special educational needs:
- Strategic planning.
 - Effective arrangements for making placement decisions.
 - Active management of placements.
 - Financial management.

STRATEGIC PLANNING

- Forecasting the demand and managing the supply of places for pupils with low incidence types of special needs.
- Assessing the relative cost effectiveness of in-house versus external provision, and using this information to inform decisions about whether to provide in house provision.
- Using regional partnerships and collaborating with adjacent LEAs to ensure appropriate provision for children, young people and their families and carers in a region.

PLACEMENT DECISIONS

- Early intervention and clear policies for decision-making.
- Identifying the full costs and expected outcomes of alternative placements.
- Joint commissioning with social care and health.
- Mechanisms for assessing parents’ and children’s views.

MANAGING PLACEMENTS

- Monitoring and reviewing placements, including contract specification and measuring outcomes.
- Sharing monitoring information between LEAs.
- Managing transition into adult services.

FINANCIAL MANAGEMENT

- Budget setting and forecasting.
- Budget delegation and monitoring, and managing overspends.
- Benchmarking costs and performance.

October 2005

Memorandum submitted by the Training and Development Agency for Schools

INTRODUCTION

1. This memorandum outlines the current work of the Training and Development Agency for Schools (TDA) on special educational needs (SEN) and disability training and development initiatives for the whole school workforce.

BACKGROUND

2. The Training and Development Agency for Schools (the TDA) is an executive non-departmental public body of the Department for Education and Skills. Our purpose is to raise children's standards of achievement and promote their well-being by improving the training and development of the whole school workforce.

Strategic aims

- A. Ensure schools have an adequate supply of good-quality newly qualified teachers.
- B. Enable schools to develop the effectiveness of their support staff.
- C. Enable schools to develop the effectiveness of their teachers and keep their knowledge and skills up to date.
- D. Support schools to be effective in the management of training, development and remodelling of their workforce.

SUMMARY

3. Conventionally, the Agency's major work on special needs has been focused within initial teacher training. The Agency's recent wider remit has brought it into additional SEN work related to teacher standards and the wider workforce.

SECTION 1: INITIAL TEACHER TRAINING (ITT)

4. As part of their training courses to achieve Qualified Teacher Status (QTS) trainee teachers in initial teacher training are required to learn about the SEN expectation that will be made of them as well as how to teach pupils of different abilities and needs.

5. There are some elements within the current Standards for QTS, that relate specifically to SEN, for example:

- S2.6 New teachers understand their responsibilities under the *SEN Code Of Practice*, and know how to seek advice from specialists on less common types of special educational needs.
- S3.3.4 New teachers differentiate their teaching to meet the needs of pupils, including the more able and those with special educational needs. They may have guidance from an experienced teacher where appropriate.

6. Although not explicitly SEN focused, many of the other Standards are aimed at preparing trainees to work with all pupils, including those with SEN. These include:

- S1.1 New teachers have high expectations of all pupils; respect their social, cultural, linguistic, religious and ethnic backgrounds; and are committed to raising their educational achievement.
- S1.2 New teachers treat pupils consistently, with respect and consideration, and are concerned for their development as learners.
- S2.5 New teachers know how to use ICT effectively, both to teach their subject and to support their wider professional role.
- S3.1.4 New teachers select and prepare resources, and plan for their safe and effective organisation, taking account of pupils' interests and their language and cultural backgrounds, with the help of support staff where appropriate.

7. The Standards are supported by a handbook of guidance to help those involved in ITT to understand the aims and scope of the Standards and requirements. It also includes details of further reading and sources of information on SEN.

8. The TDA is currently working on a range of projects to equip those training to be teachers better for working with pupils with SEN and disabilities. The Agency is also engaged in work to support teacher trainers in maintaining their knowledge of effective practice in this area.

9. To support the improvement of trainees' practice in this area the TDA is:

- developing three SEN and disability focused units to be piloted in 3–4 year undergraduate primary ITT courses in 10 Higher Education Institutions (HEIs) from September 2006;
- developing an extended (four week) placement in a special school to be piloted in undergraduate primary and secondary ITT courses also from September 2006;
- producing a leaflet for all beginner teachers to direct them to a complementary web-resource detailing both trainee teachers' responsibilities regarding SEN as well as guidance, help and recommended links to further work on teaching children with SEN;
- organising ITT induction packs. Each curriculum subject area has its own website, usually run by the appropriate subject association, including materials relevant to ITT trainers. Each has been asked to include cross-curricula themes, including SEN in the context of their subject;
- producing SEN focused guidance materials and exemplars for newly qualified teachers (NQTs); and
- providing additional ITT/SEN training through collaborative projects between mainstream and special schools/units.

10. To support teacher trainers the TDA is:

- developing resources to support consistency of assessment against those QTS and induction Standards which have a SEN/inclusion element;
- developing a network of SEN and disability tutors to aid communication of effective practice between trainers; and
- launching the Teacher Training Resource Bank into which ITT development resources/materials are stored allowing ITT trainers accessing it to draw upon SEN materials from across a range of projects funded both by the TDA and other agencies.

SECTION 2: TEACHERS IN SERVICE

11. We are currently revising the standards for classroom teachers and advice on these revisions will go to the Secretary of State on 7 April 2006. The large scale consultation on the standards carried out last autumn emphasised the need to reflect issues of diversity in the new standards for classroom teachers. The current draft standards highlight the need for qualified teachers to "understand their responsibility to make effective provision for all learners and take active, practical account of the principles of quality, inclusion and diversity in their teaching."

12. Last autumn's consultation on the revision of standards for classroom teachers led to a recommendation that the standards should reflect the five outcomes of Every Child Matters and pay due attention to Special Education Needs. The current draft standards are underpinned by the relevant legislation concerning the well-being of children and young people, including:

- the Disability Discrimination Act (2005);
- the Special Educational Needs and Disability Act (SEND) 2001 and its associated codes of practice;
- the Children Act (2004);
- the Department for Education and Skills (DfES) guidance *Safeguarding Children in Education*; and
- the five aims of the Every Child Matters: Change for Children programme.

13. As with the current standards for QTS and Induction, the draft revised standards for classroom teachers require that qualified teachers must meet the learning needs of all those they teach. Throughout the draft standards, the term "learners" is an inclusive one and refers to all children and young people with special or additional learning needs.

14. The draft revised standards for classroom teachers include a requirement that all teachers demonstrate a commitment to reflect on and improve their own practice and take responsibility for their own professional development needs. This reflects the government's New Professionalism agenda which emphasises the importance of high quality professional development for all teachers.

15. Including the courses listed in Annex 1, there are 186 programmes being funded by the TDA where there is the provision for teachers to take courses in special educational needs. Annex 1 provides details of the number of specific SEN places that the TDA Postgraduate Professional Development programme is funding.

16. From September 2006, the TDA will run a two-year pilot project designed to enhance the specialist SEN and disability expertise of serving teachers. This will make available, to 100 teachers initially, a modular professional development course leading to a postgraduate certificate or diploma.

17. Additionally, to help strengthen links between mainstream and special schools, the TDA is currently funding projects in nine local authorities to facilitate the exchange of knowledge and practice between professionals working in the different settings.

SECTION 3: THE WIDER SCHOOL WORKFORCE

18. The remodelling of the school workforce to ensure that teachers can focus on teaching and learning has led to the development of an increasing range of school support staff, some classroom based and others concerned with administration, technical or specialist support or premises. All these staff need opportunities to develop their skills so that they can give pupils high-quality support and work effectively with colleagues with different skills and expertise.

19. There are now 266,100 people (FTE 1 excluding catering and premises staff) working as support staff in schools, 48,130 (FTE) of them work specifically as SEN support staff. This figure does not account for the large number of teaching assistants who are not SEN specialists but often work with pupils with SEN.

20. The current standards for HLTA include a range of requirements relevant to SEN: for example, HLTA must show that they:

- have high expectations of all pupils; respect their social, cultural, linguistic, religious and ethnic backgrounds; and are committed to raising their educational achievement;
- work collaboratively with colleagues, and carry out their roles effectively, knowing when to seek help and advice;
- know the key factors that can affect the way pupils learn;
- know the legal definition of SEN, and are familiar with the guidance about meeting SEN given in the SEN code of practice;
- know how to use ICT to advance pupils' learning, and can use common ICT tools for their own and pupils' benefit;
- are aware of the statutory frameworks relevant to their role;
- monitor pupils' responses to learning tasks and modify their approach accordingly;
- promote and support the inclusion of all pupils in the learning activities in which they are involved;
- advance pupils' learning in a range of classroom settings, including working with individuals, small groups and whole classes where the assigned teacher is not present; and
- recognise and respond effectively to equal opportunities issues as they arise, including by challenging stereotyped views, and by challenging bullying or harassment, following relevant policies and procedures.

21. HLTA must demonstrate sufficient knowledge and understanding to be able to help the pupils they work with make progress with their learning. This knowledge and understanding will relate to a specialist area which could be subject-based or linked to a specific role (eg in support of an age phase or pupils with particular needs). They also need to be secure in their own literacy and numeracy so that they can support pupils' learning: they must show that they have a national qualification at level 2 or above to gain HLTA status.

22. The HLTA standards are accompanied by guidance giving examples of the kind of evidence that those seeking HLTA status could provide to show that they meet the standards. Many of these examples—drawn from typical HLTA work—relate to meeting pupils' special needs; throughout the guidance, therefore, the importance of the HLTA role in supporting pupils with SEN is strongly emphasised.

23. The HLTA standards will be reviewed in 2006–07 and we will consult stakeholders on whether any of the standards, including those relevant to SEN, need strengthening. However, it is important to bear in mind that there is no set course of study for HLTA: support staff wishing to achieve HLTA status have a variety of different qualifications and experience, work in a variety of settings and have a variety of specialisms (for example, subject specialist, PE coach, technician with a supporting learning role). Some undertake a few days' training, others meet the Standards via assessment-only routes. Others need more substantial training. Any changes to the standards will need to retain this level of flexibility.

24. The National Occupational Standards (NOS) for Teaching Assistants inform the development of nationally recognised qualifications including National Vocational Qualifications (NVQs). These standards include units relating to supporting children's literacy as well as a number of units covering different aspects of SEN. The TDA, with partners in Wales, Scotland and Northern Ireland, will be reviewing the NOS from April 2006 and again will be consulting widely to ensure that coverage of SEN issues is appropriate and robust. Local Authorities are increasingly basing employment, staff training and grading decisions on possession of qualifications linked to the NOS.

25. Level 2 units include:

- Mandatory units:
 - help with classroom resources and records;
 - help with the care and support of pupils;
 - provide support for learning activities; and
 - provide effective support for your colleagues.
- Three out of:
 - support literacy and numeracy activities in the classroom;
 - contribute to the management of pupil behaviour;
 - support the maintenance of pupil safety and security;
 - contribute to the health and well-being of pupils; and
 - Support the use of ICT in the classroom.

26. Level 3 units include:

- Mandatory:
 - contribute to the management of pupil behaviour;
 - establish and maintain relationships with individual pupils and groups;
 - support pupils during learning activities; and
 - review and develop your own professional practice.
- In addition to the options available at level 2, and others covering observation, planning and record-keeping, a further choice from:
 - provide support for bilingual/multilingual pupils;
 - support pupils with communication and interaction difficulties;
 - support pupils with cognition and learning difficulties;
 - support pupils with behavioural, emotional and social development needs;
 - provide support for pupils with sensory and/or physical impairment;
 - support the use of ICT in the classroom;
 - help pupils to develop their literacy skills;
 - help pupils to develop their numeracy skills;
 - help pupils to access the curriculum;
 - support the development and effectiveness of work teams;
 - develop and maintain working relationships with other professionals; and
 - Liaise effectively with parents.

27. The TDA and the Learning and Skills Council (LSC) have developed a flexible qualification for school support staff who are not teaching assistants but need the right knowledge and skills to be able to work in a school and contribute directly or indirectly to children's learning and well-being. The qualification particularly meets the needs of the increasing number of staff with multiple part-time roles. It has two core units covering working in schools and working with children, plus a range of options suitable for people who, for example, work in administration, premises, catering or midday supervision.

28. The core unit on working with children covers the common core for the children's workforce at a level suitable for staff who are not in constant contact with children. It ensures that they have a sufficient understanding of, for example, multi-agency working or safeguarding children, to be able to fulfil their roles as members of the school team.

29. Some examples of the elements included in the level 3 qualification are:

- Explore the main stages of growth and development of the children or young people you work with.
- Identify the links between changes in growth and development and children or young people's behaviour.
- Identify other factors that may affect children or young people's behaviour.
- Explore what role you can play in supporting parents and carers.

30. There is an additional option for those whose work includes supporting children (and who might wish to go on to the NVQ for TAs). It includes:

- Support equality of access.
- Implement strategies, policies, procedures and practice for inclusion.
- Maintain and follow policies and procedures for protecting and safeguarding children.

31. Some school staff may need to improve their own literacy and numeracy to enable them to support children's learning. The TDA is working with the Skills for Life Strategy Unit to ensure that all school support staff, particularly those supporting learning, have access to training to improve their own literacy and numeracy skills where this is needed. This will enable teaching assistants to support all children more effectively in developing these skills, including those children who have specific learning difficulties such as dyslexia.

32. The TDA has worked with its partners to build up a picture of all the qualifications currently used by local authorities and their staff to provide opportunities to develop suitable knowledge and skills. This career development framework shows, for various different groups of school support staff, the pathways they can follow to gain relevant qualifications. It is being made available on the TDA website as a tool for employers and employees to plan staff development. It provides an overview of qualifications relevant to school support staff from introductory to specialist level and highlights gaps as well as overlaps in the range of qualifications available.

Annex 1

PLACES FUNDED BY TDA FOR POSTGRADUATE PROFESSIONAL DEVELOPMENT IN SPECIAL EDUCATIONAL NEEDS FOR THE NEXT 3 YEARS

GENERAL SPECIAL EDUCATION NEEDS COURSES

<i>Programmes</i>	<i>Year 1 F/T Applicants</i>	<i>Year 1 P/T Applicants</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
MA Education (Special Educational Needs)	50		50		50	
PCES Specific Learning Difficulties: Teaching Methods	35		35		35	
PGCert, PG Dip and MA in Inclusive Education	40		40		40	
PGC Co-ordinating inclusive provision for children with learning difficulties	36		36		36	
MEd Inclusive Education	40		40		40	
Specific Learning Difficulties	30		29		26	
Inclusive Education	70		95		111	
Research into Special Educational Needs	2		2		2	
Managing Inclusive and Special Education	30		35		35	
Inclusive Education	20		30		35	
Inclusion and Special Educational Needs	10		24		24	
An Interdisciplinary Approach to Learning Difficulties	40		45		45	
Professional Enquiry: Special Educational Needs	100		99		98	
MA(Ed) in Inclusion	267		447		422	
Inclusion	175		180		185	
PG Cert/PG Dip/MA Special Needs and Inclusive Education	42		48		60	
MA: Specific Learning Difficulties	24		24		24	
MA: Special Educational Needs	24		24		24	

<i>Programmes</i>	<i>Year 1 F/T Applicants</i>	<i>Year 1 P/T Applicants</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Specific Learning Difficulties	47		47		44	
Special Educational Needs	47		56		53	
Severe Learning Difficulties	0		14		18	
Inclusion and Special Educational Needs	12		12		15	
Graduate Diploma in Special and Inclusive Education	70		70		70	
MA Inclusive Education and Special Educational Needs	52		82		83	
Special Educational Needs	12		12		12	
PG Cert/Diploma Inclusion	20		20		20	
PG Cert Severe Profound Multiple Learning Difficulties	30		30		30	
PG Cert in SPLD	60		60		60	
Post-graduate Certificate Educational Studies (SpLD)	12		12		12	
PG Cert Educational Studies: Minority Ethnic Needs and SEN	10		10		10	
Doctor of Education (Ed D) (SEN)	15		15		15	
Inclusive Education (SEN)	10		15		18	
Totals	1,432		1,738		1,751	

SENCO

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
PGC Co-ordinating inclusive provision for children with learning difficulties	36		36		36	
SEN Coordination	12		12		12	
PGCert in Professional Studies (SENCO)	50		56		56	
E831 Professional development for special educational needs co-ordinators	130		130		130	
Special Educational Needs Co-ordination	28		28		26	
PG Certificate Educational: Special Educational Needs (SENCO)	30		30		30	
PG Cert SENCO	60		60		60	
Totals	346		352		350	

DYSLEXIA

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
PCES SLD (Dyslexia): Inclusive Environments		40		40		40
PCES SLD (Dyslexia): Assessment		40		40		40
MSc Specific Learning Difficulties—Dyslexia	1	40	1	40	1	40
Dyslexia Studies		6		10		12
Specific Learning Difficulties—Dyslexia		50		50		50
Postgraduate Certificate and Diploma in dyslexia and literacy		400		500		500
Totals	1	576	1	680	1	682

HEARING IMPAIRMENT

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
MA Deaf Education (TOD)		24		24		24
Hearing Impairment		20		46		46
PG Dip/MA Educational Studies (Hearing Impairment and Audiology)		26		24		22
Totals		70		94		92

VISUAL IMPAIRMENT

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Visual Impairment		20		52		52
Further Education and Rehabilitation Services for Visual Impairment		3		3		3
Totals		23		55		55

COMMUNICATION DIFFICULTIES

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Speech and Language Difficulties		35		68		68
PG Dip in Language and Communication Needs		10		10		10
Speech, Language and Communication Difficulties		15		25		25
Totals		60		103		103

MULTI-SENSORY IMPAIRMENT

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Multisensory impairment (deafblindness)		16		35		35
Multi-Sensory Impairment		5		5		5
PG Cert Multiple Sensory Impairment		15		15		15
Totals		36		55		55

ED PSYCH

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Professional Training Programme in Educational Psychology (MSc Ed Psych)	15		15		15	
Totals	15		15		15	

AUTISM SPECTRUM

<i>Programmes</i>	<i>Year 1 F/T places</i>	<i>Year 1 P/T places</i>	<i>Year 2 F/T Applicants</i>	<i>Year 2 P/T Applicants</i>	<i>Year 3 F/T Applicants</i>	<i>Year 3 P/T Applicants</i>
Autism: children		101		151		151
PG Cert/PG Dip/MA Education Studies and Autism		40		50		50
Autistic Spectrum Disorders		57		56		53
Autistic Spectrum Disorder		25		25		25
PG Cert in Autistic Spectrum Disorders		40		40		40
Totals		263		322		319

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Witnesses: Ms Miriam Rosen, Director of Education, Ms Eileen Visser, Area Divisional Manager, Ofsted, Mr David Curtis, Director of Education, Culture and Social Care, Ms Joan Baxter, London Regional Lead for User Focus and Educational Specialist, Audit Commission, and Mr Ralph Tabberer, Chief Executive, Training and Development Agency for Schools, gave evidence.

Q653 Chairman: May I welcome Ralph Tabberer, Eileen Visser, Miriam Rosen, David Curtis and Joan Baxter. I am sorry that there are a large number of you this morning, but such a galaxy of talent! I was thinking to myself: What if I was paying consultancy fees to you lot?—and how nice it is to have you for free. It is also nice to have Ralph here. It will not be his last starring performance before the Committee but it will be in his present role because, I believe, Ralph, you leave the TDA at the end of today and join the Department.

Mr Tabberer: On Monday, yes.

Q654 Chairman: Is there going to be anybody left out there?

Mr Tabberer: We are leaving some work to be done—at least, I hope so.

Q655 Chairman: You are going to join David Bell. Good. We wish you well in the new phase of your career. Is everybody else staying with us?

Mr Curtis: I am retiring.

Q656 Chairman: No!

Mr Curtis: I am afraid so.

Q657 Chairman: A young man like you retiring? I have never known any of you really retire. You pop back in a different guise. Mike Tomlinson told me he was retiring once. I have seen more of Mike Tomlinson since he retired than I did when he was Chief Inspector! This is a very important inquiry for us. First of all, the Committee has not been in this territory for more than five years and it is time that we came back and had a look at it, and, after Baroness Warnock's change of mind in terms of inclusion and exclusion—the conjunction of the two: relative neglect by the Committee and Baroness Warnock's pamphlet—we thought we would have a serious look at the whole area of special educational needs. That is where we are today. There are five of you, so I am not going to ask all of you to say something but I am going to ask someone for the Audit Commission and someone from Ofsted to say a few words to start us off. You can choose which of you from your side is going to give us the two minutes' worth.

Mr Curtis: I will start from the Audit Commission.

Q658 Chairman: Yes, and Miriam, would you like to start for Ofsted. It sounds a bit like a panel game. My old friend Richard Whiteley would be proud of me.

Mr Curtis: Our position, as we have set out in our second submission, is that we have not done detailed work on SEN since our reports in 2002; therefore a lot of our reflection is what we said in 2002. At that time, we said about statements and about SEN that there is a lot of money tied up in SEN, there is a lot of very complicated bureaucratic process involved in the statementing process. We

made various recommendations at that time relating to further intervention, the greater involvement of parents, a more needs-led approach to planning provision and so forth, and I think a lot of work has been done by the DfES on that. However, I think our position on statementing is much as it was then: that there is still a case to answer about a lot of money going into statementing and not a lot of information about the impact of statementing, and to a certain extent, therefore, I can understand Baroness Warnock's position about statementing having gone beyond the expectation when she produced her report in 1978 or whatever. There is a Pandora's box effect: having opened it, there is the expectation that the identification of special need will attract an additional resource. The chasing of the resource has probably skewed—which I think we were saying in our report in 2002—the way in which resources are going to special educational needs; so it is sucking in the resource, say, of educational psychologists and so forth, which prevents doing other things around special educational needs areas for other children outside the statementing block.

Q659 Chairman: That is a very interesting point.

Ms Rosen: Ofsted has published regularly on provision for special educational needs over the last few years and you have particularly asked us to talk about our 2004 report, *SEN and Disability: Towards Inclusive Schools*. This report found an improving trend in the achievements of pupils with SEN, but, with the exception of reading and writing, progress was too low in six out of 10 schools inspected. For the first time, improved criteria were used to establish what constituted reasonable progress for these pupils, so there was a more accurate judgment on the quality of provision than had been made before. The criteria for these judgments was shared with the schools—and it is included as an annex at the back of the report—and they remain a key vehicle for schools to use to evaluate their provision. In 2005 we published HMCI's Annual Report. That reiterated that, while progress for most pupils with SEN was at least satisfactory and sometimes good, progress for too many pupils was still too slow. Primary school provision was better than in secondary schools. Although the commitment towards inclusion was equally high in both, the problem remained that schools on the whole found it difficult to provide effectively for a diverse range of needs and particularly for those with the most challenging behaviour. In three-quarters of special schools the pupils achieve well—an improving trend—but the fact remains that in one-quarter of schools achievement was not good enough. The common element of weakness in all types of school, as reported by HMCI in 2005, was the continuing unsatisfactory use of assessment to meet individual needs. This is an important issue, as Ofsted's evidence over a number of years has highlighted

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weaknesses in the use of assessment at classroom and school level. If you add to that inconsistencies at local authority level in terms of making accurate judgments about which pupils have SEN and require additional support or which children have significant-enough needs to warrant a statement of SEN, it is not difficult to see why there is current unease about provision. It has contributed to the disparity of provision across the country. Where a child lives can be more of a determining factor in meeting needs than accurate strategic planning based on proper information. Despite this gloomy picture, progress is being made and it is worth remembering that our 2004 report was based on 2003–04 inspection evidence—and that was only 18 months after the inclusion framework was implemented, so it was still really early days there. This year Ofsted is continuing its work to evaluate the quality of provision for pupils with SEN. We are undertaking a survey to identify the features which promote achievement. We are comparing sets of pupils and the progress that they make, irrespective of the setting. For example, we are looking at groups of pupils of the same age and ability level placed in either a mainstream school, a resourced base, a special school or a PRU. We will use this survey to try to tease out the elements that either permit or hinder their achievements, and of course we have ongoing evidence from our section 5 inspections as well.

Q660 Chairman: How soon will we see that?

Ms Rosen: We are hoping to produce this at the end of the summer. The inspection is still going on. We are still visiting schools for this particular inspection. We feel that the debate over provision has for too long focused on an unhelpful interpretation of inclusion as a place (that is, special or mainstream) rather than on what the pupils achieve, and we consider it helpful to view inclusion as a process where the continuum of provision is complementary, where all types of schools work effectively in partnership to provide best for the child and the child's family. We also feel that the recent developments with the *Every Child Matters* agenda have focused on different services working together better, and there is some good practice apparent in relation to children and young people with special needs, but more needs to be done. We continue to feel, and our evidence informs us, that one of the biggest barriers to inclusion—and equally important to targeting resources quickly and effectively at the point of need—is the statementing process. The process discriminates against parents who do not have the capacity to work through very complex, difficult process. It is resource intensive, bureaucratic and causes conflict.

Q661 Chairman: Thank you for that. We will hold the questioning back until we have asked Ralph to say something. A lot of the evidence we have had so far—and we will come back to it in later questions—does point to how effective we are in training teachers to cope with SEN and the

different methods of training teachers and whether they are prepared for the crucial role. Is it the training of our teachers that is at the heart of the problem?

Mr Tabberer: Yes.

Q662 Chairman: Do not answer that. Make your statement and then answer it.

Mr Tabberer: I am delighted from the start of this that Miriam has given attention to the issue of diagnosis, the identification of needs. For me that is even more clearly the education issue here, underneath statementing, as well as getting the provision right in ordinary classrooms and children with a whole spectrum of needs. Diagnosis, in my view, has been the Achilles heel of the profession for a long time. In fact, it is always interesting to compare notes with people who work in health training, and doctors, to find out that there is a similar perception in that sphere. Frankly, we can never do enough to make sure that people have very strong diagnostic skills, so they can target appropriate provision at individuals. The second thing I would say is that I think it is extremely important that we think about where we want the locus of responsibility for children to be. I think it will always be important to think about the school as the key locus. I say that because I want to emphasise that the teacher is part of the contribution, but there is a wider workforce now which is also part of the solution and there is a wider group outside school who are part of the solution. If we try to create all the solutions in the skills, expertise and experience of every individual, then we will not be targeting our resources as effectively as we should.

Q663 Chairman: When this Committee looked at *Early Years*, for example, and then when we looked at *Every Child Matters*, time and time again the joined-up nature of the assessment came up and early assessment. The health visitor should be picking up on the possibility of special educational needs really early in the child's life. We recommended that that be joined up. When we delivered *Every Child Matters*, we thought that was going to happen much faster. Is there any evidence out there that what has happened over these recent years is producing a more joined-up client service?

Mr Tabberer: I think we can be optimistic about the direction of travel. Miriam has referred to an improving position here, but it has equally been stark about things we can do better I could do the same with teacher training and talk about Ofsted's finding that we have the best qualified teachers ever. I think schools are doing an even better job than they have been over this before. Part of the good side of the introduction of *Every Child Matters* is that it is raising our aspirations as well, so we are setting ourselves tougher targets to do even more. When one recognises that this whole realm is about early assessment, early intervention, good structure around kids who need that structure most, regimes to help those with specific difficulties over long periods of time, you realise this is going

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to be with us for years and it is always going to feel like we may have come so far but there is plenty more to do.

Q664 Chairman: What do you say to the people we had in front of the Committee who want to close all special schools by 2020? They believe that any kind of excluded education, separate education for people with special educational needs, is unacceptable and there should be no special schools after quite a short time. Do you have sympathy with that view? Are you a total inclusionist or exclusionist?

Mr Tabberer: No, I am neither. I am empirical: I am driven by what research and inspection evidence tells us about what works. I do not think at the moment we have sufficient evidence to tell us that a blanket solution of one type or the other is the right answer. It may be for other reasons and aspirations over 20 years, but the education evidence is not there for it yet. I do think that we ought to allow local provision to take its own shape and we ought to test that very carefully for the way it delivers and really meets the risks that are involved in both approaches.

Q665 Chairman: Could I ask Ofsted: What do you think of these people? It was a very passionate performance from some of the people who gave evidence last week, that you could not have a full education, an education that befitting you to be a full member of society, if you had this separate education. They felt so passionately about it—and of course they were people who had experienced it in many cases. What do you say to that passionate argument?

Ms Rosen: We see special schools as not isolated schools but as part of a continuum working together with mainstream schools and with other services. The child does not necessarily spend all its time in the special school or in the mainstream school but would benefit from services being provided by both. So we would not see it as an isolated instance.

Q666 Chairman: You do not go to any special schools that are in old Victorian buildings, miles away from any schools. They have all gone, have they? Is that a thing of the past?

Ms Visser: If we were to fast-forward ourselves into the end of this decade, we would be looking hopefully at a different picture. Our view is that what is important is whether or not the school is good. That should really be leading the debate. I think, as Miriam alluded to in the beginning, the debate should be much more about how different parts of the education service can support different young people at different times. If we all focused on that, in terms of the overall human rights issue, which has an inclusive focus—we have all signed up to the Salamanca Agreement, and that has to lead, I think, our dimension somewhere—that is something for the future. I think a healthier debate is to say: How can we all work for the best interests of the all children, irrespective of the place? We

ought to be saying: Take the best out of mainstream for some children at some time, take the best out of other settings (whatever we want to call them) and let us start working together for all children to have their needs met through their career, at any particular given point in time.

Q667 Chairman: What do you say to the person who was sitting in your seat last week who said that it does not matter if the special school is excellent, really provides everything, is marvellous, at 16 that child has to go out into the real world and live in a very different environment. Special education, according to that person in your seat, might have been a good experience, it might have been quite a positive experience even, but at 16 there is a real society, a real world, the world of work, and maybe there is a disjunction or a tension there. The experience may be of a very good education under 16, but does it befit them to be citizens of the wider society?

Ms Visser: I would say they would be referring to a special school, many of which I do not see any more. Special schools are changing their role, albeit too slowly perhaps for some of us, but at the very best you would not get that situation arising. You certainly would have done 10 years ago; you may well do today in some areas of the country; but overall the most forward thinking special schools do look at themselves as outward-looking. They ensure that their children can have as much experience of local community life and local community work-related experience as they can, given accurate identification of their needs at particular times. That would be my response practically to that. Philosophically and conceptually there might be other answers, but that is perhaps not for this Committee.

Q668 Chairman: Is there any comment from the Audit Commission?

Ms Baxter: The group of children with special educational needs is of course a very, very wide and diverse group of young people. It is important to say that some of the young people who are leaving school at 16 are still very vulnerable, they continue to be very vulnerable, and will need continuing care plans whether that is through social care services or through health services. It is slightly misleading to suggest that special schools fail to prepare pupils for the wider world; indeed, there are young people who will not be able to function as fully independent members of society post-16 in any case.

Q669 Chairman: It is interesting. What came out of the evidence session last week very clearly was the difference between the children you are talking about, who really will need a continuing package of support after 16, right the way through, and others. This is a very wide range of need, is it not, that we are talking about? One of the criticisms we have had is that when you are looking at dyslexia and a whole range of other difficulties there just is not the training. We have had people from the

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dyslexia associations saying, "Look, there are very short ways of bringing teachers up to speed in understanding and diagnosing. This is not rocket science; it can be done quite quickly." There are some very good people out there who can provide the training, why is it not happening?

Mr Tabberer: I am hearing the same messages. There are a number of places now where we can look at boosting—if you do not mind me calling it this—the technology of teaching the 20%. We have almost, for the last eight or nine years, been developing a technology for teaching 80% of our children in classrooms extremely effectively—improving the whole-class teaching, the individual work, the group work around the national strategies model. I do think that one of the opportunities this inquiry gives, as well as evidence that is starting to come out from inspection and research, is that there is a greater pool of understanding about teaching strategies which would apply across a range of specific learning difficulties and moderate learning difficulties. We are looking at this with some of the groups concerned and with the Department and it is one area in which we will be very keen to see your findings. I think there is momentum up now to have a bit of a push in this realm, so we do accept the challenge.

Q670 Mr Wilson: I would like to build on some of the things you have said already and the Chairman has asked you. In these two reports that came out in 2002 from the Audit Commission and 2004 from Ofsted, there are an awful lot of negatives: too many children waiting too long for their needs to be met; parents lacking confidence in the system; inclusion being a significant problem for a lot of schools—all those sorts of issues—and it seems to me that ministers have used those reports to start a large-scale review of SEN. Do you think that is justified?

Ms Rosen: We identified problems but at the same time we identified schools where it was working well. So we would say there is still quite a lot of work to do and we can learn from the schools which are doing it well. It is certainly worthwhile thinking about how we best move forward from here and that this debate is part of that.

Ms Visser: Two years ago, although we were talking about the *Every Child Matters* agenda we did not have the ramifications of that quite so clearly as we have now: the potential of joint service working at local level, with rigorous inspection arrangements to ensure that systems and provision at local level will help all children. I think that in our report of 2004—and as Miriam said we will be publishing later this year—we will see a slightly different picture. We are at the point of collating all our findings at the moment and things have clearly moved on. In terms of your question about a review, because of all the changes that have been happening over the last two years quite quickly—in fact, more quickly than in the previous two years prior to this report—we would say that if we had a royal commission or a big review at this time, the

danger is that it would diversify work and resources and developments in such a way that it could send us back to the point of slow progress that we were having prior to 2004. Our evidence is suggesting that things are moving now in a quicker way, with standards for a range of groups of learners with different types of need all improving slowly, and we know what particular problems are. It is not rocket science: we know the challenges, we know what works, we know the conditions that make things work and we know what does not work, and our view would be: "Let's focus in on those things and change them."

Q671 Mr Wilson: Can I just be clear: you are asking for a tweaking of the system rather than a large scale review of the system.

Ms Visser: Tweaking might be a little gentle. Some aspects of the structural provision need more than a tweak. They do need us to sit down together, across the political dimension, the inspection dimension and the professional field, and say, "What is it that we need to do?" Other bits need tweaking, but a whole, big review could endanger the speed of developments and would send us back too far, in our view.

Q672 Mr Wilson: A lot of the debate around this area seems to be exclusion versus inclusion or mainstream against specialist schools. In your opening remarks, Miriam, you said that schools find it difficult to provide for a diverse range of needs. Do you think what has happened in recent years is that things have gone too far in an attempt to get inclusion into mainstream school, and that one of the problems is that the balance just has not been quite struck at the right level?

Ms Rosen: At the start of the process, it is true that some mainstream schools have struggled. I think we are saying that we can see ahead to more cooperation between different types of schools becoming more the norm, so that children can be provided for in the mainstream because of outreach support from the special schools, for example, and that this would alleviate the situation.

Q673 Mr Wilson: Does the Audit Commission have any view on that question?

Mr Curtis: Could I answer the previous question, because to some extent we are guilty of asking for something which was quite revolutionary after a high level review of SEN statementing in the 2002 report. I have to say that most of the folk who wrote the report have now left and many have joined the DfES, so I am confident that there was, in a sense, a momentum that they brought to the DfES in introducing some reforms which we recommended at the time. I am more of the view of evolution rather than revolution, as far as the system is concerned, because there is so much investment, particularly on the statementing side, from a large number of parents and children at the moment to do something more radical. We have seen, I think, as far as the Audit Commission is concerned, improvements to the control of budgets,

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for instance, since 2002. I think there are still problems around knowing about impact, if you like—a point I made in my introductory remarks. We know where the money is being spent, but we do not know whether or not that money is having the impact that one would hope. I think it is the joining up of the measures of performance with the resource that is going into the system. Before one votes for a radical intervention or change in the system, I think it would be helpful to know more about that. As I said earlier, we have not revisited that ourselves since 2002 and that is something that might be worthy of further investigation. The guidelines, for instance, that have been produced by the DfES for local authorities in 2004—very helpful guidelines about the way in which they should delegate resources and the way in which there should be benchmarking and the way in which there should be partnerships in terms of clinicians and so forth. I do not know what the impact of all that is, because I think local authorities focus on other issues. I would not want to go back to where we were in 2002 and say there should be a high level review with a view to revolution, if you like, but I do think there needs to be some sort of robust challenge to the way in which the system is working.

Q674 Mr Wilson: Have you formed any view on the balance being struck between the use of special schools against the use of mainstream schools for including pupils with special needs?

Mr Curtis: I do not think we would have a view on that as the Audit Commission.

Q675 Mr Wilson: Is that because the 2002 report did not lead you to any conclusions on that or because you simply did not look at it?

Mr Curtis: Our second 2002 report was entitled *A Mainstreaming Issue*. We were concerned at the time that the SEN should be looked at as a mainstream issue rather than seeking to mainstream all children who were in special schools. I think it was interpreted in some circles as saying, “Let’s close a lot of special schools and get children into mainstream schools.” That is not what we were recommending at the time; we were saying that children should have access and the opportunity if their needs dictated it, but we were not looking at a radical change in the balance of special provision and, if you like, mainstream provision.

Q676 Mr Wilson: In that report you did say that the statementing process was costly and bureaucratic. What was your evidence based on for that?

Mr Curtis: It was the fieldwork at the time, in a sense. We were looking at between £80 million and £100 million annually on maintaining the statementing process—and I can get you the detailed figures. We draw that down from Section 52 statements and there is an issue of how you interpret that, but we are talking of about £80 million annually to maintain the system of

statementing. We were reporting at the time on the fact that there was an 18-week expectation of the completion of statements. At the time, in about 70% of cases the 18-week target was being met, but in 30% it was not, so it was taking a long time for statementing to be completed. The evidence was also from parents who were frustrated with the system. If you were ever to go to the special needs office of the local authority, it looked a bit like the filing system of *Jarndyce v Jarndyce*: lots of paper and paper chases. The involvement of a number of agencies meant that it did become a very bureaucratic, paper-chasing process. In terms of the statementing process, I have to say that since 2002 the vast majority of local authorities are achieving statementing within 18 weeks, so the improvement of performance of the process is quite apparent. Whether or not, however, that process is doing the right thing, I think is the fundamental issue.

Q677 Mr Wilson: When I asked Baroness Warnock about the costs of the statementing process, she said that the whole thing was a waste of money. Would you agree with her on that?

Mr Curtis: We are an evidence-based organisation and I would want to get beneath that. It is very costly. As I mentioned earlier on, there is a cost in delivering something which is a parental right, and the statementing process is there and local authorities and others are appropriately investing a lot of time into delivering what is the parental right and the expectation. If you take the position of educational psychologists—and Joan may want to talk about this, as a former educational psychologist—their time is then being invested in the statementing process, so that the ability of that resource to be available, if you like, for early intervention, the whole school issue, is reduced because of its involvement in the statementing process. There is both a direct cost of the process—and I think local authorities are getting better at that, as I explained earlier on—and an opportunity cost of the process. The professional time, and, indeed, the parents’ time that is tied up in that is quite considerable. I think that needs to be unpacked before you reach a conclusion about it being a total waste of time but I think that is a hypothesis which would be worth testing.

Q678 Mr Wilson: You seem to be suggesting in your answer that LEAs are getting much better in delivering on their statutory duty. A lot of complaints that we get in our constituencies are exactly the opposite to that. Do you have any view on that?

Mr Curtis: In terms of the facts, if you take the best value performance indicator from the figures I have in front of me—and I can let you have the figures—in 2000, 82% of local authorities were meeting the 18-week deadline; in 2004–05, 92% were meeting the 18-week deadline. If you look in the exceptions cases, where you involve other agencies, the performance is worse, but it is an improvement in performance. So the position is improving, but

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clearly it has not improved for everybody. The other issue, of course, is that once the statement is arrived at, is finalised, it is not necessarily giving a statement which parents are going to accept and so there is an element of contesting it. So it does not surprise me at all that you have had issues raised with you in your constituency, but, if you look at the question: Are local authorities performing against the standard better? yes, they are.

Q679 Mr Wilson: It is not the local authority authorities which are making the system costly and bureaucratic, from what you say.

Mr Curtis: The local authorities are doing what is expected of them to deliver the standards.

Q680 Mr Wilson: But it may be within the wrong system, is that what you are hinting at?

Mr Curtis: My point is that you could say that they are performing well, but they may be performing well but doing the wrong thing. It depends which conclusion you reach.

Q681 Chairman: Is what the Scots have done in this area tweaking or radical change?

Ms Visser: I think what the Scots have been trying to do is to look much more holistically at a wider range of opinions as part of the developments of vulnerable children. There is a point on which I would like to come back to you, if I may: in a way, we need to look at this statementing process much more in the way that future partnerships and systems will be developed. It is now not really sustainable to look at providing legislative protection for one group of vulnerable children over another. In a way, I think that kind of conceptual shift of protecting all vulnerable groups equally needs to come at a local level, as you were saying earlier, but through joint provision and joint commissioning of services. It is a way of moving forward through an assessment, a good assessment, identifying needs at local level, in a way, and not saying, "Let's get rid of statementing, let's do this with statementing" but "Let's keep a much more intelligent and swifter system, providing better cost-effectiveness and value for money, than the one we have at the moment."

Q682 Chairman: That 18 weeks in purgatory is still 18 weeks in purgatory.

Ms Visser: Exactly.

Q683 Mrs Dorries: I have a seven-year old boy in my constituency who has Asperger's and is in a mainstream school, and his parents have been told that the school does not want him to sit the SAT exams—in fact they have told the parent not that they do not want him to, but that he will not, because his SAT results would affect the outcome of the SAT results in the school overall. Is that a common occurrence over the country in schools that you inspect, or is that a one-off, do you think?

Ms Rosen: It varies. The best schools have good school improvement programmes that impact on all children and standards arising for all children.

I would hope that what you are talking about is not common, but I do not think we are able to pronounce definitively on that. Do you know more, Eileen?

Ms Visser: The evidence we are getting from our previous Section 10 and Section 5 inspections, together with the survey work we are doing, has found in the past that some head teachers in some schools will reject certain kinds of disabilities if they think it is going to pull down their league tables. They are usually schools that do not have an inclusive ethos or an inclusive feel to them. We are seeing now more schools who put the achievements of all groups of learners at the heart of everything that they do. In so doing, particularly with the increased information we now have, better than ever before, in terms of looking at the achievements of a range of groups of pupils with our new PANDA, with the contextual added-value data and so on, schools will be celebrated for the fact that they are including more diverse learners. So it is an argument that perhaps had some importance a couple of years ago, but now, with new, better information and better pupil tracking, it should not be part of an argument at all.

Q684 Mrs Dorries: Do you think there is a juxtaposition here between the Government's position in setting targets, the SATS, and wanting schools to perform well to those targets, and yet also the inclusion framework? Miriam, you described the inclusion framework—which was great, because trying to get somebody from government to admit that an inclusion framework exists within schools is quite difficult. Do you think there is a juxtaposition between the imposition of the targets and the importance of the SAT results, and imposing this inclusion framework on schools? Does that not put schools in a bit of a position?

Ms Visser: I do not think so, no. I would have agreed with that a couple of years ago, but I really believe that the improved information we have at pupil level ensures that schools can celebrate the success of all their pupils equally and are judged on not just the outcomes at national expectation level but in the value they add to the range of learners.

Q685 Mrs Dorries: I am sorry, but we know that is not the case. I think someone was explaining this morning that Wales have taken the SATs results at age seven out of the framework completely to remove problems like this, so I do not think that can be the case. If that were the case, then I would not have the position of a child in my constituency whose school have told the parents he is not going to sit the SATs because of the effect it would have on the outcome of the results for the school.

Ms Visser: One of the challenges I think we face is that we need to ensure that the achievements of all learners are included in the national performance framework. That was a recommendation that we made to the Department that unfortunately has not been taken up yet. That would ease some of these problems.

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Q686 Chairman: When did you make that recommendation?

Ms Visser: In the suite of reports that came out when we were sharing good practice in 2003 and the target setting report in 2004.

Q687 Chairman: They have had two-and-a-half years to act on this and they have not.

Ms Rosen: Could I make a point on what Eileen said about the better pupil level data, because that does impact on the PANDA. It means that, when Ofsted visits a school and makes judgments which are informed by the data, the achievements of pupils with special educational needs do count. This is due to improvements in the data that we have and it could be that the head teacher you are talking about is not fully aware of that yet.

Q688 Chairman: Could you spell out what PANDA (Performance and Assessment Report) is?

Ms Visser: Performance . . .

Ms Rosen: Performance Assessment Data . . .

Ms Visser: Analysis.

Chairman: There is a bit of confusion there about this acronym!

Q689 Mrs Dorries: In 2002–04 there was an increase of 43% in spending in independent special school places. We do not have the figure here as to what percentage of that 43% came from tribunals. What do you think the reason for the increase is and how many of those 43% do you think came from tribunals?

Mr Curtis: This is a study that we are doing at the moment. We hope to complete it in the summer. We did a survey at the beginning of the study and half the local authorities identified some of it being as a result of tribunals, but I think we need to look at the response rate and look at the analysis in a bit more detail. The overall increase in the costs has been put down to poor budgeting as far as the local authorities are concerned, in the first instance, in probably about 40% of the cases. But unanticipated need and increased charges from the independent schools have been identified as the main factors contributing to that cost.

Q690 Mrs Dorries: I think you are going to find that that “some of it” is going to be quite large, because every child in my constituency at an independent school place is there as a result of a tribunal and I cannot imagine that my constituency is that different from every other across the UK.

Ms Baxter: There is a huge variation, obviously, across the country in this. It perhaps also ought to be noted that in certain categories of special educational needs there has been a very significant increase over the years. For instance, children and young people with autistic spectrum disorder, and children and young people with behavioural difficulties are two very significant growth areas in terms of out-of-authority placements, but we are not really ready yet to tell you in more detail.

Q691 Mrs Dorries: I do accept that, but the point is that those children who are in independent school places will be the children of affluent parents, parents who can afford to go to a tribunal in the first place who can get their children into those schools. They are not going to be the children from the disadvantaged families or the poorer families or those on benefits; they are going to be from white, middle-class, fairly affluent families.

Ms Baxter: I have just returned from an authority where I have been doing some case tracking and you are not actually right. Certainly looking at this particular—

Mrs Dorries: How can I be wrong when—

Q692 Chairman: Hang on. You can tell her if she is not right, if you like, but let her come back after that.

Ms Baxter: The cases that I was looking at in particular are of children who are looked after by the local authority who have very significant mental health needs who have been placed in a planned way in independent schools. So it is a mixed picture.

Q693 Mrs Dorries: I can accept that, but the fact that a tribunal costs between £2,000 and £10,000 means that the majority have to be by the more affluent parents.

Mr Curtis: That may well be a finding from the work we are doing. We have identified—and I think we put this in our submission to you—that there is a tremendous difference between different regions within the country. There is a very low level of take-up relatively in, say, the West Midlands, compared with London and the South East, but there is also a reasonable correlation between the level of placements and the level of tribunal activity in those regions. There is a high level of tribunal activity in London and the South East. We are finding that in some local authorities—and, as I say, we will have to look at the findings overall—because of their experience of tribunal activity, they then place children in independent or maintained schools because they are anticipating the fact that if it goes to tribunal it would be a very costly activity and they will lose anyway.

Q694 Mrs Dorries: Are you looking at the socio-demographics of the regions also?

Mr Curtis: Yes.

Q695 Mrs Dorries: Miriam, you talked about the statementing process being resource intensive and bureaucratic—and there was something else which I did not get—but do you see the statementing process as being a barrier to achieving a full inclusion agenda? I have noticed that a lot of witness are coming forward recently and deriding the statementing process. I am not quite sure if that is because they see that stopping them achieving the full inclusion that they want or whether they think there is something wrong with the statementing process itself.

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Ms Rosen: It does take a long time, it is bureaucratic. It ties up a lot of the special educational needs coordinators' time in a school and it ties up a lot of local authority time as well. It means that people focus on getting the paperwork right for the statementing process so that eventually a certain amount of provision is allocated for that child, rather than on getting resources to the point of need as quickly as possible for all children, and we feel we need to focus more on getting the resource very quickly to all children who need it. That is why we feel it is a barrier. We would encourage authorities which are looking at joint commissioning, and how they can get resources in more quickly to all children who need it and not just those particular children who are at the moment able to get hold of a statement.

Q696 Mrs Dorries: Some special needs are very complex, so, if we do not have the statementing process—and I quite take your point that we need to get the resource to those children, and the earlier the better because we do see improvements in getting in fairly early—how would you propose that those more complex needs are identified and the correct resource is allocated to those children? **Ms Rosen:** We are not advocating getting rid of the statementing process but rather encouraging a growth in all these other processes that would result in getting resources to the point of need earlier. I think it would be extremely difficult to get rid of the statementing process, so we would see perhaps the two continuing side by side.

Q697 Chairman: Would you see it as a last resort? **Ms Rosen:** For the most needy children. However, there is a problem, as Eileen pointed out, in that only certain groups of need are able to get a statement at the moment. Not all groups of vulnerable children have access to that.

Q698 Mrs Dorries: When mainstream schools and special schools it works very well. This is something that the Government have encouraged but is not happening. One of the answers could be because so many special schools have been closed down; however, what do you think the reason is for those who remain not working well with mainstream schools? Why is there no collaboration?

Ms Rosen: We have found a variable picture across the country. In some areas there is collaboration. Some years ago now it was possible that special schools were putting a lot of energy into staying open rather than into collaboration. I think that is shifting slightly now, in that more effort is going into collaboration. But we are still seeing a very variable picture. I think Eileen could probably add more to that.

Ms Visser: I think Miriam has really made the point that we are again moving through a changed time, so instead of special schools fighting to stay open in terms of their own children, as it were, the future now is seen much more as a collaboration. I think there are a number of difficulties that still hinder that collaboration. One is undoubtedly

attitudes and insecurities—probably on both sides of the fence. The other sometimes is distance, of course: regional provision changes so much that it is really quite hard for good cluster arrangements to work effectively. Of course, the other is to do with the fact that, until we get over the notion that special schools are planned and part of a wider continuum and are seen as part of an access route for a range of pupils, special schools have and still are always seen as a kind of bolt-on, and, when that perception has been made of you, that stops collaboration, because you do not come into the strategies at the same time, you always get the end product of things, and there is a kind of tension between the special/separate and the mainstream. We could sort that. It is not a problem to sort.

Q699 Chairman: Can we narrow this down? The figures that we have been presented with suggest that the same percentage of children are still in special schools. That has been the same for quite a considerable period of time.

Ms Visser: Yes.

Q700 Chairman: Whether individual specialist schools are closing down or—as in my constituency—being absorbed into larger provision, it is the same thing, is it not?

Ms Visser: That is exactly the point we made in the report, that the number of pupils in special schools, irrespective of how many there are, is the same as it has been for the last 10 years—and it is probably worth saying that it is the same for mainstream schools as well. That has not increased. In relation to Mr Wilson's point earlier, it is not about inclusive or exclusive; the number of children with identified special needs, whether they are statemented or not, is more or less the same.

Q701 Mrs Dorries: What could be the reason for that? If we have had 90% of school closures, how can that be possible? Are you talking about numbers or percentages—because there is a difference.

Ms Visser: Yes, it is percentages.

Q702 Mrs Dorries: That is not exactly the same.

Ms Visser: It is not quite the same, but, in fact, if we look at the numbers, the numbers . . . It is really like one percentage point. The numbers are very small.

Q703 Mrs Dorries: It is percentage again, because we know 97 schools have closed down.

Ms Visser: Yes, but, in the same way, other schools will have opened. They are much bigger schools and therefore more viable and can be much more outward looking than they were before. But the numbers have not changed.

Q704 Mrs Dorries: How can we get the information as to how many children are in special schools? I am sorry, that is not a question for you.

Ms Visser: Well, we do have the numbers, in case you asked.

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Q705 Chairman: If you have the numbers, give them!

Ms Visser: Remembering that things change as you speak, so do not hold me to these constantly, there are 1,122 special schools. They have gone down, but numbers remain the same. We have 85,000 pupils at the moment attending special schools, and, of those, about 83,000 have got a statement—so we still have children in special schools without statements. As one of the big things that Warnock wanted to do was to say: “You cannot go to a special school unless you have got a statement—that is your protection,” we have not entirely got that right either. Do you want me to give a breakdown?

Q706 Chairman: Yes, please.

Ms Visser: There are 410 in maintained nursery, 67,380 in primary, and 76,580 in maintained secondary schools.

Q707 Mrs Dorries: Those are the pupils with statements.

Ms Visser: Yes.

Q708 Mrs Dorries: Could we have the figures from 10 years ago and five years ago and break it down over time?

Ms Visser: These figures we have got from the Department of Education. We do not hold these figures.

Chairman: We can get those. A last bite—Ralph Tabberer is looking neglected—do you want to put a question to him?

Mrs Dorries: Oh, gosh, sorry Ralph, no. I am finished now.

Q709 Mr Carswell: A question really—sorry, Ralph—for the Audit Commission and Ofsted. I would be interested in hearing your thoughts, in particular, on the question of statementing and parent choice. The theory is, of course, that the statementing process defines the need and enables a decision about provision to be taken rationally. The practice, certainly in my experience—and you may find this a bit subjective—is that it tends to empower inclusionist ideologues and experts. For example, in Essex, the ability of the LA to control the statementing process I think they have been able to use as a pretext to close down a special school by manufacturing a fall in the head count. Do you think the statementing process leaves LA officers with too much control, vis-à-vis the parents? Do you think we do need to have a radical overhaul, so that the statementing process does more to empower parents? How could it be improved? Could it be made more specific? Crucially, do you think you could have a statementing system that included a form of financial entitlement, if need be enforceable through the courts?

Ms Rosen: I think to some extent we have answered that by saying we really think there should be much swifter allocation of resources to the point of need. We also feel there should be more emphasis on the

outcomes, on what it is the pupils are enabled to achieve, rather than of tying down very specific resource entitlements, such as so many hours of a teaching assistant's time. Because what really matters is how well the pupils do when they are given the resource, not exactly what the resource is. In some ways, tying down an amount of very specific resource to a child is not necessarily going to be the best way of promoting that particular child's progress.

Mr Curtis: I will not respond to: Have LAs got too much control or too much power? Quite clearly we have a problem with the statementing process over accountabilities, because the local authority is meant to be delivering the statement but actually the resource and the implementation of the statement rests with the schools. When we did our past study—and colleagues from Ofsted would have a more up-to-date information, review on this—it was very difficult to pin down who was responsible and who was going to be held to account for the non-delivery of the statement. It was easy to identify, as I said earlier on, that the resource was allocated; it was not easy to identify the impact of that and the value of that particular statement as far as the individual child was concerned. The other point I would make about statementing—and I do not know what the Essex position is and what the entitlements or non-entitlements of the children in Essex are—is that quite clearly we now have tremendous variation in the country about your likelihood of getting a statement. The figures that we have would indicate, for instance, if you were in Nottinghamshire—because they have a particular pooled-budget approach in Nottinghamshire—about 1% of children will have statements. If you go to Hulton 4.8% of children will have statements. So there are differences in different parts of the country about the way in which that statement is being delivered, and I think there is an issue therefore around tariffs, if you like, and entitlements as far as children are concerned, because it does vary quite considerably between local authorities. But, as I say, I do not know what the picture is in Essex and in the local authorities concerned.

Q710 Mr Carswell: Picking up on the point you made, Miriam, you suggested that you should focus on an outcome rather than resource allocation, which sounds wonderful in theory, but is it precisely because there is a vagueness in the statementing that does not explain in detail what is going to happen to the child to meet their educational needs, a lack of being specific, that allows the wiggle room and it is what allows people, however you look at it, to avoid meeting their obligations to the child, and is that not the problem with the statementing process?

Ms Rosen: I think one of the problems is that it has focused entirely on provision without evaluating the provision to look at what the outcomes are and then to come to judgments about what sort of provision enables the greatest progress. It might be that a shorter amount of time with a very expert

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teacher would result in more progress than a longer amount of time with a teaching assistant. That is just an example but because the whole process is tied to levels of provision rather than outcomes, we have no guarantee that it is actually resulting in the best possible outcomes.

Mr Baxter: To take a statement, I think it is very easy for parents to think that throwing a lot of money at the child is the solution. It is understandable that parents want to do everything they possibly can to enable their child to move on and to develop. The evidence base about what works does not really help us terribly, particularly in relation to some special educational needs, so parents will hear about schools which are very expensive and which appear to have extremely good facilities, and will make the assumption that this is what their child needs, when, in fact, other provision which is a lot less costly may achieve the same or even better outcomes.

Q711 Mr Carswell: They have certainly managed to throw a lot of money at it in Essex. I am just not sure how much has ended up helping the children. Sorry, a question! My final question is: does what I think is the paradox about inclusion, which is where this policy of enforced inclusion is pushed through, mean that you can end up with what is, in effect *de facto* exclusion? I know of a number of children in my constituency who were forced into a mainstream school. One of them has an ASBO and several of them, for a number of reasons, will not be in class today. I am not quite sure what tick box category they are under, whether they are excluded or whatever, but they are no longer in mainstream school. Some people would say this was predictable. Do we have statistics on this? Can we show somewhere how many children who are forced into mainstream school are flourishing and how many are now excluded? Does the evidence exist for this? I know it does in my constituency because I have compiled the figures myself, but in the country?

Ms Visser: The only figures that we have are the numbers of pupils with a statement who have been excluded nationally. Those are the only figures that are collated and I do not have those, but the Department will.

Q712 Chairman: Would you recognise Douglas's point as a problem? David and Joan are nodding.

Mr Baxter: Children with a statement are more likely to be excluded than children without a statement.

Mr Wilson: If it helps it does say in our briefing that: "The Audit Commission found that the vast majority of permanent exclusions in the 22 LEAs surveyed related to pupils with SEN: 87% of exclusions in primary schools and 60% of exclusions in secondary related to pupils with SEN."

Q713 Mr Carswell: That is not entirely the point I was pushing at. I know that many of those who are excluded tend to have statements. The point I am more trying to get at is to look at the impact of the

policy of enforced inclusion on those children who have been forced into mainstream school, how have they done, is there any data on that, can we look at how many of those children who were in special schools, say, two years ago, are in mainstream, have they had discipline problems, have some of them been excluded, how have they fared? I would be fascinated to see that data.

Ms Visser: I am just not sure of the term you are using of "enforced inclusion". It is not a term that I have ever come across and it is not a term that I have come across in any local authority that I have worked with.

Q714 Mr Carswell: By enforced inclusion, I mean when you shut the special school and that provision goes and the children then have to go to a mainstream school. That is inclusion and it is enforced.

Ms Visser: I have been involved in discussions about the closures of a range of schools including those for emotional behavioural disorders, which I assume you are making reference to—

Q715 Mr Carswell: Not specifically, no.

Ms Visser: I was just taking the point about children having ASBOs and not being in school today. They tend to be ones with behaviour problems so that was my assumption. In no case that I have been involved with, if a parent or child has requested another form of special provision, have they been forced to go into a mainstream situation, so I do not recognise the problem.

Q716 Mr Carswell: Is that including your experience in Essex?

Ms Visser: I have not been involved in Essex. They have not involved us in closure proposals.

Ms Rosen: If you look at our report, it is clear that those schools which have been successful in including a range of pupils have had a range of characteristics such as good management, adapting the curriculum, and good teaching. You do need all those conditions there for inclusion to be successful and a school which does not have those characteristics and is willing to accept a range of youngsters is much less likely to be successful.

Q717 Chairman: How many children get excluded from special schools?

Ms Visser: We do have the figures but we have not got them here because we did not think that question would come up.

Q718 Chairman: It could be useful. They must do, must they not?

Ms Rosen: They do and I am sure we could supply you with that figure.¹

Chairman: Jeff?

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Q719 Jeff Ennis: Could I ask a supplementary, first of all, to the line of questioning Nadine was pursuing earlier in terms of the seven-year-old special educational needs child in one of her schools who was not allowed to sit their SATs. Can I couch it in terms of the Education Inspection Bill which has its second reading next week because one of the recommendations we put to the White Paper as a Committee was to bring in a benchmarking system for pupils with special educational needs, free school meals, et cetera. That particular recommendation appears to be rejected by the Secretary of State because she says it is more of a quota system. However, some of us are still pushing the possibility of bringing it in as an added value measure in terms of the league tables, so the schools identifying how many children who are in the SEN category, free school meals, et cetera, as an added value measure in league table terms. What is your take on that? Would that be a useful indicator to give as a measure for parents deciding where to send their children?

Ms Rosen: Ofsted includes those figures in the data that it provides to inspectors.

Q720 Jeff Ennis: But it is not part of the league table process, Miriam, is it?

Ms Rosen: The league table process, as I understand it, takes straight value added rather than contextual value added. It could be that contextual value added would be helpful. Could I just add a word of warning though, and that is there are no national criteria for the identification of pupils with special educational needs so when you look at the numbers in one school in comparison with the numbers in another school and how well they are doing you cannot be certain that you are looking at comparable populations. I think that would have to be sorted out before you could use that measure therefore in league tables.

Q721 Jeff Ennis: If that problem was sorted out, do you think it would be a useful indicator for parents in deciding where to send their children as an added value measure?

Ms Rosen: I think you have to balance simplicity against getting a large amount of information because when the value added information was included last year some people complained that they now had too much information and it was not clear and straightforward, so you would have to take that into account too.

Q722 Jeff Ennis: I would just like to tease out from David in particular the Audit Commission's remarks with regards to the unacceptable variation in provision between different LEAs that you pointed to in your 2002 report. Does that indicate that a postcode lottery exists still for special educational needs, in your opinion?

Mr Curtis: What I think we do not know is what is the compensating provision within those local authorities. I talked, for instance, earlier on about Nottinghamshire and I know that they have a particular approach to the way in which they tackle special educational needs and there are some pooling arrangements as far as school budgets are

concerned, so I do not know what is there in terms of compensation but the facts speak for themselves. In some parts of the country your ability to get a statement would appear to be a lot better than in other parts of the country. That is just a fact. Whether you say that is a postcode lottery I really do not know, but, as I say, what we do not know is whether parents chase statements in a particular part of the country because of the nature of the provision or because of the level of funding within those schools. It is an area which is worthy of further investigation.

Q723 Jeff Ennis: In your second report of course, in 2004, you indicated the massive increase in the number of independent special school places went up by 43% from 2002–04. What are the reasons for that?

Mr Curtis: I think what you are referring to is our current report and what we have called third party payments of the expenditure by local authorities on out-of-borough placements, and I tried to cover this earlier on. We are not talking about many more children. We are talking about the costs there and I think there are issues around commissioning, for instance joint commissioning, there is progress in the regional partnerships here where local authorities are recognising that they need to work together in terms of commissioning those places.

Q724 Jeff Ennis: I guess the antidote to this type of situation is for LEAs to provide more collaborative working and more in-house places, shall we say?

Mr Curtis: I certainly think there is merit in doing more joint commissioning and in having a regional/sub-regional view about what are the needs for local authorities to work collaboratively together.

Q725 Jeff Ennis: Is there any evidence to show that LEAs are actually doing that?

Mr Curtis: Yes.

Mr Baxter: Yes.

Q726 Mr Chaytor: What is the Ofsted evidence on the quality of the teaching and the quality of the professional development for teachers in SEN?

Ms Rosen: From the report that we published in 2004, we said that about half of lessons had some weaknesses for the specific teaching of the pupils with special educational needs, and in some cases the other children in the class were being taught well but the particular children with special educational needs were suffering so that would indicate that there is a considerable way for us to go.

Mr Chaytor: And in terms of the relative significance of teacher training and professional development in improving the overall SEN provision, how does that question rate against flexibility of the curriculum or quality of management or relationships between mainstream schools and special schools? Where does it figure in the hierarchy of important issues that have to be tackled?

Q727 Chairman: Miriam is grinning at that one. Why are you so amused?

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Ms Rosen: What I was thinking is I would hand it over to our special needs expert!

Ms Visser: I think there are a number of issues which you raised there. One is that training for newly qualified teachers in the range of special educational needs that they can expect to find in a classroom and actually manage themselves does require some attention, as Ralph indicated earlier this morning.

Q728 Mr Chaytor: Is it the number one? Is it the most important issue?

Ms Visser: No, what is really important is to look at professional development across the piece, at school level, local authority level, in terms of ensuring that teaching and learning with curriculum flexibility meets better the needs of a wider group of learners, so it is all part and parcel of a big picture.

Q729 Mr Chaytor: So in terms of the attention it needs what is the TDA doing about it?

Mr Tabberer: We are dealing with it in three different areas: in initial teacher training; in CPD; and now because of our wider remit in the Wider Workforce area as well. In initial teacher education, we already have standards which are really designed to make sure that every new teacher is prepared to operate effectively within a school which addresses the individual needs of all its children. There is not a big emphasis in initial teacher education on special needs in all its diversity. You will always encounter people who think there could be more and there should be more. Indeed, the newly qualified teachers that we ask at the end of their courses where would you like to have spent more time, this would be one of the areas that they often identify.

Q730 Mr Chaytor: Are you proposing to respond to those concerns?

Mr Tabberer: Yes, what we do is on all the areas that the NQTs themselves identify as relatively weak or Ofsted identify as relatively weak, we drive those priorities into our support programmes for the sector. On this side, we have agreed with the Department seven elements to new initiatives which we are taking with the sector to strengthen it on special needs training. They include new modules we are developing on SEN and disabilities, the implementation of extended placements in special schools as an experiment, a pilot, and we are producing new guidance materials, we have got electronic portal web site resources for SEN tutors, and that is a pretty classic response for us seizing this as a priority: we can do better, let us raise our game.

Q731 Mr Chaytor: Will the new modules be incorporated into initial teacher education?

Mr Tabberer: Yes, these new modules are designed to be incorporated into initial teacher education but I have to make clear that the modules are not compulsory, they are things we are developing with the sector in order to show them how to meet our standards for special needs which are compulsory. We do not mandate teacher educators to use particular modules.

Q732 Mr Chaytor: So a new trainee teacher has got to conform to certain standards as far as their initial training but they are not required to follow the modules that are designed to achieve those standards?

Mr Tabberer: That is right.

Q733 Mr Chaytor: How are they going to meet the standards if they do not know the modules?

Mr Tabberer: In our system we do not mandate the actual teaching modules. The state does not say, "This is the course, the curriculum, the content; do it this way." It says, "These are the outcomes", and it holds providers' feet to the fire on whether people who leave their courses have those outcomes. But the weakness of this approach that you are almost alluding to is sometimes the sector does not know how to attack the problem better, so we develop modules as best practice ways of doing things. "If you are not doing it properly adopt this or adapt it to something that is better."

Ms Visser: That would apply to the PGCE as well?

Mr Tabberer: They will be available. They will be more used on the under-graduate courses than on the PGCE because of the time involved and the three to four-year course relative to the one year. As I have pointed out to the Committee before, a lot of the experience of the course is in schools. On a PGCE, if you are a secondary teacher, you are doing two-thirds of the course in school and you do not have a lot of time to do external modules. We are looking for people to pick up these skills within the experience of encountering children and working with experienced colleagues alongside. The initial teacher education side is certainly in a position where we accept it could be better and we have agreed a series of steps which will be taken.

Q734 Chairman: Ralph, come on, you have seen the earlier report we have done on teaching children to read. This seems to be really peripheral to many teachers' training, and so does teaching children to read, and we made very strong recommendations on what a teacher needs in order to teach in what we call a standard school, a regular school, and here we have teaching children to read and real problems with the quality of teaching and now we find that you are admitting that this part of the curriculum in special educational needs is pretty peripheral to teachers' training.

Mr Tabberer: There are several things to challenge in your response. On the teaching of reading there have been marked improvements in the initial teacher education preparation for teaching of reading. If you look at the Ofsted report in June 2003—

Q735 Chairman: But look at the evidence given to our Committee; that told a different story.

Mr Tabberer: We have been discussing this with the Rose Review as well as looking at the Ofsted evidence. There have been marked improvements in the teaching of reading in initial teacher education and in many ways what we have been doing over the last few years is to take the national strategies—the primary strategies and the Key Stage 3 strategies—

8 March 2006 Ms Miriam Rosen, Ms Eileen Visser, Mr David Curtis, Ms Joan Baxter and Mr Ralph Tabberer

and we have been trying to make sure that teacher education is much more faithfully representing those in its preparation of teachers. I do not think you could win an argument that we have been slow about this. The quality of teachers that are now coming out—

Q736 Chairman: From what I have been listening, you are saying that the TDA is a bit complacent about this, it is a bit of an option here and a bit of an option there, and we are getting evidence from people that teachers are not being trained well enough to deal with the range of need.

Mr Tabberer: The empirical evidence from inspection and research is that our training of teachers is now the “best ever”, if I am going to quote precisely the words of the former—

Q737 Chairman: In special educational needs?

Mr Tabberer: In special educational needs I am sure that people are better trained and prepared now than they have ever been. I do not start this being defensive. I start this stating facts but always recognising that we can do better. In the last few years the thing that I accept is that we have put a lot of focus into making sure that teachers are ready to hit the ground running, to be able to work in challenging schools, and deliver the expectations of raising standards across the board. The opportunity that is now available to us is to put even more attention on special needs. I just want to make sure we grant the opportunity. In this we are absolutely in accord. I am certainly never complacent about the level of the challenge.

Q738 Mr Chaytor: Finally, do you think we are using the expertise that exists in special schools to improve the quality of the work done in mainstream schools?

Mr Tabberer: That is a broader question. Again, never enough and I accept the challenge.

Q739 Mr Chaytor: Is there anything in the TDA’s development plan that will encourage that process?

Mr Tabberer: Something the Ofsted report highlighted was a weakness in using that existing expertise.

Mr Curtis: There are two of the seven elements that we are discussing in initial teacher training that address this directly, and I have given a note to the Committee on this. One of them relates to the development of extended placements in special schools which we think will get some of our initial teacher educators working more between special and mainstream schools. The last element in our list is explicitly about us contributing to strengthening links between mainstream and special schools in targeted LEAs. So we have again taken the evidence

and decided to pick this up. Do you want me to address CPD as well? I have talked about initial teaching training so far.

Q740 Chairman: Briefly.

Mr Curtis: We highlighted the professional development issues when we took on our new extended CPD remit from the Government just a year ago when the Department asked the Agency to contribute more in policy and support in the CPD area. We have been looking at the standards that have been used for teachers at different stages in their careers. We are currently in consultation on these standards, but it is our intention to endeavour to strengthen expectations at different stages in the career of teachers so that we are reinforcing much more. The assessment skills, the diagnostics, the early assessment, the interventions, the ability to apply these regimes are something that are part of the progression of every teacher if they want to go up to “senior” teacher and “excellent” teacher status. It is very important that the Committee keeps an eye on those standards as a further potential lever for putting over the message that this is something we need to get stronger. At the moment we accept that professional development in this area is patchy and does need serious attention.

Q741 Jeff Ennis: A very quick supplementary to the point that Dave has just raised in terms of the collaboration between maintained schools (that is both mainstream and specialist schools) and independent sector specialist schools. Are we building up more opportunities for in-service training between the independent sector and the maintained sector and is it important that we do that—the National Autistic Society schools and that sort of thing?

Mr Tabberer: It is important that we do it. There is some but you will not be satisfied with the level. One of the good things that is happening though at the moment is there is a very high level of discussion, negotiation and consultation going on between different bodies. It is being handled very well. It is not the normal exchange of lobbies and defence. Everybody is ready to step up and work together on this. I do not think you are going to find that people are inventing barriers to fall over.

Chairman: I am afraid we are going to have to stop there. We could have asked you lots more questions. You have been wonderful added value to the Committee’s inquiry. I wish we could go on longer but we want everybody to appear before the Committee and I do not want John Bangs and the teachers’ unions to stage a walk-out because they are not getting enough time! I very much wanted to ask you whether you were worried about SENCOs increasingly not being trained teachers but perhaps you could write me a note about that.

Supplementary memorandum submitted by Ofsted

1. Following Ofsted's appearance at the Education and Skills Select Committee on 8 March 2006, I undertook to come back to you on the question of how many pupils get excluded from special schools.
2. The figures contained within this briefing are the latest figures published by the DfES in SFR 23/2005, 23 June 2005: "Permanent and Fixed Period Exclusions from Schools and Exclusion Appeals in England, 2003–04".²
3. In response, there were 280 permanent exclusions and 15,170 fixed period exclusions in England in 2003–04 (one year period) in maintained special schools. This is the first time figures for fixed period exclusions have been collected and published.
4. Ofsted are able to provide figures back to 1997–98 for permanent exclusions but these are for maintained and non-maintained combined, which is inconsistent with the maintained only figures above (please see the table overleaf).

<i>Year</i>	<i>Permanent Exclusions (Maintained and Non-Maintained)</i>
1997–98	570
1998–99	440
1999–2000	380
2000–01	390
2001–02	340
2002–03	300
2003–04	300

March 2006

Supplementary memorandum submitted by the Training and Development Agency (TDA)

SENCOS

A key function of any school is addressing the special educational needs (SEN) of pupils, whether the pupils have statements of SEN or not. This means that special educational needs has to have the right profile within a school and the person or persons appointed to carry out SENCO functions have a central and important role in this.

When appointing a SENCO, headteachers and governing bodies must have regard to the SEN Code of Practice (2001).

As detailed in the Code, the SENCO should have responsibility for:

- overseeing the day-to-day operation of the school's SEN policy;
- liaising with the advising teachers;
- managing the SEN team of teachers and learning support assistants;
- co-ordinating provision for pupils with SEN;
- overseeing the records on all pupils with SEN;
- liaising with parents of pupils with SEN;
- contributing to the in-service training of staff; and
- liaising with external agencies.

It would also normally be expected that the SENCO is a member of the senior leadership team within a school, thereby demonstrating the importance attached to SEN. In some schools the SENCO function may be part of a broader "inclusion" remit.

The actual decision as to which person or persons to appoint to the SENCO role rests with the headteacher and governing body. In making the appointment, the headteacher should take into account factors such as:

- the skills and experience required in connection with the role, and the extent to which the candidate has demonstrated these or could acquire them;
- the range and complexity of SEN represented within the school; and
- practical issues such as authority (credibility) in relation to members of the teaching staff, parents and external parties.

² Please see the following web link: <http://www.dfes.gov.uk/rsgateway/DB/SFR/s000582/SFR23-2005.pdf>

When the SEN Code was published in November 2001, the general assumption—albeit not explicitly stated—was that the role of SENCO would normally fall to a teacher. Provided that the school has had regard to the advice in the SEN Code of Practice and given due consideration to the nature of the role and the ability of the individual concerned to fulfil it there is no legal obstacle that would prevent a headteacher giving elements, or indeed all, of the SENCO role to teaching assistants (TA), or other members of support staff.

The DfES have received a number of representations on the question of whether TAs can be SENCOs. They have given very careful consideration to these but are not persuaded that there is a case for overruling the ability of headteachers to make the appointments that they consider to be appropriate. As part of our new remit for the whole school workforce, the DfES have asked us to look at the role and training of SENCOs.

April 2006

Memorandum submitted by the National Union of Teachers

SUMMARY

The submission from the National Union of Teachers (NUT) focuses on several of the broad issues outlined within the terms of reference for the enquiry into Special Educational Needs announced by the Education and Skills Committee.

There are a number of issues which are covered in the NUT's submission which are summarised below:

- The NUT supports the inclusion of disabled children and children with special educational needs in the most appropriate settings for meeting the individual pupil's needs.
- In order to ensure that every child and young person with SEN can achieve a quality of access to the most appropriate setting, there must be a framework of provision across each local authority which encourages and supports that principle. Local authorities leading their local communities are key to that concept.
- The NUT believes that inclusion should not be defined as all pupils being included in mainstream education, but as all schools working together as part of an inclusive education service to meet pupils' needs in the most appropriate setting. The NUT believes that the Government should provide guidance for schools on the minimum weekly leadership and management time needed for special educational needs co-ordinators to carry out their responsibilities effectively.
- The NUT believes that funding for behaviour and SEN support services should remain as part of the local authorities funding share. The NUT believes that the Government should require each local authority to maintain a range of behaviour support and SEN support services to schools, including educational psychology services.
- The NUT believes that the ability of local authorities to support pupils with complex needs, and the role of SEN support services can be undermined by delegation of funding from LEA level to school level. The NUT believes it is local authorities that have the capacity to ensure that SEN services support schools effectively. LEAs should have a continued role in providing services. The Government needs to protect SEN services and behavioural support services from piecemeal erosion.
- The NUT believes that there should be a statutory requirement on local authorities to maintain, or have access to, a wide range of provision, including high cost provision and a range of special schools, dedicated units for pupils with emotional and behavioural difficulties and services for low incidents special educational needs. All local authorities should maintain and have access to sufficient numbers of pupil referral units.
- The NUT agrees with the Government's announcement that mainstream and special schools should build on the experience of collaborative initiatives to develop strong local networks of schools, sharing responsibility for the success of all children in their area.
- Local authorities need to provide a range of provision for pupils with emotional and behavioural difficulties including special and residential school provision for pupils with EBD whose needs could not be addressed successfully in mainstream schools.
- The NUT welcomed the fact that the Government's SEN strategy gives special schools a clear role and announces that mainstream and special schools should work together to support inclusion.
- It is essential that teachers in all forms of provision, are given the same professional development opportunities as those in mainstream schools, and are given the opportunity to visit other settings. Outreach work between mainstream and special schools is demonstrably effective. Local authorities should be responsible for ensuring that there is an equality of entitlement for teachers to high quality professional development and/or accredited training. This should include specialist training for those going into the special school sector and SEN training for teachers working in mainstream schools.

- The NUT is concerned that there are alarming contradictions in the Government's Five Year Strategy and in the Government's SEN strategy. The Five Year Strategy advocates greater autonomy for individual schools, greater diversity among schools, and a weakened role for local authorities as well as the increasing number of City Academies. The Government's SEN strategy however urges schools to work together and to build collaborative clusters to share expertise. There is an inherent contradiction between the direction of travel set out in these respective strategies.
- The NUT believes that it is essential that all schools are able to work together to ensure that the whole system of provision meets the needs of children and young people with special educational needs. In order for there to be equality of access, there must be in place a fair and equitable pupil admissions process, and City Academies and Foundation Schools must support the concept of local schools working together. The increasing number of schools with Academy and Foundation status has the capacity to undermine local communities of schools and the effectiveness of local authorities support.
- With unacceptable pupil behaviour at all levels of education remaining a key feature negatively affecting teacher retention, the Union launched a charter for schools in England *Learning to Behave* in September 2005. The charter calls for system wide reform which will promote enthusiasm for learning and reduce unacceptable behaviour. These proposals have been sent to the Government's Leadership Group on Behaviour in order to inform the discussions of the Ministerial Stakeholder Group on Pupil Behaviour. The NUT has sought the establishment of a new independent enquiry into pupil behaviour.

INTRODUCTION

1. The National Union of Teachers is the largest teachers' union in England and Wales. This memorandum from the National Union of Teachers (NUT) provides evidence relating to the issues highlighted in the terms of reference for the inquiry into Special Educational Needs announced by the Education and Skills Committee. The NUT is advised by an Advisory Committee on SEN, which contains teachers from mainstream and special schools and pupil referral units as well as specialist teachers from local authority education advisory services.
2. The underlying principle behind NUT policy in relation to SEN is that inclusion is a process that cannot be imposed. The NUT has argued consistently that a range of provision should be in place for pupils to ensure that their needs are met.
3. The NUT welcomes the Select Committee's decision to focus on special education. It believes that Baroness Warnock's recent reflections on the Warnock Report have triggered an important debate. Such a debate highlights an important fact in the NUT's view. There still appears to be a significant mismatch between the Government's views about the need for a broad range of special educational needs provision and some local authorities' views on inclusion. This submission set out the NUT's views on inclusion and the nature of support for children and young people with SEN.

DIFFERENT MODELS OF PROVISION

4. After the launch of *Removing Barriers to Achievement*, the NUT agreed a joint statement on inclusion with the other five teacher associations. The statement reads:

“(We) support the view of inclusion set out in the Government's SEN Strategy, *Removing Barriers to Achievement*. (We agree) with the Strategy that inclusion should not be defined as all pupils being included in mainstream education, but as all schools working together as part of an inclusive education service to meet pupils' needs in the most appropriate setting”.
5. Some pupils with SEN have additional needs that can be met by strategies put in place by teachers together with the school's special educational needs co-ordinator, but other pupils with SEN have needs which require additional provision. In order to ensure that every child and young person with SEN can achieve equality of access to good local schools, there must be a framework of provision which encourages and supports that principle. Local authorities leading their local communities are key to that concept. Local authorities must be able to have the capacity to maintain and provide additional support to schools when it is needed.
6. The Select Committee is urged to recommend to the Government that there should be a statutory requirement on local authorities to maintain, or have access to, a wide range of provision, including high cost provision and a range of special schools, schools and dedicated units for pupils with emotional and behavioural difficulties and services for low incidence special educational needs. The Government refused to include such a statutory requirement within the 2002 Education Act. With new legislation following the White Paper in 2006, there is a renewed opportunity to include such a requirement.

7. The NUT believes that all local authorities should maintain or have access to Pupil Referral Units (PRUs). Schools should be encouraged to provide outreach SEN support to local maintained schools alongside their provision for their own pupils. It is important to maintain provision that is working and meets the needs of pupils. Special provision should remain specific to need and not be perceived as a “dumping ground”.

8. The NUT supported the call in the Government’s 10 year strategy, *Removing Barriers to Achievement*, for mainstream and special schools to build on the experience of collaborative initiatives to develop strong local networks of schools, sharing responsibility for the success of all children in their area. Such collaboration, however, should not be a substitute for local authorities maintaining a wide range of provision.

9. Local authority reviews of SEN provision should ensure that the development of inclusive mainstream provision includes a range of suitable settings for pupils for whom mainstream schooling is not appropriate at a particular time. Research has demonstrated, for example, that special schools and units often function well for pupils with sensory impairments.

10. In addition, there should be a range of provision for pupils with emotional and behavioural difficulties (EBD), including special and residential school provision for pupils with EBD whose needs cannot be addressed successfully in mainstream schools. Ofsted has reported³ that only a third of secondary schools were effective in meeting the needs of pupils with emotional or behavioural difficulties. One SENCO responding to the NUT survey summarised the views of many teachers in calling for:

“a clarification of a schools right to refuse a pupil —we have been forced to take pupils where we have known we would not be able to meet their needs. We have subsequently been proved right but not before both the school and the pupil have been put through stress”.

11. Figures released by the DfES, in September 2004, show that despite the overall fall in the number of permanent exclusions (largely in line with the fall in the school population) the number of children with SEN being permanently excluded had actually risen by 6%. Pupils with SEN make up two thirds of permanent exclusions and just over two thirds of the population of pupil referral units. The population of pupil referral units has grown by a startling 40% by 2012.⁴ This indicates clearly that local authorities must maintain special school provision, including schools or dedicated units for pupils with emotional and behavioural difficulties.

12. In 1990, the Department of Education, in circular 11/90⁵, urged local authorities to look at the overall balance of provision between special and mainstream schools; and provision other than in schools and in hospital schools. The aim of the circular was to “move towards a coherent pattern of provision” which gives appropriate support for all pupils with SEN wherever they are being educated within the local authority’s service.

13. The evidence that the NUT received from its members is that this overall balance of provision has not been achieved by some local authorities. A national initiative, in the form of new guidance agreed between the Government and all unions is necessary to revise Circular 11/90 and reissue local authorities with guidance about staffing ratios for pupils with SEN, and the duty to review provision and maintain a balance of provision. Such guidance is long overdue. This is particularly so because the Government’s Strategy *Removing Barriers to Achievement* proposes to achieve a reduced reliance on statements through “strategic planning to ensure a spectrum of provision to meet the needs of local children”.

14. The NUT believes that planning for new schools should include specialist units or other flexible arrangements for pupils to attend both specialist and mainstream provision. Any re-organisation of separate special educational provision should always include a phased programme with mainstream schools including joint planning with governing bodies, representatives of school staff and representatives of teacher organisations to ensure that expertise is shared and appropriate provision made. A revised Circular 11/90 should cover these issues.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS

15. The relationship of inclusion to resources and appropriate provision has consistently been a critical issue for teachers. The NUT continues to resist LEA bureaucracy that impedes access to early intervention strategies at a lower level. As the Government’s SEN strategy noted, the Audit Commission report⁶, has already expressed doubts about “the compatibility of current SEN funding systems with promoting early intervention”.

16. The NUT supports statements of SEN as useful tools for planning for, and supporting, the specific needs of pupils with SEN. Statements are useful. They give individual pupils real support. Statements of SEN should, however, not be considered the primary route to accessing the right provision and early intervention at the right time.

³ Special Educational Needs and Disability: towards inclusive schools, Ofsted, 2004.

⁴ Advisory Centre for Education Bulletin No 122.

⁵ Staffing for Pupils with Special Educational Needs, Circular No 11/90, DfES, 1990.

⁶ Special Educational Needs—a mainstream issue, Audit Commission, 2002.

17. The NUT shares Baroness Warnock's concern about the confrontation between parents and local authorities' surrounding statements. Local government, under pressure from Ofsted and central government, has been attempting to reduce the number of new statements they issue. Authorities often refuse statutory assessment even where it is the school, whose professionals know the child best, which has asked for it.

18. The NUT believes that confrontation around the statementing process would subside if high-quality provision was made available by local authorities without the need for parents to request a statement. The range of provision discussed above must be in place before local authorities can attempt to reduce so called 'reliance' on statements.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

19. The NUT welcomed the fact that *Removing Barriers to Achievement* gave special schools a clear role and said that mainstream and special schools should work together to support inclusion. The NUT believes that only by such joint working will parents be provided with the confidence that local mainstream schools can effectively support their children's needs.

20. Media appearances by parents, during the May 2005 Election, and comments by Baroness Warnock have reignited the debate about the "role" of special schools. The Conservative Party has called for a 'moratorium' on the closure of special schools. The NUT supports the vision for special schools set out in *Removing Barriers to Achievement*, which says:

"Some special schools have felt threatened by the inclusion agenda and unsure about what role they should play in future. We believe that special schools have an important role to play within the overall spectrum of provision for children with SEN-educating some children directly and sharing their expertise with mainstream schools to support greater inclusion".

21. Local authorities are failing to distinguish between DfES statutory guidance and guidance that is non-statutory, however. In particular, some local authorities have misinterpreted the *Removing Barriers to Achievement* Strategy as instructing them to close special schools. This is not what the 10 year action plan says.

22. It is essential, therefore, that the Secretary of State for Education communicates to all Directors of local authorities and Directors of Children's Services what is expected of them: to maintain a continuum of provision including special schools and EBD units, as outlined in *Removing Barriers to Achievement*. This will require some local authorities to reverse their policy of minimal or no special school provision. The NUT urges the Select Committee to make a recommendation on this point.

23. The NUT believes that inclusion is not about placing all disabled children and children with special educational needs in either mainstream schools or special school, ignoring difference and "treating all pupils the same". It is about appropriate provision to meet each pupil's needs in the most appropriate setting and reasonable adjustments to enable each pupil to access the whole life of the school. The provision and the adjustments may be different for each pupil. This is the essence of inclusion, and is what teachers work hard to provide.

24. Many special schools provide an invaluable contribution to the education of young people with SEN and disability within the wider continuum of provision. In the NUT's view, the issue under debate should not be their closure. The challenge is to develop co-ordinated provision where young people are educated in the right place with the right resources within a continuum of provision. Both special and mainstream schools need to be backed up by good quality specialist advice from their local authority.

25. The NUT believes that special school provision should be maintained and should be co-ordinated and linked with mainstream provision, particularly those schools and units catering for children with EBD. Links between special schools and mainstream schools are important, as is developing special schools as resource bases which mainstream schools can access. It is essential that the Government sends this message clearly to schools, to local authorities, to Ofsted, to voluntary organisations and to all agencies working within schools.

26. Such links should include the sharing of teaching expertise by mainstream and special school teachers. This should be a two-way process, including both sectors engaging increasingly in outreach work with each other. Such a process is important but challenging. Ofsted⁷ have pointed out that mainstream and special schools are still isolated from each other and that effective partnership work between mainstream schools and special schools on curriculum and teaching is the exception rather than the rule.

27. Some of the most effective developments involve special schools providing consultancies and support services to local schools. One successful EBD special school, Cuckamere House in East Sussex, provides a behaviour advisory service for local schools for example.

⁷ Special Educational Needs and Disability: towards inclusive schools, Ofsted, 2005.

28. It is important that teachers in separate provision are given the same professional development opportunities as those in mainstream schools, in particular, the opportunity to visit other schools. Outreach work between mainstream and special schools is demonstrably effective. One aspect of visiting other schools should be the opportunity to follow through pupils who have transferred to mainstream schools.

ACCESS TO MAINSTREAM SCHOOLS

29. Legislation now requires school buildings to be accessible. The Schools Access Initiative, triggered by the NUT and Scope, was successful, but dedicated grant funding is not guaranteed after 2007–08. Over one half of schools are not yet fully accessible, however. The Government should embed the Schools Access Initiative as part of a sustained programme to ensure that all schools are fully accessible. This should entail a continued commitment to dedicated ring fenced funding by Government in order to achieve accessibility in all schools.

PROVISION FOR PUPILS WITH SEN IN MAINSTREAM SCHOOL

30. The NUT welcomed the pledge in the Government's 10 year strategy, *Removing Barriers to Achievement*, to provide mainstream schools with the skills and resources to enable them to take prompt action to intervene early to meet the needs of children and young people with SEN. Implementation of the Strategy has, however, been slow. Teachers do not report increasing support from local authorities as a result of the strategy.

31. A wide ranging consultation was carried out by the Department for Education and Skills SEN team during the course of 2003 and 2004 when developing the 10 year action strategy.

32. The NUT welcomed the recognition in *Removing Barriers to Achievement* that teachers should spend less time on SEN related paperwork. This pledge acknowledged the pressures which special educational needs co-ordinators (SENCOs) in mainstream schools face each day.

33. The respondents to a NUT survey⁸ of special educational needs co-ordinators (SENCOs) highlighted the drastic impact on SENCO workload of the inclusion of increasing numbers of pupils with SEN, and the increasing accountability, inspection and assessment pressures within schools.

“The gathering of evidence and paper work required for reviews at School Action and School Action Plus is ridiculous and it does not reach the majority of pupils who require support who can now get lost in the school system”.

“Assessment continues at the same level but as school assessment requirements have increased generally, SEN assessment has risen to match it”.

“Not enough time means no time in school day for paperwork so it’s done after the ‘after school meetings’ after school and on average two to three days in all holidays including during half term”.

“School doesn’t recognise the amount of work involved with SEN. Lack of non-contact time means several SEN meetings a week after school. No administrative support given as suggested in new Code of Practice. School is now inclusive—several pupils with severe disabilities—in principal good but has led to huge increase in workload—this has not been recognised”.

“We work incredibly hard all the time. We really try to make a difference, to be efficient but we can’t keep up with paperwork, meetings with parents, etc, which are all such good practice/things we want to do”.

34. The NUT believes that teachers face unnecessary internal pressures in respect of accountability for planning, preparation, recording, reporting and assessment in relation to all pupils. There are particular specific bureaucratic burdens on special educational needs co-ordinators arising out of the SEN Code of Practice.⁹ Although some SENCOs report that the new Code of Practice has simplified procedures, many SENCOs are still constrained to undertake too much planning, reporting and recording and to attend too many meetings.

35. The NUT is calling for a national initiative, in the form of new guidance agreed between the Government and all unions, to strip out continuing excessive bureaucratic burdens on all staff within schools, and this guidance should have a particular focus on teachers with co-ordinating roles such as SENCOs, and on SEN related assessment and reporting.

36. A special educational needs co-ordinator in a mainstream school has specific responsibilities delineated in the SEN Code of Practice. The NUT believes that SENCOs cannot carry out their job in mainstream schools effectively unless they have school systems which support them. Due to the unique context of each school the actual agreed tasks of the SENCO will vary, sometimes quite dramatically, depending on time, the size and locality of the school, and the managerial position of the SENCO.

⁸ Special Educational Needs Co-ordinators and The Revised Code of Practice: An NUT Survey National Union of Teachers, 2003.

⁹ Special Educational Needs Code of Practice, DfES, 2001.

37. All SENCOs need sufficient resources of time, space and administrative back up to fulfil the role. Sufficient non contact time needs to reflect the numbers of children and young people with special educational needs within the school. The Select Committee is urged to recommend that the Government, in consultation with teacher organisations, provide guidance to schools on the minimum weekly leadership and management time needed for special educational needs co-ordinators to carry out their responsibilities effectively.

38. The NUT 2003 survey found that SENCOs want to be included within school discussions on financial management and on SEN funding so that they can promote changes in school systems that operate for the benefit of pupils with SEN. This echoed earlier research by the University of Newcastle¹⁰, in 1997, that heads and governors should review their resourcing of the SENCO role to ensure that it is adequate and, further, that they should involve the SENCO in resourcing decisions.

39. Inclusion is a whole school issue. Overall responsibility for inclusive policy lies with the head teacher and the governors. Many SENCOs become overwhelmed by feeling solely responsible to effect change. A SENCO should only be expected to co-ordinate the provision made across the school for pupils with SEN. Any recommendations by the Select Committee should seek to re-emphasise the importance of a whole school approach. The NUT SENCO survey found SENCOs were managing their role effectively where they enjoyed the tangible support of their headteacher and governors.

40. The NUT commissioned research at the University of Warwick on the implementation of the previous SEN Code of Practice which was published in 1996. One of its suggestions was a greater contribution from LEAs, including professional development for SENCOs. It found that “SENCOS need a comprehensive and effective professional development programme if they are to train others. SENCOs therefore need time for personal training and development recognised in their timetable commitments”.

41. The view expressed by SENCOs in the NUT’s follow up research to its 2003 survey are remarkably similar. SENCOs still face barriers which prevent access to training and development.

42. Resources need to be made available in order that SENCOs can fulfil expectations about the scope of their role. Alternatively, the scope of the SENCO role needs to be re-evaluated in the light of what is reasonable in practice.

AVAILABILITY OF RESOURCES AND EXPERTISE

43. The NUT is concerned about recent guidance¹¹ which encouraged local authorities to reduce funding held centrally by authorities for SEN support services and to delegate further SEN funding directly to schools.

44. Encouraging further delegation of SEN resources from local authorities to schools will lead to an erosion of the level of SEN support services in some areas, especially for learning and behavioural support, and to the irreversible fragmentation of services.

45. Adequate funding for behaviour and SEN support services should be included in each local authority’s funding allocation for the “LEA Budget”. The NUT believes that the Select Committee should urge the Government to require each local authority to maintain a range of behaviour support and SEN support to schools, including special educational needs support services and educational psychology services, and ensure that local authority funding allocations support this.

46. Funding for local authorities’ role in SEN provision is currently located in the “LEA Budget”, the authority’s own budget for centrally provided support services, and in a statutorily limited centrally retained element of the “Schools Budget”, the budget for schools spending which is otherwise delegated to schools.

47. The NUT believes that there are a number of problems associated with the delegation of SEN funding. They are set out below:

- Funding for statemented pupils is targeted at the individual pupil rather than at the school. It is difficult to forecast accurately the number of pupils in each school which will have statements in a given year. In addition, where such pupils move between schools within the financial year it is easier to ensure funding follows the pupil by retaining such funding centrally. This ensures that such moves will have a neutral effect on the school’s budget. Central retention of the funding can also avoid the situation where a school loses funding for a pupil during the financial year when it has already set aside funding for the support of that pupil’s needs for the whole year.
- The role of SEN support services can be undermined by the delegation of funding for statemented pupils. Support provided by these services often becomes disjointed when devolved. Such support services require guaranteed funding in order to be able to plan provision and to provide the appropriate levels of support. Such services need to employ a given number of SEN support staff and this will take up a large proportion of their overall budget. Delegation of funding means that

¹⁰ The Role of the Special Educational Needs Co-ordinator in Schools: Analytical report prepared by Crowther D, Dyson A, Lin M and Millward A (1997) from the University of Newcastle.

¹¹ The Management of SEN Expenditure, DfES, 2004.

- it is not possible to be certain how many schools will buy into the central support service, which means in turn that the provision of a service staffed by permanent specialist teachers with the necessary skills and experience can be threatened.
- SEN support services at local authority level are essential in order to provide the flexibility required in responding to the needs of individual pupils at school level. Where SEN specialist staff are not available, schools may find that they do not have the necessary specialists to support these pupils.
 - Local authorities have continuing legal obligations in relation to the provision of the support outlined in statements. This means that delegation conflicts with the principle that funding should be aligned with responsibility.
 - The many effective support services for SEN and behaviour support have been essential in supporting inclusion and funding for these should not be delegated.

48. The NUT notes that authorities will, with the support of the School Forums, be able to retain funding above the standard limit on centrally retained expenditure for purposes, including high cost SEN provision. There are, however, widespread doubts shared by the NUT as to whether authorities will be able to secure such support even where there is an obvious case for the proposal.

49. A recent report by Ofsted on SEN support services¹² highlights the damaging effects for pupil support of delegation of services described above, including the undermining of local authorities' ability to support pupils with complex needs. The Ofsted report confirmed that SEN support services promote inclusion and improve the life chances of many vulnerable pupils and that insecure funding arrangements create long-term planning difficulties for many services.

50. Ofsted reported also that delegation of funding to schools for support services diminished the capacity of many local authorities to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support. The report pointed to the huge variation in the quality of service provision, highlighting that pupils receive varying levels of support depending on where they live.

51. Ofsted recommended that local authorities should identify long-term funding arrangements which allow SEN support services to plan ahead. The conclusion reached by Ofsted that pupils with SEN have been denied specialist help because some schools have needed to use funds for other purposes supports the argument for local authorities to retain a strong role in centrally planning and funding SEN services.

52. The NUT believes it is local authorities that have the capacity to ensure that SEN services support schools effectively. They also have a continuing role in providing services. The Government's Strategy, *Removing Barriers to Achievement*, rightly points to the need to protect SEN services and behavioural support services from piecemeal erosion. For this reason, the NUT hopes that the DfES will look very seriously at the key findings and recommendations made in the Ofsted report. These will form a timely contribution to the development of generic minimum standards for SEN support services which the DfES is to produce in the next six months.

53. *Removing Barriers to Achievement* committed the DfES to developing minimum standards for SEN advisory and support services but no guarantees were given to protect funding for such services. This remains a contradiction that the Government must address as a priority. The Government should be urged to address this in the forthcoming Education White Paper.

54. Whilst schools have always been at the centre of their communities, there is, as yet, no clear picture of how schools over the next decade will provide additional services to children with SEN. Neither is there, as yet, a clear picture of the future relationship local authorities, as distinct from local education authorities, will have with schools. Collaborations of secondary schools should not be expected to substitute for local authorities SEN and behaviour support services. They should be required to co-ordinate with local authority support services.

LEGISLATIVE FRAMEWORK FOR SEN AND THE EFFECTS OF SENDA 2001

55. Teachers, and in particular, SENCOs need accessible information about the SEN Code of Practice and SENDA 2001. There is evidence from the NUT's SENCO survey that the legislative changes introduced in 2001 and the new Code of Practice still need time to bed down. No further legislation is needed. One SENCO commented:

“If you have taken over from an untrained SENCO who did not even follow the previous code effectively it is very hard to educate the Department staff and the general teaching staff in the work they should be doing. Consequently you are always behind in what should be happening. This can lead to overwork, frustration, acute stress and despair at lack of progress. Add Ofsted to this and you could have a breakdown! Slowly the school's response is falling into place and the staff are beginning to work together”.

¹² Inclusion: the impact of LEA support and outreach services, Ofsted, 2005.

56. Local authorities should provide information on high quality professional development for teachers. Local authorities should be responsible for ensuring that there is an equality of entitlement for teachers to high quality professional development, and/or accredited training. This should include specialist training for those going into the special school sector and SEN training for teachers working in mainstream schools.

57. The NUT is concerned that there are alarming contradictions in the Government's Five Year Strategy, which advocates greater autonomy for individual schools, greater diversity among schools, and a weaker role for local authorities as well as the increasing number of City Academies.

58. The NUT believes that it is essential that all schools are able to work together to ensure that the whole system of provision meets the needs of children and young people with SEN. In order for there to be equality of access to education, there must be in place a fair and equitable pupil admissions process. Common admissions arrangements are the key to achieving this goal. The NUT has supported consistently the concept of local admissions forums. In contrast, Academy status, where Academies are independent schools and not maintained by the local authority, has the capacity to undermine local communities of schools and the effectiveness of local authority support.

59. If all schools were subject to a common admissions procedure there would be no contradiction between schools developing individually and clusters of schools working together. Common to both approaches would be the principle of specialist provision and clusters of schools serving the needs of all pupils with SEN in each community.

60. The Government also needs to ensure that the impetus to improve the support for frontline professionals outlined in *Removing Barriers to Achievement* is not threatened by local authorities' preoccupation with the *Every Child Matters* agenda and the local re-organisation of the delivery of children's services required by the Children's Act 2004.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

61. The NUT supports a range of provision for pupils with behavioural difficulties, including EBD schools, residential schools and pupil referral units. The Government must ensure that local authorities provide for the needs of pupils with EBD (or potential EBD) in the primary sector. Early intervention must be recognised as a key to avoiding escalating difficulties for pupils with emotional and behavioural difficulties. Pupils requiring separate EBD provision should be enabled to access the right provision at the right time, with the aim of returning to mainstream schooling as soon as they are able.

62. With unacceptable pupil behaviour at all levels of education remaining a key feature negatively affecting teacher recruitment and retention, the Union launched a Charter for Schools in England *Learning to Behave* in September 2005. The Charter calls for system wide reforms which will promote enthusiasm for learning and reduce unacceptable behaviour. Accompanying the NUT's Charter are proposals that focus on the needs of school communities and on those of staff and pupils, including pupils with behavioural and emotional difficulties.

63. These proposals have been sent to the Government's Leadership Group on Behaviour and to the Ministerial Stakeholder Group on pupil behaviour. A copy of the NUT's Charter is attached as Appendix A.

64. With schools catering for pupils with increasingly diverse needs, teachers require a more in depth understanding of child development, so that they can develop appropriately differentiated lessons and avoid behaviour difficulties that arise due to a pupil's inability to access the curriculum. The NUT's Charter makes recommendations for system wide reforms which will enable teachers to improve behaviour. The NUT has also sought the establishment of a new independent inquiry into pupil behaviour.

65. Each local authority should be required to provide behaviour support for schools. No school should be required to continue to accept on roll pupils with continuing unacceptable pupil behaviour. No child or young person should be written off. It should be a requirement on all local authorities to maintain or have access to a range of provision, including behaviour support services and schools for pupils with emotional and behavioural difficulties. Such services are vital in supporting children and young people who are not taught in mainstream schools and are vital also in meeting the needs of vulnerable children. The right to education of all children needs to be protected.

66. The NUT has recommended that local authorities should review behaviour support plans, in order to examine what is in place at a local level. The NUT believes that it is important that local authorities should be required to consult on and publish a Behaviour Support Plan, separate from the new Children and Young People's integrated plans now required under *Every Child Matters*, outlining the range of provision available for behaviour support.

Memorandum submitted by National Association of Head Teachers (NAHT)

1.1 The National Association of Head Teachers welcomes the opportunity to make a submission to this inquiry, and to set out the ideas of school leaders in relation to the education of children with special educational needs. In the main part of this submission, we state our views in respect of the headings set out by the Committee when it launched the inquiry. However, we would like to take the opportunity first to set out some general points in this area.

1.2 NAHT welcomed publication of the government's SEN strategy *Removing the Barriers to Achievement*, and supports the main thrust of the strategy. We welcome the Audit of Low Incidence Needs that is going on at the moment, and understand that the Audit Commission is to carry out similar work. We meet senior staff in the DfES SEN Division regularly, and would hope to continue this positive relationship. NAHT has published two policy documents in this area, which have recently been updated.

1.3 For too long the debate over special educational needs has been dominated by demands from some quarters for the closure of special schools and the education of all children with special needs in a mainstream setting. It is to be hoped that that debate is now over, and that policy-makers can move on to address the positive contribution that special schools can make in the creation of a truly inclusive education service. This contribution is recognised in the DfES strategy, and by Lady Warnock in the paper she published earlier this year. She urges an inclusive system that "allows children to pursue the common goals of education in the environment within which they can best be taught and learn".

1.4 Many children with special educational needs will be able to thrive in a mainstream school, perhaps with additional support. Where this is the case, it is right that the child should be in a mainstream setting. In this context, it is important to be clear as to what is meant by inclusion. NAHT has developed the following definition:

"Inclusion is a process that maximises the entitlement of all pupils to a broad, relevant and stimulating curriculum, which is delivered in the environment that will have the greatest impact on their learning. All schools, whether special or mainstream, should reflect a culture in which the institution adapts to meet the needs of its pupils and is provided with the resources to enable this to happen".

1.5 In addition, NAHT was instrumental in ensuring that each of the six teacher associations passed resolutions promoting a similar view of inclusion.

1.6 The implication of this definition is that the key determinant in deciding where to place a child is that child's needs. He/she should be in the setting appropriate to them at any given time, a point developed further below.

We now turn to the specific areas in which the Committee has asked for evidence.

PROVISION FOR SEN PUPILS IN "MAINSTREAM" SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

2.1 As noted above, NAHT supports the education of children with special educational needs in mainstream schools where this is appropriate to the needs of the child. Some pupils will need additional support to enable them to get the full academic and social benefits of being in that school. This support is not always forthcoming; in too many cases the child is placed in a mainstream setting without the funding required to provide the support. Where this happens, the child is unable to fulfil his/her potential. NAHT receives regular calls from members who know that the funding available to meet the special needs of a child they are about to admit is not sufficient; their concern is for the child, who they know will struggle without the support.

2.2 We note below how a child placed in a school which cannot meet his/her needs may display their frustration through disruptive behaviour. Others may become withdrawn in the face of this situation, so they are not in a position to contribute to the life of the school, or to fulfil their potential. Unhappy children find it hard to learn.

2.3 While this inquiry does not seek views on funding issues, the above complexity is often caused by resources not being available. Many of the difficulties experienced by mainstream schools come down to funding—extra classroom assistants, ICT provision, reasonable adjustments to meet pupils' needs, all need to be adequately funded.

2.4 Much expertise and experience relating to the education of children with special needs is contained in special schools. With effective management, this expertise can be very helpful in supporting a mainstream school's education of a special needs child. There are examples within various local education authorities of good practice in this area. However, where special schools have been closed, this expertise will not be available.

2.5 There has long been a tension between the standards and inclusion agendas. Schools are judged on the basis of GCSE passes or end of key stage test results, which are published in performance tables. If a school admits children with behavioural difficulties, or learning difficulties, this may affect the school's

measured test scores, which is likely to disadvantage it among, for example, parents who are choosing schools. There was a consultation from DfES in 2004 on *Performance Tables and Pupils with Special Educational Needs*, but this did not address the key issue.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

3.1 Those who lobby for the closure of special schools often talk of children being “segregated”. The Association would not support this concept, but would urge the expansion of flexible arrangements to support a child. These could include short-term special school placements, dual placements and the use of special school staff to train or work with mainstream schools. Special schools provide a rich potential resource for the support of teaching in mainstream schools, although these activities need to be arranged to accommodate the special school’s teaching of its own pupils.

3.2 There is a legal assumption that children with statements will be educated in mainstream schools, unless this is against the wishes of the parent. For parents to make an informed choice, it is important that they are given information about the full range of options available to their child. We are not confident that parents are always given full information about special provision, even when this might be appropriate for their child. Early intervention is important in addressing a child’s needs. Most special school heads have experience of being asked to admit a child who has failed in mainstream, for whatever reason, when if that child had come to a special school much earlier their needs could have been addressed earlier, and the child might not have failed. The concept of a child having to fail sufficiently to qualify for admission to a special school is in no-one’s interest, least of all the child.

3.3 It is important that special schools are included in learning communities and other clusters set up locally. Too often special schools are included as an afterthought, rather than in the initial stages of development.

3.4 In considering where to place a child, consideration of the outcomes from *Every Child Matters* is helpful. The placement should be that in which the child is most likely to be healthy, to be safe, to enjoy school, to achieve their full potential and to make a positive contribution. If the placement is likely to promote those outcomes, the chances are that it is appropriate.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

4.1 A crucial point in this area is to ensure funding for support staff is available. These people also need to be trained adequately; while the education of children with special needs depends on the support of these colleagues, it is important to avoid the situation whereby the children with the most complex needs are taught by the least trained staff.

4.2 Many teachers, particularly newly qualified teachers, do not have the knowledge required to meet the increasingly complex special needs of some children admitted to mainstream schools in recent years. Staff in special schools also need training, as they work with children with very severe needs, needs which have become increasingly complex in recent years as medical advances mean severely disabled children now live longer than previously. Special school staff will also need preparation for the outreach role described above, if this something they have not done in the past.

4.3 NAHT welcomes the moves by the Training & Development Agency for Schools aimed at increasing the confidence of teachers in relation to SEN issues, and look forward to hearing how this develops. We would also like to pursue means by which special schools can take a greater role in initial teacher education, perhaps accommodating students on a long placement.

4.4 We have mentioned early intervention before, but it needs to be acknowledged here that this is crucial to raising standards of children with special needs. Without this, the advantages of early diagnosis are weakened, or lost. In many cases, admission of a child to specialist provision at an early stage can lay the foundation for successful mainstream placement later.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (THE STATEMENTING PROCESS)

5.1 The process is time consuming and costly. However, it is often seen by parents as the only way to ensure funding is provided to meet their child’s needs. If they could be made more confident that the needs would be met, this could lead to a reduction in the demand for statements.

5.2 Lady Warnock has acknowledged that the process has become “wasteful and bureaucratic”, and recommends that it be re-examined. This would be a useful exercise. In the short term, it might be helpful to restrict the statementing process to those children with more complex needs, for whom special school provision is being considered.

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

6.1 Parents need to be involved in discussions about their child's special needs at a very early stage. Their knowledge of the child and how his/her learning is affected by identified (or, for that matter, unidentified) special needs should be recognised and used. Some disabilities, such as visual/hearing impairment, physical disability, serious illness, can be diagnosed very early in life, and parents need to be involved in discussions about educational and medical provision from an early stage.

6.2 We noted above that, in considering whether their child would be best placed in a special or mainstream school, parents need all available information on which to the best choice. Unless they are given full information about special school provision available to the child, they are not in a position to make a sensible decision.

HOW SPECIAL EDUCATIONAL NEEDS ARE DEFINED

7.1 The Association has expressed concern in the past about the danger of seeing a child as being listed under one specific category. The tendency to categorise special educational needs under specific headings weakens the holistic view of the child. There are many children whose needs range across the headings available, and it is important to note how needs inter-relate. Identifying a child's needs under a specific category increases the risk of failing to recognise other difficulties. This is not to say labelling is always unhelpful, but that it should be handled with care. The complexity of some children's needs must be recognised, even though they do not fall neatly under one or other heading.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

8.1 Children with EBSD are among the most difficult to place in mainstream schools, because of their impact on staff and other children. The Association would urge that this area is made a focus of government surveys on the subject of behaviour and discipline in schools.

8.2 "Zero tolerance" of disruptive behaviour needs to be matched by recognition that this can be the manifestation of unmet learning and social needs. For example, a child who is inappropriately placed, in a setting which cannot meet his/her other needs, may express frustration by means of inappropriate behaviour, generating additional difficulties for child and school.

8.3 Schools need access to the resources and training opportunities to address these needs, perhaps through local partnerships or other arrangements. We argued earlier that staff in special schools are often well-placed to provide training for mainstream colleagues. Where special schools have been closed, this resource will no longer be available.

8.4 For some children with EBSD, the normal school curriculum is not appropriate. Schools need the flexibility to ensure the curriculum is appropriate to the child's needs, rather than trying to fit the child around the existing curriculum.

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY DISCRIMINATION ACT 2001, WHICH EXTENDED THE DDA TO EDUCATION

9.1 The statutory presumption that a statemented child will be educated in mainstream, unless parents want a special school place, has led to some children being inappropriately placed. If a child is wrongly placed at an early stage in his/her school life, this not only creates frustration, but often delays the provision of effective early intervention.

9.2 It is worth repeating under this particular heading the Association's concern that in some cases, parents are not given adequate information about available special school provision. To make an informed choice, parents need to be offered a range of options from which to choose, in which the potential benefits of mainstream and special education, including residential special education if appropriate, are set out. This is particularly important because of the statutory presumption noted above.

9.3 The concern of many schools in relation to the DDA again revolved around funding, and whether they are in a position to make the reasonable adjustments required of them. The majority of schools are very keen to admit children with special needs, but are inhibited by lack of funding to provide the support they know the child needs to succeed.

CONCLUSION

In conclusion, we urge the development of a truly inclusive education service, moving beyond arguments of the right of special schools to exist, to looking at how best to develop their contribution to the service. Early identification of needs should lead to early intervention, so that children's needs are addressed as soon as possible, without waiting for more stringent criteria of need to be met. Such a policy will be in the interests of children and parents, and in the longer term will be cost effective.

SEN POLICY PAPER

The NAHT believes that policies for meeting pupils' special educational needs should be coherent across local authorities and other agencies. This requires an agreed definition of inclusion, as it affects pupils who have special educational needs. The NAHT has adopted the following definition:

"Inclusion is a process that maximises the entitlement of all pupils to a broad, relevant and stimulating curriculum, which is delivered in the environment that will have the greatest impact on their learning. All schools, whether special or mainstream, should reflect a culture in which the institution adapts to meet the needs of all its pupils and is provided with the resources to enable this to happen".

The NAHT also believes that:

- Pupils' needs should be assessed, identified and met as early as possible.
- Parents and pupils should have access to a range of provision, to ensure the best possible match between needs and where they will be met.
- A regional network of centres of excellence catering for low incidence needs should be available, to ensure equality of opportunity.
- There should be an effective system in place for interagency working, to underpin the whole of the provision.
- Every person has an entitlement to lifelong learning.

As the education service covers pupils with the whole range of abilities and aptitudes, it follows that the current emphasis on seeing progress in terms of average and above levels of attainment, needs to be broadened to recognise the achievements of all pupils.

NAHT will seek to use its influence to move the debate away from talking in terms of different sectors, to establishing a fully inclusive education service, within which all types of provision work together to support all pupils, in accordance with the view of inclusion set out above, and in the light of the government strategy *Removing the Barriers to Achievement*.

The Association will also seek to support members by:

- Working with other agencies to clarify the distinction between SEN and disability.
- Highlighting the need for the necessary resources to support inclusion.
- Identifying practices that make best use of the expertise in schools and support services, and encourage collaboration.
- Working with Government to research ways of measuring pupil outcomes.
- Providing advice on the complex medical issues now facing schools.
- Protecting the interests of all members.

POLICY PAPER ON SPECIAL SCHOOLS

1. Introduction

A previous NAHT paper⁽ⁱ⁾ set out the Association's support for special schools as a key element in the continuum of educational provision. That paper had been written in the context of uncertainty over the future of special schools. Since then, the Association has welcomed the commitments set out in Chapter two of *Removing Barriers to Achievement*⁽ⁱⁱ⁾, and the confirmation of the role of the special school as a key part of inclusive educational provision.

The context is now wider, with the emergence of the Extended Schools agenda, *Every Child Matters* and the greater emphasis on joint agency working. All schools, special and mainstream, have a role to play in providing effective education under this wider children's agenda.

2. Inclusion

NAHT sees inclusion as a process, and defines it as below:

"Inclusion is a process that maximizes the entitlement of all pupils to a broad, relevant and stimulating curriculum, which is delivered in the environment that will have the greatest impact on their learning. All schools, whether special or mainstream, should reflect a culture in which the institution adapts to meet the needs of its pupils and is provided with the resources to enable this to happen".

Further, the annual conference of each of the six teacher associations held in the 12 months from August 2004 approved a resolution identifying inclusion as being about all schools working together as part of a process, to meet pupils' needs in the most appropriate setting.

It is also important to note that there appears to be agreement across the three main political parties as to the value to pupils of special schools.

An important factor in the current discussion on inclusion is the paper published recently by Lady Warnock⁽ⁱⁱⁱ⁾. This calls for a review of special needs provision, moving away from the idea of inclusion as “all children under the same roof” towards the “ideal of including all children in the common educational enterprise of learning, wherever they learn best”.

Inclusive schooling is essential to the development of an inclusive society. It requires an education service that ensures the provision and funding is there to enable all pupils to be educated in the most appropriate setting. This will be the one in which they can be most fully included in the life of their school community and which gives them a sense both of belonging and achieving.

Crucial to this aim is the requirement for life-long learning, and an education service that ensures all children are provided with the life skills they need, in order to maximize their potential.

Inclusion, then, does not mean that all children should be placed in mainstream schools. It is more sophisticated than that. Discussion between the school(s), the LEA, the parents and the child should decide the best provision. Where a youngster’s needs can be met in mainstream education, that is where s/he should be. While most will be able to thrive in mainstream with the necessary support, it remains the case that the needs of a minority will be best met in a special school, whether on a part-time, short-term, or longer term basis, perhaps by means of dual placement, involving special and mainstream schools in the child’s education.

3. The Role of Special Schools in the Continuum of Educational Provision

Special schools contain much specialist expertise and they have the potential to enhance the education of students throughout the education system. The key role of each special school will remain the education of its pupils, but it can also make a significant contribution to the provision for pupils attending neighbouring mainstream schools. This is already going on in a number of areas, and this good practice should be encouraged elsewhere. Additional impetus to this work is provided in *Removing Barriers to Achievement*^(iv).

The Association welcomes the enhanced role for special schools proposed in *The Report of the Special Schools Working Group*^(v). The following are examples of ways in which special schools can add value to the available provision, while ensuring effective education for their own pupils:

- special schools already have considerable experience in the management of a diverse workforce, including teachers, education support staff, therapists and care staff. Much that is proposed in *Raising Standards and Tackling Workload: a National Agreement*, signed in January 2003, will have been common practice in special schools for some time;
- as a recognised “centre of excellence”, a special school is in a good position to contribute to the professional development of mainstream staff, provide outreach support to local schools, act as a resource centre, share good practice, help with assessment and intervention and assist with adapting the curriculum to make it more accessible to individual learners. There may be an even greater need to free up this expertise in smaller or unitary authorities, where LEAs do not have the range of expertise required to support mainstream schools in meeting a wider range of needs; and
- special schools have considerable experience in the use of data to help improve standards, including the use of “P” Levels for those with significant learning difficulties. They are used to devising Individual Education Plans for all their pupils. Results in some special schools bear comparison with national averages, rather than just with other students who have special educational needs.

To strengthen the important role of special schools in the education continuum requires:

- a funding system that allows for movement of staff and pupils between mainstream and special schools, or in some cases dual registration;
- inclusion of special schools in all initiatives, rather than adding them in as an afterthought or excluding them altogether;
- greater involvement of special school leaders in local decision making, so that they are given equal status with colleagues from mainstream primary and secondary schools;
- close working with the Regional SEN Partnerships to provide the ideas, knowledge and expertise borne of practical experience, that can be used to enhance the work of these Partnerships and support the drive towards equity of provision in all areas; and
- advice on provision available in special schools being made available at an early stage to parents who are considering where their child with special needs should be taught, so that all available options are considered.

4. Funding and the Statementing Process

For over 20 years, statements of SEN have been the main means of ensuring that pupils with the most significant difficulties receive the support they need. However, it is now clear that this is not a cost effective process. Instead of being a means of assessing and meeting a child's needs, as envisaged by the Warnock Committee^(vi), the process has become a means of accessing money. According to the Audit Commission (vii) 69% of SEN expenditure is focused on children who have statements, (around 3% of the school population), and much of this money is spent on the bureaucracy surrounding the statementing process rather than meeting pupils' needs. As well as being an inefficient use of funding, the current statementing procedures can have the effect of delaying assessment until the pupil has been in school for some time, possibly several years, and postponing relevant intervention. Clearly, it is time for a change.

What is needed is a system that ensures that more pupils receive funding without having to resort to the statementing procedure. As many, including parents, would have concerns about abolishing statements entirely, a first step could be for them to become the norm only for pupils for whom full-time, special school placement is being considered. This would free up more funds for support to the vast majority who are in mainstream schools, instead of wasting it on bureaucracy. All parties need to be working towards a system that is transparent and flexible. Transparency is essential so all involved can be confident that children's needs are being met. Flexibility is required to ensure that money allocated to a particular child follows that child if he/she moves to another school or LEA, without disadvantaging the school from which s/he has moved, which may have employed classroom or other support to meet the child's needs. This is likely to require some central funding to which schools can have access, at least in the short term.

The Association, of course, accepts the need for accountability in spending SEN resources. While it is important for mainstream schools to show how money for SEN in their delegated budgets has been spent, and to identify shortfalls in funding which restrict their ability to meet the needs of students, delegation of funds to schools should not mean that they are held responsible for inadequate provision.

5. Early Intervention

Early intervention is essential if a child's needs are to be most effectively addressed. It can be argued that early diagnosis has improved in recent years, so that conditions which are likely to impact on a child's learning and development are noted earlier. However, this is of no benefit unless it is followed by early intervention to address the identified needs.

The wider children's agenda, referred to above, has increased the need for effective communication between those working in health and social services and education professionals, including the staff in nursery and early years settings. This will ensure that information about any medical conditions or home circumstances that may affect the learning or development of a child, is known to relevant professionals in advance. Schools accept the need for professional confidentiality, but it is essential that relevant staff have early knowledge of any factors relevant to a child's education.

NAHT would support legislation requiring medical and social service professionals to share relevant information with professional colleagues in the education field. Co-operation should be encouraged between schools, education services, Primary Care Trusts, social services departments, and health authorities to ensure effective joint support for the child, and also the family where this is appropriate.

While the bringing together of these agencies should ensure co-ordination of efforts in support of the child and the family, each is under its own funding pressures. No agency should assume that this process will give access to large amounts of additional funding being held by the other agencies. However, it should promote more effective deployment of the resources available. It is also true that co-ordinated early intervention is likely to be cost-effective in the longer term.

Only if all professionals involved with a child are fully aware of factors that might have an effect on that child's learning can there be early and effective intervention. It is important that the system encourages assessment earlier rather than later, and that provision, including placement in a special school if that is seen as appropriate, is made available as soon as the need for it has been identified. At present, there is a tendency to use special schools as a last resort when other interventions have failed, by which time the child's difficulties may well have been compounded by the delay in effective placement.

As well as the complexities caused by a delayed placement, schools are aware of many cases where a misplaced desire for inclusion leads to a child with special needs being placed in a mainstream school, without the necessary support. With this support, the child could well thrive; without it, the frustration felt by the child may well manifest itself through inappropriate behaviour. This may in turn lead to a further wrong placement, based on this behaviour rather than on the child's underlying needs and creating further difficulties for the child.

It is important that arrangements for the sharing of information, and the funding to support them, are available equitably across all LEAs, and that funding levels and provision across England, Wales and Northern Ireland are comparable.

NAHT supports the advice issued in the DfES Guidance Documents regarding early provision for disabled^(viii) and for deaf children^(ix), and would urge that these principles are extended to children with other SEN. The advice needs to be given statutory backing.

6. Conclusion

The Association is pleased to note the progress in the debate on special schools since the publication of its previous paper in 2003. Re-visiting previous arguments for the wholesale closure of special schools must be avoided; their positive contribution in the educational continuum is widely recognised, and that should now be the focus of discussion. Future debate would more usefully address how all schools can work with other relevant agencies for the benefit of children and their families, ensuring the promotion of the outcomes set out in *Every Child Matters*.

NAHT represents senior staff in the majority of special and mainstream schools. Its Special Educational Needs Committee contains colleagues from special and mainstream schools, including residential schools, as well as colleagues working in local authority support services. The Association will continue to support its wide-ranging membership to promote a secure and exciting future for special schools.

REFERENCES:

- (i) "Policy Paper on Special Schools", NAHT, 2003.
- (ii) *Removing Barriers to Achievement*—The Government's Strategy for SEN, DfEs, 2004.
- (iii) "Special Educational Needs: A New Look", Mary Warnock, Philosophy of Education Society of Great Britain, 2005.
- (iv) DfES, 2004, paragraph 2.13.
- (v) "The Report of the Special Schools Working Group", DfES, 2003.
- (vi) "Special Educational Needs", Warnock Report, 1978.
- (vii) Special Educational Needs—A Mainstream Issue", Audit Commission, 2002.
- (viii) "Together From the Start—Practical Guidance for Professionals Working with Disabled Children (Birth to Third Birthday) and Their Families", DfES Guidance 0067/2003.
- (ix) "Developing Early Intervention/Support for Deaf Children and their Families", DfES Guidance 0068/2003.

September 2005

Memorandum submitted by the Association of Teachers and Lecturers (ATL)

1. INTRODUCTION

ATL supports the aims of the Government's strategy *Removing Barriers to Achievement*; recognises that the Government, LEAs, schools and teachers are all committed to inclusive education (DfES 2004, Ofsted 2004) and have made some progress and believes further measures need to be taken to overcome the barriers to inclusion and to improve the current situation.

ATL believes inclusion requires long-term planning, resources and vision. It cannot be done with economy, nor can it be allowed to succumb to tokenism. Inclusion must stand three tests: that everyone should be entitled to the provision they need, when the need it; that schools and services are enabled to provide fully for the needs of all learners; and that a learner's needs should not be compromised by anyone else or be at the expense of another.

In practice, this means that while most children and young people should be placed most appropriately in the mainstream school, which should aspire to serve the whole community, there will always be those whose needs are so specialised, or complex, or severe, that special school provision is more appropriate. It is extremely difficult to describe the boundary between them. It can only be determined on a case by case basis, taking into account specific local conditions, including the wishes of the parent and the pupil, the availability of a range of provision, and so on.

ATL's recommendations, which are listed at the end of this document, are intended to help address the shared concerns about the current situation and ensure the needs of pupils with SEN are met by the educational system.

2. DEFINITION OF SPECIAL EDUCATIONAL NEEDS

Although it is defined by DfES in the Code of Practice which has been circulated widely (DfES 2001: p6), Ofsted suggests that the term “Special Educational Needs” is interpreted in a variety of ways and “The criteria used by schools in the more general identification of pupils with SEN . . . vary considerably, as does the application of criteria for determining eligibility for a statement” (Ofsted 2004: p10). ATL believes there is a clear need to ensure clarity of the definition and consistency in the use of the term “special educational needs” across the country.

3. PROVISION FOR PUPILS WITH SEN IN MAINSTREAM SCHOOLS

Schools and teachers are committed to and supportive of inclusion of pupils with SEN in mainstream schools (Ofsted 2003: p6, Ofsted 2004: p8) but they need support to overcome major barriers to inclusion (Audit Commission 2002: p24; Avramidis 2005: pp4–6; Ofsted 2004: p18). Inadequate funding is one of the factors in the reluctance of some schools to admit children with SEN (Ofsted 2004: p21); has been identified by Ofsted as “a major barrier to inclusion” (Ofsted 2004: p21); and is also a key factor in recruitment of staff, such as teaching assistants; speech and language therapists; and educational psychologists, that provide support to pupils with SEN in schools (NUT 2003: p2). In addition, the Audit Commission’s study concludes that “Resources—both human and financial—are a key determinant of how much support schools are able to offer individual pupils” (Audit Commission 2002: p34). ATL believes inclusion requires proper facilities, personnel and support (ATL 2005: p10). ATL urges that consideration should be given to effectiveness of allocation and management of these resources.

Teachers and teaching assistants need training, support and guidance to include pupils with SEN. A recent DfES study has identified a typology of effective teaching strategies and approaches for pupils with SEN for each area of need (Davis, P and Florian, L 2004), and there is a clear need for training to combine them. In addition, training in such key areas as curriculum differentiation, behaviour management, target-setting/writing and using Individual Education Plans and understanding and using the SEN Code of Practice is essential (Audit Commission 2002: p37). Such training should also aim to help teachers and teaching assistants to apply the three principles for developing a more inclusive curriculum: setting suitable learning challenges; responding to pupils’ diverse learning needs and overcoming potential barriers to learning and assessment for individuals and groups of pupils (QCA 2005). The Training and Development Agency for Schools (TDA) is developing a strategy to transform the supply of and demand for professional development in schools. It must be capable of both permitting individual staff to access such training and encouraging schools to facilitate it.

LEAs do play and should continue to play an important role in the inclusive education agenda. Ofsted reported that “only a quarter of LEAs have strong strategic management of SEN and the majority have weak evaluation systems” (Ofsted 2004: p21). For this reason, ATL urges that LEAs ensure they adopt a strategic approach to management of SEN provision and funding in their areas; ensure they map, rationalise and improve the provision; and ensure they provide support to schools to raise standards and achievement of pupils with SEN in mainstream schools.

4. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

Special schools do play an important role (DfES 2005: pp5–6; Ofsted 2004: p9). Ofsted suggests “Much of the expertise in teaching pupils with severe or complex needs still lies with staff in special schools”. They will continue to play an important role in providing learning opportunities for a significant proportion of pupils with SEN (Lindsay, 2003: p2, DfES, 2003). DfES suggests “Over the last five years the proportion of pupils with statements placed in special schools (both maintained and non-maintained) has increased by almost 1 percentage point” (DfES 2005: p1). ATL shares the view of the Special Schools Working Group “that they should . . . work more collaboratively with mainstream schools” (DfES 2004: p1).

5. RAISING STANDARDS AND ACHIEVEMENT FOR PUPILS WITH SEN

Recent studies raise serious concerns about the current situation and indicate there is still more challenges ahead to overcome to raise standards and achievement of pupils with SEN in our schools (DfES 2004, Ofsted 2004). Ofsted suggests that pupils with SEN are not achieving their potential (Ofsted 2004: pp10–11). In addition, a DfES study indicates pupils with SEN and no statement who have attended mainstream schools fall in the category of educational low-attainers (DfES 2004). A more recent study of DfES suggests that “Many young people have made little or no progress, whilst others lacked adequate support or have received uncoordinated support” (DfES 2005: p1). Moreover, it reports higher exclusion thresholds for pupils with SEN. These concerns need to be addressed to ensure teachers and schools continue to raise standards and achievement for pupils with SEN.

Good practice has been identified. Ofsted (2004) found, among others, that: “Target-setting has the greatest impact when it focuses on precise curriculum objectives for individuals and when it forms part of a whole-school improvement process”. Ofsted reported “In the schools that were most successful with pupils

with SEN, systems for assessment and planning were fully integrated with those for other pupils" (Ofsted 2004: p12). ATL urges that Ofsted supports LEAs and schools to build on and share good practice which has been identified.

6. THE STATEMENTING PROCESS

DfES suggests "almost 242,600 pupils across all schools in England had statements of SEN" in January 2005 (DfES 2005: p1). This is the lowest number of pupils with statements of SEN reported over the last five years (p1). 60% of these pupils was placed in maintained mainstream schools (p1). The report also suggests that there were 1,230,800 pupils with SEN but without statements (that is 14.9% of pupils across all schools in England) in January 2005 (p1).

DfES suggests LEAs have different policies on statementing pupils with SEN (DfES 2003: p28). In addition, a recent Ofsted study suggests that "there are wide variations in the number of pupils defined as having SEN in different schools and LEAs" and "The criteria used by schools in the more general identification of pupils with SEN . . . vary considerably, as does the application of criteria for determining eligibility for a statement" (Ofsted 2004: p10). It raises the concern that "looseness in the use of the SEN designation does not help to focus on the action needed to resolve problems and, in the worst cases, it can distract schools' attention from doing what is necessary to improve the provision they make for all low- or below-average attainers" (pp10-11).

7. THE ROLE OF PARENTS

Parents play an important role, and should be actively involved, in supporting the needs of children with SEN. Ofsted (2003) suggests that inclusive schools involve parents "as fully as possible in decision-making, keeping them well informed about their child's progress and giving them as much practical support as possible". It is also important to note that commitment of parents to mainstream education is reported to be "a factor in their overall level of satisfaction" with inclusion of their child in mainstream school (p22).

There are, however, challenges involved in working with some parents. Ofsted reported "there were sometimes tensions and disagreements about provision and methods" (Ofsted 2003: p22). It also suggests that "Some had had to battle for their preferred placement" (p22) and that "Parents placed an extremely high value on the happiness of their children at school" (p23). The study also indicates "Commitment to success, optimism, clarity of expectations, availability of support and sheer persistence were among the features of their school's approach which parents admired" (Ofsted 2003: p23). ATL urges schools and teachers to build on success and continue to work in partnership with parents to meet the needs of pupils with SEN.

8. PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN

Ofsted suggests that "Schools are meeting a wider range of types of special needs than ever, so that the continued improvement reflects positively on the responsiveness and expertise of their staff" Ofsted (2003). However, it raises concern about the needs of pupils with EBDS not being met (Ofsted (2003: p6):

Schools and LEAs were finding it hard to make appropriate provision for pupils with emotional, behavioural or social difficulties and their numbers were said to be increasing. Psychological and behaviour support services were having some positive effect in helping schools to manage challenging behaviour but the pupils involved were a major concern for many schools.

Ofsted found that "Only a third of secondary schools were effective in meeting the needs of pupils with EBDS" (Ofsted (2004: p17). It also reported "In over half of the secondary schools visited the composition of some groups made teaching of them very difficult" (p17). ATL believes training and support to teachers and teaching assistants in mainstream schools is essential to ensure they meet the wide variety of needs of pupils with SEN.

9. THE EFFECTS OF THE SEN AND DISABILITY ACT 2001

A recent Ofsted study indicates that "Over half the schools visited [by Ofsted] had no disability access plans and, of those plans that did exist, the majority focused only on accommodation" (Ofsted 2004: p5). In addition, a more recent DfES research suggests "All schools respected the legal position regarding the admission of pupils for whom the school was named on the statement" (Wilkin, A *et al*, 2005). However, it suggests pupils with SEN but without statements receive less favourable treatment and that "schools could try to dissuade parents from seeking admission to the school for their child"; that only "a few mainstream schools are happy to admit pupils with complex needs" and that "the admission and retention of pupils with social and behavioural difficulties continue to test the inclusion policy". A previous research found "Children with behavioural difficulties have most problems getting into their parents' chosen school" (Audit Commission 2002: p18). The report also suggests that their "[exclusion] thresholds were often higher" and that "a few headteachers admitted to "resenting" appeals, which questioned the effectiveness of the decision

to exclude” pupils with SEN. The Audit Commission reported that “Disproportionately high levels of non-attendance and exclusion among children with SEN suggest that some are having a poor time” (2002: p24). The Government’s revised inclusion framework “has had little effect as yet on the proportion of pupils with SEN in mainstream schools, or on the range of needs for which mainstream schools cater” (Ofsted 2004: p5). ATL believes LEAs and schools need more support and guidance to implement the SEN and Disability Act (2001) to ensure all schools have disability action plans.

10. THE WAY FORWARD: ATL’S KEY RECOMMENDATIONS

In the light of the concerns we have raised above, ATL strongly recommends the following:

1. LEAs to review the sufficiency, allocation and management of resources available to schools to support pupils with SEN in mainstream schools.
2. LEAs to provide support and guidance to schools to enable them to remove barriers to learning; to ensure training and support is given to teachers and teaching assistants; to improve the quality of teaching and learning; to improve relationships with parents; to reduce truancy and exclusions; and to raise attainment levels of pupils with SEN.
3. Ofsted to provide support and guidance to LEAs to ensure the statementing process is rationalised and standardised across the country.
4. Ofsted to support and guide LEAs to adopt a strategic approach to planning, funding and supporting provision for pupils with SEN in their local areas.
5. LEAs to encourage, and ensure resources are available for, partnership working between mainstream schools and special schools in order to plan, co-ordinate and improve the provision and support that is available in their local areas for pupils with SEN.
6. LEAs to exert more efforts to promote early intervention to ensure children with SEN are identified and their needs are supported as soon as possible.
7. LEAs to provide support and guidance to schools on promoting SEN and Disability Act (2001) to ensure all schools have disability action plans.

ATL believes it is essential to take the necessary measures to ensure teachers and teaching assistants are supported to fulfil their role; to ensure schools are sufficiently resourced and to ensure the needs of pupils with SEN are met.

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**Memorandum submitted by the National Association of Schoolmasters Union of Women Teachers
(NASUWT)**

SUMMARY

NASUWT's vision for Special Educational Needs (SEN) is that:

- schools are enabled to create an inclusive environment to meet the needs of all pupils, including pupils with SEN;
- every child has access to high-quality appropriate education, including specialist provision;
- specialist teachers play a key role in supporting pupils with SEN and the range of provision available includes special schools;
- SEN provision is adequately funded so that pupils with SEN receive the support that best meets their needs;
- there is a consistent and coherent approach to SEN across all national education policy;
- local flexibility, which operates within the context of local democratic accountability and within a nationally agreed framework, results in high-quality SEN provision that takes account of local context;
- workforce remodelling is used as an opportunity to raise standards for all pupils by creating a workforce that meets the needs of pupils with SEN;
- new staffing structures give high value to SEN and include a senior member of staff with up-to-date pedagogical knowledge relating to SEN; and
- new staffing structures recognise the role played by support staff in supporting SEN, and include support staff who will undertake the specialist, administrative and clerical functions of SEN work.

SOCIAL PARTNERSHIP AND THE NATIONAL AGREEMENT

The National Agreement “*Raising Standards and Tackling Workload*” provides opportunities to remodel provision for SEN, which could lead to the delivery of more appropriate and effective SEN provision in schools.

COMPETITION VERSUS CO-OPERATION

National education policies which encourage competition between schools militate against co-operation and partnership and the delivery of effective SEN provision. In particular, performance tables create a climate of competition. They also fail to recognise the effectiveness of a school’s support for pupils with SEN.

VARIATION IN QUALITY OF PROVISION

There is wide variation between local authorities in terms of their approach to inclusion and the quality of support that they provide. Local authorities may claim to provide a good range of high-quality provision. However, there is significant difference between theory and practice.

BEHAVIOUR AND SEN

The relationship between behaviour and SEN is extremely important. There is a growing tendency to merge provision for behaviour with provision for pupils with SEN.

SEN TRAINING AND CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

SEN-related CPD is generally inadequate and often focuses on training, which is only available as twilight sessions. School leaders often fail to prioritise SEN-related training.

Initial teacher training and NQT induction fail to prepare trainees and teachers for work with pupils with SEN.

LOCAL AUTHORITIES AND EQUAL OPPORTUNITIES

The shift in the role of local authorities from deliverers of education to commissioners of education is extremely significant for the provision of SEN. Local authorities have an important role to play in co-ordinating equal opportunities work, including equality of access in admissions.

THE ROLE OF THE SENCO

The role of the SENCO needs to be clarified. All administrative tasks relating to SEN provision should be undertaken by support staff. The role of SENCO should be undertaken by a senior teacher, who may also have other management responsibilities. The SENCO should lead pedagogical practice in relation to pupils with SEN.

INTEGRATED CHILDREN'S SERVICES

Integrated children's services, and the increase in multi-agency working, are placing substantial burdens on schools and on SENCOs in particular.

FUNDING OF SEN PROVISION

There are significant problems relating to the funding of provision for SEN. These problems concern the inadequate level of funding, the lack of transparency in the funding process and the failure to monitor how the funding is spent.

THE NATIONAL CURRICULUM AND SEN

The National Curriculum, variable resources, the emphasis on performance tables, and the size of classes in some mainstream schools make it very difficult to meet the needs of some pupils with SEN. This increases the risk of those pupils becoming disaffected.

TRANSITION BETWEEN SCHOOLS

Transition between schools presents particular problems for many pupils with SEN.

BACKGROUND

1. NASUWT welcomes the opportunity to contribute to the Education and Skills Select Committee Inquiry into Special Educational Needs (SEN).
2. NASUWT is the largest union representing teachers and headteachers throughout the UK.
3. NASUWT has an active SEN Advisory Committee, which is made up of serving teachers working in the field of SEN. Members of the Advisory Committee are active in identifying issues and concerns affecting SEN specialists and mainstream teachers providing support to pupils with SEN. Issues, concerns and good practice raised by members of the SEN Advisory Committee and the Union's wider membership have informed this evidence.

BACKGROUND AND NASUWT'S KEY CONCERNs

4. NASUWT believes that schools are most likely to provide appropriate support to pupils with SEN if they are enabled to create an inclusive environment to meet the needs of pupils, and where action is taken to remove the barriers that could prevent pupils from participating. However, this does not mean that every school is expected to cater for every child or that there should be an expectation that all children should be,

or can be, educated in mainstream schools. NASUWT believes that every child should have access to high-quality, appropriate education. For some pupils, specialist provision will be the most appropriate way of ensuring that they receive this. The level of knowledge and expertise available within the school, or through support that can be directly accessed by the school, will ultimately determine the extent to which a school is able to meet the needs of a particular child.

5. NASUWT's vision for SEN is that:

- schools are enabled to create an inclusive environment to meet the needs of all pupils, including pupils with SEN;
- every child has access to high-quality appropriate education, including specialist provision;
- specialist teachers play a key role in supporting pupils with SEN and the range of provision available includes special schools;
- SEN provision is adequately funded so that pupils with SEN receive the support that best meets their needs;
- there is a consistent and coherent approach to SEN across all national education policy;
- local flexibility, which operates within the context of local democratic accountability and within a nationally agreed framework, results in high-quality SEN provision that takes account of local context;
- workforce remodelling is used as an opportunity to raise standards for all pupils by creating a workforce that is tailored to implement teaching and learning strategies that meet the needs of pupils with SEN;
- new staffing structures in schools give high value to SEN and include a senior member of staff with up-to-date pedagogical knowledge relating to SEN who advises and supports teachers in ensuring that they meet the needs of pupils with SEN; and
- new staffing structures in schools recognise the role played by support staff in supporting SEN, and include support staff who will undertake the specialist, administrative and clerical functions of SEN work.

6. An education system that is effective and appropriate for all pupils requires a consistent and coherent approach to SEN across all areas of national education policy. However, NASUWT believes that a number of national education policies, especially those that encourage competition between schools, undermine the delivery of effective SEN provision. Further, variation between local authorities, in terms of their interpretation of inclusion, and the quality of SEN support and provision, is particularly problematic.

SOCIAL PARTNERSHIP AND THE NATIONAL AGREEMENT

7. Social partnership underpins NASUWT's relationship with Government. NASUWT is committed to establishing a co-operative relationship, identifying issues and seeking joint pragmatic solutions to concerns about national education policy and practice. This relationship is exemplified through the partnership arrangements for implementing the National Agreement "*Raising Standards and Tackling Workload*". The Workforce Agreement Monitoring Group (WAMG), comprising the DfES, school workforce unions and the national employers, plays a pivotal role in monitoring implementation of the National Agreement. This includes monitoring its implementation in schools and monitoring the extent to which new education policies and strategies are consistent with the requirements of the National Agreement and workforce remodelling.

8. All policies and strategies that impact on schools should comply both with the spirit and letter of the National Agreement, and be consistent with the remodelling agenda that is linked to the Agreement. It is critical, therefore, that the review of SEN is conducted in the context of the National Agreement and the wider remodelling agenda and that the principles that underpin workforce reform are embedded in future SEN policy.

9. The National Agreement is intended to raise standards for all pupils by freeing teachers and headteachers to focus on their core roles of teaching, and leading and managing teaching and learning. It provides opportunities for schools to develop and use more highly trained support staff in enhanced roles to meet the needs of every child, including those with SEN. It also provides schools with opportunities to develop the roles of specialist staff in supporting teaching colleagues. In the context of SEN, NASUWT believes that a qualified teacher should lead teaching and learning on SEN within the school. Specifically, the lead teacher should be responsible for the development of teaching and learning strategies for pupils with SEN. In addition, appropriately trained, supported and remunerated support staff should undertake the specialist roles, for example physiotherapy, and the administrative aspects of SEN work.

COMPETITION VERSUS CO-OPERATION

10. NASUWT is concerned that whilst, on the one hand, many national education policies encourage schools to adopt a co-operative and partnership approach to working, other policies seem to foster competition between individual schools. Most notably, the publication of performance tables creates a climate of comparison and competition. NASUWT believes that this issue is particularly significant in relation to provision for SEN. Performance tables fail to acknowledge the quality of provision and support that schools provide to pupils with SEN.

11. The high stakes environment created by performance tables means that schools are under considerable pressure to be seen to do well. A school's position in the performance tables may be affected by the proportion of pupils that have SEN. Combined with inadequate funding and resources, performance tables affect the way in which schools are able to respond to and support pupils with SEN. NASUWT believes that the publication of performance tables militates against the development and delivery of effective provision for pupils with SEN and that the practice should, therefore, be abolished.

VARIATION IN QUALITY OF PROVISION

12. Local authorities¹³ are able to determine their approach to inclusion and the type of provision and support for pupils with SEN in schools. NASUWT recognises the value of flexibility, within the context of local democratic accountability, since this means that services can be tailored to take account of the local context. However, in the absence of a robust and nationally agreed framework, this flexibility has led to unacceptable variations in provision between local authorities. There is no basic generic offer of provision for SEN.

13. Local authorities vary widely in their interpretation of, and strategies for, inclusion, in the quality of the support that they provide to schools, in the range of provision that is available, and in their effectiveness in co-ordinating provision. Feedback from NASUWT members indicates that the support provided by the local authority often does not match the approach to inclusion that the local authority has adopted. This might arise where a local authority has closed or is phasing out special school/specialist provision, or where there is poor communication across different types of provision.

14. NASUWT believes that a distinction must be made between theory and provision. Specifically, NASUWT members report that some local authorities claim to provide a range of good-quality SEN provision, but that, in practice, pupils with SEN encounter considerable difficulties in accessing it. For example, access to particular types of specialist provision may only be available to pupils attending specific mainstream schools. This creates considerable frustration for teachers, and adds to workload burdens and bureaucracy. It also gives parents a false expectation of the support available for their child.

BEHAVIOUR AND SEN

15. Whilst the focus of the Inquiry is on provision for SEN, NASUWT believes that it is crucial to look at the relationship between behaviour and SEN. Teachers express serious concerns about the conflation of provision for behaviour with provision for SEN. For example, some local authorities do not have specialist provision for pupils with Emotional, Social and Behavioural Difficulties (ESBD). Members report that, as a result, pupils with ESBD who have been excluded from school are sometimes referred to SEN specialist units. The presence of such pupils has a significant and negative impact on the specialist provision, in terms of the ethos of the provision, the relationships between the pupils with ESBD and the pupils with SEN, and the pressures on staff who have to cater for two very different groups of pupils. This practice is totally unacceptable for the pupils and the staff concerned.

16. Teachers stress the need to make a clear distinction between behaviour and SEN, and to understand the complexities within these terms. SEN and ESBD cover a wide range of behaviours and difficulties, and pupils with ESBD and/or SEN must not be seen as belonging to one or two homogenous groups.

17. NASUWT members report that, increasingly, they are encountering pupils with SEN who are disruptive. Some pupils with SEN have become disruptive because the education system does not provide them with appropriate or adequate support. Teachers are concerned that national education policy that relates to behaviour or to SEN is usually developed without giving proper consideration to the relationship between behaviour and SEN.

CONTINUING PROFESSIONAL DEVELOPMENT

18. NASUWT members report specific concerns about the provision for teachers in mainstream schools of Continuing Professional Development (CPD) to support SEN. Training is generally inadequate and is often only available as twilight sessions, out of school hours. Teachers are, therefore, expected to attend the training in their own time. Further, many schools do not prioritise SEN-related training and the devolution of training budgets to schools compounds this problem.

¹³ "Local authorities" is used to cover local authority education services and local authority children's services.

19. Worryingly, teachers report that local authorities are actually losing the specialist expertise. The problem arises because many specialists are retiring and because special school provision is being reduced. NASUWT believes that steps must be taken to ensure that relevant expertise exists at a local level and that mainstream schools access and make use of that expertise.

20. Performance management provides a key means of identifying and managing the skills and expertise of staff within a school as well as enabling the school to identify staff development needs. NASUWT is concerned that most school performance management systems do not give sufficient consideration to the need for development in SEN. Further, where support needs are identified, training is often seen as the solution. NASUWT believes that far greater use should be made of the resources that are available within a school; for example, peer support can be an extremely effective way of enabling teachers to develop and share skills, knowledge and expertise in relation to SEN. The Union also stresses the need to ensure that SEN training and support for teachers focuses on teaching and learning and not on issues that fall outside the role of the teacher.

21. The whole school staffing structure review, currently being undertaken by schools, provides an opportunity to identify SEN as a key issue, to allocate a high value to the work and to recognise the role of the SENCO as the leader of teaching and learning. The staffing structure should also recognise the role of support staff in supporting provision for SEN, including responsibility for particular specialist support and administrative and clerical tasks.

THE ROLE OF THE LOCAL AUTHORITY

22. Local authorities have a critical role to play in overseeing and co-ordinating SEN provision. Whilst Ofsted inspections of schools and local authorities include judgements about provision for SEN, NASUWT is concerned that there is wide variation between inspectors in terms of their level of understanding of SEN. Critically, Ofsted inspectors often focus on very specific issues, such as the steps taken to reduce the number of statements, rather than looking at the overall quality of provision and the ease with which that provision can be accessed. The narrow focus of inspections often undermines the development and delivery of high-quality, accessible SEN provision.

23. NASUWT has serious concerns that the shift in the role of local authorities from providers of education provision to commissioners of provision could have adverse implications for the co-ordination and delivery of SEN provision locally. NASUWT believes that Government needs to clarify how local authorities will fulfil their responsibilities in relation to ensuring high-quality provision for SEN.

24. The development of federations and clusters provide an opportunity for groups of schools to share skills, expertise and resources in relation to pupils with SEN. However, the existence of clusters and federations should not obviate the vital role of local authorities in the planning of SEN provision and in filling the gaps in provision.

EQUAL OPPORTUNITIES AND EQUALITY OF ACCESS

25. Whilst this submission is concerned with provision for SEN, NASUWT believes that the local authority also has a key role to play in ensuring equal opportunities and equality of access. For example, pupils with SEN, along with other groups of children, such as children from refugee and asylum-seeker families and Traveller backgrounds, often encounter particular difficulties in gaining admission to schools. Further, there is a close relationship between SEN and other areas of equality. For example, pupils from some ethnic backgrounds are more likely to be identified as having SEN. NASUWT believes that local authorities should have responsibility for ensuring equality of access in relation to admissions, and should have responsibility for co-ordinating aspects of equal opportunities work across schools, including work to comply with equalities legislation such as the duty to promote race equality and the forthcoming duty to promote disability equality. This would help schools to comply with the legislation and should help to minimise burdens and bureaucracy in schools.

INITIAL TEACHER TRAINING (ITT) AND NEWLY QUALIFIED TEACHER (NQT) INDUCTION

26. NASUWT believes that initial teacher training fails to prepare trainees for working with pupils with SEN. The Training and Development Agency for Schools' (TDA) surveys of NQTs confirm that in 2004, 14% of NQTs said that they thought initial teacher training was poor in preparing them for work with pupils with SEN, and 41% of NQTs described the training only as adequate. NASUWT's NQT induction sessions confirm this experience.

27. Many new teachers express concerns about the adequacy of NQT induction in preparing them for work with pupils with SEN. Too many NQTs have limited opportunities to develop their skills to effectively teach and support pupils with SEN.

28. The TDA standards for Qualified Teacher Status (QTS) and Induction for NQTs include specific standards that relate to SEN. However, NASUWT believes that the problem is about engaging ITT providers, schools and others involved in induction to comply with the expectations set out in the standards and provide effective and good quality training and support for SEN. Whilst there are examples of effective practice, there is considerable variation between ITT providers in terms of the extent and quality of coverage of SEN issues. In the worst instances, NQTs are not provided with opportunities to meet the SEN-related induction standards, although the school may actually state that the NQT has successfully completed them. Clearly this undermines the purpose of the induction and means the NQT does not receive the support to which they are entitled. It also has serious implications for pupils with SEN. The Union believes that this issue should be examined as part of a national review of SEN provision.

THE ROLE OF THE SPECIAL EDUCATIONAL NEEDS CO-ORDINATOR (SENCO)

29. SENCOs have a critical role to play in ensuring that schools meet the needs of pupils with SEN. NASUWT believes that the SENCO should be a senior member of staff who has specific responsibility for leading teaching and learning in respect of pupils with SEN.

30. The SENCO must be able to provide teachers with advice and support on the use of appropriate pedagogies for teaching pupils with SEN. The Union is concerned that many schools, particularly primary schools, do not recognise this role.

31. NASUWT is concerned that a focus on the administrative rather than pedagogical aspects of SEN work has led some schools to deploy teaching assistants in the role of SENCO. The separation of pedagogy and administration is critical to the effective coordination of SEN work in schools and in ensuring that the learning needs of pupils with SEN are properly met.

32. NASUWT is concerned that SENCOs are often expected to undertake administrative tasks related to the co-ordination of provision for SEN. Such tasks are outside the provisions of the teachers' contract and the remodelling agenda. They should, therefore, be undertaken by support staff and not by teachers. It is vital, therefore, that the school staffing structure identifies support staff who will undertake all the administrative and clerical aspects of provision for SEN.

33. Developments in integrated children's services mean that, increasingly, schools are expected to engage with a wide range of other services, including services for pupils with SEN. Integrated children's services are likely to have a significant impact on the role of the SENCO and SEN support staff. For example, NASUWT members report that SENCOs are being asked to attend increasing numbers of multi-agency meetings including meetings held out of school hours, and that the bureaucracy of multi-agency working is already spiralling out of control. The cost of multi-agency working, including the potential implications for school resources, should be examined.

FUNDING

34. NASUWT has serious concerns about the amount of funding that is provided for SEN, how funding is allocated at a local level, the monitoring of the use of funds for SEN provision, and the lack of transparency within the funding process. NASUWT is concerned that in many instances the driver for inclusion appears to have been about reducing costs by reducing special school provision, to the detriment of pupils.

35. Issues about the cost of SEN provision are particularly significant in rural areas. Distances mean that access to specialist provision, including specialist units, may be very limited. Local mainstream schools may need to cater for a wide range of pupils with SEN and this obviously has cost implications. NASUWT believes that funding for SEN provision needs to take account of barriers to accessibility.

36. NASUWT believes there needs to be transparency at local authority level about the funding of SEN.

THE NATIONAL CURRICULUM

37. The National Curriculum, variable resource provision, the emphasis on performance tables, and the size of classes in mainstream schools, makes it very difficult to meet the needs of some pupils with SEN. NASUWT has particular concerns about the appropriateness of placing some pupils with SEN in large mainstream schools. Teachers report that some pupils, especially pupils with Autistic Spectrum Disorders (ASD) and moderate learning difficulties, encounter particular difficulties in large secondary schools.

38. The Union has serious concerns about the use of work-based learning for pupils with SEN. Whilst this may be appropriate for some pupils, placements are not suitable for all pupils. NASUWT is also concerned that an emphasis on vocational training pathways for pupils with SEN could serve to limit their access to core curriculum subjects such as English and maths.

39. Transition between schools presents particular problems for many pupils with SEN. Mainstream schools often do not have the resources or expertise to support pupils with SEN through transition.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

40. NASUWT believes that specialist provision is the most appropriate form of provision for some pupils with SEN. The Union believes that a range of provision should be available, including special schools, specialist units and co-located provision. This is essential if parents are to be given a real choice about the provision that they want for their child; it is also crucial in ensuring that pupils get support that is tailored to their needs.

41. NASUWT believes that a major benefit of special schools is that it means there are specialists on site who can offer help and advice to teachers, parents and pupils on specific issues. Co-location and specialist units within mainstream schools also mean that mainstream staff can benefit from help and advice from specialists. NASUWT believes that the policy of closing special schools should cease. Special schools, along with other forms of specialist provision, should be amongst the options available to pupils with SEN.

42. Teachers working in specialist provision report that they are seeing increasing numbers of pupils with behavioural difficulties and that this is having a significant impact on the way in which the units are managed. The presence of pupils with ESBD can have a negative impact on other pupils, who are often very vulnerable. Steps need to be taken to ensure that pupils with behaviour problems, rather than SEN, are not placed in provision that is designed for pupils with SEN.

RAISING STANDARDS OF ACHIEVEMENT FOR PUPILS WITH SEN

43. NASUWT has considerable concerns about the way in which the achievements of pupils with SEN are recognised. Specifically, the Union believes that league tables, which drive teachers to teach to tests, mean that the achievements of some pupils with SEN, for example achievements in literacy and numeracy “life skills” and in practical or vocational subjects, are not recognised. This serves to undermine their motivation and increases the risk of disaffection.

THE SYSTEM OF STATEMENTS OF NEED FOR PUPILS WITH SEN

44. NASUWT believes that whilst statements provide a means of assuring provision, the process of securing a statement is often very time-consuming for all concerned, including parents. There are significant workload implications for schools, and unnecessary bureaucratic mechanisms associated with the process.

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY DISCRIMINATION ACT (DDA)

45. NASUWT is concerned that the national policy to reduce reliance on statements has been interpreted by local authorities as an opportunity to cut costs, rather than about ensuring that pupils with SEN are provided with the most appropriate support. For example, in one authority the removal of statements for pupils identified as “Band 5 statements” has been accompanied by a funding package, which combines SEN funding with funding from a social deprivation budget, and leads to a progressive reduction in funding support to schools over a three-year period, so that after four years, schools will be expected to meet the full costs of provision for those pupils.

46. NASUWT is concerned that Special Educational Needs and Disability Tribunals (SENDISTs) do not always take account of how their judgements impact on schools and on teacher workload in particular. For example, one SENDIST judgement required the school to provide all of its staff with training on a specific disability. The judgement required this training to be delivered within a specific timeframe which meant that teachers were required to undertake the training in their own time, during the school holiday period. This clearly creates resentment and frustration amongst staff, which has the potential to undermine the benefits of any training. NASUWT strongly advises that SENDISTs are required to take account of practicalities such as the timing of training, and the impact on teacher workload.

Witnesses: **Mr John Bangs**, Assistant Secretary, Education and Equal Opportunities, NUT; **Dr Rona Tutt**, Immediate Past President, NAHT; **Mr Martin Johnson**, Head of Education, ATL; and **Mr Darren Northcott**, Assistant Secretary (Education), NASUWT, gave evidence.

Q742 Chairman: We have got some familiar friends here this morning and a couple of you who have not given evidence to the Committee before. I am sorry but it is going to be a rapid session. You know we are tight for time and we are running up against Prime Minister's Questions, so apologies to you, it is going to be rapid fire this morning, but as we regularly see you we will do it again. Darren Northcott, John Bangs, Martin Johnson and Rona Tutt, it is very nice to see you. Let us start with that question that I did not ask the others. There is a worrying trend, is there not, that Special Educational Needs Co-ordinators (SENCOs) increasingly are not teachers, they are somebody else? We had the examinations people in yesterday saying that increasingly the person co-ordinating examinations in the school is not a teacher. Particularly on SENCOs this is a worrying trend, is it not?

Mr Bangs: Yes, it is extremely worrying and we have been tracking that. We did some research on SENCOs, as you can see from our evidence to the select committee, and one aspect of that evidence is that a number of SENCOs are not trained teachers, particularly in primary schools. We find that very regrettable. With permission Chairman, we are about to publish some research about the impact on provision in mainstream schools of inclusion. We have asked Cambridge University to do that and that is one specific issue that comes up so we would like to submit that evidence to you.

Q743 Chairman: It is particularly worrying, is it not because at a time when we have got Every Child Matters and the Children Act in force, this is quite a sophisticated role because there is co-ordination and liaison with a large number of agencies on this and this needs a pretty experienced and wise head?

Mr Bangs: Absolutely, and in fact the Code of Practice on special educational needs identifies clearly in law the role of the SENCO, and that is the only type of teacher who has their role defined in law other than teachers in the school teachers' pay and conditions document. It is absolutely bizarre that at a time when we believe children with special educational needs have the absolute right to be taught by high-quality teachers that SENCOs themselves on an increasing trend are not teachers.

Q744 Chairman: But SENCOs are not doing the teaching, are they?

Mr Bangs: A lot of SENCOs are, certainly in primary schools. There is a lot of co-ordination going on in terms of learning support in secondary schools but primary schools is where the real pinch point is, both in terms of time and training.

Q745 Chairman: So what sort of qualifications do these non-teaching SENCOs have?

Mr Bangs: We have been doing some investigation into that work and, as I say, I would like to submit the Cambridge University evidence to you.

Q746 Chairman: Are they graduates, for example?
Mr Bangs: No, I think what is happening is that teaching assistants are being given that job, Chairman.

Chairman: Let us move on. I am not going to hog the questioning because I cut back colleagues just now. David, do you want to lead the questioning?

Q747 Mr Chaytor: One of the themes that has come out frequently during the inquiry is the need for a closer relationship between mainstream and special schools. Do you feel that the proposals in the Education and Inspection Bill are more likely to encourage that closer relationship or discourage it?

Dr Tutt: I think they will help. I think the growth in both types of specialist school possibilities for special schools will be a great step forward because it does mean that you are working in partnership with other types of schools, and the more we can move on beyond the debate that has dogged us for 25 years (and some of it was re-run last week) and actually move towards an inclusive education service, as flagged up in the SEN strategy, with all schools working together to meet needs between them, the better the future will be for children with SEN.

Q748 Mr Chaytor: What is holding that back now?
Dr Tutt: It is partly people who want to re-run the debate of the last 25 years, but I think it is also—

Q749 Chairman: Are you talking about Baroness Warnock here?

Dr Tutt: I was here with Baroness Warnock. I was referring to the people who gave evidence about wanting all special schools closed by 2020, which was a re-run of the debate.

Q750 Chairman: Do you regret that Baroness Warnock stirred this up?

Dr Tutt: Not at all. I think she has taken on herself a lot more blame than she need. She never wanted to close all special schools. I think what is really holding us back is that the word "inclusion" is used in so many different ways. If we use it so that we all meant an inclusive service which included all schools rather than all children in mainstream then we could move forward with common purpose.

Q751 Chairman: Martin, do you want to come in?

Mr Johnson: Just very quickly to say in response to the question, that Rona is right to identify that feature but I think the other features of the Bill do not really impinge on this question.

Mr Northcott: Agreeing with that entirely, but the point that was raised in the earlier discussion about the impact of performance tables upon the ability of co-operation within the system is an extremely important point. It is a point that our members raise all the time.

Mr Bangs: To answer that question, the Bill is silent on whether or not local authorities are providers or commissioners but the whole trend of the Bill

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towards self-governing independence is such that the silence of the Bill on the role of authorities in either commissioning or providing is extremely worrying. There ought to be a clause in the Bill which identifies the role of the authority as provider as well as commissioner. I base that on Ofsted evidence and their review of special educational needs support services which highlighted extreme anxiety about what was happening to children with complex needs with regards to delegation. Delegation and commissioning are more or less the same thing. I think you are absolutely right to ask the question. There needs to be a re-examination of the role of local authorities in relation to direct provision in the core areas of special educational needs.

Q752 Mr Chaytor: The irony is that in SEN many special schools are already way outside the local authority framework whereas the debate about mainstream schools is that most of them are within the local authority framework, and the Bill may encourage them to move outside it.

Mr Bangs: I do find it extraordinary that there is now a concept of foundation special schools. For the first time we have sponsored a specialist special school where we gave them £4,000 and the reason for that was that they were providing a high-quality service in East Sussex as a community maintained special school. There is enormous opportunity there for local authorities to use their own community schools to provide services to other schools. To be a foundation special school I think would actually open up the gap between that school and the authority.

Q753 Chairman: We have had an inquiry into the White Paper.

Mr Bangs: I was answering the question.

Chairman: It is an important relationship but, come on, David!

Mr Chaytor: On the question of inclusion, do each of you tend to share the definition that Miriam Rosen gave of inclusion as process rather than inclusion as place? Is there now a consensus about this concept?

Q754 Chairman: Martin, you are nodding.

Mr Johnson: I would just say yes.

Q755 Chairman: Rona?

Dr Tutt: Yes.

Q756 Chairman: You all say yes, do you?

Mr Bangs: Yes, but—

Q757 Chairman: I knew that you were not going to give a one-word answer, John!

Mr Bangs: The inclusion should apply to the whole local authority service and not to the individual school. It should be a wide range of provision to meet a wide range of need.

Mr Northcott: It is a debate about assistance that can meet the needs of individual children on the basis of an objective assessment of their need. As Rona says, it is moving away from this ideological

debate about inclusion meaning one thing or another; it is what can the system do to meet the needs of individual children.

Chairman: I am going to stop teasing you, John! David?

Q758 Mr Chaytor: Can we move back to the last session and the final questions about professional development. What the Chief Executive of the TDA was willing to admit was that there were big gaps in professional development, but what is holding local authorities back from providing more opportunities? There seems to me in my area no shortage of opportunities for teachers to go on short courses to improve their skills, so where is the real blockage here? Is it lack of suitable materials, lack of expertise, or lack of time? Where is the blockage?

Mr Northcott: I think one blockage is the inability of the system perhaps to develop better links between the special sector and the mainstream sector. There is a huge amount of expertise in the special sector that simply is not tapped into on a routine basis. I think that blocks professional development in a sense because there is not the opportunity, let us say, for teachers in the mainstream sector to have opportunities to access the expertise within that special sector because of the issues I think we have discussed this morning—the separation between the two sectors and the ability to draw links between them—so that is a blockage as well. Another blockage on schools, given the fact that schools have to pay for that CPD so they have a CPD budget and they have to prioritise, when they are prioritising they look at issues in the primary sector to do with the data that informs their performance tables. So if they are looking to increase their English, Maths and Science end of Key Stage 2 results then there is a real pressure on them to skew their budgeting decisions in relation to CPD towards those issues and perhaps not as much towards issues like SEN that I think we would all like to see.

Q759 Mr Chaytor: So it is the performance tables as currently constituted that are—

Mr Northcott: I think that high stakes culture skews for some schools—and you understand why—decisions towards attainment in those core subjects.

Mr Johnson: If I may come in on CPD, I would like to answer it in a slightly wider way because the TDA reported to the Secretary of State about a year ago now that CPD in general was in a dire state. There are crises in both supply and demand and the ATL, along with its social partners, is trying to deal with the issue, for example by working towards a better entitlement for teachers to CPD. It is astonishing that teaching is not a learning profession at the moment. In reality, teachers have very little opportunity to access the professional development that they think they need, so, for example, a class teacher gaining a new class and finding that there is a child with a particular special need that they have not experienced before has very little opportunity in reality to gain expertise in that special need.

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Q760 Chairman: Why can they not?

Mr Johnson: Because there is a dearth of appropriate provision and there is a dearth of capacity in the system. There is a lack of capacity to allow teachers to go out of school during the working day to go on courses which might be about that special need, for example. There is no contractual entitlement for that teacher to do that.

Q761 Chairman: There are people sitting behind you today who provide very short courses for people who do not understand dyslexia and how to teach students with dyslexia. A lot of professionals have to do this in their own time and take courses to hone their professional skills. Are you telling me the only way a teacher does it is to have special time off?

Mr Johnson: I am telling you what the TDA reported to the Secretary of State.

Q762 Chairman: I know a lot of teachers who give up their own time to train.

Mr Johnson: Yes, that is right and we would not deprecate that, but that is not a sufficient way to run a system. Obviously I am talking about the whole range of professional development and our members tell us that they cannot get the development they need. In many schools, agreed, sometimes what we call twilight provision is there. In many cases, though, teachers cannot get out of school during the day to attend events which would help them develop professionally.

Q763 Mr Chaytor: Is this not a supply problem and surely the workplace reforms of the last two or three years has meant that in primary schools now staff have got an element in their week of professional development time for the first time ever? It cannot be argued that there is no time for primary school teachers to take advantage of training.

Mr Johnson: That time is supposed to be for preparation and follow-up of lessons rather than professional development. What we are going to be looking for is a contractual entitlement in terms of perhaps number of hours a year or number of days a year for teachers to access, so we want more time. As I said, it is both a supply side problem and a demand side problem.

Mr Bangs: Can I highlight two things. First of all, I disagree with Ofsted and the TDA about the amount of specialist CPD available for those involved in supporting children with special educational needs. Our evidence, which I referred to earlier, identifies that those involved in inclusive schools are not getting the support they need in terms of professional development. I do think that needs interrogating. As I said, we will send you that evidence. The second thing is this: as you know, we run a comprehensive professional development programme at the NUT. We are now getting a lot of evidence, certainly from our providers, that in primary schools head teachers are saying to teachers, "You have got your planning, preparation and assessment time; I cannot now release you for

CPD." The amount of CPD time for teachers in primary schools is going down because of the impact of PPA.

Q764 Chairman: How much do they get now?

Mr Bangs: In terms of the PPA, it is 10% of the working week.

Q765 Chairman: What percentage of CPD does the average teacher get?

Mr Bangs: What percentage of CPD does the average teacher get? In primary schools or in secondary schools?

Q766 Chairman: Both.

Mr Bangs: There has not been a calculation of the amount of average CPD done. We are getting information through from people who come on our programmes and that is what they are saying to us.

Q767 Chairman: Rona, do you know?

Dr Tutt: I do not know the precise figures. I do know that it is now normally linked to performance management, and part of that is to flag up the sort of development opportunities that a particular teacher will need and then to try and supply them. I think it would help if the system was much more systematic. In the SEN strategy, for instance, there is that triangular model, you may recall, which suggested a certain level of expertise in the SEN field which is needed by all teachers and then at the next level you have got a slightly smaller number where in all schools you need some teachers with a higher level of expertise, and at the top you would need the most expertise amongst a group of schools, so some teachers within a group of schools would have that. I do not think we have got that systematic way of looking at professional development in the SEN field. I would like to also pick up the point that was made about including special schools. I think if we could get to this inclusive education service—and I will try not to use the phrase too many times—where it was all seen as part of the same service, then the contribution that special schools could make through outreach and through in-service training and so on is huge. Many special schools have been doing this for a number of years but it does cost and you have got to have the staff to do it and you have got to have the resources behind you to enable it to happen. We could then tap into this enormous resource much more efficiently.

Q768 Mr Chaytor: Could I move on then to the question of assessment because one of the recommendations that has been made as a result of the *Every Child Matters* work is to introduce a common assessment framework. Could you just explain the key features of that common assessment framework? How is that going to relate to the whole statementing process?

Dr Tutt: At the moment it is still being trialled so we do not really have the detail of how it is actually working out but it is trying to make sure that

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children and families do not go through different assessments, from social services, from health, and from education.

Q769 Mr Chaytor: As a principle you support it?

Dr Tutt: I think that must be a good bit of joined-up working and we will be very interested to see how the pilots come up with their results and what it shows and indeed what the follow-on then is to the statementing process, which obviously is one of the things we are all very interested in improving and doing something about.

Q770 Mr Chaytor: And what is your gut feeling about statementing? If the CAF is in place and starts to work well, will there be less of a need for statementing? Will the number of children being statemented be reduced?

Dr Tutt: We would hope that that would definitely be the case. The NAHT in their written evidence to you suggested that as a starting point (and this would only be a starting point) as a way of trying to claw back some of the enormous amount of time and money spent on a very small percentage of children, that statements could for instance just be used if children were going to continue to have special school places in the long term. That is not ideal because it does not help to see it all as one system, but it might be a stepping stone on the way to putting in place something that is less time consuming and less greedy as far as all types of resource, including money, are concerned.

Mr Bangs: Just two points. I think, as David says, the Common Assessment Framework has a real opportunity to slim down the bureaucracy inside the current statementing process but the real problem is this: the first two school-based stages of the Code do not have any resources attached to them, they are usually internal, so everyone will go for statementing. That is the first issue and so long as resources are attached to statementing that is what is going to happen. The other problem with the statementing process is that it is very much individual-based. You could not have in a statement a recommendation that that child with a statement is taught in a smaller class size than other students where there are not students with statements. In fact what our members tell us all the time is, "We could cope with this child if we had a much smaller class size".

Q771 Mr Chaytor: Is there a case then, once the CAF is in place, for almost dividing the statementing process into two, an initial statement that may be called something before we move on to the full-blown statement which is more geared up to children whom we would see in special schools?

Mr Bangs: I think that is an interesting idea, yes.

Dr Tutt: That could certainly be looked at as an interesting way forward.

Q772 Jeff Ennis: Supplementing the point which David was raising in terms of in-service training opportunities, and it is really in connection with a point I raised with the previous set of witnesses, is

there enough collaboration going on between maintained schools and the independent sector schools, like the National Autistic Society schools, in terms of setting up joint in-service training where you do get the child in your particular class who is on the ASD spectrum?

Mr Northcott: I think, as Ralph said, there is some, but probably not as much as you would want to see and I think the reason for that is because of the fact that there is not as yet some sort of mechanism that can bring that to happen and make that happen in a meaningful way, so it happens more perhaps on an ad-hoc basis. I certainly know from my experiences where groups of schools approach, say, a school in that sector which they feel has got some advice they could benefit from, they seem to broker that themselves. That is very positive and it shows great initiative, but the difficulty is that it takes a lot of work to do, it is quite bureaucratic, it takes a lot of setting up and, if there were a system which actually encouraged that more and allowed that to happen more easily, you would be more likely to see that, but I think that is an example.

Q773 Jeff Ennis: Do LEAs need to take the lead on issues like that, Darren, or should it be left to individual schools, do you think?

Mr Northcott: I think the LEAs should be in a position where they are taking the lead on that. The real question we have got to ask ourselves is: do they have the resources, do they have the tools, do they have the levers available in order to make that happen? I think a lot of people tell us that they do not necessarily have that, they are not necessarily in a place where they can draw those together and I think that goes to the heart of the question about the relationship between the local authority and the schools in its area and what relationship there is between that local authority and those schools and what sort of vision we want to see for that.

Q774 Chairman: But is it a problem that funding increasingly flows straight to a school?

Mr Northcott: I think that is a difficulty in a sense, that then the onus is on each individual school to try and broker its own solutions to its own SEN issues, perhaps it is CPD, perhaps it is bringing in resources or materials, and I think it seems to a lot of people that there are more economies of scale within the system if you try and organise that collaboration on a more strategic basis. If you get individual schools individually trying to broker their solutions, you get repetition, you get variation as well, so the kind of quality of support the teachers teaching your child are getting depends upon a decision made by each individual school rather than perhaps so much a kind of strategic decision, a kind of authority-wide set of decisions which actually could lead to a more effective use of resources and more consistent provision.

Dr Tutt: It goes back to the business about being much more systematic about the whole CPD and SEN field. I have been on a steering group for the low-incidence needs audit, and I have been very encouraged by the willingness of the independent

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sector to actually contribute to CPD and I have personal experience of using them in the past, but it is a bit ad hoc, if you happen to know who you can get hold of and so on, and I think the idea that it is made much more systematic would make it much easier and save a lot of time for schools.

Q775 Chairman: It is a very interesting area, is it not? We have often had the complaint that education is so centralised, everything comes out of the Department, that this is centralisation, there is no local autonomy and democracy, but actually there is a bit of SEN that is the most locally determined of almost any service. Here we are with a lot of the evidence we have taken, saying they do not like it, that they want it national, it is a postcode lottery and they want the same package wherever a child lives. Now, what do we want? What do you want, as teachers?

Mr Northcott: What I think we want is a national framework with local flexibility which says, "These are some sort of common entitlements everyone would have. Here is a common definition of what 'inclusion' actually means". I think we heard this morning from your previous witnesses that the definition of what 'inclusion' means varies from authority to authority and that leads to wide variation in practice, so getting some of these national things right, getting a national framework right and, within that, you allow on a kind of local authority or school basis the flexibility to meet specifically identifiable local needs, it is that kind of system that you want rather than a system that just has, due to the funding mechanisms and due to the relationship between local authorities and schools, almost a much more variable set of outcomes without any real understanding as to why that variation is actually taking place. How is that variation benefiting the children?

Q776 Chairman: Martin, you and John have got a lot of experience of working in this field. Can you flag up to the Committee where is best practice in the country? Which local government area and schools are at the top of your league? Douglas has a thing about Essex and we are going to explore that in Essex, but where is that relationship? We have had a lot of evidence in this Committee of where the relationship between local government and schools is very good.

Dr Tutt: Yes, absolutely.

Q777 Chairman: Where do you think that is?

Mr Bangs: Well, East Sussex, West Sussex, all those authorities that run along the north of the river in London, Newham, Tower Hamlets, Barking and Dagenham, a range of northern authorities.

Q778 Chairman: It sounds like a Billy Bragg song!

Mr Bangs: Well, I did not get a ticket actually for the Billy Bragg performance on 1 May which I am really annoyed about, but there you go!

Dr Tutt: Just to put in a word about Hertfordshire, which happens to be my home authority, what I have been particularly impressed with, and I was on

the SEN panel for many, many years, working with county councillors of all sorts of political views, is that it has been one of those situations where it has sometimes been Conservative, sometimes Labour, sometimes LibDem, all sorts of combinations of people running County Hall and there has never been any disagreement about their view on SEN and the need for a continuum of provision.

Mr Bangs: Can I just follow on from what Rona and Darren have said because it is very important and it is not known. I do not know whether you have had the information in the Committee, but the Assistant Secretary, or whatever Andrew Adonis' title is, Parliamentary Under-Secretary, he has withdrawn Circular 11/90. Now, Circular 11/90 describes and offers advice on pupil:teacher and pupil:support staff ratios and that has been opposed by the range of organisations concerned with special educational needs. It was a small internal consultation and it is not known. In fact that Circular has been enormously helpful in informing certainly issues which have been brought up not just by teachers, but by parents and governors about how to actually allocate the number of students to the number of teachers within individual schools.

Q779 Chairman: What does this mean for SEN?

Mr Bangs: I think it is very serious because there is now no national guidance whatsoever about the ratio of teachers and support staff to students in schools; that has been withdrawn. It was published in 1990, we called for it to be revised as obviously it is 15 years old, but it has been withdrawn without any replacement.

Q780 Chairman: As of when?

Mr Bangs: Now. There was a small consultation, we submitted evidence at the beginning of the year and it has just been withdrawn.

Q781 Chairman: Are you aware of this, Rona?

Dr Tutt: Yes, we were aware and we did actually ask for it to be looked at because in some ways it was out of date, but we were not happy with the way it just suddenly was withdrawn and we do not know if anything is going in its place.

Q782 Stephen Williams: The area I was going to explore was on funding and you have just touched on it and maybe Darren and some of the other witnesses can comment on it as well. With the increased delegation of funding to schools, is there a danger that there will not be co-ordination of services and specialist services that are currently provided by the LA, such as educational psychologists and that that particular specialism and service may be undermined if the LA is under-resourced?

Mr Johnson: Can I point up one issue about school funding in general which impinges on this question and that is that it is very difficult to know how schools allocate the resources they receive for anything because the kinds of accounts that they are required to publish do not necessarily, for example, show how much money they have spent on meeting

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SEN in their schools. You should be able to see the income stream, but not the expenditure stream. Now, I am not suggesting to you that schools are not spending their SEN money on SEN, I suggest to you that there is a wide variety of practice in that way, but the point is that there is an accountability problem and, when it comes to SEN, of course the fact that schools have got the money is an important explanation for why local authorities will not statement. The fact is they are only supposed to statement for needs that cannot be met in the school. If the school has got the money, they can argue that schools should meet the need. It is very simple really. Now, if that is not a satisfactory situation, then that needs to be looked at again.

Chairman: That sounds like blinding commonsense to me.

Q783 Stephen Williams: Just to tease that out a bit, are you saying effectively that schools have ring-fenced money for SEN or they should have ring-fenced money for SEN, but it is not clear from their expenditure reporting that they have actually used that ring-fenced money? There is an analogy there with PCTs and sexual health, for instance, where this Government has given a dollop of money for sexual health, but PCTs use it on all sorts of other things and you cannot really tell where it went.

Mr Johnson: We have a lot of evidence in schools of what the academic, David Gilbourne, calls “triage”, that is to say, schools are selecting pupils on the basis of the quality they are going to add to their measured outputs in league tables and allocating resource accordingly. Now, that, in principle, tells against pupils with SEN.

Q784 Mr Chaytor: Is not the logic of that that there needs to be a simple change to the section 52 statements? Would that solve the problem?

Mr Johnson: It might, but the same thing applies to the whole range of activity of schools and, as I say, the triage problem.

Mr Bangs: I think section 52 statements have to be very specific about the nature of provision provided. In fact I disagree. I think a colleague from Ofsted said earlier that statements are about provision, but that is not the case all the time. In fact actually there is quite a lot of evidence that statements about emotional and behavioural difficulties simply include advice rather than specifying additional support. Now, I highlighted earlier one of the problems with specifications of individual support, but at least that is something and I think the bleeding away of resources at school level has to do with the delegation of statemented money to schools. I actually think that has been a real mistake. If there is one job a local authority should have, it should be to stand up for youngsters with special educational needs and ensure that they get the provision that is allocated to them in the statement.

Q785 Mr Carswell: On this point of the money, as I think you said, bleeding away, not getting through, the money being pulled at one end, but not actually going where it is meant to go, and I do not know if

it is the LEAs who need it all for admin or whatever, could there be a solution in terms of radically overhauling the statementing process so that the statement not just specifies what needs to be done, but, almost rather like a cheque and use the “voucher” word if you want—it indicates the actual quantity of money that a child is entitled to in order to deliver that and give it legal backing so that if the LEA does not deliver that value of education, they can have recourse to the courts and do it that way? Therefore, instead of trying to push the money down from the top and make sure it gets through, you give the people at the end of the line the entitlement, the legal entitlement to ring-fence their own share of the budget and get their share, their entitlement that way?

Dr Tutt: Well, it is an interesting one and it may be worth looking at. I think, however it is done, we can all agree at the moment that the outcomes are not measurable and, whatever is put in, we need to measure the effect that that has. Whatever the statement says, wherever it takes place, whether it is mainstream, special or a combination of both, whatever it is, we are not good at measuring the effect that has had.

Mr Northcott: These are tremendously difficult issues because I can see the merit in what you say, that if you say that there is ring-fenced money, that will be guaranteed for that child. One of the other things I think we heard this morning was that very often the ability of a child to receive a statement depends upon the ability of their parents to navigate their way through the system. If they have a kind of amount of money attached to that statement, then there is always the danger that parents will really pursue the statement and the statement gets a level of importance which perhaps might be in some cases disproportionate and then the pupils receiving statements are those whose parents are able to pursue the system more effectively. I think there is much in that, but we have got to have some sort of system around which parents who perhaps are less confident with the bureaucracy, who are less confident with meeting officialdom, who are less confident in articulating themselves and their child's needs are supported through that because I think, if you just did that on its own, you might get some skewed outcomes.

Q786 Chairman: The Audit Commission were sitting there just now, saying that the whole statementing process means a flow of resources to a particular group of children which actually takes away from the special educational needs of a whole bunch of other children and that is a real problem. Would Douglas's suggestion not accelerate that process?

Mr Northcott: I am not saying it does not have advantages and disadvantages. I think whichever approach you adopt, clearly there has to be something around what that statement guarantees, what support it guarantees. Clearly that is going to have a cost and, whether you ring-fence an amount of money, it has to be thought through carefully. I am not saying that you dismiss that out of hand, but what I am saying is that one of the things you would

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have to look at very carefully in that system is that, if there is an amount of money, there is a pot of gold with the statement, then it does attract people, it does make people more assertive in pursuing statements and, with our current system, it tends to be parents from more advantaged backgrounds who are able to be more assertive and more effective in securing those statements. That is a message we get across the country. One local authority's response to that was just simply to stop funding statements, so statements are not funded, which actually meant that a lot of the people ended up not pursuing the statement. The difficulty with that is how we get an objective assessment.

Q787 Chairman: Which authority was that?

Mr Northcott: I believe it was Newham.

Q788 Chairman: But you just said Newham is wonderful, John.

Mr Bangs: Newham is a good authority and it does well, but I do think that Douglas's point is a very good one. I think the problem with the statementing system is that it is a very, very high-stakes system for parents and there are more education officers who have lost their jobs because of "out-of-control" SEN budgets than any other reason for education officers resigning. I do think actually, as I said before, that we need to look at the school-based stages first before the statement and David's idea of looking at a guarantee of additional resources there in a wider context in relation to smaller class sizes and support that that school needs to get as a whole institution is important. I also think, in response to Douglas's question, that we need to be looking at not having the bureaucracy in place if you need to place a child in a special school. Prior to Warnock, we had an assessment system which was flexible. Now, there were all sorts of issues prior to Warnock, but at least you were able to place a child in a special school, if the parents agreed, without the bureaucracy and I do think that would cut down the bureaucratic process.

Mr Johnson: If you are thinking about whether we need a statementing system, I think that my members would say that one virtue of it is that it does then lead to review, and I associate this comment with what has been said about focusing on desired outcomes and it also relates to the personalisation agenda in general. If we are all looking for a school system in which assessment for learning takes a higher place, then we would say that the review part of meeting SEN is crucial to meeting the child's needs and that is a strong reason for saying that it would be helpful to have a system in which review was required, but whether you can make that less bureaucratic, I do not know. I just want to say one other thing about statementing which I am not sure has always got through in the evidence to this Committee, that often that statementing process involves very strong, professional disagreements and that is one reason why the process is difficult and expensive.

Q789 Chairman: It takes time.

Mr Johnson: Yes.

Mr Bangs: I worked in a special school for years and years and years and I was also active on the Inner London Education Authority over special educational needs and I was a teacher member on the Inner London Education Authority for special educational needs. As a present, I was allowed to go into the placement, the Holy Grail of placing a child who had a statement with special educational needs. They had been through all the paperwork which was described earlier, and the discussions which take place amongst the SEN statementing officer and the EPs is actually a very informal one and actually does not bear too much relationship to the paper; it is about whether they think, on their hunch, a child will do well in X school or Y school and the paper does not actually inform it too much. That was my experience.

Q790 Jeff Ennis: Changing the subject slightly, is there any hard evidence to suggest that those schools which have more freedoms or those which are higher up the league tables are less likely to participate in local collaborative arrangements on SEN? Is there any evidence?

Mr Bangs: The evidence that I referred to earlier from the Cambridge study is that that is an enormous pressure on schools with teachers who have a real commitment to inclusion and that actually headteachers are fully aware of the impact of youngsters who have learning difficulties on their performance tables and, as I said, I will give that evidence to you.

Dr Tutt: I think it is very difficult to continue to run a system that relies so heavily on tables, targets and tests and say that every child matters and we want personalisation which fits in entirely with SEN.

Q791 Chairman: So would you prefer to go the Welsh route and get rid of that?

Dr Tutt: Much prefer, yes.

Q792 Chairman: You would like to go the Welsh way in terms of withdrawal of the test, yes?

Dr Tutt: Yes, getting rid of the high-stakes testing.

Q793 Chairman: That is the Welsh experience, but what about the Scottish experience? You have seen that they are taking a different direction on SEN. Should we follow that? Is it a good method? Do you like it?

Mr Johnson: Obviously the new system has only been in place since September and it is too early to tell how it is going to pan out. I would just say that it is an interesting idea, but I am not quite sure whether it attacks the issues that the Committee has been concerned about, which are bureaucracy and expense in the statementing system. Insofar as it may reduce the number of statements and increase the number of intermediate interventions, such as David was suggesting, then sure. If I can just go back to the previous question a little bit, clearly what Rona said is the case and we all believe that, although the evidence is difficult to assemble, I concede that, but

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I would go a little bit further and say that the SEN issue is not an issue for pupils with SEN, but it is an issue for all pupils and all schools and we need to look at what is wrong with the practice in all schools before we can improve the service we offer to pupils with SEN. In ATL's opinion, the curriculum that is offered to all pupils is inappropriate and the associated assessment, part of which is the national test and I include GCSE and A-level here, the national assessment systems are out of kilter with the needs of young people, employers and society in general. Until we have a radical overhaul of curriculum and assessment, that will be a countervailing pressure on schools in terms of their ability to deal with SEN pupils.

Chairman: That opens up a rather large question.

Q794 Jeff Ennis: That leads me obviously on to the question that I asked the earlier set of witnesses in terms of the added value range of issues to do with special educational needs, such as free school meals being part of the league tables. Do you think that is an issue that people such as myself should be pushing next week at the second reading of the Bill?

Mr Northcott: I think how those value added measures are constituted is the first question. The second question is the fact that we still have raw schools data published and there is an ongoing commitment to do that. If you go and buy a house and you go on an Internet site to see how good are your local schools, there is some sort of complicated CVA data figure which is there and it is how many A-levels did the school get, how many GCSEs, grade A to C, what were the Key Stage SATS results, so there is still a pressure around that and schools feel that pressure, so it is the fact that those results are still published and they are completely decontextualised, I think as everyone appreciates. Also when we look at CVA, taking into account all these factors, it is what goes into that box. Raw data goes in, a number comes out, but does that number mean anything for people in terms of making judgments or assessments of a school and also what are the principles, what is the methodology behind that that leads to that CVA number coming out? We think that is very much an open question, to put it mildly, as to whether that has actually been tackled effectively. Therefore, does that CVA score really, truly reflect all the different features that a school has to deal with and tackle?

Q795 Chairman: Do your headteachers have any overriding principles about a good education for all the kids that could come to their school and all they want to do is drive the standards up and they will exclude people where they can? Is that how malicious your members are?

Dr Tutt: I would not like to think any of our members are malicious.

Q796 Chairman: Well, cynical perhaps.

Dr Tutt: I find this whole question about improving league tables difficult when basically I just do not think they should be there.

Q797 Jeff Ennis: But the Government believe they should be there and that is the problem we have got, I agree with you.

Dr Tutt: Yes. You can put in value added and yes, that helps, and you can put in contextual value added and that helps further, but we had a previous Minister actually saying that he did not understand the tables as they stood originally, let alone with all these extra features.

Mr Bangs: We have got an extraordinary situation where we have the CVA pilot coming into existence with a whole range of background factors in relation to school performance tables and an indication from the Minister that you will not only have the current National Curriculum levels, but also you will have sub-levels in a school performance table. I actually think that this is going more and more into a dead end where you actually are getting fine grade results in a school performance table when the real value of a contextual value added approach is how it appears in your Ofsted report, not under the school performance table. Has the school researched on how much it is adding? It should be information that is useful to the school, not useful to the press and I know that the Secretary of State says, "Well, we would have to release the information under FOI anyway", but the fact of the matter is that that is not an issue, Chair, as you said in Wales; school performance tables are not an issue in Wales.

Q798 Mr Carswell: I have a question that is looking ahead. I have a big fear that politicians, both left and right, may look at the problem of local government finance and try and effectively nationalise the education budget, that portion of finance that town halls determine for themselves, in order to try and balance local government finance. If this were to happen and the Government, either left or right, were to centralise control over local authority funding, education funding, which I think it is likely they will suggest, this would have a big impact on special needs education and some of the local variation that we see, though they could perhaps set up some sort of central agency for allocating the funding. If that were to happen and there were to a sort of nationalisation of the local authority education budget, what would your reaction be? Would you see this as an opportunity, a threat?

Mr Bangs: It would be a major mistake. It would be a fundamental mistake if we had a national funding system for education and the reason for that is that local authorities add their own resources and their own value. In fact actually it would simply be tantamount to a major cut in education provision. You are right, there is a rumour going around that the current Comprehensive Spending Review will yield that and we would certainly resist it.

Q799 Mr Carswell: It would be bad for special needs?

Mr Bangs: I think it would be very bad for special educational needs. The commitment amongst the vast majority of local authorities and the pride that

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they have in their own special educational provision would be undermined by a national funding formula.

Dr Tutt: Yes, I think certainly if it led to any sort of cut in the resources available to schools, and certainly I come from an authority that does add to what is given from central government and pays over and above, then it is going to disadvantage all children, not least the ones with SEN. On the other hand, I have to say that NAHT has looked at the possibilities of a national funding formula just to make sure that there is a baseline below which no one can fall so that you get more equity in that way, but it is a very complex situation.

Q800 Chairman: We are coming to the end of our time and, because it has been a short and brief, but very productive exchange, is there anything that we have not discussed that you think should be on the agenda? Darren?

Mr Northcott: I would very much, I think, look at this issue of the ability of the system, whatever we mean by that, to make objective assessments of a child's needs. We have looked at this whole issue of statementing and some of the pressures that go into the statementing process, some of the external distortions about whether it is funded, whether it is not funded and the ability of certain parents to steer their way through the system. Looking at that, I think that, whatever system we have, we need a system that makes sure that, if a child has particular special needs, those are objectively identified and assessed and that that child is placed in the provision or in the setting that best suits their needs. I think our members tell us that too often that simply is not happening as a result of the system we have got at the moment, so that ability to make clear, objective and straightforward decisions about children's needs wherever you live I think is really important.

Q801 Chairman: John?

Mr Bangs: There is no statutory requirement on local authorities to maintain, or have access to, a wide range of provision, including high-cost provision and a range of special schools and units for pupils with EBD and low-incidence services. I quote that because that is in our evidence. We had a commitment actually from the DfES that they would look at that in the run-up to the 2002 Education Act. In the end they did not put it into the 2002 Education Act. Local authorities ought to be required to have a range of provision to match the range of needs, to have access to that provision, and that should be on the face of legislation. The second point—

Q802 Chairman: That would upset Newham though, John.

Mr Bangs: It would, and I said it was a good authority, but I did not say that I agreed with its SEN policy. The second point is this: that one of the things we are very proud of is our link with Scope and the Schools Access Initiative and the disability access work. Jacqui Smith did a lot of very good work in that area, £200 million into ensuring that

mainstream schools were accessible. Unfortunately, the fact that separate, ring-fenced budgets are now disappearing has meant, in my belief, that actually all that work on ensuring that existing buildings are made accessible has stopped and there is a very strong argument indeed for a new initiative on disability access.

Q803 Chairman: Martin?

Mr Johnson: I have made the points I wanted to, Chair, thank you.

Q804 Chairman: Yes, you have made some good ones already. Rona?

Dr Tutt: We have talked quite a bit about the SEN continuum and of course, within that, many special needs have their own continuum. Whether you take the autistic spectrum, whether you take cognitive ability, whatever it is, there is a range within that, so it is very difficult to ever get to a point of saying, "This particular difficulty needs this particular sort of provision". What you have got to do, and what Warnock tried to flag up all those many years ago, is to look at pupils as individuals and I think if we do that and look at each child as an individual and say, "Where can this child be most included?", that may or may not be in a special school, but we do not know because it would depend on the individual and the combination of the difficulties they have, their personality and all sorts of other factors. Then, if we look at the five outcomes which I think are fascinating if you look at them from the point of view of providing for children with SEN, you say, "Where will this child be healthy, feel safe, be able to enjoy their education and, therefore, achieve? Where will they feel they are making a positive contribution". I feel very strongly about this, as a head of a school for children with moderate learning difficulties and then we took on autistic spectrum disorders and the MLDs of course became MLDs and all sorts of other things as well because the 'straightforward' MLDs were in the mainstream, it was the first time they had actually experienced standing on a stage, being in a choir, representing their school, being in school matches, being in the sensory room, though we did not have a hydrotherapy pool, but all the sorts of things that you might be able to offer a child so that they can actually feel they are making a positive contribution. I know there was a lot of criticism from Richard Rieser and the people who were with him about being prepared for future life, but although not all children with SEN will be able to achieve economic wellbeing, sometimes the opportunity to have some time in a specialist provision actually gives them the tools, whether it is learning Braille, whether it is learning sign language, whatever it may be, that may actually be the experience that gives them the tools to take their place in society.

Q805 Chairman: We have learnt a lot. Thank you very much for your evidence. We have to contextualise our proceedings—that is obviously the word we have to use these days—everything will be contextualised and we have also learnt from John

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that job security is higher in the education trade union person than it is working as a chief executive in local government!

Mr Bangs: We stand up for those education officers, Chair; they are our members!

Chairman: Thank you.

Wednesday 15 March 2006

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods
Jeff Ennis

Helen Jones
Mr Gordon Marsden

Memorandum submitted by the British Psychological Society

The British Psychological Society welcomes the opportunity to submit information to the Committee's inquiry into Special Education Needs. The British Psychological Society is the learned and professional body, incorporated by Royal Charter, for psychologists in the United Kingdom. The Society has a total membership of over 42,000 and is a registered charity.

The key Charter object of the Society is "to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge".

The Society is authorised under its Royal Charter to maintain the Register of Chartered Psychologists. It has a code of conduct and investigatory and disciplinary systems in place to consider complaints of professional misconduct relating to its members. The Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology. It also has in place quality assurance programmes for accrediting both undergraduate and postgraduate university degree courses.

1.1 This submission is based upon evidence provided by the Division of Educational and Child Psychology (DECP). Educational and child psychologists work with children from 0–19 across all areas of disability. They are concerned with the application of psychological research and theory to the enhancement of children's learning, psychological well-being and development. They have skills in psychological and educational assessment, intervention techniques and methods for helping children and young people who are experiencing difficulties in learning or social adjustment.

1.2 Educational psychologists collaborate with other key professionals in the early identification of difficulties a child or young person may be experiencing and through psychological assessment and intervention. In particular, Educational Psychologists work closely with other colleagues in education (for example educational welfare officers and behaviour support and pupil development staff), as well as other professionals in agencies like social services and the health service.

1.3 Educational psychologists have a central role in Special Educational Needs (SEN) where they have considerable statutory duties. Uniquely, educational psychologists are trained and have responsibilities and involvement in every phase of education, including early years work, thus allowing them to see the long-term impact of government decisions relating to SEN. Educational psychologists also inform social and educational policy within local authorities in relation to SEN, children's well-being, learning and development and centre their work around multi-agency assessments and interventions.

1.4 Therefore, the range and scope of their work covers all five areas of "Every Child Matters". The transformation of SEN within the context of Children's Services and the changing educational landscape means that their professional knowledge base is founded upon day-to-day practices, a clearly articulated working knowledge of psychological theory and research, and a strategic perspective which illuminates both strengths and weakness of the past and current policies and practices relating to SEN.

PROVISION FOR SEN PUPILS IN "MAINSTREAM": AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

2.1 Today, most pupils with SEN are educated in mainstream schools. However, their experience of mainstream education and the nature and level of support that they receive will vary from region to region. Concerns have been raised that a system of delegation of funding for support services has led to insecure and inequitable provision for some pupils with SEN (Ofsted, 2005). In the context of the government's Five Year Strategy for Education and Learners (DfES, 2004a), which advocates the development of more school-based resourcing and a greater diversity of providers, there is a continuing need for maintenance of central local authority services (such as Educational Psychology Services) to promote and support the needs of individual children, their families and schools. The increasingly influential market forces and the standards' agenda has led to some children and their families having difficulty accessing services which should be there for all children and "free at the point of delivery".

2.2 There is a need to consider in detail the critical relationship between a “market orientated educational landscape” and the distribution of scarce additional resources via an equitable system based on “need” which maintains equality of opportunity and outcome for vulnerable children. The current system of funding needs to be reviewed and new arrangements that are stable, consistent and facilitate longer-term planning should be introduced.

PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

3.1 Special schools have a distinctive and developing role within the present-day education system and we support an increasing emphasis on the sharing of specialist pedagogy and the flexible use of dual placements. The roles of mainstream and special schools need to overlap in legislation, as all children can benefit from sharing experiences with children on a continuum of need, as they grow and take their places in society as young adults. The British Psychological Society welcomes publication of “The Report of the Special Schools Working Group” (2003) which calls for greater collaboration between mainstream and special schools in developing innovative practices.

RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

4.1 A skilled and motivated children’s workforce is of central importance in raising standards of achievement for SEN pupils. Implementation of the Every Child Matters agenda (ECM, 2003, pp 83–96) raises particular challenges and contains considerable training implications for a range of staff who need to develop a common core set of skills and knowledge (DfES, 2005a). The profession of educational psychology has held a central position in this area and has been heavily involved in multi-agency working on behalf of children and families from all age groups and in every type of educational setting, including private, independent schools for children with SEN. Advising on high quality teaching for children with SEN has been a central strand to the work of educational psychologists for nearly 50 years (cf the Summerfield Report, 1968) as has research, and the provision of evidence of effective practice through reports, consultation and training (DfEE, 2000, p 20–21).

4.2 The case has already been made for local authorities to improve the evaluation of the impact of their work on pupil progress. The rigorous implementation of evidence-based practice could deliver significant improvements to the effectiveness of provision across mainstream and special schools. This would involve well-monitored evidence-supported interventions, systematically delivered by appropriately trained staff and evaluated for their effectiveness with individual children.

4.3 There is a clear need for the workloads and responsibilities of educational psychologists, speech and language therapists and specialist teachers to be re-structured so that time can be released from bureaucratic activities to allow more hands-on involvement in training, monitoring and supporting to ensure high fidelity in evidence-based programme delivery. It is essential that the children with the most complex needs are provided with the most effective provision. In many instances, provision is less than satisfactory, but there are few mechanisms which allow for effective monitoring, accountability and challenge. Often, there are low expectations for a child with special educational needs, and this leads to a position that minimal progress is acceptable.

4.4 Poor monitoring of the outcomes of inclusion was identified in the Ofsted (2004) survey to examine the impact of the government’s inclusion framework. Here it was reported that few schools evaluate provision for SEN systematically so that they can establish how effective it is and whether it represents value for money. Ofsted (2002) had recommended that improvement should be measured in three areas: educational attainment, gains in self-esteem, and improved relationships between pupils with SEN and their peers. Recent developments, particularly work using the p-scales and the establishment of the National Performance Framework for SEN (DfES, 2004b), appears to provide the means for resolving many issues regarding the monitoring and evaluation of academic outcomes of inclusion.

4.5 However, we would also want to highlight the fact that excellent inclusive practice exists in a small proportion of schools proving that effective provision can be made (eg the inclusion of children with Down syndrome in mainstream primary and secondary schools). However, perhaps the most difficult barrier to overcome in supporting children with SEN is found within the attitudes, values and personal beliefs of people. It will be essential that this factor is fully understood by the committee because the prevailing culture will determine, not only the outcomes of the review, but how the new regulations will be put into practice by schools.

4.6 To raise standards of achievement for pupils who have special educational needs, there is a need for consistent implementation of well-planned, appropriately differentiated curricula and individualized programmes of support, recommended by educational psychologists, speech and language therapists and specialist teachers from local authority teams or special school outreach teams. Currently, support for the most vulnerable pupils is usually provided by teaching assistants who often receive insufficient training, monitoring and support. Furthermore, there has been a trend towards brief, superficial training in SEN interventions which are not based on research or compelling evidence, and which are not rigorously

evaluated. Highly trained and properly qualified professionals need to support school staff in their continuing professional development. In addition, there needs to be a clear and rigorous evaluation of both the quality of the training and its impact on children's progress.

THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS ("THE STATEMENTING PROCESS")

5.1 Some stakeholders have raised concerns about the equitability and cost effectiveness of the current system. Educational psychologists are in a good position to comment on these issues as they are centrally concerned with supporting individual children, their families and communities and building school capacity in this area.

5.2 The principles underpinning the so-called "statementing" process (a word which is, itself, indicative of how corrupted the "formal assessment" procedure has become) were initially focussed on the "needs" of children. Over time, however, the process has led to an education system where mainstream schools have become increasingly dependent on the local authority in meeting the special educational needs of children and young people. Paradoxically, schools and parents can spend a great deal of time pursuing a small amount of money via a Statement of SEN. The notional "2%" of children with severe and complex special needs referred to in the Warnock Report, (1978) has grown over the years and in some LEAs as many as 5% cent of pupils have Statements of Special Educational Need. As a consequence, the administrative responsibilities resulting from the formal assessment procedures have had a detrimental impact on the effectiveness of all professional groups involved in the statutory assessment process. In the case of educational psychologists, professional practice has been restricted and efforts diverted from more constructive activities such as proactive work, intervention planning and delivery, evaluation and inservice training, especially for teachers and teaching assistants.

5.3 The unintended and perverse incentive for mainstream schools to expend time seeking money from the local authority also perpetuates an unquestioning dependence on the Statement of Special Educational Needs. Once a child is provided with additional funding via a Statement, there is no incentive to remove this status, since to do so would be to lose funding or "have to make redundant" the person employed to support the Statement. Thus, children retain a Statement for their whole educational career. Decisions to maintain a Statement of SEN can be predicated on the idea that the child would fail without the Statement, without there being any clear supporting evidence that this is the case. Other arguments for maintaining a Statement of SEN relate to unchallenged fears that transition to full time education/a secondary school would lead to deterioration in the child's functioning.

5.4 A Statement of SEN can, itself, become a barrier to inclusion. As young children progress from early years settings to full-time education school staff can sometimes become reluctant to accept the children due to their significant special needs label. The British Psychology Society welcomed legislation which has clarified the legal position of children with SEN (Disability Discrimination Act 1995 (as amended by the Special Educational Needs and Disability Act 2001)):

"makes it unlawful for an education authority to discriminate against a disabled pupil or a prospective disabled pupil in the discharge of its functions" (Code of Practice for Schools: Disability Discrimination Act 1995, part 4, p 95).

THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

6.1 There is a well documented relationship between parental involvement in education and positive learning outcomes (Griffith, 1996; Sammons et al., 1995). Parent-teacher partnerships are important in establishing consistent and co-operative arrangements for supporting children's learning, and developing and maintaining home-school trust is crucial (Dunsmuir, Frederickson & Lang, 2004). Parents with confidence to manoeuvre within the complex system are a strong force in securing resources. In addition to involving parents in decisions about their children's education (cf SEN, Code of Practice, 2001, pp 16–26), the British Psychological Society welcomes the widening role of Parent Partnership Services to embrace wider issues with respect to parents establishing sound relationships with schools.

6.2 Parents' pivotal role in their child's education needs to be further developed, and in those cases where parents themselves may have Special Needs, additional support should be readily available to ensure that their needs, in relation to their child's needs, are met. The Society would like to see schools further developing their links with parents through the extended schools agenda and by providing opportunities for parents and children to learn together (Camilleri, Spiteri & Wolfendale, 2005).

6.3 A small but vociferous groups of parents, often aligned with independent organisations and pressure groups can lead to serious bias in the allocation of very limited resources, especially prevalent in the areas of "dyslexia" and "autism" (Gross, 1996). In some cases, parents have striven for particular placements or interventions believing that they represent "cures" to the real problems which their child may have and seek full financial assistance (eg £200,000 per annum) to support their child, usually in private, independent schools which are often a significant distance from their families and communities. This adversarial stance has sometimes culminated in acrimony and distress for parents who enter into an uncompromising dispute

with local authorities. Unfortunately, and despite the considerable amounts of money involved, little time or attention is given to following the progress of the children at the centre of the dispute once the resources are allocated.

6.4 Therefore, current government legislation, regulations and policies can lead to an adversarial position between parents and professionals that is not necessarily in the best interests of the child. A more informed approach is needed and the development of a more collaborative system would be welcomed. To this end the Society welcomes the widening role of Parent Partnership Services and advocates the need for the development of a rigorous, longitudinal research base to support placement decisions.

HOW ARE SPECIAL EDUCATIONAL NEEDS ARE DEFINED?

7.1 The continuing move away from labelling children according to “categories” of need based on perceived child deficits is to be welcomed as an approach based on categories can have an adverse impact on the development of a child’s self-identity and, as a result, restrict efforts to teach them effectively. Thus, we would recommend a focus on “needs” and “appropriate provision”.

7.2 The development of “personalised learning programmes” for all children is to be welcomed, and the direction outlined in “Removing Barriers to Achievement” (2004b) should be pursued, ie that children with additional needs are at the core of personalised education. Models of SEN which focus on intervention, curriculum and social causes of school difficulties rather than within-child deficits are welcomed because school staff can be supported to take effective action to remove barriers to learning.

7.3 The Society can see value in a national framework for funding schools to a level which would ensure that any child would be able to follow a personalised programme within a school within their community. This may mean schools working collaboratively to meet the needs of children within their community.

7.5 Within a national framework for funding, children would be continually assessed through intervention and appropriate “adjustments” would be made, in accordance with the Disability Rights Commission. Best practice would be shared within a research orientated framework leading to increasingly effective and evaluated provision.

7.6 The Society would wish to emphasise that assessment should be collaborative and conducted over time (DECP, 1999). The assessment process, under the Every Child Matters agenda should be multi-agency and start a birth. Thus, a child with needs that require a personalised plan would be fully assessed before attending full-time education. Where it becomes clear that a child’s needs are not being met, further assessment should take place. Thus, there must be assessment procedures in place for very young children, and facilities which enable a rapid intervention-assessment if it becomes clear that a child is not being adequately supported in some way. The overall aim should be to identify the appropriate provision to meet the child’s identified needs.

PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES (EBSD)

8.1 Many types and causes of SEN can be identified early and the importance of early identification and intensive support in the early years is well documented. This is particularly true for children with EBSD. Learning and psychological theory offers considerable potential for developing specific interventions for groups of disadvantaged children (Webster-Stratton et al, 2001). For a review of the accumulating evidence that parent training programmes can be effectively applied to a wide range of behaviour problems in a variety of different settings, see Fonagy and Kurtz (2002).

8.2 An example of one intensive but non-stigmatising early intervention for EBSD that is increasingly being implemented across the UK, are Classic Boxall Nurture Groups. These groups were first established by an educational psychologist in Hackney in the 1970s. Currently, research into their effectiveness is being gathered by Prof. Paul Cooper at Leicester University.

8.3 Systematic evaluation of children’s emotional and social development, especially those with SEN and mental health problems, is sparse. Yet there have been recent concerns expressed by Baroness Warnock about some pupils’ experience of inclusion (Warnock, 2005) where many pupils who have special needs are considered likely to be “bullied and teased, or at least simply neglected” in mainstream schools. Indeed, some of our members have reported that parents have been known to seek placement in special schools as a means of protecting their child from “bullying and intimidation”.

8.4 Research studies that have investigated social and emotional outcomes of educating pupils who have special educational needs in mainstream schools have produced equivocal results. The overall picture tends to show poorer outcomes for pupils who have SEN compared with those of their mainstream peers unless particular efforts are made to address and improve them. Research on acceptance and rejection of pupils with SEN, assessed by peer reports of willingness to associate in work and social contexts in school, has consistently reported that higher proportions of included children have lower social status, being less accepted and more rejected than their mainstream classmates. These findings have emerged across different national school systems, including the UK (Nabuzoka & Smith, 1993; Frederickson & Furnham, 2004; Dyson, Farrell, Polat, & Hutchenson, 2004). The research literature also reveals higher levels of bullying

and victimization of pupils with SEN than of their mainstream peers. This is the case whether bullying is assessed through pupil self report, peer report or teacher report (De Monchy, Pijl, & Zandberg, 2004; Nabuzoka, & Smith, 1993; Thompson, Whitney, & Smith, 1994). Educational psychologists have research training that enables them to play a key role in bringing scientific rigour to the design and evaluation of interventions.

8.5 With regard to provision designed to support children's emotional, social and behavioural development, assessment needs to be collaborative, detailed and based on "needs" and not categorisation or labelling, as this can have a stigmatising and self-fulfilling prophecy effect. Care needs to be taken in assessing the effects of poverty and in differentiating between the emotional and social development of children. The British Psychological Society would recommend that in the assessment of emotional, social and behavioural needs, a collaborative framework is used. This should focus on the child's natural environment(s) and the complexity of interactions within the child's life. Links with community CAMHS and other community organisations should be evident in these assessments. Early intervention is essential in order to prevent habitual patterns of anti-social behaviour becoming embedded as part of a child's life. Educational Psychologists play a vital role in "differentiating" the nature of a child or young person's ESB and have a major role to play in identifying those young people who might be experiencing significant mental health difficulties and who require referral to CAMHS. The Children's Services and Trust agenda are providing significant opportunities for professionals to address issues of "integrated referral pathways" and "common assessment frameworks". The British Psychological Society welcomes these advances in professional practice.

8.6 The British Psychological Society is especially supportive of the Primary and Secondary strategies which support the development of children's social and emotional aspects of learning (DfES, 2005b). We would hope that resources are provided to ensure that these strategies can be further developed and extended to the prevention of exclusions where children are sent home and end up spending increased amounts of time thereafter on the streets. The Society would endorse the practice of schools working in collaborative networks to share expertise in significantly reducing exclusion and disaffection from school for those children deemed to have additional educational needs.

8.7 Psychologists have documented successful interventions working at the institutional, the classroom and the individual pupil levels, with teachers and with pupils and parents. Such interventions draw from a wide range of psychological perspectives, some taking a preventative and some a reactive stance, and address both pragmatic strategies and the intense emotions that often surround serious behaviour difficulties. Research has revealed conflicting beliefs among teachers, pupils and parents about important aspects of behaviour in schools, with this clash having the potential to further exacerbate home-school tensions. Published accounts document psychologists' involvement in successful mediation between teachers and parents and in devising joint strategies that have produced significant improvements with KS1 & 2 pupils originally judged by their teachers as the most difficult they had encountered. For further information see the British Psychological Society submission to the Ministerial Stakeholders Group on Pupil Behaviour and Discipline (copy attached).

THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

9.1 Many of the legislative changes that have the biggest impact on the lives and educational experiences of children with SEN do not come from SEN policy but more general educational initiatives eg on school admissions, exclusions, funding systems. There is a need for policy makers to consider the broader picture and the effect of unintended incentives/disincentives in the system that can lead to and sustain detrimental educational experiences.

This response was prepared on behalf of The British Psychological Society by Dr Sandra Dunsmuir, Dr Norah Fredrickson, and Kath Fingleton.

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Memorandum submitted by NASEN

1. INTRODUCTION

1.1 NASEN is the UK's leading organisation for the education, training, development and support of all those working within the field of special educational needs.

1.2 NASEN has 8000 members throughout the UK and communicates and consults them through its 50 branches, regular newsletters, its website and its specific committees and voluntary officers. NASEN's membership is drawn from all aspects of education including mainstream and special schools, colleges and universities, support services, local education authorities and parents. NASEN represents the voice of its members in a number of national and local forums.

1.3 NASEN reaches a wide national and international readership through its journals: British Journal of Special Education, Support for Learning, its on-line publication Journal of Research in Special Educational Needs and the magazine Special!

1.4 NASEN runs a professional development programme throughout the year including courses and seminars and workshops at many of the education and special needs exhibitions around the country.

1.5 NASEN welcomes this opportunity to submit evidence to the Select Committee, which as you can see, will reflect a diversity of opinion and experience.

1.6 NASEN would also welcome the opportunity to supplement written evidence with oral evidence.

2. PROVISION FOR SEN PUPILS IN “MAINSTREAM” SCHOOLS: AVAILABILITY OF RESOURCES AND EXPERTISE; DIFFERENT MODELS OF PROVISION

2.1 NASEN has a wide range of examples that would indicate that mainstream schools have been supporting those individuals with special educational needs for many years and have provided quality educational opportunities with commitment, confidence and skill for all their pupils. There is a great deal of good practice within this area and NASEN believes this should be championed and used to provide others with the training necessary to deliver this level of inclusive practice.

2.2 Where schools have built up strong support mechanisms between staff, parents, community and outside agencies, have a supportive ethos, deliver regular and relevant training and have resources that are accessible to deliver a differentiated, broad and balanced curriculum relevant to the needs of children and young people, pupils with a wide range of special educational needs can be successfully taught alongside their peers within mainstream classrooms. Where this is not the case, some children and teachers may struggle to achieve the outcomes despite their efforts.

2.3 Every child is entitled to good teaching and every teacher needs to acknowledge that they are a teacher of children with special educational needs. NASEN commends the work of Teaching Assistants in supporting these individuals and where they are working closely with the SENCO or Class Teacher they can provide an excellent standard of education. However, NASEN has a growing concern regarding the use of unqualified staff to look after some of these vulnerable children who need well trained and suitably qualified individuals to help meet their needs.

2.4 Leaders in mainstream schools should acknowledge this by ensuring that the funding they receive for SEN is directed to those children for whom it is meant. Clear, transparent and accountable budget information available for staff, governors, local authorities and parents will ensure that funding is used effectively to meet the needs of those individuals.

2.5 The SEN Code of Practice 2001 stated that all schools should have a person responsible for co-ordinating SEN provision (SENCO). NASEN believes that this should be a qualified teacher who is a senior member of staff. It also advocates that time to carry out this role should be guaranteed to ensure that the SEN provision of the school is monitored effectively.

2.6 NASEN welcomed the introduction of the Statutory Inclusion Statement in Curriculum 2000—Inclusion: providing effective learning opportunities for all pupils:

“Schools have a responsibility to provide a broad and balanced curriculum for all pupils. The National Curriculum is the starting point for planning a school curriculum that meets the specific needs of individuals and groups of pupils.

This statutory inclusion statement on providing effective learning opportunities for all pupils outlines how teachers can modify, as necessary, the National Curriculum programmes of study to provide all pupils with relevant and appropriately challenging work at each key stage. It sets out three principles that are essential to developing a more inclusive curriculum:

- (a) Setting suitable learning challenges.
- (b) Responding to pupils’ diverse learning needs.
- (c) Overcoming potential barriers to learning and assessment for individuals and groups of pupils.”

NASEN does have concerns as to how much emphasis is placed on this in some mainstream schools and believes that it should form a central arm of all school improvement planning.

NASEN would welcome more effective training and support for all teachers (especially during their Initial Teacher Training).

It also welcomes the initiatives that have developed from the Literacy, Numeracy, Primary and Secondary strategies that support many of those pupils who need additional support especially in English and Maths. However, there is still concern regarding those pupils who are unable to access these programmes as their needs are significant and profound.

2.7 NASEN also acknowledges that there are some poor examples of classroom practice. Teachers with low expectations, inadequate support, poor resources and equipment will result in poor teaching and underachievement. In schools where pupils with special educational needs are not valued, possibly from inconsistency of funding, ineffective or inconsistent school targets and poor facilities, the needs of these pupils are not met.

2.8 NASEN welcomed the Ofsted Report—Special Educational Needs and Disability—Towards Inclusive Schools—October 2004 where its main findings acknowledged that there was still a considerable challenge for mainstream schools to be inclusive:

“A minority of mainstream schools meet special needs very well, and others are becoming better at doing so. High expectations, effective whole school planning seen through committed managers, close attention on the part of skilled teachers and support staff, and rigorous evaluation remains the keys to effective practice . . .”.

2.9 NASEN’s members feel that there has been a significant cultural change in schools recognising that Inclusion is no longer an option but a requirement. The challenge for schools is to be able to put into practice effective supportive programmes that support quality inclusion.

2.10 NASEN is concerned about the erosion of some central support services due to delegation of funding to schools and it is very worried about the effect this erosion may have over time. The conflict between the LEA Area Reviews and desirability to delegate all funding to schools and the need for some services to be provided centrally is a cause for concern for many of our members working in them. If schools are to provide this very specialised support from in school then very effective CPD has to be available to meet all the diverse needs that they may encounter. Tensions between the differing demands of provider agencies need to be addressed.

3. PROVISION FOR SEN PUPILS IN SPECIAL SCHOOLS

3.1 NASEN believes that maintained and non-maintained special schools have a very important part to play in the education of young people with special educational needs. For some individuals, the very specialist support and care that special schools can provide, is fundamental to their educational achievement and well being. The opportunity to work in smaller groups, with higher staffing levels, with specialist equipment and resources impacts positively on that individuals educational development.

3.2 The majority of special schools have a wealth of expertise and experience in teaching children with complex special needs. Where local clusters of school have been proactive in working together, the outreach that many of these schools staff can provide in supporting those individuals in mainstream schools has been well regarded. It needs to be acknowledged that where this is effective and successful there have been flexible funding mechanisms in place to ensure that all schools involved have adequate resources to enable it to happen. NASEN believes that there should be national guidance to LEAs on special school funding to support collaborative working.

3.3 NASEN acknowledges that not all special schools are providing a high level of education and care. There would appear to be some lack of breadth of expertise and rigor within small local authorities to challenge their special schools.

3.4 NASEN has concerns regarding the transport arrangements for many out of area pupils and how this might impact on the Extended School agenda currently being championed throughout the country through the Every Child Matters agenda. Many of these pupils would benefit from extended school provision provided by their local community. NASEN is not convinced that this will be available for many of these pupils without transport needs and costs being safeguarded.

3.5 It would appear that every local authority has a slightly different view of how they interpret “quality inclusion”—NASEN believes that this would be an ideal time to carry out some research on the relative benefits of the many systems that are being used throughout the country. (NASEN Policy on Inclusion—Appendix 1)

3.6 Special consideration needs to be made regarding the current provision for EBSD pupils. This has become a very challenging area with some schools encountering difficulties under the current inspection regime. It is also important to ensure that these challenging young people receive the good quality education that they are entitled to. Flexibility within the curriculum would be a key to this success.

3.7 NASEN has examples of excellent practice regarding dual placements, where a child is based in one school (mainstream) but spends part of the week being educated in another school (special). Where staff, parents and external agencies support, plan and regularly evaluate this process the child can benefit considerably. As in 3.2 it needs to be acknowledged that where this is effective and successful there has been flexible funding mechanisms in place to ensure that all schools involved have adequate resources to enable it to happen.

3.8 The use of further education facilities for post 14 youngsters enables many to access aspects of the curriculum which are not available to them within their school but the quality of this provision is often poor with little evaluation taking place.

4. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

4.1 NASEN believes that all pupils are entitled to a high quality education which would include the opportunity to develop and progress over a given period of time. This means that all staff should have the highest expectation of all pupils and provide an education that is differentiated to meet their needs. There needs to be a concerted push (national initiative or programme) to educate school staff in understanding the level of expectation they should have for pupils with special educational needs supported by national data.

4.2 There is increasing pressure on schools to raise standards and many are finding it increasingly difficult to match some pupils levels with the targets for their school. This does lead to pupils being “refused a place” within a mainstream setting. NASEN is aware that many parents have appealed against such decisions.

4.3 NASEN is concerned that for many learners with special educational needs the current curriculum at Key Stage 3 & 4 is inappropriate both for their needs and for their future in the modern world. NASEN welcomed the debate on the development of secondary education and outlines its views in its Position Paper: “The Future of Secondary Education” (Appendix 2). It is vitally important that when planning SEN provision it is seen as an integral to the whole process and not an afterthought or a “bolt on” to any national educational developments.

4.4 NASEN has recently been involved in a project with QCA regarding the use of the P Scales within schools. These are widely used in special schools as an assessment tool but with less impact in mainstream schools. NASEN was disappointed that the statutory reporting of these levels was not introduced in 2005.

4.5 There needs to be a review of the current assessment arrangements especially when assessing the progress of pupils with special educational needs. Both mainstream and special schools need to be accountable for pupils who do not meet national thresholds but recognition must be made that they may not make the same progress in the given period of time. There needs to be an acknowledgement of realistic expectations with less emphasis on “moving up levels”. Greater use of value added data would help schools that provide effectively for all pupils. A greater use of assessment for learning and less on summative assessment will aid this process.

4.6 NASEN recognises the DfES’ commitment in their intervention packages that have been produced to support the National Strategies. These have ensured that for many pupils alternative activities have been readily available to support them especially in Literacy and Numeracy. However, there are still many individuals who are not accessing the curriculum at a level that is appropriate for their needs.

5. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS

5.1 NASEN would welcome a review of the current statementing process that appears to differ considerably from one LEA to another. We would support the need to see a reduction in bureaucracy whilst acknowledging the need for a process that ensure transparency for schools and parents. We endorse that a full and through assessment process is key to the individual receiving the necessary support. NASEN would recommend, that as part of a review, examples of good practice were collated from across all local authorities to encourage the consistency of providing a statement.

5.2 Parental perception appears to be that if their child has a statement they will be entitled to additional support. There are, however, many pupils entitled to some intervention or support without a statement. Parents appear to lack confidence that schools are providing that to which their child is entitled.

5.3 NASEN also acknowledges that the statementing process is being abused by parents who see it as a route to accessing particular school places for secondary transfer. This is not always the right educational choice for a child’s needs and suggests that local strategies for parental preference be re-examined.

5.4 Looking at the wider issues of the Every Child Matters agenda, there should be a much broader “statement” that includes all aspects of the child’s needs and how these might be addressed within a multi-agency framework. However, NASEN acknowledges that the constraints by which we fund educational provision would have to be considered within this process.

5.5 As more and more financial responsibility is delegated to schools there needs to be more effective systems to ensure that those pupils who are being funded to support their special needs are actually receiving that funding. This needs to be transparent to governors, local authorities and parents.

5.6 There needs to be a much greater emphasis placed on parents, schools and local authorities working together to ensure the appropriate provision for an individual child. Currently the perception of “fighting” the LEA or school would appear to be how parents view the statementing and tribunal process. If parents believed and trusted that their child’s needs were accurately identified and that provision met those needs there would be little recourse to appeal or Tribunal.

6. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

6.1 NASEN believes that the vast majority of parents have a high level of interest in the education of their children and wish to be involved in supporting teachers and other professionals in helping them achieve. One of the challenges is that school staff need appropriate training to work positively and sensitively with the parents.

6.2 It also believes that there is a significant correlation between the successful education of children with special educational needs and the full involvement of their parents.

6.3 Legislation and current educational theory have emphasised the importance of the relationship between parents and professionals. This should be seen as a partnership that is characterized by mutuality of respect, understanding and consistency of approach. It is a relationship where parents are different but equal.

6.4 NASEN is concerned that appropriate emphasis is placed on the responsibilities, rights and entitlements of each party whilst at the same time ensuring that the individual child with special educational needs remains the focus of concern.

6.5 There is an issue regarding parental preference when selecting a school for a child with special educational needs. Parental perception is that the choices may be limited due to financial constraints or lack of suitable provision for their child. It is accepted that parental choice may not always be in the best interests of the child.

6.6 Many parents feel they are caught between schools and LEAs and end up "fighting" for what they believe to be right for their child. This is often due to resourcing issues where parents get caught up in disputes between schools, authorities and other professional. More collaboration is needed between schools and authorities in order to meet the range of pupil needs. An improvement and transparency in SEN financial delegation to mainstream schools would help in this process.

6.7 NASEN is disappointed that the importance of the voice of the child was not apparently considered to be critical in understanding and agreeing the way forward in supporting them to engage in the school system. NASEN strongly believes that in all decisions concerning the child must be actively involved. (NASEN Policy on Pupil Participation—Appendix 3)

7. HOW SPECIAL NEEDS ARE DEFINED

7.1 NASEN has been attempting to address the issue of terminology to support our colleagues in Scotland who will be broadening their remit and using the term Additional Support Needs from November. We recognise that no particular term is ideal and that words need to change to reflect changing practice and reduce emerging negative stereotypes.

7.2 NASEN is concerned about categories of need being used in isolation from the provision needed to meet the need. Education professionals have moved away from the medical model of labels and established terminology to reflect the support the child will require to meet the need.

7.3 The Every Child Matters agenda is underpinned by multi agency working and commitment to working collaboratively to support the needs of vulnerable children and young people. There would appear to be a variance in definitions between agencies dealing with children and young people with special educational needs. This can lead to misunderstanding and inappropriate support being given.

7.4 NASEN has concerns regarding the PLASC data codes that all schools use to categorise their SEN pupils, the interpretation of each code is not consistently applied. The allocation of these codes needs to be carried out professionally and parents and pupils need to be informed of the descriptor that is used by schools.

8. PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EBSD

8.1 NASEN welcomed the Every Child Matters Framework and the establishment of joined up services that should meet all the needs of children and young people.

8.2 Early Intervention is key to any provision that is needed by a child. The provision of a sound foundation for future learning and development is fundamental to a child's capacity to catch-up, keep up and maintain the progress of their peers. If support is available from the early stages of development it reduces the risk of long term underachievement and disaffection.

8.3 Within NASEN's diverse membership there is representation from many different types of provision to support the varying needs of pupils with SEN. As well as members who work in specified mainstream and special schools, there are those who are working in units, bases and centres that may be attached to schools. NASEN's policy on Inclusion emphasises that:

"Children are entitled to receive, with a suitable peer group, a broad balanced and relevant curriculum, in the least restrictive environment, that meets their needs".

8.4 As 3.6 states special consideration needs to be made regarding the provision for EBSD pupils. This has become a very challenging area with some schools encountering difficulties under the current inspection regime. It is also important to ensure that these challenging young people receive the good quality education that they are entitled to which can only be developed from a fully competent and trained staff. Flexibility within the curriculum would be a key to this success. It is apparent that where there has been success, there has been this flexibility in ensuring the curriculum meets the needs of these particular individuals.

8.5 NASEN has a concern regarding the transition process that young people encounter from children's services to adult services. There would appear to be a lack of support and guidance to ensure that this very difficult time in a young persons life is managed effectively, taking into account the individuals needs.

9. THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DA 2001, WHICH EXTENDED THE DDA TO EDUCATION

9.1 It is too early to be clear about the overall impact of the DDA on schools. Our concern is that, to date, attention may have been limited to structural access issues and has not had impact on curriculum or ethos, which is key, in our view, to meeting the needs of the broader range of pupils with SEN.

9.2 The DDA is very supportive of those with a recognised diagnosis. It is unclear how much it might support those without.

9.3 NASEN is concerned that many parents of children and young people with special education needs do not wish their child to be classified as "disabled".

APPENDIX 1:

NASEN: POLICY DOCUMENT ON INCLUSION

OVERALL PRINCIPLES

NASEN believes that:

- Every human being has an entitlement to personal, social and intellectual development and must be given an opportunity to achieve his/her potential in learning.
- Every human being is unique in terms of characteristics, interests, abilities, motivation and learning needs.
- Educational systems should be designed to take into account these wide diversities.
- Those with exceptional learning needs and/or disabilities should have access to high quality and appropriate education.

INCLUSION: THE POLICY CONTEXT

Both nationally and internationally, there is an ongoing debate about the merits and meaning of greater inclusion for children with special educational needs¹. This is sometimes defined simplistically in terms of placement.

Some parents, disabled people and professionals argue that young people deprived of mainstream access are being denied a basic human right to be educated alongside their peers. Others point out that children's attendance at mainstream school does not guarantee their needs are met. They argue that children require an appropriate curriculum, resources and positive staff attitudes and skills to ensure that they are "included" in any meaningful sense.

At the other extreme, there are those who see inclusion of all children in mainstream schooling as either impractical or else so demanding of resources that it would breach the principle of reasonable and equitable use of resources for the school population as a whole. Recent disability rights legislation has challenged this view, on the basis of equal opportunities and there is developing recognition that inclusion is a lifelong issue, linked to enhanced participation in society. However, there are still issues about how greater inclusion is best achieved and about the pace at which developments should be expected to occur. There are also differing views about the role of special schools in a more inclusive school system.

In NASEN's view, inclusion is not a simple concept, restricted to issues of placement. Its definition has to encompass broad notions of educational access and recognise the importance of catering for diverse needs². Increasing mainstream access is an important goal. However, it will not develop spontaneously and needs

¹ The terms "children" and "young people" are used throughout; however it is recognised that similar principles apply to all learners across the 0-19 age range and to all educational establishments.

² The issue of inclusion applies equally to a broader range of young people with individual needs and the term "diversity" is therefore used, where appropriate, within this policy document.

to be actively planned for and promoted. Moreover, inclusive principles highlight the importance of meeting children's individual needs, of working in partnership with pupils and their parents/carers and of involving teachers and schools in the development of more inclusive approaches. Inclusion is a process not a state.

KEY PRINCIPLES

- *Valuing diversity:* All children are educable and are the responsibility of the education service. They should be equally valued whether or not they have special or additional educational needs. Children present a rich and diverse range of strengths and needs. Inclusion is most likely to be achieved when this diversity is recognised and regarded positively.
- *Entitlement:* Children are entitled to receive, with a suitable peer group, a broad, balanced and relevant curriculum, in the least restrictive environment. Wherever possible, this should be in a mainstream school, recognising that appropriate support, advice and resources may be necessary to achieve this. Parents and young people are entitled to express a preference for where that education should take place.
- *Participation:* All children and their parents are entitled to be treated with respect and should be actively encouraged to make their views known so that they can be taken into account. All arrangements should protect and enhance the dignity of those involved.
- *Individual needs:* The development of inclusive practice should not create situations within which the individual needs of children are left unmet. A range of flexible responses should be available to meet such needs and to accommodate their diversity.
- *Planning:* All educational and inter-agency planning should be based on inclusive principles. Inclusion requires ongoing strategic planning at both system and individual pupil level. Considerable effort is still needed to overcome the barriers to inclusion that exist.
- *Collective responsibility:* The principle of inclusion extends into society as a whole. Within educational establishments, local and central government departments, it should therefore be an issue for all staff rather than the exclusive responsibility of a particular group of individuals.
- *Professional development:* Inclusion requires both extension of the application of existing skills and the development of new ones. All staff need to feel supported through this process and have access to a range of appropriate courses, advice and resources.
- *Equal opportunities:* There is a potential tension between an emphasis on those "standards" which lead to a placement in a hierarchy and the pursuit of inclusion. Whilst the two are not incompatible, it is essential that the tension is recognised and that account is taken of all pupils' needs in planning educational development.

SCHOOL RESPONSIBILITIES³

NASEN believes that school managers⁴ should:

- Seek to ensure that there is an agreed understanding within the school of the broader meaning of inclusion; that it is a quality issue that concerns the entire process of education and not simply where children are placed. Appropriate development goals should be set for this area and progress monitored.
- Recognise the links between inclusive education and catering for diversity. This means promoting a whole school ethos that values all children and their families, whatever their individual needs.
- Foster a climate that supports flexible and creative responses to individual needs. A lack of success in initial responses should not be deemed an adequate reason to abandon inclusion, but rather as a "starting point".
- Recognise inclusion as part of the school's equal opportunities policy and that there need to be clear arrangements for implementation, funding and monitoring.
- Ensure that all school developments and policies take account of inclusive principles.
- Ensure that the admission of pupils with special educational needs is handled positively and sensitively. While, in some cases, additional support and advice may be necessary to ensure that children's needs are adequately met, all parents and children should be made to feel welcome.
- Ensure that appropriate assessment and support arrangements are in place (including appropriately trained staff), both within the school and from external agencies, so that children's needs are properly addressed.
- Work collaboratively with local authority officers and other local agencies to identify any existing barriers to inclusion and consider how these may best be overcome.

³ In NASEN's view, similar responsibilities apply to preschool and post 16 education providers.

⁴ In England, Wales and Northern Ireland, these duties are shared between the Head Teacher and the governing body. In Scotland, they lie with the Head Teacher.

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- Recognise that inclusion is the responsibility of all school staff. Developments in practice will need the support of all staff and the school community as a whole. They will need to be consulted and involved in developments from the beginning.
 - Enable all staff to have access to suitable professional development opportunities which will support the development of inclusive practice.

LOCAL GOVERNMENT RESPONSIBILITIES

NASEN believes that local government⁵ should:

- Encourage and develop shared local responsibility and commitment to educating and providing for all children in their area. Local authorities should provide a clear lead but also recognise the role of other agencies (both voluntary and statutory) in providing for children with special educational needs.
- Recognise that inclusive education is a key issue that needs to underpin all local developments. Steps should be taken to ensure that all authority staff understand and have reference to inclusive principles in their particular area of responsibility.
- Recognise that inclusion is more than mainstream placement and that positive encouragement, effective support and appropriate resourcing are prerequisites to ensure that progress is achieved.
- Prepare and maintain strategic plans for developing inclusion within their area and monitor progress. These should identify the expected contribution of a range of partners (including local special schools) towards promoting inclusive practice.
- Work with schools to develop more inclusive policies and practices. This should include support at the whole school/management level as well as support and advice to enable staff to respond more confidently and effectively to children with individual needs.
- Identify and disseminate good practice in schools with regard to inclusion and provide appropriate professional development opportunities designed to support inclusive developments. This should include staff from different settings undertaking joint staff development.
- Monitor progress towards inclusive practice, both at the school and individual pupil level, using both quantitative and qualitative indicators, in order to identify positive developments and areas where increased support and advice may be necessary. As an element of this, they should encourage the active consideration of inclusive options at pupils' annual reviews.

CENTRAL GOVERNMENT RESPONSIBILITIES

NASEN believes that central government should:

- Provide a clear lead by ensuring that all policies are based on inclusive principles and value all children and their families. Existing and new legislation and guidance should be audited to ensure that these support and do not undermine (or act as disincentives to) the inclusive process.
 - Ensure strategic links between government departments in order to support the co-ordination of inclusive practice at the local level.
 - Identify inclusion as a quality issue for local authorities and schools and ensure that appropriate indicators are included in any framework used for inspection and monitoring at both these levels.
 - Recognise that inclusion means valuing diversity and having the flexibility to respond to it. Any framework for measuring this should take this into account. Methods for assessing pupils and school standards should encourage and not discourage inclusion.
 - Set a clear national framework for the further development of inclusion, so that progress can be monitored over time. This should include a range of relevant national indicators.
 - Support the development of good practice through research, dissemination and the provision of appropriate funding. The importance of both initial training and continual professional development to promote good practice in this area should be recognised.
 - Monitor patterns and trends to ensure continuity of provision and parity of opportunity within and across different authorities.
 - Recognise the links between the development of greater inclusion and the need for adequate and sustainable funding for education as a whole.
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⁵ In England, Scotland and Wales, Local Authorities; in Northern Ireland, Education and Library Boards.

Memorandum submitted by the Dyslexia Institute

This document is the Dyslexia Institute's written evidence to the Parliamentary Select Committee on Education and Skills' Inquiry into Special Educational Needs. The initial part of our submission outlines information about the Dyslexia Institute, the facts about dyslexia from the international research base and highlights the needs of children with this common "hidden disability". The second part of the document gives our response to the topics highlighted by the Select Committee.

1. INTRODUCTION: THE DYSLEXIA INSTITUTE

1.1 The Dyslexia Institute (DI) is a national charity and the largest independent provider of educational services for those with dyslexia and specific learning difficulties in the UK. The DI has a 33-year history of providing a leadership role in developing cutting edge, evidence based provision to help individuals with dyslexia reach their potential. The DI has 27 centres and 140 teaching outposts throughout the UK, teaching over 10,000 students of all ages and assessing 7,700 individuals, last year.

1.2 The DI has recently merged with a dyslexia teacher training organisation (the Hornsby International Dyslexia Centre) and together with its own training service now trains over 1,500 teachers and teaching assistants both in the UK and abroad supporting children and adults with dyslexia/ SpLD. The DI also undertakes national research, develops teaching products and works to improve public policy and practice through pilot programmes. The DI works in partnership with a number of primary and secondary schools, LEA's, FE colleges, universities, work based learning providers, public agencies, employers and other voluntary sector organisations to improve the quantity and quality of provision for individuals with dyslexia.

2. THE FACTS ABOUT DYSLEXIA/SPLD

The following facts are the result of international research into dyslexia and reading difficulties through neurological/cognitive and intervention studies.

2.1 Dyslexia is a brain based developmental disorder with consequences that persist from the pre-school years through to adulthood.

2.2 It is a life long condition, which can be ameliorated by appropriate identification and specialist teaching.

2.3 Biological in origin, dyslexia tends to run in families although environmental factors can also contribute. Many families affected assume that their educational failure is due to other reasons such as low ability and poor aptitude. These parents often have low expectations of their children. If a child's specific difficulty is identified early, there is potential to break what can be a cycle of deprivation.

2.4 Dyslexia can occur at any level of intellectual ability and is characterised by phonological deficits, the skill that underlies the acquisition of literacy.

2.5 Dyslexia is a dimensional disorder, which means that children can be mildly, moderately or severely affected.

2.6 Dyslexia causes difficulties in learning to read, write and spell, it can also affect short-term memory, concentration, personal organisation and the development of skills such as sequencing, speech, mathematics and the learning of a foreign language.

2.7 The result of unidentified dyslexia is frequently loss of self-esteem and unrealised potential.

2.8 Dyslexia is the most common of the learning difficulties affecting one in 10 children to some degree, an estimated 1.2 million children across the UK and an average of two to three children in every classroom.

2.9 The number, type and severity of the characteristics vary from one dyslexic child to another.

2.10 Early intervention is critical for early reading difficulties to prevent the downward spiral of dyslexia, leading to disaffection.

2.11 Dyslexia often co-occurs with other disabilities such as dyspraxia, and attention deficit disorder.

2.12 International studies have shown that children with the highest risk of dyslexia can be identified as early as five or six years of age and that specialist, structured, multi-sensory teaching is the optimum approach to improve educational attainment for those with the most severe dyslexia.

2.13 Dyslexia occurs regardless of race, intelligence and socio-economic status. However those who are most disadvantaged are likely to be most affected over their lives.

3. SYSTEMIC FAILURES FOR CHILDREN WITH DYSLEXIA RESULT IN LONG-TERM ECONOMIC AND SOCIAL COSTS

3.1 There is a great deal of evidence that if children with dyslexia/SpLD are not identified early and do not get the appropriate educational support, their chances of educational and workplace success are limited. Given the large numbers of people affected by this issue, it is less costly both for the individual and society to provide appropriate help at the earliest possible time. If a child cannot learn to read, then it follows that they cannot read to learn and their difficulties affect every aspect of their educational experience.

3.2 If dyslexia is not diagnosed early and a pattern of reading failure has set in, children become frustrated and depressed and are often labelled as either “lazy”, “stupid” or both. Many children lose confidence in their abilities and frequently become school failures. A lack of skills for education and employment, combined with a loss of self-esteem results in individuals with undiagnosed dyslexia being over represented in all areas of poverty and disadvantage. The cost to the economy may be as much as £1 billion per year.

3.3 The latest figures (DfES June 2005) show that 9,290 school children are permanently excluded, 64% of these are identified as children with special needs, at least 80% of these children will have dyslexia/ SpLD, so that over half the children who are permanently excluded might have been in school had their difficulties been identified in the early years. The National Foundation of Educational Research (NFER) noted that the cost of provision for a child who is excluded is £9,900 per annum. The cost of supporting children with SpLD who are excluded is over £50 million per annum. This funding would have been better used to provide appropriate early support in school.

3.4 Undiagnosed dyslexic children also contribute to the large numbers of poor readers who do not have the requisite skills to get a job after leaving school and who the Confederation of British Industry refer to in their concerns about lack of basic skills in the British economy. The Government has estimated that adults with poor literacy and numeracy skills could earn up to £50,000 less over their lifetime and are more likely to have health problems. In the Skills for Life Annual Review 2003–04 it is estimated that poor skills cost the country’s economy £10 billion every year.

3.5 There is robust evidence that individuals with undiagnosed dyslexia/SpLD and other hidden disabilities are over represented in the offending population. In 2004, the Dyslexia Institute conducted a national research project to find out the incidence of hidden disabilities in the prison population. The study revealed that 20% of prisoners had dyslexia and related learning problems, some 13,660 individuals (HM Prison Service 2004–05 reports that there were 68,300 inmates—this has since increased) this is exactly double the number of dyslexics that we would expect to find in prison. In this case at least 10% of the offenders might have been prevented from crime and its costly outcomes by early intervention. The cost of keeping an individual in prison in 2003–04 was £27,320 and there could have been a potential saving of £186m per annum if these offenders had been identified and helped earlier in their lives.

3.6 Drawing on similar statistics in the probation service where there are 190,000 clients at any given time, 38,000 individuals will have some specific learning difficulty. Early intervention might have saved 19,000 individuals from offending and saved the public purse around £76 million per annum. The same arguments can be made with respect to the long term unemployed.

3.7 The purpose of highlighting these compelling numbers is to show that there are long term and significant social and economic costs associated with not taking a strategic and comprehensive approach to educating children with dyslexia/Spld.

4. SUPPORTING CHILDREN WITH DYSLEXIA: THE WAY FORWARD

4.1 Early intervention can prevent children with dyslexia/SpLD from needing more intensive and costly support throughout their lives. There is evidence that many educational settings are providing appropriate support for children with dyslexia. Guidelines and policy have offered opportunities for good practice to be developed. However there are still major gaps in effective provision for children with dyslexia as highlighted in a series of reports by the Audit Commission and Ofsted.

4.2 The Dyslexia Institute believes that a comprehensive and strategic approach to supporting children with dyslexia is critical, as children who do not acquire literacy and numeracy skills will be left behind. We would recommend a staged approach to support at different tiers as outlined under “different levels of support” on page 7 of this submission.

4.3 The Select Committee on Education and Skills report in April 2005, showed that almost 20% of 11 year olds were not reaching the standards expected of their age group. According to the DfES in 2004, 41,873 children left primary school in England without having basic literacy skills. There is still a large cohort of children who despite the best efforts of the national primary strategy are still failing. Many of these children will have specific difficulties with reading related to dyslexia. The Dyslexia Institute recommends that using evidence based practices to teach reading (outlined on Page 7 of the submission) will not only reduce the number of failing readers but also will reduce the numbers of children requiring specialist help later.

THE DYSLEXIA INSTITUTE'S SPECIFIC RESPONSES TO TOPICS HIGHLIGHTED BY THE SELECT COMMITTEE

5. Provision for SEN pupils in "Mainstream" Schools

5.1 Most children with dyslexia/SpLD, with and without statements of SEN are educated in mainstream schools.

5.2 The extent to which individual children are fully included in mainstream education is very variable. There are a number of factors at work:

5.3 Policies and Funding in mainstream schools

There are no standard policies related to dyslexia provision across LEA's and this has resulted in a postcode lottery in terms of provision. Too many children are receiving inadequate support. In March 2002 the then HM Chief Inspector, Mike Tomlinson referred to LEA support for SEN as "weak." The Audit Commission and Ofsted report "LEA support for School Improvement 2001" clearly indicated that "provision of SEN was the weakest aspect of the work of the LEA's, in fact 48% of all LEA's were judged to be performing unsatisfactorily and 37% gave less than satisfactory value for money".

5.4 Delegated funding for SEN to individual schools has, in many cases, had a detrimental effect on the provision of specialist services and the quantity and quality of provision for children with dyslexia/ SpLD. As this funding is not "ring fenced" for SEN pupils, schools have used the money for other purposes according to the Ofsted report, "Inclusion: the impact of LEA support and outreach services", July 2005.

5.5 As dyslexia is a "hidden" disability, information from parents across the country indicates that theirs are often the children least likely to receive adequate support, as their problems are not obvious to those without knowledge of the issue. In consequence many children are failing who should be thriving in the mainstream environment.

5.6 Another unintended consequence of delegated funding is that although the funding to individual schools ought to help schools choose from a wider range of providers, staff do not have the information or expertise to know what the appropriate evidence-based services are for students with dyslexia/SpLD. There is a need for improved awareness and training about dyslexia in schools.

5.7 Delegated funding has also diminished the capacity of LEA's to monitor the progress of pupils with SEN and It has been our experience that it has also reduced the numbers of staff with specialist dyslexia expertise who previously offered advice, guidance and support to mainstream staff.

6. AVAILABILITY OF RESOURCES AND EXPERTISE

6.1 One of the single most important barriers to achievement for children with dyslexia is the lack of expertise on the issue in the education system. We would recommend improving awareness and understanding of dyslexia across the system and providing a tiered system of support delivered by qualified professionals

6.2 At the initial level, there needs to be a whole school understanding of dyslexia, so that the leadership and Governors are aware of the needs of pupils. The head teacher has a pivotal role in policy and allocating resources to special needs so that the children are fully included. It is our experience that Head teachers who have a good understanding of dyslexia have better support in place.

6.3 Initial teacher training does not cover the issue of special needs in any breadth or depth and new teachers are mostly unaware of evidence-based practices to support dyslexic learners. There is a great need to ensure that all teachers are aware of the warning signs and "at risk" factors so that they can refer children to appropriate support at the right level. Classroom teachers have a role in delivering the curriculum in ways that support those with dyslexia; many of these strategies are helpful for all pupils.

6.4 Research has shown that children with dyslexia/SpLD are not fully engaged in classroom learning and develop work avoidance strategies (only fully engaged 24% of the time) When children are getting the help that they need they are "on task" for 90% of the time. Children who are frustrated and distracted are disruptive in the classroom, make it difficult for their class teacher and impeding the learning of their peers.

6.5 Children with moderate/severe dyslexia need access to a teacher who has specialist training in dyslexia and literacy, who is trained to meet their learning needs. At the present time there is a shortage of qualified staff to support dyslexic learners. Classrooms are not resourced to support the numbers of children with difficulties. An April 2004, National Union of Teachers Survey of Special Needs Coordinators (SENCO's) revealed that there were long waiting lists for support and that any support available was focused on advice rather than direct support to children in need.

6.6 We need to match up children's need to the appropriate resource if children are to be included. Parents indicate that the specialist dyslexia teacher is a scarce resource and that many children are not receiving appropriate teaching even if they do have a statement of SEN, which requires them to have a specific amount of support. Sometimes it may be necessary to modify the curriculum to leave space for additional work on foundation and key skills and to work in small groups on in individual sessions.

6.7 There needs to be an audit of the number of qualified specialist dyslexia trained teachers in both primary and secondary education. If we know how many well trained specialist teachers are currently practicing in the education system then we can begin to plan to bridge the gap between need and resource.

6.8 There has been little statutory funding available to train specialist dyslexia teachers and many teachers who have chosen to obtain their certificate or diploma in Dyslexia and Literacy have had to pay for their own training. If we want children to be included, funding must be made available to support the training of specialist teachers and to train professionals at every level in the system.

7. DIFFERENT MODELS OF PROVISION: TIERED LEVELS OF SUPPORT

7.1 The Dyslexia Institute would recommend a tiered system of support for learners with dyslexia/ SpLD. These tiers of support need to be standardised across the country, implemented and audited through existing inspection channels. The tiers would meet different needs at different levels. We would also recommend a programme of whole schools awareness (dyslexia friendly schools) as outlined above.

7.2 Level One: Good preventive programmes in the early years in all schools. Well-trained staff should teach reading using evidence based practices. There is consensus in the scientific community that learning to read depends on phonological (speech) processing skills. Children who start school with poor phonology are at high risk of dyslexia. These children have difficulty learning letter sounds, developing phoneme awareness and therefore in acquiring the alphabetic principle (phonics). The phonological skills that underpin reading are heritable and play an important role in determining how easily they will learn to read.

7.3 Reading programmes that target the development of phoneme awareness and letter-sound knowledge, in conjunction with reading practice from texts pitched at the appropriate level of difficulty are effective in preventing the downward spiral of reading problems. Recent research suggests that 75% of children identified as at risk of reading problems in Year 1 respond positively to such programmes.

7.4 Level Two: An enhanced level of support, guided by specialists, delivered by learning support assistants and/ or class teachers providing more individualised support in small group settings. In this case the use of more specialist teaching techniques and resources may be required and regular reviews of progress made. If the child does not make progress with this level of support then they require more intensive and individualised support

7.5 Level Three: Specialist support: Children who fail to make progress at Level Two will frequently require a programme of structured, multi sensory teaching geared to their own needs. This should be provided by a dyslexia trained teacher who is able to recommend the intensity and length of support needed. Close collaboration with parents and class teachers will be necessary to ensure the best possible support for the child.

7.6 The decision regarding level 3 provision should be preceded by a diagnostic assessment to understand the barriers to learning and achievement at the individual level. Once the nature of need is clearly understood an effective system of support can be implemented.

8. DELIVERY OF PROVISION

8.1 Level One support should be delivered by the class teacher and learning support assistants once they have received appropriate training in the teaching of reading using evidence based approaches. This should be standard practice in all primary schools in the UK.

8.2 Level Two support can be delivered by teachers and learning support assistants (LSA's) with guidance from a specialist teacher. Often this will involve the use of specialised programmes. Accredited training in Dyslexia and Literacy is available at Level 2 and Level 3 for LSA's and mainstream teachers. It is recommended that at least one member of the professional staff of each primary school receives this training

8.3 Level 3 supports should be delivered by a dyslexia specialist with a Certificate or Diploma in Dyslexia and Literacy. For optimum support there should be a specialist available on a regular basis to each primary school.

8.4 There is increased demand for reading, writing and good organisational skills as children transition from primary to secondary education and this is a pivotal time for many dyslexic students. It is vital that this transition is managed and that support services are available in secondary schools.

8.5 LEA's and individual schools need to consider how to provide appropriate specialist support. This can be through training their own staff or outsourcing the role to specialist providers..

9. PROVISION FOR DYSLEXIC PUPILS IN SPECIALIST SCHOOLS

9.1 Only when a child has the most severe dyslexia with complex and co-morbid difficulties should there be a requirement for a special school. Parents of children with severe dyslexia who are not having their needs met in mainstream school often argue for a special school placement for their child.

9.2 Specialist schools should be given the mechanisms through which to share their expertise and good practice with mainstream schools.

10. RAISING STANDARDS OF ACHIEVEMENT FOR SEN PUPILS

10.1 Examples of good practice in supporting pupils with dyslexia in mainstream schools do exist but as the Ofsted report of July 2005 concluded, “the quality and quantity of services were too variable across the country” Pupils with similar levels of need received different levels of support depending on where they lived, in part this is because LEA’s choose in consultation with schools whether funding for support services is delegated to mainstream schools. The DI hears frequently from parents that schools have deemed their dyslexic child “not bad enough” or “not far enough behind” to receive specialist services. This perpetuates a “wait and fail” policy for many children.

10.2 The DI recommends that national standards need to be set regarding quality provision for dyslexic children.

10.3 There is little evidence available with which to compare the achievement (or inclusion) of children with SEN in different schools or settings. In order to track achievement levels of SEN pupils, accurate data would need to be collected. At present the results for children with dyslexia are included in the results of all children and there is no benchmarking of achievement. We do however have some information from universities that more students with dyslexia are not only achieving places in higher education but that they are also attaining good degrees.

11. THE SYSTEM OF STATEMENTS OF NEED FOR SEN PUPILS (“THE STATEMENTING PROCESS”)

11.1 At the present time it is clear that the statementing process with respect to children with dyslexia (and all children with SEN) needs to be reviewed.

11.2 Creating equality of entitlement to provision for all children with SEN. At the present time there is a huge variation between geographical areas, between LEA’s and individual schools in the criteria and severity of dyslexia that is required to trigger a statement. The proportion of statements varies between LEA’s and children with similar level of difficulties may be entitled to a statement in one authority but not in neighbouring one.

11.3 In the Audit Commission’s report on “statutory assessment and statements of SEN, July 2002, they concluded that statements are ineffective for the 3% of pupils who receive them and are ‘no guarantee of help’”. Our experience across the country would indicate that many children with dyslexia who do have statements are not receiving appropriate support and in many cases are not receiving the quantity or quality of help outlined in their Individualised Education Programme (IEP). Over the last year, 50% of the children supported for teaching on bursaries at the Dyslexia Institute had a statement of SEN but were not receiving appropriate help at school.

11.4 Support depends on where children live, their specific school and the persistence with which parents seek appropriate provision. This is an unacceptable situation in a society committed to equality of opportunity.

11.5 Reducing cost and bureaucracy will be essential in a new system. The Audit Commission’s 2002 report highlighted that of the £3.6 billion special needs budget, 69% is spent on the 3% with statements. This is an inequitable and unsustainable allocation of valuable resources, which could be used for improved support for many more vulnerable children. The statementing process is cumbersome, often combative and still fails to ensure that children receive the help that they need to flourish. The system is also extremely slow and extends the concept of “wait and fail” policy.

11.6 Our experience is that Individual Education Programmes (IEPs) are not always well used to plan and monitor special provision. Evaluation sections are rarely completed and many parents who contact the Dyslexia Institute have not been consulted or involved in the IEP. We would recommend that IEPs be more focussed on learning outcomes and have the status of a learning contract agreed by all parties. Currently decisions about the adequacy of progress made under IEPs are taken mainly by school staff and parents often perceive that standards and expectations are low. National standards and benchmarks based on research evidence and best practice would help schools and staff.

11.7 Creating a system with the child’s needs at the centre, with automatic access to appropriate support would be welcomed. The statutory assessment process should be efficient, effective and parents should know that good quality provision will be provided for their child.

12. THE ROLE OF PARENTS IN DECISIONS ABOUT THEIR CHILDREN'S EDUCATION

12.1 The Dyslexia Institute acknowledges that education policy over recent years has greatly improved the role of parents in their child's education. The Code of Practice for SEN, increased information and the development of support groups have all been positive developments. The Dyslexia Institute supports advocacy and information services that enable parents and carers to be well informed about educational provision.

12.2 Parents of children with dyslexia are often frustrated at the lack of recognition of their child's learning problem and the lack of adequate provision. Common complaints experienced by parents who approach the DI are related to poor access to services including assessment of their child's difficulty. As a consequence, the "hidden disability" of dyslexia is the subject of the majority of Special Educational Needs and Disability Tribunal cases and in 2003-04 record numbers of parents appealed to try to get their children support.

12.3 The DI recommends that more information and resources are made available to families and that school staff receive training in supporting parents whose children have special educational needs. Improved awareness and understanding about dyslexia amongst teachers in mainstream schools would help collaboration with many families.

12.4 How special educational needs are defined

The code of practice places SEN into four broad bands, however the criteria for differentiation between the bands of need are not sufficiently defined. This results in a non standard definition of need and great inconsistency across the country. There is no way to benchmark the bands at the present time and therefore little quality control. As funding is allocated on the basis of these broad bands there is a need for clear and consistent categories. Improved clarity and inspection of the bands is necessary if there is to be equality of opportunity and provision.

13. PROVISION FOR DIFFERENT TYPES AND LEVELS OF SEN, INCLUDING EMOTIONAL, BEHAVIOURAL AND SOCIAL DIFFICULTIES

13.1 A child with moderate to severe dyslexia will only be fully included in school if their difficulties are identified early and appropriate high quality provision is available, as in the tiers of support highlighted in this submission. This will require a solid national framework of "best practice" including clear policy, whole school awareness and well-trained staff at different levels. There should be high expectations of children with SEN to enable them to reach their full potential.

13.2 Removing Barriers to Achievement (February 2004) highlighted the need for models of effective, inclusive practice in dyslexia and advocated for pilot programmes and partnerships with the voluntary sector. There is no sustainable funding to ensure that initiatives that are known to work for children with dyslexia are adopted on a wider basis. Significant pilot programmes are needed to develop the most effective practices, which will then need to be disseminated widely. Partnerships between LEAs, the national primary strategy and the voluntary sector are needed to ensure that evidence based practices for children with dyslexia are implemented.

13.3 There is evidence that undiagnosed dyslexia and its resulting frustration and disaffection is linked to EBSD and this indicates yet again the need for good early intervention practices in schools.

14. THE LEGISLATIVE FRAMEWORK FOR SEN PROVISION AND THE EFFECTS OF THE DISABILITY ACT 2001, WHICH EXTENDED THE DISABILITY DISCRIMINATION ACT TO EDUCATION

14.1 The Dyslexia Institute welcomes the extension of the DDA to cover education and believes that providing legal protection for children with SEN is essential. There is both a moral and legal imperative to ensure that all children have equality of opportunity in their schooling. However, if LEAs and schools do not have a standard policy and good educational practices for children with SEN, there is a risk that parents will feel they have no option but to seek legal recourse. LEAs should be spending money on providing services and not on defending legal cases brought about by aggrieved parents. Providing the right support in the first instance is cost effective for the child, the family and the education system.

14.2 The DI believes that establishing the right of all children to attend mainstream school was an important step forward and welcomes the theme of "removing barriers". Children with dyslexia cannot be "fully included" unless there is appropriate support for them in mainstream schools and at the present time there are still many pupils who do not have access to the curriculum due to their specific learning difficulty.

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Memorandum submitted by Xtraordinary People

I run a charity initiative called Xtraordinary People that raises money to train teachers to support children with Specific Learning Difficulties/Dyslexia. We are supported by some very well known dyslexics from businessmen like Sir Richard Branson and Lord Harris of Peckham, to celebrities such as Robbie Williams and Jamie Oliver. We have brought together all the dyslexia organisations to work as a united front. We have some very exciting “work in progress” and plan a media launch later this year.

I am dyslexic as is my son. I have first hand experience of the lack of training teachers have and the problems that this causes. I’m lucky because I was sympathetically educated so knew what was possible and could pay for my son to have that education too, most people can’t.

At Ralph Tabberer’s suggestion, I have made an appointment to see you next week as I believe that the Education Select Committee need to hear the “real picture” that we are uncovering by working with schools and LEA’s around the country.

Ruth Kelly’s first pledge in the Government’s White Paper is that they will “tailor education around the needs of each individual so that no child falls behind” but how will the government deliver this when 96% of teachers don’t have training to teach children with specific learning difficulties?

So we’ve got a big problem. The media is full of the alarming stats of the numbers of children falling behind, and if teachers aren’t trained to support these kids properly, this is never going to change. Clearly what is needed is a huge teacher training programme. Xtraordinary People are keen to work with the DfES to help that happen.

DfES INVOLVEMENT

We’re awaiting news from the DfES on plans to match funding to support our work. Clearly this teacher training is a vital part of the solution to ensure our teachers have the skills needed to get all kids to be effective learners.

CONVERGENCE OF VIEWS

I’ve had meetings with Jim Rose. He is in agreement that teachers need training. I spent the day with Jim at Millfield School, a private school with a world renowned reputation for supporting children with learning difficulties so he could see an exemplar of provision. Every September the school have an intake in Year 7 of children who have failed at primary or private schools, arriving unable to read and write properly—all are successfully supported—many helped within a matter of weeks. Millfield are working with Xtraordinary People free of charge. Yesterday, Jim visited Lyndhurst Primary School in Southwark where we have developed a unit to support children with SpLDs. The impact of the unit has been reflected across the school

with 95% of children reading at level 4 at KS2 rising from 83% in the previous year. Increases are seen across all subjects, science for example increases from 88% to 97%. I would be delighted to arrange visits to either of these schools if your committee, I'm sure you'd find it very informative.

I have also had meetings with Ralph Tabberer, Chief Executive at the Teacher Development Agency, who is very supportive of our aims and to work with XP and the Department to expand this training. We are also working with the TDA on their modules for SEN in ITT.

THE SIZE OF THE PROBLEM

Research for Xtraordinary People has found:

- 96% of teachers felt they didn't have enough training to teach children with specific learning difficulties;
- four out of five had had less than an hour dedicated to Specific Learning Difficulties during their training;
- yet one in 10 are dyslexic and approximately 1/3 of children will need expert learning support at some point during their education; and
- a recent skills audit across 28 schools only one teacher had training in Specific Learning Difficulties—this type of trend will be reflected nationally.

TEACHING THE INDIVIDUAL—THE WIDER SOLUTION

Whether we label children as having dyslexia, learning difficulties or as poor readers, these teaching methods help all falling behind because we're providing well trained teachers who can properly assess a child's learning problems and develop a individual leaning support to ensure the child is taught appropriately. It also goes much further than reading to cover support through the whole learning process, and is the right teaching approach for all SEN—so represents a very broad solution.

SUMMARY

We are at a pivotal moment in education with reviews in reading and SEN provision—the key to solving learning difficulties in both these issue lies in the training we advocate as can be demonstrated by the 30 years experience of the dyslexia organisations and schools like Millfield. We hope you can help us to ensure that children with Specific Learning Difficulties finally get the start they deserve.

I'm delighted that Shirley Cramer from the Dyslexia Institute is giving evidence on the 15th which no doubt will reflect our views. I think it would be very valuable for the committee to hear the views of the parents of dyslexic children, something I would be very happy to put across.

In closing I would like to share with you a story about a boy called Sam. Sam had problems with early speech and language which fortunately meant his school organised an educational psychologists report in 2000—this found him to be dyslexic. He has been having minimal literacy support from his school, but none of the Sencos, teachers or LSAs have any qualifications in SpLD. His mum had applied twice for a statement but was turned down on both occasions because his needs were not considered to be serious enough. He is now 12 and he has a reading age of six and after appealing again (this time with the help of the local MP) Sam has finally been awarded a statement. But here's the rub, the support he is getting is from an untrained LSA! My son Ted is also 12 and was diagnosed with moderately severe dyslexia in 2000 when he was nearly two years behind. With support from a trained teacher he achieved Level 3 and above at KS1 in 2001 and now has a reading age of 16.4. Ted now receives minimal learning support for maths and study skills. It should be Ted's story not Sean's that is echoed by thousands and thousands across the country.

February 2006

Further memorandum submitted by Xtraordinary People

I've attached a copy of the "training pyramid" with costs, as you requested. This is the model that we (the dyslexia organisations) are all agreed on and are delivering with the DI and HADC in the Xtraordinary People projects we are running with schools, clusters and LEA's. With this level of training in place, schools and clusters are then self-sufficient and should not need outside input. This is the case at Lyndhurst School where dyslexic kids are being supported without need of a statement as a sufficient level of support is available to help all children "inhouse".

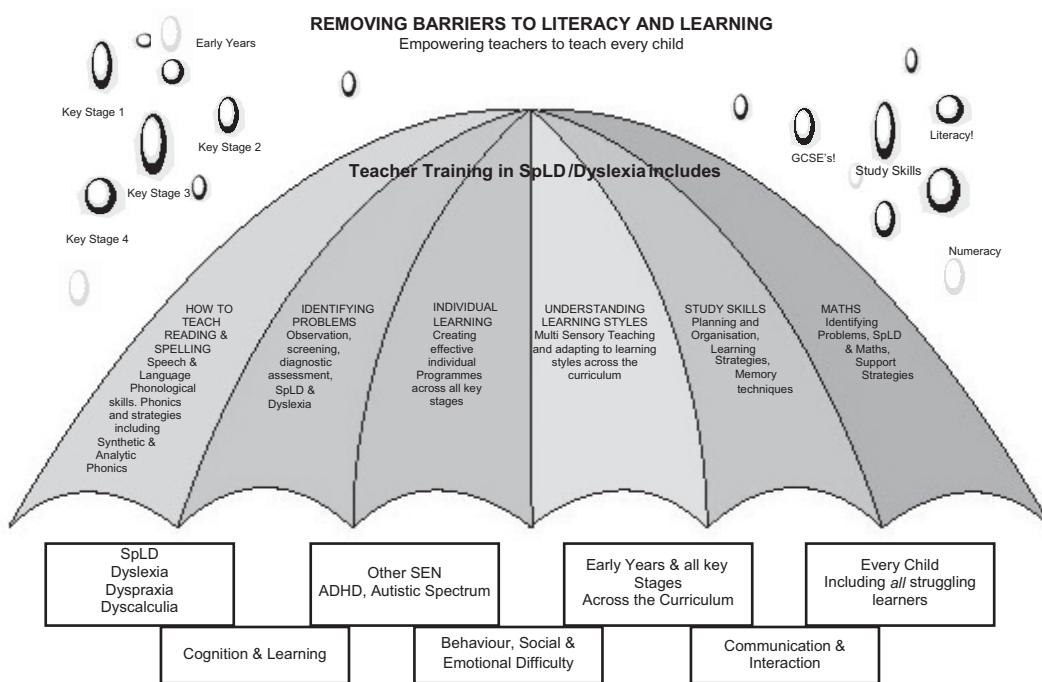
I've had a look at who you have on the lists and really believe that the committee needs to hear some "real stories", not just the "organisations, associations, and societies". It's very easy for the likes of the TDA, National Strategies, DfES, schools, LEAs to think that a short module, inset or a DVD means they've ticked the boxes but the situation for these kids is truly disgraceful and nothing will change until we've skilled up the teachers properly. The IoE, who had been given the task to design the SEN Modules for ITT had not

contacted any of the dyslexia organisation during their “wide consultation”, fortunately Ralph at the TDA put us in touch with them and we are meeting tomorrow in fact, and hope that we can have the necessary expert input. I have also approached National Strategies and have set up a meeting in March and will be asking the Dyslexia organisations to join me at that. As I touched on when we met, a joined up thinking on this one is what needs to happen.

SpLD/Dyslexia represents 80% of SEN, and this teacher training is the right approach for teaching literacy for other SEN such as Autistic Spectrum, ADHD etc. On that basis isn't it justified to add another voice?

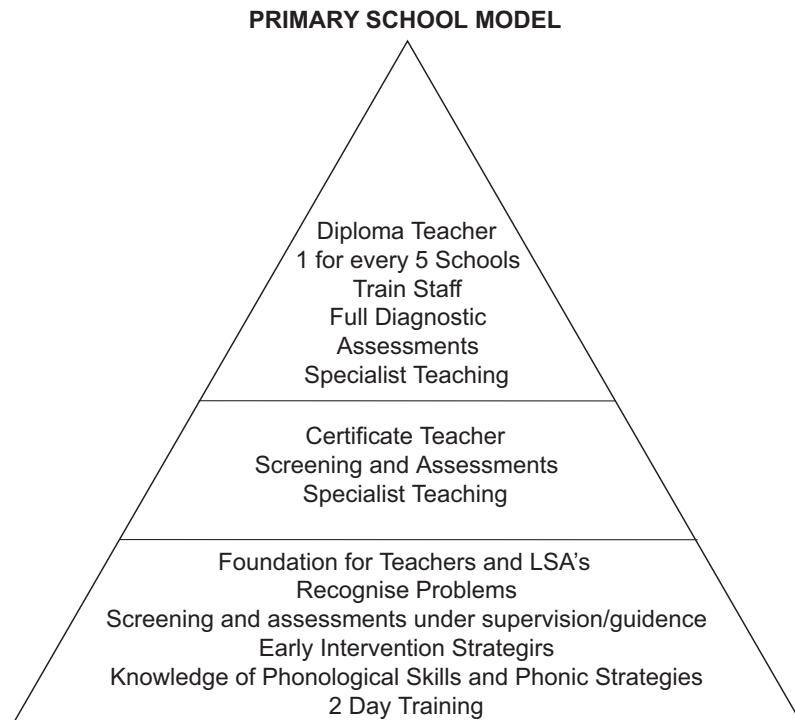
I was at a school last week and an untrained teacher got frustrated with Y7 boy (11) who couldn't read out the question in a science class. He sighed under his breath... “honestly you read like a three year old” ... the class of course all laughed. That boy has literacy levels of P8, which means they are at nursery school age, so actually the teacher was right. He'd gone all through primary school without anyone thinking to see what was going wrong, maybe because he's a quiet, self contained boy. We're working with this secondary school and they've just screened him and found him to be severely dyslexic. Unaware that I had heard about this I was chatting to this teacher in the staffroom, we were discussing the foundation training that we're putting in place, he told me he'd had no training at all either in ITT (PGCE) or since and that he didn't understand the problems these kids face, he said “it's difficult for us because we don't understand and sometimes get frustrated with the kids in the class who are holding the others back—so I really need this training to know how to cope”. Surely a case for a module in PGCE!

In closing, I'd like to share with you an email I received last week—just one of the many examples I hear of—which highlights the what this lack of training really means to children with Specific Learning Difficulties. As you know we believe that inclusion can work if teachers are properly trained!



Xtraordinary People
Removing the Barriers to Literacy and Learning
SpLD/Dyslexia Teacher Training

Cost of Training is approx £5000 per School. Delivery of training is onsite with whole school and specialist group sessions.



Breadth of training—Umbrella diagram

The “umbrella” diagram shows the breadth of SpLD/Dyslexia training and that it encompasses early literacy, phonics, struggling learners and SEN across all age bands and the whole curriculum. In short, it enables teachers to recognise, assess and remove the barriers to literacy and learning.

So this training enables teachers to:

- Provide early identification and appropriate support for those struggling from YR.
- Carry out full diagnostic assessments to work out a child’s problems—strengths and weaknesses.
- Create effective individual learning programmes either at primary or secondary level.

Training Pyramid

This is the model that XP (with the dyslexia organisations) has agreed on and is delivering in the Xtraordinary People projects in schools, clusters and LEAs. With these levels of training in place, schools are self-sufficient and should not need outside input. This model is in place at Lyndhurst Primary School where struggling learners, including dyslexic kids, are being supported without statements because a sufficient level of support is available to help all children “in-house”. (Secondary schools will need higher a number of trained staff).

SpLD/Dyslexia Training

Training in SpLD/Dyslexia is nothing new. It’s available in colleges and dyslexia training centres around the country and is accredited by OCR and OCN. These teaching methods have been successfully used to support children with learning difficulties at specialist schools and at dyslexia centres and for many years. Children with SpLD need specific and targeted support and will not progress without this specialist input. However this training does enable a teacher to support all struggling learners, not just those with SpLD/dyslexia, in reading and across the curriculum. So represents a solution for all.

ITT—TDA

The TDA have consulted us in the development of the pilot SEN modules for ITT.

It is our belief that these modules should be a compulsory not optional part of ITT and must include PGCE. As some 80% of teachers enter the profession via PGCE, without this training these teachers will not be able to teach 10%–30% of the children in their classroom effectively.

Currently a very large number of kids are arriving at secondary school without adequate literacy skills to access the curriculum so training should be given in primary and secondary courses.

Reading is only part of the problem

SpLD affects more than reading. The use of phonic reading schemes is the right approach to supporting children with SpLD, but is not a “silver bullet”. With any concentrated phonics input some children with SpLD may learn how to read “mechanically” but a significant number will not and all are likely to continue to have problems with other important skills like comprehension, writing, spelling, organisation and memory. So even if they can “read” they will still not be equipped with the skills to learn effectively. The Rose Review looks set to recommend that all teachers be trained in synthetic phonics. XP Foundation training for SpLD/dyslexia covers this and more. With joined up thinking we could deliver a solution for reading and SEN.

March 2006

Witnesses: **Mr Kevin Rowland**, Principal Educational Psychologist, Plymouth City Council, and Chair of the CPD Committee, Division of Child and Educational Psychology, British Psychological Society; **Ms Jean Salt**, President of NASEN; **Ms Shirley Cramer**, Chief Executive of Dyslexia Institute; and **Ms Kate Griggs**, Founder of Xtraordinary People, gave evidence.

Q806 Chairman: Good morning. Could I welcome Kevin Rowland, Jean Salt, Shirley Cramer and Kate Griggs to our deliberations and say that we are very, very pleased that you could all come and give evidence to us. I have explained already that we are rather tight on the timetable so we need to get absolutely the best value we can out of you. We are always conscious of the high quality we get from our witnesses. We are getting towards halfway through the SEN inquiry, we are enjoying it, and some of us went to look at two special schools on Monday, which we found very interesting indeed. We are getting to that stage where knowledge is making us almost dangerous in the area because we know a little bit about it and we are improving all the time! However, we want to get on. Is it alright if we go straight into questioning rather than asking all of you to open up? We all know that there has been a debate raging in the SEN sector over inclusivity and the right of a child and a parent to have an inclusive education or have a special education in a different setting, so it is about, is it not, the sort of special schools direction and it is also about inclusion in the mainstream? Kevin, where do you put yourself in terms of that? Do you take the 20/20 Campaign group’s position that we should get rid of all special schools and everyone should be in mainstream?

Mr Rowland: I think we have to make sure we maintain specialist provision and see it as part of a continuum of needs. I would also put it in the context that we are on a journey within our society, from 1760 with a provision for blind children and a provision for deaf children. So I think we must maintain specialist provision, but what we have to introduce is much greater flexibility and break down some of the barriers that exist between the specialist provision and mainstream schools.

Q807 Chairman: Jean, where do you stand on this?

Ms Salt: NASEN has members both within mainstream schools and special schools and we would still see the need for good training, good resourcing and a welcoming ethos in mainstream schools because some placements can be really successful within mainstream schools. However, we still see the need for the role of special schools. Specialisms need to be developed so that they can provide an outreach service which can be used by mainstream schools all over.

Q808 Chairman: Thank you for that.

Ms Cramer: We know that the majority of dyslexic children are supported in the mainstream environment, and that is where we would expect to see most dyslexic students, but we certainly believe that there is a place for special schools on the continuum. There are some children with very severe dyslexia whom we think need to be in a very specialist environment who then can move back into the mainstream once they have had intensive support. I would also draw attention to the fact that 90% of class teachers and head teachers, according to a recent survey, did believe that children with specific learning difficulties should be supported in the mainstream, although they certainly thought there were not the resources to deal with them in the mainstream.

Q809 Chairman: Kate?

Ms Griggs: I would agree with that. I think that providing the provision is there within the teaching workforce, children with specific learning difficulties should be in mainstream schools. Currently that is not the case, which is why I think if children fall very dramatically behind they may need a period of time in a specialist support

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environment to catch up, but if the training is in place they should be able to be in mainstream schools, absolutely.

Q810 Chairman: But there has not been much difference in terms of the number of children. I was rather shocked when shown by one of our special advisers the figures for the number of children in a special school setting, which really has not changed for a considerable number of years. It is around the same level. Is that to be welcomed? There was a feeling at one stage, with some of the publicity, that special schools were being closed all over the country, and it obviously is not the case. There have been round about the same number of children for the last 10 years. Are you happy with that or is that a problem for you? Kevin?

Mr Rowland: I think what has happened is that the population within special schools has changed and the profile within special schools has changed, and that is to do with the capacity building of mainstream schools and the development of mainstream schools. It is a societal-wide issue and increasingly we have difficulties with managing children who might be aggressive within mainstream schools, so we have seen a change in population. Some years ago we may have seen children who were perhaps "more delicate", was the phrase that was used, for those children within special schools and they were there to protect them from some of the robust encounters they may have had in mainstream schools. Mainstream schools are very much geared up now for providing for those children's needs. So we are seeing a change in population in special schools and that population reflects children with social and communication difficulties and children with emotional and behavioural difficulties. I think also that early years provision is much more geared up now to meeting the needs of children so we have children with learning difficulties being embraced within mainstream settings more and more. Again, for children with emotional and behavioural difficulties, and where that translates into aggressive behaviour, mainstream schools are definitely struggling to cope with those children.

Chairman: I am the warm-up act, I get you going and now I will hand you over to the real interrogators. Helen?

Q811 Helen Jones: We have received a lot of evidence about the difficulties that many parents experience in getting teachers to recognise what a child's problem may be and calling in the appropriate support. All this seems to come back to training. Do you think that there is enough emphasis in initial teacher training on special needs education and, in particular, what would you recommend for post-graduate training where the course is much shorter and a lot of the time is spent in schools. How do we tackle that?

Ms Salt: I would like to start with that. NASEN is involved in doing some training for teachers both within mainstream and special schools, and we would agree with you in our written submission that training is a big issue if every teacher is going to be

a teacher of children with special educational needs. I am pleased to report that I am currently a member of a TDA steering group on special education and they are looking at developing a pilot for the three to four-year training course. They are also looking at extending placements within special schools, which has not happened on a great scale before now. However, there is still the issue of the PGCE course because most of the training is devolved into the school placement and it very much depends on the effectiveness of the SENCO and the senior management team within schools as to how much training the PGCE students are going to get. Some institutions do do more in the core curriculum for their PGCE students and there is some interesting research going on in Leeds University into the SEN knowledge of PGCE students.

Q812 Helen Jones: What would you recommend then, particularly for post-graduate teacher training, because another of the problems that we come across quite frequently is that children with special needs can be supported and encouraged in primary schools but the transition to secondary education is very difficult? Of course, there are more teachers in secondary education that have been through the post-graduate training system. Do you think that that is part of the problem and what can we do to solve it? If we want to support children in mainstream school we are going to have to support them right the way through, are we not?

Ms Cramer: To answer the first question is there enough emphasis in initial teacher training on special educational needs, I would say the answer is absolutely there is not, and the modules that the TDA are currently looking at and developing are, in my understanding, going to be voluntary, and I do have some concerns that if they are voluntary how do we know if we are developing standard good practice for children, and that a certain area will have no teachers, for example, if people have not chosen to take up that training. In terms of post-graduate training, I think there is a huge lack of emphasis on the numbers of specialist teachers who are trained to support children with specific difficulties. I can speak mostly about specific learning difficulties and we have asked very specifically that there should be an audit of the specialist training, who is out there, how are they trained, what are their qualifications. We need to make sure that all children have support that is equal to the best and for that we believe there needs to be a structured what we have called "tiered support" of services so that all teachers in mainstream schools have an awareness and a foundation understanding of special educational needs. On the next level, in each primary school there needs to be at least a practitioner at level three in dyslexia and literacy and at least one specialist post-graduate trained teacher per every five primary schools. We think that is probably the minimum.

Q813 Chairman: This is the triangle you are talking about?

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Ms Cramer: This is the triangle position.

Chairman: We are getting drilled down into the triangle a little later. Roberta cannot contain herself on that but she will have to be restrained for a while.

Q814 Helen Jones: What about in-service training, though, because I remember coming across a problem in my own constituency—and again it is reflected in the evidence given to us—where the local authority quite rightly said, “Look, we can put courses on; what we can’t do is force teachers to release their SENCOs or any other teachers to come on these courses.” How can we solve that problem? How can we make sure that there is an incentive built into the system so that the in-service training takes place when people need it, because otherwise however well you train people initially it is all going to break down, is it not?

Ms Cramer: One of the concerns that we have come across for continual professional development is the cost of supply, and perhaps an incentive could be the funding of supply teaching to allow people to go on continuing professional development courses. It seems to me that is one of the single biggest barriers. We also need to bring in a timetable of planning and looking at what we might call a “gap analysis”, what it is you need in your school to bring the school standards up, what are the training needs, and matching those by offering training and incentives to local education authorities and to schools.

Mr Rowland: I think one of the ways forward is to work more collaboratively with head teachers. A specific example that we are working on as a collaborative now is providing courses for newly qualified teachers as they enter their first year. That is primarily to look at managing behaviour, low level, frequently occurring disruption, and also what steps to take with serious incidents. The head teachers are very keen on that so therefore they have released the staff. We are also looking at a second phase of training for teachers in their second year of teaching “Success with Diversity” so we are looking across the whole field of managing the curriculum and managing the classroom environment to embrace greater diversity within classrooms. It is very difficult sometimes because if we take a child with low incidence needs, who might be in a secondary mainstream school, there might be only one or two a year, so it is possible for a teacher never to have taught a child with a visual impairment. Therefore we need to have targeted provision as well and targeted support within the classroom to support them. So we need to look at different ways of thinking about continuing professional development and I think a greater emphasis on networking across schools and schools working collaboratively. I think we are moving away from the days when we might have had experts giving courses to schools and then schools maybe choosing or not choosing to send people. We must be much more sensitive to the needs of schools and the capacity of schools to release staff. A primary head teacher made the point to me a couple of weeks ago that it is quite difficult to keep releasing staff because it destabilises the school environment, so we have to

look at different models of working with teachers to build their knowledge base and schools to change cultures because ultimately when we are looking at inclusion, we are looking at a culture change, and once we have achieved those cultural changes within organisations and institutions, then I think a lot of things will follow on from that, with support.

Q815 Jeff Ennis: On this theme of CPD, it has been suggested by some witnesses that we ought to try and provide some sort of on-the-job training, as it were, and I am thinking primarily in the primary sector field now, whereby if a teacher gets someone in their class suffering from a specific learning disability that ought to be matched by a training package so that both the child and the teacher can learn together. I guess that would have more meaning to the teacher. Is that a relevant initiative that could be pursued?

Ms Salt: I think that if the school is planning for the pupils that it is admitting they would have seen the pupil coming into the school and they would have planned and done some training prior to the pupil arriving in school. I think one of the things that NASEN would like to see is more emphasis on the statutory inclusion statement within the National Curriculum 2000 where it talks about teachers setting suitable learning challenges, responding to pupils’ diverse learning needs, and overcoming barriers to learning and assessment for individuals and groups of pupils. We would like to see within training much more emphasis put on that. That would go some way to resolving the difficulties in the PGCE programmes if the students were aware of that statement. The other thing that as an organisation we know is that in Scotland teachers have to do 35 hours of compulsory professional development per year. I know it is on the much smaller scale in Scotland and I am not sure if that would ever fit into the English system.

Ms Griggs: Can I just say something. I have been sitting through the evidence and listening to what the teachers’ unions have been saying as well as what the TDA have been saying. The teachers’ unions were very much saying that they do not have enough emphasis on CPD so obviously that is an issue to start off with. But also in terms of this whole area of training teachers to support children with specific learning difficulties, the one thing that I think it is very important to get across is that those teaching methods help across the board. It is not just children with SEN, it is literacy, and it is right across the board. I think what does need to happen here is the Department and the training organisations and primary national strategies all need to have a joined-up approach to accept the fact that if they get it right from the start they will be getting it right across the board. I think that will then have an impact on what schools and heads actually spend their teaching budget on. We were listening last week to the fact that they are very keen to put training in place for anything that is going to make their results look better, and we have heard very many instances where children with specific learning difficulties have been told not to come into school for Sats. The emphasis has to change slightly. I think it is great that the TDA

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is saying, "We accept the challenge and we have got it right for 80%, now it is 20%", but we need to start putting the money where the mouth is and really focus on this and getting it right.

Q816 Jeff Ennis: We have obviously focused initially on the training of teachers being one of the prime concerns, if not the biggest concern in SEN provision in this country. Is it the prime concern and are there any other issues within SEN that we need to be ranking in terms of biggest concern areas?

Ms Cramer: One of the things that I would like to mention is the standards and what parents perceive as a postcode lottery of provision. You could be getting one style of support in one area and you could be classed in one area but not in another area. I think the Audit Commission and Ofsted in their reports have brought this up time and time again so good standards across the piece, I think, would be very helpful for parents. At the Dyslexia Institute we have certainly heard a lot of parent's concerns around this area, that the standards are just not there.

Q817 Jeff Ennis: Has anybody got any other major concerns?

Ms Salt: Just that we would see 150 local authorities with 150 different ways of working so I would agree with the Dyslexia Institute.

Mr Rowland: I think the parents have a huge role to play. With the development of parent partnerships and schools developing much closer relationships with parents, I think that will start to bring a number of things together. The greatest success for many children is when the parents are involved in part of the development work in the classrooms that you alluded to earlier, but that also brings into focus issues around accountability, transparency and monitoring aspects, where we are working collaboratively to look at the development of children. Where the family and the schools systems become more fragmented and we do not have the transparency and the partnership, we then see more challenges in terms of making sure that we have got good outcomes for children.

Q818 Jeff Ennis: A final question, I guess it is for Shirley, and it is about the Dyslexia Institute's claim that the cost of failing children with dyslexia is in the hundreds of millions of pounds. What evidence do you have to back that up?

Ms Cramer: I am glad you brought that up actually. What we tried to do was look at Government figures through the Prison Service, through the Probation Service, through Jobcentre Plus, through the long-term unemployed, through school exclusion, and we looked at the numbers of what I call the over-representation of people with specific learning difficulties in those categories. Last year we did a very specific piece of research in the Prison Service which showed that 52% of prisoners have literacy difficulties and 20% have hidden difficulties, and the assessments used were very robust, so we took the extra 10% that we would not have expected to see over and above the international standards on numbers of people who are dyslexic, and we looked

at the figures of how much does it cost to keep somebody in prison, and we just times them up. We had £186 million in the Prison Service, £80 million in Probation, £50 million in school exclusions, so just in those three categories alone £300 million a year, and then I began to look at what does it take to train a specialist children in every primary school in the UK, those sort of figures, and we began to see that an investment in training would really make a very big difference in the long term to some of these other figures. That is not to say also in terms of poor skills. The fact is if you cannot get a job because you do not have the skills you are not productive.

Q819 Jeff Ennis: Do we have any international comparisons that confirm what you are saying, Shirley?

Ms Cramer: I have not seen in specific learning difficulties anything similar although I have been sharing my what I call very simple analysis with organisations in other countries just for them to have a look at that too.

Chairman: That is very interesting. We are going to move on to specialist support staff as a category and I am going to ask Gordon to start.

Q820 Mr Marsden: I would quite like to develop one or two questions about the role of specialist support staff. If I could start off very specifically with you, Kevin, on educational psychologists. Would you be able briefly to describe for us what you see the role of educational psychologists being in the system? Is it primarily that of assessment or is it that of child development? There is a lot of talk about a central role for psychologists working with schools to develop teaching strategies for children with complex learning needs, but do you think that role has changed with the changed role of local authorities in relation to schools in recent years?

Mr Rowland: Yes, the role has changed significantly, especially over the last 30 years. We now have special needs co-ordinators within schools, so that has had a huge impact on the range of work educational psychologists undertake. Educational psychologists, as you know, work from 0 to 19 in all phases of education so we have that unique overview of special educational needs, and also educational psychologists have the responsibility for reviewing and monitoring children out of authority and independent schools so we see that big picture. The role has fundamentally shifted from one that is primarily assessment, if we look back to the 1960s and 1970s, to one of working collaboratively within the classroom scenario, bringing the scientific nature of psychology to bear in practice so we have that link with universities and we can support the development of action research. We work with parents so we will make home visits and especially in early years we would see that as crucial, working with other agencies. Increasingly, the role is linking with mental health services and looking at children's mental health, well-being, bad behaviour within schools, social services departments, where we have

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been looking at children's welfare and child protection issues, so there is a broad range of functions that educational psychologists undertake.

Q821 Mr Marsden: You are describing to me a very broad remit and some might say potentially (I am not saying actually) a very theoretical remit. You also mentioned the way in which the role of SENCOs has changed and revolutionised the situation. I would like to bring in one or two of our other witnesses today on this. I wonder if you felt that there is still a huge gap between what SENCOs are now expected to do in the new system and what they are provided with in terms of training, position in school, and not least money to do it?

Mr Rowland: Part of the approach of educational psychologists is to develop training programmes for SENCOs, and there are many examples of those around. Also I think the practical nature, certainly the role that I would be familiar with is not theoretical (although we bring theory to bear on what we do at all times) it is very practical. We are working with head teachers, working with teaching assistants, working with parents. It is a very practical approach within the classrooms, often involved with coaching and developing programmes for individual children and groups of children and, increasingly, a new development, if we look at the changing role of educational psychologists, is networking between schools as schools form collaboratives and help share and develop practice across schools within neighbourhoods. So within the new framework for universal targeting and specialist services, we are certainly providing the universal approach through teacher training, TA training, and targeted services for individual children.

Q822 Mr Marsden: Jean Salt, I see from your biography that you were a SENCO in a large comprehensive school for a significant period of time. What is your perspective?

Ms Salt: Of working with educational psychologists?

Q823 Mr Marsden: Yes, but specifically on the issue of whether or not SENCOs on the ground have got the wherewithal to do the sorts of things that they are now expected to do in conjunction with psychologists?

Ms Salt: I relied very heavily on my educational psychologists where we would share and brainstorm ideas to meet the needs of children with quite severe specific learning difficulties and other severe needs who were included in the mainstream school, but on the work of the SENCO, NASEN has just done a project with the DfES because we were concerned that we were hearing that teaching assistants were being appointed to take on the role of SENCOs, and so we explored that, and we have come to the decision that while some teaching assistants are very highly qualified and they can do the administrative and routine jobs of a SENCO's role, that the SENCO needs to be either a member of the leadership team and have quite a strategic view of the school's progress, and then you will get the

priority that special needs needs within the school, or at least they need to have a direct line manager within the leadership team, which would probably happen within secondary school. We have found that SENCOs who were considered to be good at their job were members of senior management within primary schools but within secondary schools it varied.

Q824 Mr Marsden: So would it be fair to say then that you are concerned that the present situation is not satisfactory for SENCOs?

Ms Salt: Yes, and we have got a very good set of standards for SENCOs which were produced by the TDA in 1998 and I am currently on this exemplification group looking at the classroom standards that the TDA are producing and we cannot find where the SENCO standards would fit within that work.

Q825 Mr Marsden: Shirley and Kate, can I ask you very briefly to comment on that but perhaps take the discussion on a bit further. The buzz word of teachers and teaching assistants principally in mainstream schools today in "personalised learning", and in this place we have, as you know, the second reading of the Education Bill and part of that is about personalised learning, but personalised learning for children with special educational needs is an even bigger demand than for people with mainstream needs, I would suspect, so are we actually expecting too much at the moment in terms of delivering the sort of work that perhaps previously educational psychologists delivered in schools?

Ms Cramer: I think the issue is that you cannot expect a mainstream teacher to do everything but there needs to be somewhere for them to refer children. That is why the tiered support or the different levels of support with teachers being able to offer some personalisation, some differentiation in the programme, but then knowing where to go when the child needs more, is important, and I think again that is a big gap in the system right now in many places in that there is not perceived to be anywhere, and there does need to be knowledge on the mainstream teachers about where the children could go or what they might need.

Q826 Mr Marsden: How are we going to improve that?

Ms Cramer: I think we have to improve that through training.

Q827 Mr Marsden: There are no shortcuts?

Ms Cramer: I do not think there are really any more shortcuts and I think that if we want all children to be included in the mainstream and if we want to have a good personalised learning programme, then we certainly need to improve the training.

Ms Griggs: I absolutely agree, it is totally down to training. We did some research for our awareness week last year which was covered quite extensively on ITV, and that found that 96% of teachers feel that they do not have the expertise to teach children with

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learning difficulties, and all of them wanted that training because without that they cannot help children with specific learning difficulties. It is not a case of getting a statement or getting time with the learning support assistant. Unless that assistant has got specific training in this area they will not make any progress with these children. That is basically the case. That is the issue.

Q828 Mr Marsden: Kevin, I know you wanted to come back briefly on that but I wanted to take you on to another issue, which is the alleged shortage of specialist staff, particularly educational psychologists. This is something that Ofsted recognised in their 2004 report, the report on the contribution of support services, but there was also an Audit Commission report which talked about a shortfall in specialist support. Ofsted have talked about problems with delegation perhaps being part of it. Many of us as individual constituency MPs, certainly for my part, have experienced parents of children with special educational needs coming in with some aspect of statementing or inclusion in school or challenging things at tribunals. There is a common thread coming out that these things are taking an awful long period of time because there appears to be a shortage of educational psychologists.

Mr Rowland: If I can go back to the previous point I wanted to make. One of the changes that has occurred over the last 20 years is that the model of service delivery has moved to embrace a consultative model whereby teachers cannot always access the training but we can provide continuous support and consultation for those teachers through visits to schools, and it is a way of sharing the specialist knowledge needed. In terms of the shortage of educational psychologists, we have approximately 2,600 psychologists in this country and we have a national shortage at the last count of 282 educational psychologists. There is definitely a shortage but also we have got this variation between local authorities. In "Removing Barriers to Achievement" (2004), Southampton was cited as having 1.7% of its children with statements, which freed up psychologists to be able to deliver support to schools, but also within that authority for every 2,000 children there was one psychologist. Currently in Plymouth we have one psychologist for every 4,357 children approximately (0-16 population), so we have got a variation but there are also major problems in delivering services.

Q829 Mr Marsden: So is this highly variable? You mentioned Plymouth and Southampton. My geography is not that great but they are not that far from each other. This is not a regional issue, this is an issue where you could have one local authority who was just about holding their own on psychologists and one next door where there might be a real crisis. What you seem to be suggesting—and I do not know what other people would like to say on this—is that this is intrinsically linked to the local authority's attitude to the statementing process.

Mr Rowland: It is linked to statements certainly but also we have a major problem nationally with supply. If we take an educational psychology training course, we have figures of 367 applications for 12 places. We are not funded to train enough educational psychologists per year to meet the demand and principal educational psychologists throughout the UK will tell you that the most frequent complaint they will receive is not having enough educational psychologist time in their schools. However we try to cover the schools, we will always fall short of the demand.

Q830 Mr Marsden: Shirley, have you and your colleagues across the board been lobbying the DfES on this issue?

Ms Cramer: One of the things we hear most from parents is how hard it is to get identification and assessment of any description for their child, so we would be advocating with the DfES for early identification and that would involve screening followed by a specific assessment from an educational psychologist. That is something that parents complain a great deal about. What has been done in the interim is there are many specialist teachers who are trained now to do some kind of assessment specifically for specific learning difficulties.

Q831 Mr Marsden: You say "in the interim". Are you seeing that as a sticking plaster thing or something that is actually theoretically a good thing to do?

Ms Cramer: I think it is theoretically a good thing to do and I think we will see more of it. I think the BPS has put in the new CCET qualification (Level A course in psychometric assessment) whereby specialist teachers with qualifications in specific assessment training will be able to "diagnose" or to identify dyslexia and therefore that would help the situation in the shortage of psychologists.

Q832 Mr Marsden: I am not asking necessarily for your views pro or against but I understand that the Scottish Parliament and Executive are removing the requirement for statementing from the process. If we were to take radical steps in terms of reducing the amount of statementing as part of dealing with children with special educational needs, would that have a beneficial impact on the situation or not?

Ms Cramer: The problem is that although the statementing process is bureaucratic and difficult a lot of parents hang on to it. You have to be able to put something in place before you take that away and I think parents and professionals need to be assured that something is there.

Q833 Mr Marsden: It is not that statementing necessarily as constituted at the moment is ideal; it is something that parents feel they can wave at people and get something done about?

Ms Cramer: Absolutely.

Ms Griggs: Can I just raise something. We have been doing a lot of work with schools across the country, but just to give you an example of a primary school

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we are working with in Southwark. They have a diploma-trained teacher who can do diagnostic assessments and so there is then not a need for an ed psych in the early stages. They are supporting children now with very complex learning needs and with very severe dyslexia without statement because they have the training in school so that they can pick them up from reception, they can see when they have got problems, and they can deal with it without it needing to get to the statementing stage. If the training is not there and if the support is not put in for the kids, statementing is the thing that a parent would flag to get support.

Q834 Mr Marsden: Can I say—and I have to ask you this Kevin—in the middle of what is obviously a situation where there are considerable problems in the short term for all the reasons we have discussed, we have got a situation where the training route for educational psychologists is being changed, I understand, with a move from a one-year masters as a diploma to a three-year doctorate. Whatever the long term benefits is that not in the short term a fairly crazy thing to be doing when we have a shortage? Surely this is going to mean that certainly for the short term we are going to have even fewer people qualifying because you are lengthening the period of qualification?

Mr Rowland: This is an issue that had to be considered because the knowledge base required by educational psychologists needs to change to reflect the complexity of the context in which we are working. We have reduced the amount of years training from seven to six years so it is a shorter training route. You are right, I would not agree it is crazy but I think it is a necessary change and we are having to embrace that change through a difficult period. I also think everybody is at a sea change at the moment. We are having to review the number of statements, how statements are used, the statutory assessment, the number of professions, SENCOs for instance, on the brink of a change, educational psychologist are changing so we have come to a *Zeitgeist* almost of moving from how things used to be in the 1980s, and now we are changing so we are in that process of bridging now and we are all having to work collaboratively. We had to grasp the nettle at some point, but I do agree that it will bring about challenges, and the profession is working very hard to see how we can work with schools to support that change, for instance taking on assistant educational psychologists.

Q835 Mr Marsden: Can I put this past your other colleagues briefly for their comment, whether in fact you are really concerned that this change is going to cause problems in the short term and do you agree with Kevin's analysis? Are there other short-term things that could be done, not least perhaps by the Department (I am not pushing it all on to the voluntary organisations or indeed educational psychologists) to help this transition process through? Shirley?

Ms Cramer: I think a promotion on the proposals around the CCET training, which means that specialist teachers can identify specific learning difficulties, would help. It has just started, it is very small numbers, and the funding of those kinds of courses by the Department might very well help that. I have been very concerned, as have colleagues around the country, about the lack of funding for diploma-trained teachers that Kate had mentioned, who are capable of doing more on the assessment and identification and helping colleagues in this area too. In our experience, many teachers fund that training themselves and we believe that they should be funded to go on those courses. I think that would help.

Q836 Chairman: Do we need educational psychologists? You go to schools and some schools say, "Well, we would rather have the expertise in the schools. We know our children. With the right trained people in schools, it is a bit of a diversion having the educational psychologists, and anyway they are expensive, you cannot get any, and they are changing and lengthening their training." Some people might say that is a restrictive practice to keep the wages high. Sorry Kevin!

Mr Rowland: We are shortening the training from seven years to six years.

Q837 Chairman: How are you doing that because that did not come in our briefing?

Mr Rowland: The model that used to exist was three years undergraduate psychology, one year teacher training, a minimum of two years teaching, a one year Masters, and now we are undertaking a "three plus three" framework, an initial degree in psychology plus three years postgraduate study.

Q838 Chairman: So there are not any changes to teacher announcements?

Mr Rowland: No. With the postgraduate studies, almost two-thirds of that will be in schools.

Q839 Chairman: Why is not the Government willing to fund that?

Mr Rowland: I am not sure that it has been discussed at governmental levels. There seems to be some confusion about the funding. The initial training has changed from what we would know of as the CPD model, which is progressing as a teacher into an educational psychologist. Just as we have an initial teacher training course, we now have an initial educational psychology programme and the funding for that needs to be clarified and it should be set at a national level to make sure we do not have national or regional shortages. We are now at a point where we can finally clarify the funding issue. A model used to exist of secondments based on local education authorities but that did not work because some authorities did have teachers train as educational psychologists and some did not. We are moving now to a fair and equitable model. The DfES and LGA are unable to resolve those issues and so at the moment we are faced with no funding mechanism whatsoever.

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Q840 Chairman: It is a serious situation. Is there not a feeling in some schools that what we really need is the competence within schools and not to have to look outside for external help?

Ms Griggs: Absolutely. It is only going to be for very complex issues that an educational psychologist needs to be called in and if the expertise is not within the school. Both of my children have been supported without the need for an educational psychologist report. My eldest son had one done when he was six, but he has gone the whole way through with trained teachers assessing where he has got to and putting things into practice for him.

Q841 Chairman: Would you prefer more money to be spent on training up people in a school rather than having these expensive people that take a long time to train?

Ms Salt: There is no simple answer to this. In my local authority the aim was to have a specific learning difficulties trained teacher in every secondary school and I think they pretty much achieved that. I was lucky because I had four such people in my school, but I still needed the advice and consultation from the educational psychologist working with other children with other difficulties and with more complex difficulties. What we are seeing both in special and mainstream schools is children with quite severe and complex needs and that is where extra resourcing is needed, but that resourcing needs to be monitored. Funds are delegated to schools now without being ring-fenced or earmarked for special educational needs. I think there needs to be clear, accountable and transparent procedures in place for monitoring the use of those funds.

Ms Cramer: We would agree with that. One of the things that we are seeing with the delegated funding for schools without ring-fencing is that funding is being spent on a variety of issues without accountability and that is going to ensure that many more children struggle. The other issue is that if teachers are not being trained and somebody retires, sometimes they are just not being replaced and therefore we might have less skills in the system since the delegated funding came in rather than more, which I think is a problem.

Q842 Chairman: That is very useful.

Mr Rowland: Educational psychologists and the profession for many years have sought to share knowledge and skill so that there is a collaborative working environment. The Alan Steer report recently called for more educational psychologists to support mainstream schools across the board in order to meet the needs of children with emotional and behavioural difficulties. I think there are shifting populations of children. To bring in the knowledge and the expertise that is within the profession and having it shared across other professions with colleagues is a very important component as we move into a new future of supporting our most vulnerable children in society.

Q843 Dr Blackman-Woods: I think one of the messages that are coming across quite clearly in this inquiry is that there is a lack of suitable training and that is perhaps even more extraordinary because it looks as though there is some consensus around in terms of what should be done to correct that situation. Is there a strong consensus between the model that is put forward by the Government in removing barriers for achievement and the three stage approach that is put forward particularly by Shirley and Kate? Is there really consensus?

Ms Cramer: I can say that there is certainly consensus in all the specific learning difficulty organisations and speech and language and other what you might call hidden difficulties, there certainly is agreement on that support and from other organisations that I have spoken to. I do believe that there is certainly consensus around training being a priority and having it cost-effectively at different levels of support so that you have it for the children where they need it and that is in the classroom.

Q844 Dr Blackman-Woods: It does seem very simple and straightforward and almost commonsense. I think that then begs the question of why the proposals are not being implemented. Can you tell me how much you think it is an issue of cost and how much you think it is other issues?

Ms Griggs: I think it must be an issue of cost. It is a very simple solution. I think it is also a case of joined-up thinking. There has been a lot of focus recently on how we get early reading right. There is now this issue on SEN. The two very much join together. I think it is a case of everybody working together to look at what clearly is a model that will put things right for all children and putting emphasis behind it, effort behind it and money behind it. I am sure it does boil down to money.

Ms Cramer: We have tried to work out what it would cost in terms of provision per primary school. We think that you could probably provide "Rolls-Royce" provision for specific learning difficulties at £5,000 per primary school.

Q845 Chairman: How many primary schools are there?

Ms Cramer: There are 17,500 primary schools and that would equate to around £88 million, but that is providing the very best.

Q846 Chairman: It sounds like a very good investment.

Ms Salt: There is no easy answer with this. We would agree with the *Removing Barriers* agenda, but that is quite a long-term solution. We have got to get common understanding between all the agencies' definitions of special needs and disability. We have got to get special needs as the priority. Somebody said earlier on this morning that if we get the teaching right for these children then it is going to be right for all children.

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Q847 Dr Blackman-Woods: But that does suggest that it is not quite as simple as we are suggesting because presumably one of the first things that has got to happen is a change in basic teacher training, however that is carried out. I just wonder whether that is happening, whether there are discussions under way about changing the basic teacher training qualification so as to have more time to spend not only on special educational needs but the whole issue of personalised learning because I think they are linked.

Ms Salt: To include more specialisms within initial teacher training might not be cost-effective because you have got somebody learning how to become a teacher and they need to know how to match learning styles to the different needs of teaching and to be aware of the different teaching styles that you can have. We have talked about personalised learning. As an association we would see the cohort of pupils being targeted under personalised learning to be a different cohort to those with special educational needs. Whilst we might be looking at individual programmes for children with special educational needs, the personalised learning pathway seems to target those who are just missing those crucial level boundaries or grade boundaries at GCSE level.

Mr Rowland: We are working closely with primary mental health workers who are now working in schools and we are seeing specialist family support workers from social care departments and we are seeing the barriers beginning to break down with visionary headteachers in special schools supporting children in mainstream schools. In my opinion good special schools have always provided personalised learning. They have very good relationships with the students, they have high expectations, they have a solution focus and a constructive outlook. We have started to bring those ingredients together from a multi-agency perspective thus breaking down the barriers between special and mainstream schools and now we have the recipe, especially with the new landscape of universally targeted and specialist services, to work together in a coherent model. If that gives us a platform then the triangle that we are talking about provides a way to integrate the training and support. I think training is an element, but we must also see that there is a need for ongoing support through the consultation and we must do collaborative work within classrooms for teachers without overloading teachers and teaching staff within schools. That multi-agency perspective with special schools coming in is a very important picture to hold on to when we look at the personalised learning agenda.

Q848 Dr Blackman-Woods: One of the things that struck me on our visit on Monday was how highly trained some of the teachers were in the specialist

schools. Should we be using more secondments? It did seem to me that they had skills that they could pass on in the right setting. Are discussions taking place about that? How often does that happen?

Mr Rowland: I had this very discussion with a headteacher from an EBD school yesterday. When you have a highly volatile situation then taking somebody out of that situation can alter the group dynamics. We were looking at how we can build capacity and ensure quality. We were trying to look at two term secondments by building up a collaborative with mainstream secondary schools where we could have some exchanges, but we have to be very, very careful because the children within schools for emotional behavioural difficulties and autistic children are very sensitive to changes in those kind of relationships. We were thinking very hard about how we could build capacity across the whole system, use the expertise and the knowledge within the special school and bring teachers into that environment as well without disturbing the ethos of the school. The issues that you are talking about are being discussed on the ground. There are some very visionary headteachers around within special schools who I think also feel frustrated by the barriers to working with mainstream colleagues.

Ms Salt: We have got examples of co-located special schools being with mainstream schools and we have got examples of dual placements. There are funding issues around dual placements of pupils, but you are going to get the special and the mainstream school talking to each other about the provision for a particular child. It is there but it needs to be expanded.

Dr Blackman-Woods: That is really interesting. Thank you.

Q849 Chairman: May I just put it on record that when we visited Marketfield School in Colchester and Shorefield School in Clacton we found wonderful staff and two inspiring heads. I could not fault the training or the dedication of the people that we saw there. We saw some brilliant children too. I am afraid that is the end of this session. I am sorry it has been short. It has been absolutely of the highest quality. Thank you very much for putting up with my pushing you a bit about educational psychology. It is interesting, ever since I have been involved, even when I was a university teacher, there has been a great shortage of educational psychologists. You never have enough educational psychologists.

Mr Rowland: I would agree with that.

Chairman: Thank you very much for your attendance. If you think of anything you would like to add afterwards, please e-mail us or telephone us and tell us.

Supplementary memorandum submitted by NASEN

POINTS TO CONSIDER

TRAINING ISSUES

- In training it should be emphasised that teachers are teachers of all children rather than subject(s).
- The SEN Project in the TDA is a welcome beginning but it is a pilot which will need to be developed and implemented across all training institutions.
- SEN needs to be a priority in schools for training—if teaching is right for those pupils with special or additional needs then teaching will be right for the school population. If SEN is a priority then teachers will take up CPD opportunities and good quality CPD needs to be offered.
- There is a tension between using a flexible curriculum to personalise learning in schools and the standards agenda. Schools need to be very confident when justifying a more flexible curriculum at the expense of meeting targets. Pupils with special or additional needs may not make the expected progress for the end of Key Stage assessments or for public qualifications. Their achievements are often measured through the P Scales. If P Level data becomes compulsory as we expect in 2007, mainstream schools will need considerable training to carry out these teacher assessments.
- nasen welcomes the appointment of Toby Salt(Head of Special schools in Sussex and from the DfES Innovations Unit)to the post of Strategic Director for School Leadership Development at NCSL.

SPECIALIST SUPPORT

- there is a need to build capacity for specialisms within mainstream schools. Members report that Local Authority Central Support Services are being decreased. Schools should have the capacity to meet the needs of pupils with “high-incidence” special needs but for those “low-incidence” and complex needs the advice of a specialist support service is required; and
- the consultative role which Educational Psychologists have developed over recent years is a successful model. Competent school staff will always benefit from expert advice in meeting pupils’ needs.

HOW SPECIAL NEEDS ARE DEFINED

- nasen would welcome clarification on this issue. We use the terms special or additional needs, vulnerable children and more recently learning difficulties and disabilities. Our view would be that any clarification or definition must improve outcomes for children and young people.

OTHER ISSUES

- the voice of the pupil should be emphasised when making decisions about their future;
- nasen is concerned that the Steer committee’s discipline procedures did not take into account the behaviour of children and young people with special needs. For example, autistic pupils could have a very difficult time in the future; and
- statementing is a very complex area which needs review. Both schools and parents see statements as a means of gaining extra provision but nasen is concerned that Local Authorities’ Performance Indicators include a reduction in the number of statements. Schools and parents need to be confident that children’s needs will be met in any othe system.

March 2006

Letter submitted by the Institute of Education

I write as co-ordinator of the Institute of Education team preparing materials for the Training and Development Agency for Schools on SEN and disability in initial teacher training and the induction year.

My attention has been drawn to Ms Kate Grigg's personal letter on your Committee's website. This was uploaded on 20 March 2006 as Further memorandum from Xtraordinary People. I can understand that you would wish to make public Ms Griggs' helpful views on training, but feel we should clarify a part of the letter that could reflect badly on the approach and expertise of our team.

In arguing to be selected to give evidence at your Committee's hearings, Ms Griggs wrote "The IoE, who had been given the task to design the SEN Modules for ITT had not contacted any of the dyslexia organisations during their 'wide consultation', fortunately Ralph at the TDA put us in touch with them and we are meeting tomorrow in fact, and hope that we can have the necessary expert input". This sentence is misleading.

1. We made strenuous attempts to involve all sorts of groups, including voluntary bodies, from the start of our project, including arranging meetings with the members of the Special Education Consortium (SEC), run from the National Children's Bureau. One hundred and fifty voluntary bodies working on all sorts of SEN belong to this umbrella organisation. It is a little puzzling that any national SEN organisation, dyslexia or otherwise, should hold itself completely apart from a well-known and well-considered consultative group of this size.

2. The TDA website, for over a month, contained links to the public consultation on our work. Members of Xtraordinary People were in close touch with the then Chief Executive of the TDA, Ralph Tabberer, and it seemed a reasonable assumption that they would have responded had they wished to.

3. The preparation of the materials is a two year programme: the pilot phase runs through the next academic year. There has always been time for Ms Griggs or any one else to be involved in discussion of the materials.

4. Ms Griggs says that she was to meet up the day after the date of her letter but does not mention that this was in fact our second meeting. Since then, she and colleagues have seen part of the project's materials and will see more if they wish. They suggested a few minor changes which we were happy to accept.

5. Ms Griggs seems to suggest that we should have sought advice from "dyslexia organisations" at the beginning of the project. The implication of her phrasing, which she may not have intended, is that she is in contact with sources of expertise which "the IOE" does not have available. While happy to accept good advice from any group, I could not prioritise hunting down additional expertise when we can consult such distinguished researchers as Professor Morag Stuart, based in the same building as I am, and when the writing team contains someone who was responsible for the most recent National Strategy guidance on dyslexia.

6. Another sort of expertise is born of experience of a disability or difference. I have a 23 year old daughter with dyslexia, who has now been through the maintained education system. I am aware of most of the barriers that schools and universities can throw up. No team for which I am responsible will neglect dyslexia.

We would be sad if this memorandum remains on your Committee's website without alteration. Would it be possible for you or the Committee's clerks, perhaps in consultation with Ms Griggs, to edit the letter so that her comments on training approaches are publicly available, but the less relevant sections, including her comments on "the IoE" are removed? Alternatively, perhaps you could publish a note of our concerns.

We would also be concerned if the unedited letter is published in any other form, such as in an appendix to your report.

Thank you for giving you this your consideration. We would be delighted to show you or any of your colleagues on the Committee what we are doing.

Nick Peacey

PS: Ms Griggs' letter seems to suggest elsewhere that dyslexia/specific learning difficulty accounts for 80% of SEN. Unless I have misunderstood her argument, this is at odds with DfES statistics. The annual schools census for January 2005 (all schools) gives the following picture:

	<i>School Action Plus</i>	%	<i>Statement of SEN</i>	%
Moderate learning difficulty	110,210	30.1	60,150	25.9
Behaviour, Emotional and Social Difficulties	95,480	26.2	32,290	13.9
Specific Learning Difficulty	62,010	17	20,650	8.9
Speech, Language and Communication Needs	47,220	12.9	24,760	10.7
Autistic Spectrum Disorder	8,190	2.2	26,730	11.5

Supplementary memorandum submitted by Plymouth Psychology Service, Plymouth City Council

I was honoured to have been asked to represent the British Psychological Society and consider it a privilege to have presented evidence to the Select Committee on matters related to the most vulnerable children in society.

You will recall that I was asked to keep statements very brief due to the Committee needing to vote on the Education Bill (15 March 2006), and to write to you with further evidence I wished to add. I have endeavoured to keep my additional evidence brief and to the point.

TRAINING FOR EDUCATIONAL PSYCHOLOGISTS: REFORM OF THE PROFESSION FOR THE “NEW LANDSCAPE”

I would like to confirm that as part of the workforce reform and in light of the transition to Children’s Services and Children’s Trusts, the training route for educational psychologists has been shortened from seven to six years. I welcome this move, as the seven year training was out of date, and the content needed to be up-dated to meet the demands of multi-agency working and the increasing complexity of children and young people’s needs. I felt the profession, along with other professions needed to move with the times and modernise in order to be fit for purpose rather than risk ending up an elite and outdated profession.

The shortening of the programme means that it is actually less expensive than the previous model in gross terms, and I must admit that I was rather anxious that your briefing on this matter may have inadvertently created a misunderstanding with respect to the duration of training. The training model now compares with clinical psychologists, teachers and social workers, in that funding needs to be placed on a national footing. With respect to the funding of national training the lack of agreement between the LGA and DfES is of great concern to me and further highlights the need for a national funding mechanism to ensure the supply can meet the demand. A system whereby Local Authorities may or may not choose to fund the training has previously failed (the old secondment programme), in that, some authorities did provide the funding whilst others did not, and yet both needed to employ educational psychologists.

NUMBERS OF EDUCATIONAL PSYCHOLOGISTS

The number of educational psychologists varies from authority to authority and can vary within authorities over time depending on local priorities. At present I face a budget cut and I have, with the support of my finance officer been able to avoid redundancies. At the time of “Removing Barriers to Achievement”, Southampton Local Authority had approximately one educational psychologist per 2,000 children, although I understand this has now changed. Such ratios allow educational psychologists to engage in high level preventative work and early intervention, for example, in preventing reading failure by supporting schools develop “Early Reading Research” programmes (research: The Warwick University). The ratio for my own service is currently 1 educational psychologist per 4,348 children (5–16 years). I have worked in four Local Authorities and in each authority schools have wanted more time from educational psychologists. Increasingly, educational psychologists are being called upon to support schools with children and young people with mental health problems and social care needs. For example, yesterday, at a meeting in my office two psychiatrists were looking to work more closely with educational psychologists re. children with learning difficulties and mental health problems, and in supporting the local clinic in assessment processes for children with ADHD (attention deficit and hyperactivity disorder), the contribution of the educational psychologist in these examples relates to pre-school settings and schools (special and mainstream). Thus, the current demand for educational psychologists is growing within schools, Children’s Services and Children’s Trusts.

THE ROLE OF THE EDUCATIONAL PSYCHOLOGIST: SEN AND BEYOND

As I highlighted in my brief overview, educational psychologists have to be highly adaptive to local initiatives hence the deployment of a huge range of skills and knowledge to support the development of children of any age in any area of the educational landscape: universal, targeted and specialist. The multi-agency work of educational psychologists has been a tradition going back to the days of Child Guidance Clinics, this has a central role to play in my own service where we currently have a DoH funded team for supporting pre school children with mental health problems especially asylum seeker/refugee children who are likely to experience culture shock and come from traumatic situations. My service has also provided support for children, families and schools following critical incidents, in most of these cases the psychology service provides immediate high quality support. In terms of supporting children, educational psychologists have always worked 0–19 years of age and across a range educational and professional boundaries. This day-to-day work across the whole education system is a unique and important factor in delivering educational psychology.

TRAINING, CONSULTATION AND COLLABORATIONS

In the four Local Authorities I have worked in as an educational psychologist I have been involved in a full range of training for all professions (including head teachers, heads of year SENCOs teacher assistants, social workers, court welfare officers etc). The most challenging area is working with groups of schools in setting up programmes of support for staff at many different levels of working. The knowledge base of the profession of educational psychology allows teams of educational psychologists to deliver training alongside colleagues from a range of occupations. Increasingly, the profession helps to build knowledge in schools by working with groups of staff; coaching or observing and feeding back to staff. In practical terms, last week, I provided this type of knowledge building experience with a Year 9 drama teacher in a secondary school in Plymouth teaching a particularly challenging class of adolescents, the teacher was most appreciative of the "in class" support, advice and development activities.

Within Plymouth we have an Excellence Cluster (25 schools) which has purchased additional educational psychology time. The Behaviour Improvement Programme (BiP) has been highly rated nationally, the codirector of the Excellence Cluster has attributed a great deal of its success to the support of Plymouth Psychology Service and the coherence brought to this initiative by the sound theoretical framework and evidence based approaches supplied by the educational psychologists working with schools and learning mentors within the Excellence Cluster.

INVITATION TO THE COMMITTEE MEMBERS: PLYMOUTH PSYCHOLOGY SERVICE

Whilst I recognise that the committee members have a very busy schedule I would cordially invite Members of the Committee to visit my service which includes: Plymouth Educational Psychology Service; Parent Partnership Service; The Primary Schools' Behaviour Support Team; Plymouth Inclusive Education Team (transfer of children from special to mainstream schools); KEW 5 (Kids Emotional Well-Being: Early Years Community Mental Health Team); Plymouth Psychology Service Early Years Team and Plymouth's Excellence Cluster "Multi-Agency Support Team". With the work of educational psychologists and the scope of these teams, I would hope to provide members of the Committee with a comprehensive insight into the daily work of educational psychologists and the impact of psychology primarily within educational settings. I would also be happy to arrange for Members of Committee to meet with colleagues in schools and our partners from health and social care.

DOCUMENTATION

I have attached documentation that captures the full range of services provided by my team of educational psychologists and associated community psychology teams. I have attached a recent evaluation report which has just been distributed to schools, representing some 31,000 children.

April 2006

Wednesday 22 March 2006

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman-Woods	Jeff Ennis
Mr Douglas Carswell	Helen Jones
Mr David Chaytor	Mr Gordon Marsden
Mrs Nadine Dorries	Mr Rob Wilson

Memorandum submitted by Lord Adonis, Parliamentary Under Secretary of State for Schools

I thought it might be helpful to the Committee to write about a number of salient and topical issues with regard to SEN before I give evidence to you next week. I cover below five issues:

1. The National Audit of support, services and provision for children with low incidence SEN.
2. The Education and Inspections Bill.
3. The withdrawal of DfES Circular 11/90.
4. Admissions of children with special educational needs to Academies.
5. The establishment of a new national representative body for special schools.

1. NATIONAL AUDIT OF SUPPORT, SERVICES AND PROVISION FOR LOW INCIDENCE NEEDS

A commitment was made in the SEN Strategy *Removing Barriers to Achievement* (DfES, 2004) to carry out a national audit of provision made for children with low incidence needs, in order to promote effective regional and sub-regional planning to meet the needs of such children. Local authorities find it particularly hard to plan for low incidence needs because of relatively low numbers, the severity of needs, and the ebb and flow of population movements.

The aim of the National Audit was to:

- gain a picture of how local authorities meet the needs of the children with low incidence SEN;
- explore gaps in services, support and provision, and how these gaps are being addressed, or could be addressed;
- consider the implications for regional/local planning and development, including the possible development of Regional Centres of Expertise.

January 2005 data shows that in maintained schools, and non-maintained special schools, less than 2.5% of children on School Action Plus or with a statement of SEN have a hearing impairment (2.2%), a visual impairment (1.2%), a multi-sensory impairment (0.2%) or profound and multiple learning difficulties (1.3%)—needs traditionally associated with low incidence. However, data from the SEN Regional Partnerships on out-of-authority placements show that many authorities are finding it difficult to meet the needs of children and young people with behavioural, emotional or social difficulties (BESD) and autistic spectrum disorders (ASD) within their areas.

We therefore decided that, for the immediate practical purposes of this audit, low incidence SEN should embrace children and young people with severe sensory/multi-sensory impairments, severe autistic spectrum disorders, and severe behavioural, emotional and social difficulties.

We have just received the final report on the National Audit. I enclose a copy for the committee in advance of my appearance, and we will publish it in full on the day I give evidence to you. It will take some weeks for us to consider its findings thoroughly and publish a response. However, I know you will wish to hear our initial reflections on the findings and I thought you might find it helpful if I note some areas of the report which we feel are key:

- *Child and Adolescent Mental Health Services (CAMHS)*—the report concluded these should be more accessible to young people with low incidence needs, including those with severe sensory impairment who may develop mental health issues as a result of a feeling of isolation. There were calls for changing patterns of mental health support, with specialist workers operating more directly in support of front line staff. We accept that improving support for mental health and emotional well-being is vital to securing our objective of better outcomes for all children and young people. We are working closely with the Department of Health (DH) to address concerns on CAMHS. The aim of the work is to improve services across the board, ensure that comprehensive services are in all areas by end 2006 and ensure continued improvements in service quality beyond this milestone in line with the ten year vision for CAMHS set out in the National Service Framework. CAMHS services are expanding at all levels—including at “Tier 2” which lends

support to, and works jointly with front line settings such as schools. There are now many examples of highly innovative and effective joint work between CAMHS and schools and we will continue to encourage this, working through our CAMHS Regional Development Workers. Commissioning of CAMHS is also now a joint process across health, education and social care. Multi-agency CAMHS partnerships are now in place across all areas and are important mechanisms for strengthening the “joining up” across our specialist and more mainstream services. The development of children’s trusts will lend further support to these developments;

- *Planning for progression at 14 plus*—arrangements need to be better informed and more person-centred with all relevant services involved. There is a need for more strategic planning of college provision to ensure that students with low incidence needs are better catered for. The report indicates the practical steps local authorities are taking to address perceived gaps, for example, multi-agency transition teams and transition protocols, and the development of key worker roles—all of which we are encouraging through our policies. The Learning and Skills Council, which has a specific responsibility under the Learning and Skills Act 2000 to help young people with learning difficulties and disabilities, published Through Inclusion to Excellence, the report of a review of provision for this group of learners, in November last year. The report recommended that the Learning and Skills Council should develop a national strategy for regional and local delivery through collaboration with partners, to develop high quality, learner centred, cost-effective provision. Wide consultation on the report has just finished. We want to see higher standards for learners with learning difficulties and disabilities and to tackle concerns about the quality and consistency of provision, particularly within the network of independent specialist colleges catering for these learners. The forthcoming Further Education White paper will commit the government to further improvements in this area. We are working with DH to improve the participation of young people and their families in the transition review meetings required for all young pupils in year 9 with SEN statements through a national programme involving 70 local authorities across England. And we have commissioned the Council for Disabled Children to draw up guidance for professionals setting out their roles and responsibilities in the transition process and to draw together the various transition guidance and good practice advice into one document setting out the standards we expect to be achieved. DfES is also working in partnership with DH on three of the DH led pilots on individual budgets to include a focus on the needs of young disabled people at the point of transition as they move into adult services. This draws on the learning from the “In Control” pilots pioneered by MENCAP in association with a number of local authorities. I attach copies of the speeches made by Liam Byrne and myself at the launch of these pilots on 30 November 2005. We are undertaking this work as part of the programme of the new cross-departmental Office for Disability Issues based at the Department for Work and Pensions.
- *Gaps in family short break and respite opportunities*—lead to unmet needs which significantly increase stress levels in families. The Government accepts that more needs to be done to improve the support available to the families of disabled children. The legislative framework for change is in place and we are committed to improved delivery of services on the ground. In some cases a lack of respite can lead to family crises which require more costly interventions. Short breaks can help to minimise parental stress and enable families to lead more normal lives. The Children’s National Service Framework, published in September 2004, includes a standard on disabled children and those with complex health needs. The standard is that these children should receive co-ordinated, high-quality child and family-centred services which are based on assessed needs, which promote social inclusion and, where possible, which enable them and their families to live ordinary lives. The NSF standard underlines the importance of family support services, including short breaks to families with disabled children—particularly those with complex health needs, challenging behaviour or autistic spectrum disorders. It states that local authorities and PCTs should offer a range of short break services to families who need them. DfES has supported implementation of the NSF through: a series of conferences bringing Local Authorities together to consider implementation issues; guidance and best practice to encourage more flexible forms of provision, including the use of direct payments and better multi-agency working through children’s trusts; the publication of exemplars and guidance to enable mainstream settings to support children with complex needs; and the materials and best practice developed through the Early Support Programme. DfES and DH are now scoping options for further work to support local implementation of the NSF for disabled children.
- *Regional Centres of Expertise*—respondents had mixed views on the question of Regional Centres of Expertise. There was little support for RCEs as centres of specialist provision for children but there was support for strengthening generic provision and services, using specialist expertise in a developmental way. There was a general vote in favour of “virtual” support arrangements (as distinct from, say, a specific physical centre), designed to promote, but importantly not replace, local knowledge and expertise. RCEs might, in effect, be resource centres but working within agreed regional strategies. My initial view is that we should invite each SEN Regional Partnership—whose funding I recently extended for a further two years—to discuss what form a Regional Centre of Expertise might take in their area, and consider what steps would be necessary

to move towards one. These discussions would be informed by the National Audit report and any relevant recommendations made by your Committee. The Partnerships have a specific role in enabling local authorities to work together to tackle issues of common interest where children with SEN are concerned.

The Audit recommends that future developments be based on coherent and co-ordinated assessment of current services and provision, against clearer national standards. There are several references in the text to the Quality Standards for Visual Impairment Services published by DfES in June 2002. We recently consulted on more generic standards for SEN support/outreach services. These are closely related to the criteria employed by OFSTED in the course of their thematic review of SEN Support and Outreach Services. The results of that consultation are currently being considered.

2. THE EDUCATION AND INSPECTIONS BILL

We are grateful for the Select Committee's report on the Schools White Paper, which helped us in framing the Education and Inspections Bill. The Bill contains a number of to enhance the quality of provision for children with special educational needs.

The Bill commits to a system of fair admissions for all pupils and strengthens the Admissions Code of Practice so that admission authorities will have to act in accordance with it. The planning and commissioning role of local authorities will be strengthened (by, for example, making the local education authority itself—not the School Organisation Committee—the local decision maker for re-organisation proposals, including proposals in respect of special schools and SEN units). Local education authorities will be able propose alterations to provision at any school, including special schools and special units for SEN, and with the Secretary of State's consent, they will also be able to propose new community schools, including community special schools. Special schools will have the same opportunities as mainstream schools to acquire trust status, and the process for existing non-maintained and independent schools to enter the maintained sector, with local authority approval, will be simplified.

The Bill also reduces the impact of transport as a barrier to parents from low income groups attending mainstream schools, by extending the offer of free transport for their children to attend any of three suitable secondary schools, where these schools are more than two and less than six miles away from their home and for primary aged pupils to the nearest school more than two miles from their home. This will extend effective choice to more low income parents, including parents of children with SEN, and builds on local authorities' duty to assist parents and carers with transport where children have particular needs or disabilities such that travel assistance is required. Pupils with statements of Special Educational Needs (SEN) who have transport needs written into their statement of SEN, must be provided with free transport to and from school.

At present pupils excluded from school for a fixed period often receive minimal education and for permanently excluded pupils local authorities are expected to arrange suitable provision from the 16th day of the exclusion. The Bill will require, from September 2007, schools to arrange full-time education for a child, usually off-site, from the 6th day of a fixed period exclusion in the school year and will amend the 1996 Education Act to require local authorities to provide suitable full time education from the 6th day for permanently excluded pupils. These new requirements will benefit pupils with SEN, who figure disproportionately among those excluded from schools both permanently and temporarily.

The Bill introduces a new duty on local education authorities to make arrangements to identify children of compulsory school age in their area who are not on a school roll and are not receiving a suitable education otherwise than by being at school. This will be important in identifying children with SEN and enabling authorities to identify the nature of their needs and the type of provision they require.

The Bill also places a duty on local education authorities to, so far as reasonably practicable, secure access for young people in the area to sufficient positive leisure-time activities (educational and recreational) for the improvement of their well-being, and sufficient facilities for such activities. The new duty applies to young people aged 13 to 19 and also to people aged 20 to 25 who have a learning difficulty. We are keen to ensure that such activities are accessible to all young people as they make their transitions to adulthood.

Although not mentioned specifically in the Bill, we will also be taking forward the commitments in the Schools White Paper to:

- ensure that for pupils with severe or complex behavioural, emotional and social difficulties, we identify the underlying causes of their behaviour as early as possible so that they can access multi-agency support. In some cases it will be appropriate for a child with challenging behaviour to be educated in specialist settings and we have accepted the recommendation of the Practitioner Group on Discipline and Behaviour that further investigation is required to determine how we might improve specialist provision for children with behavioural, emotional and social difficulties. We will carry out work over the coming months looking at: the guidance and support available to help schools identify the underlying causes of a child's behavioural or emotional difficulties; good practice in the development of flexible curriculum, support and therapeutic pathways that better link mainstream schools with multi-professional support services, including those located in special schools and PRUs; and strategies for developing and improving specialist BESD provision.

- extend SEN specialist status to the special school sector at large (50 schools in the next 2 years) and work with the Specialist Schools and Academies Trust and the Youth Sport Trust to encourage more special schools to submit applications for a curriculum specialism (with a view to being able to designate a further 50 special schools by 2008).

These proposals were largely welcomed by the Special Education Consortium, who I met last month, and I am committed to continuing dialogue with the SEC on the best means of implementing these reforms.

I should also draw attention to the new duties which schools will assume under the Disability Discrimination Act starting in December 2006. The Act places schools and other public bodies under a duty to promote equality of opportunity for disabled people. The duty is important in that it requires schools to be pro-active in consulting disabled pupils and staff on plans for promoting equality of opportunity across the school's activities and, for example, for taking action to address any equity gaps in provision for disabled pupils who are faring less well than their peers. We are currently working with the Disability Rights Commission to publish guidance to schools on the preparation of their disability equality schemes.

3. CIRCULAR 11/90: STAFFING FOR PUPILS WITH SPECIAL EDUCATIONAL NEEDS

In an earlier evidence session, concerns were voiced about this circular being withdrawn, and these concerns were picked up in the press.

Let me emphasise that the Government remains committed to ensuring that children with SEN receive the right level of attention and support. That has been a central plank of the Government's SEN strategy. Children with SEN have benefited from improvements in pupil: teacher ratios (PTR) and pupil: adult ratios (PAR) since 1997, under this administration.

The overall PTR for the maintained nursery, primary and secondary sector was 17.4 in January 2005 compared to 17.7 in 2004. At the same time, the within-school PAR in primary schools in January 2005 was 13.4 compared to 14.0 in 2004, with the secondary figure being 12.2 in January 2005 compared to 12.8 in 2004. The PAR counts teachers and support staff but excludes administrative and clerical staff.

The PTR for special schools (maintained and non-maintained) in January 2005 was 6.2 compared to 6.3 in 2004 (6.4 in 1997). The PAR was 2.2 in January 2005 compared to 2.4 in 2004 (3.1 in 1997).

The NUT report that some teachers found the staff time per pupil illustrative suggestions in 11/90 helpful. But there has been longstanding concern about the rigidity of these suggestions, which led DfES—in response to representations from other social partners—to consult on their withdrawal. The consultation revealed no major support for their retention.

The government's concern is that schools should have the flexibility to meet the specific needs of individual pupils and the possibilities offered by flexible deployment of staff. It should be for individual schools and local authorities to determine precise staffing levels, having regard to the number of children with special educational needs, the range and complexity of SEN represented within a given school, the resources available and other relevant factors. Those decisions will be informed by the Education Act 1996 which contains the current legal provisions applying to SEN, the SEN Code of Practice which provides statutory guidance, the associated SEN toolkit and other relevant publications such as The Management of SEN Expenditure (DfES, May 2004), which gives extensive and very detailed guidance on a wide range of financial matters.

4. ADMISSIONS TO ACADEMIES

The Government has been absolutely clear that academies must play their full and proper part in provision for SEN pupils, and that their status as independently managed schools will not affect this. Academies themselves recognise and welcome their SEN responsibilities, and the facts demonstrate (as set out in the Annex) that they are fulfilling them. As the Annex shows, academies, on average, admit more pupils with SEN (both with and without statements) than their predecessor schools and secondary schools in England.

Parents have the right to make representations to their local authority for an academy—as for any other state school—to be named in their child's statement. The local authority must consider those representations and will consult the academy, as it would any other state school, before a decision is taken about naming them in the statement. The principle is that academies (as other schools) should consent to being named in a child's statement unless it would be incompatible with the efficient education of other children and there are no reasonable steps that could be taken to prevent that. If the local authority names a school other than the academy in the statement, the parents have the right of appeal against that decision to the Special Educational Needs and Disability Tribunal (SENDIST)—as, again, applies in respect of disputes about the naming of any other type of state schools.

Academies are not under the same statutory duty as maintained schools to admit a child whose statement names them as the appropriate school. Technically, therefore, an academy could refuse to admit a child if SENDIST orders that they should be named in a child's statement. However, this has never happened to date, and the model academy funding agreement (a contract between the Secretary of State and the

Academy Trust) gives the Secretary of State a power to direct the admission of a child to an academy. Any such direction is binding on the academy. If an academy were to refuse to admit a child following a SENDIST decision and seek support from the Secretary of State for their position, I think it highly unlikely that there would be circumstances where it would be appropriate for the Secretary of State to do otherwise than direct the academy to admit the child.

5. NATIONAL REPRESENTATIVE BODY FOR SPECIAL SCHOOLS

I announced that we are providing start up funds of £150,000 for the creation of a national representative body for special schools. It will be the first national organisation for all special schools and will be set up by the National Association of Independent and non-maintained Special Schools (NASS) and the National Association of Emotional and Behavioural Difficulty Schools (NAES). I see this as an important development since it will create a network which will enable the collective voice of staff in special schools to be heard at local, regional and national levels. It will help special schools to work more closely with mainstream schools for the inclusion of children with SEN and share best practice about ways of working with children with SEN and Disabilities; and it will offer additional support and training to special school staff.

Maintained Secondary Schools and Academies: Number and percentage of pupils with special educational needs

JANUARY 2005, ENGLAND.

	Total number of pupils	Total number of pupils with statements of SEN	Expressed as a % of total no of pupils	Total number of pupils with SEN without a statement	Expressed as a % of total no of pupils
All maintained secondary schools (2005 data)	3,316,050	76,584	2.3	473,507	14.3
All academies (for which we have 2005 data)	15,196	508	3.3	4,184	27.5

ACADEMIES AND THEIR PREDECESSOR SCHOOLS: NUMBER OF PUPILS WITH SPECIAL EDUCATIONAL NEEDS
POSITION AS AT JANUARY EACH YEAR ENGLAND

<i>Name of Predecessor school</i>	<i>SEN data for predecessor schools (1)</i>			<i>2005 SEN data for Academies (2)</i>		
	<i>Number of pupils with special needs with statements</i>	<i>Number of pupils with special needs without statements</i>	<i>Name of Academy</i>	<i>Number of pupils with special needs with statements</i>	<i>Number of pupils with special needs without statements</i>	<i>Number of pupils with special needs with statements</i>
Thamesmead Community College	615	24	250	The Business Academy Bewley	1,379	76
St David St Katherine CofE High School	859	11	212	Grieg City Academy	712	5
Kelholme Langbargh Schools	658	18	200	Unity City Academy	1,123	32
Willesden High School	457	13	120	Capital City Academy, Brent	911	20
St George Community College	689	10	181	The City Academy, Bristol	1,095	41
Compton Sports College	1,049	61	426	The West London Academy	1,129	26
Dule High School	724	18	221	Manchester Academy	726	7
Breckenhoe Comp	575	10	52	The King's Academy	1,042	95
Coulby Newham	438	26	137	Djanogly City Academy, Nottingham	1,580	2
Djanogly CTC Forest School	737	76	180			416
	1,363	0	258			
	327	4	88			
				The City of London Academy,		
Warwick Park School	—	—	—	Southwark (New School)	361	22
T P Riley School	950	39	162	The Academy at Peckham	1,079	39
Edgware School	294	13	106	Walsall Academy	630	17
	1,147	45	332	London Academy, Barnet	1,199	53
				Mossbourne Community Academy (New School)		
Evelyns Community School	—	—	—			
	541	19	128	Stockley Park Academy	218	9
Lings Upper School	—	—	—	Lambeth Academy (New School)	584	19
Total	745	24	202	Northampton Academy	184	12
	12,168	411	3,231		1,244	15
					15,196	33
						328
						508
						4,184

(1) SEN data is as at January for the last year the predecessor school was open.

(2) SEN data for Academies where data is available.

— Not applicable.

Witness: Lord Adonis, a Member of the House of Lords, Under Secretary of State for Schools, Department for Education and Skills, gave evidence

Q850 Chairman: Can I welcome Lord Adonis to our deliberations. Some people say that when you get to this stage of an inquiry we are getting dangerous because we actually know something about the Bill. **Lord Adonis:** I am sure that will make for a very productive session!

Q851 Chairman: There is no doubt in our mind that our inquiry is timely, and some of us are cautious when anything crops up in the educational field and we hear siren voices calling for an independent inquiry, when some of us believe that select committee inquiries are independent, rigorous and can do the job a lot quicker than many of the independent inquiries that have been ordered in the past. Can I invite you to make an opening statement?

Lord Adonis: Thank you very much, Chairman. I have, as you would expect, been paying close attention to your proceedings on this important inquiry. My department has, I hope, responded to all your requests for information and I have sent you a further letter this week enclosing the report we have just received of the independent audit of low incidence SEN provision and taking up a number of specific issues raised in your evidence session. I thought, however, it might be helpful if I made just three broad opening remarks to set out the Government's approach. First, as minister for special educational needs for 10 months now, I would be the last person to claim that all is well in the system. Almost every day I deal with correspondence from members of the House about difficult individual cases, including complaints about both the quality of provision and the action of local authorities in assessing the needs of individual children. Where serious system-wide concerns have been raised about the proper implementation of LEA legal responsibilities, Ruth Kelly and I have not hesitated to act. On 15 November last year, for example, the head of the department's SEN and disability division wrote to all chief education officers advising them in strong terms of their statutory responsibility to assess each individual case on its individual characteristics and not to apply blanket policies in respect of assessments and criteria for additional support. My second point, however, is to note that there is evidence of improvement in the system and evidence too that this follows from both legislative and policy developments of recent years together with the significant additional investment which the Government has been able to make available. Spending on special educational needs has risen from 2.8 billion to 4.1 billion in the last four years, including an 18% increase in the last two years alone in the resource delegated directly to mainstream schools to meet additional and special educational needs. This has helped to make it possible to take forward the generally well received national SEN strategy *Removing Barriers to Achievement*, which is only two years old, and its central strategies in relation to early identification and intervention, personalising learning for pupils with SEN and delivering improvements in

partnerships between different types of schools and agencies. As many of your witnesses have said, it is not the type of school that matters but the excellence of its provision for the individual child. I would note that, since *Removing Barriers to Achievement*, there have been positive quantifiable signs of improvement. School achievement for the lowest performing pupils is higher, the number of pupils with new statements has fallen by 15%, while the number of appeals to the Special Educational Needs and Disability Tribunal has also fallen markedly by 9%. The proportion of statements written within the required 18 weeks now stands at 92%, up from 82% five years ago, and, contrary to some of the misleading reports on this subject, this has taken place without any national policy of closing or discriminating against special schools. The proportion of pupils in special schools is broadly static over recent years and average funding for special schools has risen by 6.7% in each of the last three years. My third point is to conclude that our policy should be one of sustained, and, I would hope, accelerated, progress in taking forward *Removing Barriers to Achievement* and the *Every Child Matters* agenda. The audit of low incidence special educational needs gives particular emphasis to the need for local reviews of provision, including of multi-agency services. I would add to this the importance of improvements in teacher training, the provision of specialist support to mainstream schools, further education and assistance to students with SEN and their families in making a success of the crucial transition stages: transition between different schools, transition from school to further education and university and transition to work. The FE White Paper next week will have more to say about these last issues. As for fundamental structural reforms, the Government is sceptical that the radical options suggested to you would lead to better outcomes for children. The case for a wholesale replacement of the LEA system and statementing does not appear to us to have been made convincingly, and, indeed, such changes have been robustly criticised by much of your evidence. The experience of Scotland is important to study, but their changes are new and only just being implemented. The task, we believe, is to promote improvement and best practice in the way local authorities promote support for SEN across all their schools and their sensitivity and responsiveness in their handling of individual cases. I have been impressed in this last respect by the work of the best of the parent partnership services and an important issue is how good quality, independent advice and assistance can be provided for parents throughout the statementing process, not least where they are dissatisfied with their LEA. Finally, Chairman, I was told sternly by a former Secretary of State when I took on this job that every discussion of education policy should begin with a recital of the relevant HMI evidence. Ofsted has been critical of the SEN in the past, but I note that in her evidence to you Eileen Visser from HMI said, "If we had a big review at this time", and by that I think she was implying a review

22 March 2006 Lord Adonis

over and above your own review, Chairman, “the danger is that it would diversify work, resources and developments in such a way that it could send us back to the point of the slow progress that we were having prior to 2004 and *Removing Barriers to Achievement*. We know the challenges, we know what works, we know the conditions that make things work and we know what does not work. Ofsted’s view would be: ‘Let us focus on those things and change them.’”

Q852 Chairman: Minister, thank you for that opening statement. That was very useful. There have been some concerns and worries expressed to the Committee that the changes in the new Education and Inspections Bill will impact in a negative way on special educational needs. Do you understand that concern and worry? Can you articulate your views on that?

Lord Adonis: I have seen the concerns expressed, but we do not believe that they are well founded. The responsibilities of local authorities and schools in respect of SEN will be the same before as after—there will be no change in that respect—and we believe actually that a number of the proposals in the White Paper and the Bill taken together will improve provision for students with SEN. The great emphasis which the White Paper gives to personalised learning and very significant investments for schools to personalise learning better will, of course, help students with SEN. The much better provisions for dealing with students who are excluded from schools, including in the Bill a requirement that that provision should be full-time, that there should be provision beyond the fifth day of exclusion in the case of temporary exclusions, as opposed to the current policy, which is 15 days, and the requirement for the integration interviews will, we believe, ensure a much better regime for excluded pupils, who, of course, include a disproportionate number of pupils with special educational needs. The planning role of local authorities, which has been raised, is still central to the commissioning role described in the White Paper and the Bill, and in some ways it is easier for local authorities to carry out that role because they will be the local decision-maker in respect of reorganisation plans, including plans concerning special education provision, whereas at the moment that role lies with the school organisation committee. We do not believe that the proposals will harm SEN, and we believe that a number of the proposals will significantly improve the quality of provision for students with SEN.

Q853 Chairman: How active will you be if you were to see, in some months’ time, that there was still a marked reluctance on the part of many schools to take students with special educational needs? I am talking here of state schools that should be open to a broad range of students and where you, yet again, find that they have very few, if any, SEN pupils being taken in.

Lord Adonis: We will be very active in seeing that they fulfil their statutory responsibilities, Chairman.

Q854 Chairman: How would you do that?

Lord Adonis: In the same way that we do at the moment. If complaints are made to us and they are well founded, we take those up directly with the local authorities. Of course, the prime responsibility for seeing that schools observe their SEN responsibilities lies with the local authorities. It is the local authorities that conduct the statementing process, it is the local authorities that determine support for School Action and School Action Plus; so we would see the prime responsibility continuing to lie with local authorities to see that schools fulfil their obligations, and the powers of local authorities in this regard are as strong after these reforms as before and, in some respects, stronger. The capacity of local authorities to intervene in schools that are weak or failing or giving cause for concern, as the Bill describes it, will be significantly enhanced by the Bill. They will be able to move faster in issuing warning notices and other types of intervention than they have been able to in the past. I would hope that the regime of ensuring that statutory responsibilities are observed will be better after these reforms than it was before.

Q855 Chairman: What is your preferred model? What would you hope to see in terms of the impact of the changes? Do you take on the Sutton Trust’s view that what we really want is to see a local school, a community school, in terms of social mix, including social educational students, reflecting the local population? What is your ambition?

Lord Adonis: I would like to see schools properly reflecting the application to them. Of course, we have different types of schools, and some schools, like faith schools, will not necessarily have an entirely local intake. I do not believe, with the diversity of schools that we have in our system, that you should lay it down as an invariable rule that schools must be reflective of their immediate locality, but, obviously, I would like to see schools which are properly reflective of their application.

Q856 Chairman: Would you be worried if you saw faith schools that just happened to have very few people from that faith with special educational needs in the school?

Lord Adonis: In terms of their statutory responsibilities, of course I would expect them to fulfil them absolutely. In terms of their application, of course, we are at one with Peter Lampl in wanting to see schools that are highly successful and currently have, for example, low proportions of pupils eligible for free schools meals engaging much more systematically in Outreach than they sometimes do at the present time, which is why the proposal for choice advisers, we think, is a well-founded one, because it will promote a wider pool of applicants to such schools. We are working with Peter Lampl on devising a pilot for choice advisers in London at the moment. We hope that that will lead to a broader pattern of applications to some of those more successful schools which have in the past been seen as more exclusive.

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Q857 Chairman: If, as we do, you meet a lot of heads, they say, “There is enormous pressure on my school to achieve, to have high standards, to reach those standards in GSCEs and A levels and so on, there is enormous pressure coming from the Government to achieve in terms of those targets, and, if I take more difficult children to teach, I am obviously going to fall down in terms of what I can achieve with those students.” Is not there a pressure in terms of (and I hate to use this phrase) your direction of travel, that you are all the time squeezing the more difficult to teach children who might have special educational needs?

Lord Adonis: There is not good evidence for that in the system, I would say, Chairman. In fact, if you take, for example, the academies, which I have been closely engaged in, they take more than their share of pupils eligible for free school meals in comparison both with national averages and with the schools that they replaced. If you get the incentive structure right, schools will respond. In my experience of dealing with head teachers, the money does tend to drive the system as well. It is not simply raw results. Everyone knows that if you simply want to get high raw results, you have a selective intake. That does not actually much impress anyone if it is clear that it is only being done on the basis of the intake. In my experience with heads, they do have a very strong sense of duty to their localities in any event, as do their governors, but, over and above that, if the financial incentives are there, they will respond. I am very struck by the development, for example, in the area of your inquiry, of resourced provision for special educational needs attached to mainstream schools. Where these resources are available, in my experience, heads are very keen to see their provision extended and are very keen to embrace those additional resources, and, of course, they fully recognise that a school that performs well will not necessarily be lowering its attainment by taking more pupils from either less privileged backgrounds or those with special educational needs. The figures I gave you in my opening remarks, which I can expand upon, have seen a very significant increase in the delegation of resources from local authorities to schools in respect of special educational needs. There has been a step-change in the course of the last five years. That gives head teachers and their governors big incentives to see that their provision in the school takes full advantage of those resources and an opportunity to acquire more resources where they are making specialised provision which meets the needs of their localities.

Q858 Chairman: You mentioned academies. I was going to bring up academies with you. Some of the evidence that has been given to this Committee might suggest the reverse of what you have said. Some academies have taken fewer students with special educational needs. There is one particular group that has: Bristol and Walsall.

Lord Adonis: If you look at the annex that is attached to the letter that I sent to you, Chairman, you will see that the average figures are very clear. The total number of students with SEN, with and

without statements, is higher in the academies than the schools that they replaced, and the average they have is also a higher percentage than the schools that they replaced. In many academies it is very substantially higher. Of course, I do not come before you to account for each individual school and its policy, I am sure that there are good reasons in those individual ones of why that may have happened, but if you look at the average, which is what should concern us, the average is very clear. The numbers are higher and the proportions are higher.

Q859 Chairman: Minister, if that is the case, why should there be a difference of legal base for entry into academies than for other schools?

Lord Adonis: Because the whole basis for the regulation of academies is different. That is why they are academies. If it was not different, they would simply be maintained schools according to the law at the moment. Their admissions are governed by a funding agreement with the Secretary of State for Education which sets out their admissions criteria. Their funding is agreed by the same funding agreement with the Secretary of State. Their obligations in respect of the curriculum and in respect of special educational needs are governed in the same way. So it is not that they are treated differently

Q860 Chairman: But not legally?

Lord Adonis: They are legally.

Q861 Chairman: Would you take us through the statementing process? If a child is given a statement, as I understand it from evidence that has been given to this Committee, a recommendation that the best educational environment for that child with a statement is an academy, the academy has the right to say, “No”, which no other school has?

Lord Adonis: The academy has the right to say, “No”, and the Secretary of State has the right to direct them to accept that child.

Q862 Chairman: Why should it have to go that far? Why does the academy have the right to say, “No”?

Lord Adonis: Because the legal basis on which they are governed means that they are legally independent schools governed by funding agreements with the Secretary of State.

Q863 Chairman: I am sorry, Minister, why can we not have a different kind of basis on which there is a funding agreement but still have a universal right for a child with special educational needs to go to any school which the statement recommends? Why are they not compatible?

Lord Adonis: You could have, is the answer to your question. Of course you could do that. It would be up to Parliament to decide that it wished to do that.

Q864 Chairman: Come on, Minister, it is up to the Government. We are expressing a concern. Your job as a minister is not to say that it is Parliament. You know, in the way the British system works, that if the

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Government is persuaded by something that we say here and that we produce in a report it is for the Government to take that on board and change it?

Lord Adonis: You are absolutely right, Chairman, but my answer to that is that the Government is not persuaded that we should propose that change because we do not see there being a legitimate concern in this area. In fact, if you look at what happens for SEN admissions to academies, academies take more than the numbers that were applying to the schools that they replaced. We have no evidence that academies are failing to respond properly to applications in respect of special educational needs. On the contrary, the evidence that we have is that they take their responsibilities in respect of SEN very seriously indeed. A number of them have special units attached with regard to SEN and they all, so far as we can see, do take those responsibilities seriously. There is a power for the Secretary of State to direct in any event. If an academy sought not to admit a child with special educational needs or allow them to be named in a statement, the department has that power in any event. In terms of the practical impact of the policy, we think that it is delivered at the moment anyway. The point about why we do not want to propose a legislative change is quite simple. If we propose a legislative change in this area, you can make exactly the same argument for all of the other areas governing academies. You can make the same argument in terms of their funding and that could then go through the local authorities; you could make the same argument in respect of the curriculum; you could make the same argument in respect of admissions. We have decided, following the 2002 Act, which Parliament agreed, that academies should be legally governed on a different basis. That is not to say that we do not expect them in respect of SEN to absolutely fulfil their duties, which we take to be the same as other state schools.

Q865 Chairman: Minister, we hear what you say, but many of us would argue that when that legislation went through not many people understood that your human rights as a parent and as a child might be taken away by that decision, which is being argued by some leading lawyers, as you know, at the moment—that your human rights are diminished by that change—and also many of us did not understand, in terms of special educational needs, that you were going to take away that right. There is a great difference between someone having a right, a parent and a child having a right, if they get a statement, to go to that school. If the Secretary of State on a high could intervene if she or he thinks there has been an injustice, that is different from having a right, is it not?

Lord Adonis: We could go on about this for some time.

Q866 Chairman: It is very important, Minister. We will go on as long as this Committee feels it is of interest.

Lord Adonis: There is not, of course, a right now for parents to name the school that they wish their child to attend. There was a right for them to make representations but it is then the local authority who decides whether a school is named. The parents have exactly the same rights in respect of authorities. Where a local authority proposes to name an academy, we expect the academy to accept that, unless there is some compelling argument to contrary. In that case, they would need to make representations to the department. We have not been upholding those representations, where they have taken place. Similarly, where a case goes to SENDIST (the tribunal) and the point at issue is whether the academy should be the school, which, of course, in that case would be because the local authority agrees with the academy that it should not be named (so it is in the same position in respect of any other state school), we have made it clear that we would expect academies to abide by the decisions of SENDIST. They do have a right of representation to the Secretary of State, but, as I made clear in my letter, there has not been a single case where the Secretary of State has not upheld the decision of a tribunal and required admission to the academy. Indeed, I think there have only been a tiny number of cases where an academy itself has not automatically accepted that in any event. As I said in my letter to you, we cannot conceive of circumstances where the Secretary of State would not require an academy to observe a decision by SENDIST. I was not in any way being dismissive of the concerns. I understand the concerns completely. The point I was seeking to make is that, if you look at the application of the current regime in respect of academies, we believe it fully implements the obligations that academies have in respect of special educational needs and they more than fulfil their duties in comparison with other state schools.

Q867 Chairman: We started this inquiry for two reasons: we have been away from it for a long time—there had not been an inquiry into special education under my chairmanship—and, of course, there was a change of mind on the part of Baroness Warnock. What do you think of Baroness Warnock's change of mind and the pamphlet and the statement she made?

Lord Adonis: Baroness Warnock and I, of course, are colleagues and I have long discussions with her about these issues. As she knows, I do not accept her view that inclusion has been a failure. I believe that if you look at the policy over the last 20 years, it has very significantly improved outcomes for children with special educational needs taken as a whole. I think that there was some factual confusion in some of the evidence that she gave to you too, which I think you have probably elucidated in respect of the proportions of pupils who have statements and the proportions who have special educational needs. In fact the proportion with statements has remained roughly constant. It has not risen significantly. Her report estimated that there would be 2% with statements and about 20% overall with special educational needs. In fact, that is pretty well where

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we have come out. We have just over 2% with statements at the moment and we have 17% with recognised special educational needs. We do not accept that there is a crisis of the kind that Baroness Warnock described. However, I do respect a number of the individual views that she holds about aspects of education policy. As she said to you when she gave evidence, she is a key proponent of smaller schools. That to my mind is a very respectable view. I think there may be a case for more smaller-scale schools and they may, of course, be particularly appropriate for some people with special educational needs. She was very supportive of our policies to seek to bring together special schools and mainstream schools in terms of their interaction, she is keen on our policy of allowing special schools to get specialist status, which we are seeking to advance significantly in the White Paper, and she is keen also on policies that bring special schools and mainstream schools in closer proximity, which through *Building Schools for the Future* will be more possible as there is a complete rebuilding of school estates. A number of the individual points she makes, I think, are important contributions to the debate, but we do not accept that a move towards mainstream schools, which deal fundamentally better with pupils with special educational needs, has been a failed policy.

Chairman: Thank you for those opening answers, Lord Adonis. Let us go on to looking at the other aspects of the Government strategy. Rob Wilson is going to lead us in this section.

Q868 Mr Wilson: Minister, I think we have already found a strong area of agreement, and that is where you say that SEN is not working well. We have certainly taken a lot of evidence for that. One of the areas where the groups have identified a problem is a lack of strategic direction. It would be really helpful this morning if you could tell us what the Government is really trying to achieve and what strategic direction it is setting for special educational needs and talk about the big picture and how you see it developing?

Lord Adonis: I should be clear, Chairman, that I did not say it was not working well, I said it was not always working well, and, of course, there is a significant difference between those.

Q869 Mr Wilson: It is splitting hairs.

Lord Adonis: It is not splitting hairs at all. There is a big difference between there being difficulties and problems in the system and the whole system not working well, which is where I think you were seeking to lead me. In terms of our big strategic direction, it is very clear. It is to maximise the outcomes, to improve the outcomes, so far as possible, for all pupils in the education system, and that means, in respect of pupils with special educational needs, that all of those interventions that can help them achieve better in terms of the curriculum, in terms of the type of school that they attend, in terms of the expectations that are set for them, in terms of any additional educational provision that is appropriate to any learning

difficulties that they may experience are provided for. That is what now we call, in the jargon, "personalisation". Having a much more personalised education system that much better meets the needs of individual pupils is our overriding goal for the whole system, and it applies with equal force in respect of pupils with special educational needs, who often need an even stronger focus on their personal difficulties and barriers to being able to participate effectively in learning than other students. The one thing that is clear to me is that, in order to have this much more personalised system, it needs to have very serious investment. It has only been possible, in my view, to make the improvements that we have made in the education system over the last eight years, including very substantial improvements in respect of pupils with SEN, because there has been this significant additional investment. All of the areas about which people come to me as a Minister which they think are not working well almost invariably have resource implications—not all the time but they almost invariably do—and, of course, as you know, in the most fraught area of SEN provision, which is disputes over the content of statements and the naming of particular schools, these usually bear very significant resource costs to them in terms of the decisions that are made. Our view, in terms of the big picture you have invited me to comment on, is that we need to provide for pupils reaching their maximum potential by much greater personalisation and provision for them and that we need to align resources to that, accepting that over time that will mean significant additional resources, as we have put in over the last eight years.

Q870 Mr Wilson: Do you accept that there is a huge gap between that strategy that you have laid out there and the realities of what parents, pupils, teachers and local authorities are experiencing on the ground?

Lord Adonis: Not as a general rule, no. As a general rule, I think, the evidence is that parents are satisfied with their provision. That is certainly the evidence we have had as a department. It is also the evidence that we have in particular areas of special educational needs too. As I say, the actual number of appeals to the Tribunal is declining, the number of requests for assessment is declining too, but that is not to say that there are not significant issues in respect of individual pupils and the regime which applies with their local authority, which there clearly are in individual cases. Nor is it to say that there is not a need for much greater inter-agency working and provision of better specialist support services, which in many areas there clearly is, and that is highlighted in the audit of special educational needs which we published yesterday.

Q871 Mr Wilson: You would not recognise the criticism that we have heard that the strategy that you have talked about this morning lacks drive, lacks commitment and that really there is a lack of clarity in that strategic vision?

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Lord Adonis: I do not think I would agree that it lacks drive and commitment. It has had massive commitment from my department. It has had huge commitment in terms of resources. I referred earlier to the 1.4 billion extra resources that we have devoted to it in the last few years. We have significantly upgraded our own capacity as a department, to use your term, to drive through change. We have a network of SEN regional advisers who now play a very important role in liaising with local authorities and seeking to promote best practice; we have a very substantial programme of work that we are doing to see that the objectives of *Removing Barriers to Achievement* are met; so I certainly would not accept that there is a lack of drive. However, if you are saying to me is there more that can be done, there is always more that can be done, and we are very mindful of that and will take very careful account of your own recommendations when we come to look at the next phase of our policy.

Q872 Mr Wilson: Are you clear on what the role of local education authorities is within SEN and, more importantly, are they clear on what their role is?

Lord Adonis: I am sure that good authorities are. Their role is very clearly set out in the 1996 Education Act and in the 2001 Code of Practice. It could not be clearer in terms of their responsibilities in respect of special educational needs at large and their duties in respect of individual pupils who may require assessments and the provision that should be made in accordance with those assessments. This is very clearly set out. Where we think that there has been any lack of clarity on the part of LEAs, we have made that very clear to them. You have seen the letter of 15 November last year, have you, which I think I did supply, Chairman, to the Committee. That sets out very clearly the duties of local authorities in respect of areas that had been in some dispute in the recent past. To give one example that we have been very concerned about, local authorities applying blanket policies for not seeking to assess individual pupils irrespective of individual needs. We have made it very clear that is not acceptable. Indeed, my department has just written to Buckinghamshire local authority making it clear that attempts to try to set up blanket policies of that kind would, in our view, be illegal if they sought to implement those policies. I do not see us as being in any way falling short of our responsibilities in this regard, but it is the local authorities that have the prime responsibility.

Q873 Mr Wilson: Do you see those responsibilities changing in the light of the Education and Inspections Bill?

Lord Adonis: No.

Q874 Mr Wilson: You see no changes whatsoever?

Lord Adonis: I did not say "none whatsoever". I do not see that the principal responsibilities in respect of SEN set out in the 1996 Act and the 2001 Code of Practice will remain as they are set out there.

Q875 Mr Wilson: And trust schools will not connect up with foundation schools. It will not affect that in any way?

Lord Adonis: Trust schools and foundations schools will have the same responsibilities in respect of SEN that the foundation schools do now. Foundation schools will not change their category at all, and trust schools, in terms of their legal category and their responsibilities, are exactly the same as foundation schools. They have the same responsibilities to provide for SEN, they have the same responsibilities to accept pupils who are named in statements and local authorities have the same powers and duties in respect of those schools, including powers and duties in cases of re-organisation.

Q876 Chairman: How does that compare with community schools?

Lord Adonis: The powers and duties in respect of SEN are broadly the same, of course, in the two. The duty, for example, to be named and to make that the first criteria for admissions is precisely the same in the two categories of schools. The difference, of course, is mainly in respect of the ownership of assets, the direct employment of staff and the capacity outwith their duties in respect of SEN to propose changes to their admissions, which are, as we are now saying in the Bill, in accordance with the Code of Practice.

Q877 Mr Wilson: As part of your admissions, how do you see the long-term developments taking place between the mainstream and special schools and the balance between two and the number of pupils attending? You talked earlier about it being fairly static over recent years, but which way does the Government want to drive it?

Lord Adonis: The Government's view is that this should be determined by local need, local parental preferences and decisions that local authorities take in partnership with their schools and parents at local level. That has led, over recent years, as you say, to a roughly static position in respect of special schools. We would be content to see that position continue, but this is a matter for local decision-making, it is not a matter for national dictation.

Q878 Mr Wilson: So essentially you have no preference either way?

Lord Adonis: No, we do. Our preference is that the needs of individual pupils are met. If local authorities are taking decisions in respect of the closure of special schools that have manifest and negative consequences for pupils with SEN, of course we would be very concerned. We do expect the decisions that they take to be in the best interests of their pupils with special educational needs, but, in my experience, and members of the Committee will have experience in their own constituencies of what is happening, almost all of the changes I see in respect of the special school estates are geared to improving provision for pupils with special educational needs. There has been a big increase in co-location of schools, through *Building Schools for*

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the Future the opportunities to redesign the special school estate are huge and very welcome, because, of course, many special schools are in very outdated and old buildings with very unsuitable accommodation for their own pupils. Of course, there has also been a significant development of resource provision inside or attached to mainstream schools. Again, we believe that where that best meets the needs of local parents and pupils, that is a thoroughly worthwhile development. However, we think that these issues should be determined locally. What has been highlighted in work over recent years and is brought out again in the audit of special educational needs is the importance for good co-ordination between local authorities: because many local authorities, since so many went unitary, are very small and special school provision often needs to be developed with a larger geographical area in mind. The audit, which we published yesterday, has a large number of good case studies of that taking place. It particularly highlights, repeatedly throughout, the pan Dorset study. I have looked closely at what is happening in Dorset and there is indeed a very close collaborative relationship between Dorset County Council and Bournemouth and Poole, which are unitary authorities, in the whole planning, not only of their special school estate, which is important, but also in training for teachers. They have combined training for teachers in ASD and planning of ASD provision, which is joint between them, and they have set in place mechanisms for taking planning forward between them in the future. I think the department can play a useful role in facilitating that kind of co-ordinated activity on the part of local authorities, which is the reason why we have the regional partnerships, the reason why we have our SEN regional advisers who work closely with the local authorities, and, for example, they report back to me. They have regular reports on what is happening in individual local authorities, which I see and which they then use to promote best practice in other authorities in which they work.

Q879 Mr Wilson: Do you see it developing into a regional structure in terms of SEN and how it develops?

Lord Adonis: I think the responsibilities should remain with the local authorities—they are the elected and accountable bodies—but in planning aspects of special educational needs, particular provisions for pupils with severe learning difficulties, it clearly makes sense to get efficient and good quality provision, for there to be proper co-ordination between authorities, and that clearly applies particularly with smaller authorities who should sensibly be planning their provision in partnership with other authorities in their area.

Q880 Mr Wilson: We have had a lot of reports in the last year or so: Baroness Warnock, the Conservative Party's Commission, Scottish changes have all identified a number of faults in the system. Taking that into account, why have you ruled out a major review?

Lord Adonis: We have not seen any evidence that would lead us to a fundamental change. The sorts of fundamental changes that are talked about are replacing statements or replacing local authorities. There are some people who would like to have the whole of the statementing and assessment process done nationally. It has never, in my experience, been made completely clear what it is that people who do not like local authorities do want, whether it is a regional structure, a national structure, how it is actually going to work, but we do monitor very closely the representations that are made. I have read all the evidence given to your Committee, and my senior officials have been in Scotland recently looking in detail at what has been happening there. I would not want you to think that we are in any way complacent about the wider debate about change, we take it immensely seriously, but I think we, like you, would need to be convinced that fundamental structural reforms are what is needed to deliver the qualitative improvements in outcomes for people with special educational needs that we all seek.

Q881 Mr Wilson: If you do not believe that a major review is required, why are you holding these private ministerial seminars on SEN and why is the Treasury undertaking a root and branch review of funding for children who have more complex needs?

Lord Adonis: That may sound like a slightly loaded question. I hold private Ministerial seminars the whole time. It is what you would expect me to do as a Minister. They just happen to be meetings. I meet with SEN regional advisers; I meet with the Special Educational Consortium. It is my duty as a minister to meet with all of the stakeholders in the system.

Q882 Mr Wilson: There must be something wrong if you are holding seminars?

Lord Adonis: Frankly, I see it as my duty constantly to meet people in the sector, to hear their representations and to discuss with them the state of provision.

Mr Wilson: Do you have seminars about things that are doing particularly well?

Q883 Chairman: Let the Minister finish.

Lord Adonis: I am very happy to answer that. I often have seminars on things that are working well because, in my experience of government, one of the best things government can do is to look at things that are working well and seek to spread them more widely across the system; so I pay just as much attention to success as to failure.

Q884 Mr Wilson: So it is not part of a broader rethink?

Lord Adonis: No.

Q885 Mr Marsden: Minister, in your opening statement you picked out as particular key issues in this area further education in specifics and what you call “transition periods” in particular. The Adult Learning Inspectorate, you will be aware, has produced a report which has been sharply critical of the provision for learners in FE. You mentioned

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again that initiatives would be coming forward in the FE White Paper and those will be very welcome. Can I ask you about a particular area, and that is the issue of autism spectrum. The Committee had sight on Monday of an excellent DVD about the work of a National Autistic Society school, the Robert Ogden School in South Yorkshire. One of the things that struck me about that (and, indeed, I have had it anecdotally in my own advice surgeries) is the particular challenge facing boys with autism, and particularly Asperger's syndrome, at both ends of the spectrum: those who have severe learning difficulties but also those who are quite gifted. I wonder if you could expand on how, in particular, your strategy or anything that may or may not be said in the White Paper will address those particular issues?

Lord Adonis: What I am very struck by looking at institutional arrangements in this area is that often it is not the institutional structure that is the issue, it is getting the right professional support to interact with it. If you look at pupils coming up to the point of transition, there is a requirement, if they have a statement, that there should be a transition review plan for them agreed in year nine, that that should be annually assessed, it should involve the Connexions Service, that there should be adequate provision in respect of further education, ditto inside the FE sector itself, and, of course, these are all intended to be multi-agency as well. These review meetings are intended to be multi-agency; they are intended to bring to the school, to meet with the pupil and their parents, all of the professionals who can input into the best decisions for those pupils. The issue, of course, is having suitably trained staff, professional staff and staff in the schools, who can make those judgments and recommend the right provision. In respect of autism, that is a continuing issue. We are seeing that teachers are sufficiently trained in the range of autistic spectrum disorders to be able to offer good quality advice and the local specialist support services are available too. The Little Report, which I think is the report you are referring to in respect of FE, makes a number of particular suggestions about the need for the FE sector to invest in provision for pupils with learning difficulties in colleges and to give this work a higher profile. The Learning and Skills Council has accepted that report. It is now working with local Learning and Skills Councils to see that they all have a proper investment strategy to upgrade their provision and we will be taking forward further work in the White Paper next week.

Q886 Mr Marsden: You mentioned specifically Connexions. As you know, the proposals in the Youth Green Paper and things around it will transfer responsibilities for much of that work to local authorities. Are you confident, in terms of the evidence that you have seen, that the multi-agency work which you describe in principle is actually working effectively (and I am thinking particularly of the links between local authorities and between FE colleges and practice), because the evidence that I have seen is that it is highly variable?

Lord Adonis: I think I would accept that it is highly variable. I would completely accept that. There are two dimensions to this, are there not? There is, firstly, the need for better co-ordination between public support services, which is precisely why we have created both Children's Services Directorates, bringing together children's social services and education, and also children's trusts. One of the Pathfinder children's trust's prime functions is to see that services are properly co-ordinated, including with the NHS, which is one of the main providers of specialist services in this area. The other area, of course, is proper co-ordination between schools and colleges. I think there is, of course, partly, an issue to do with specialist training of teachers in both sides, having SENCOs and other support staff in the schools who are well trained in their special needs responsibilities and who know how to access all services outside the school effectively. That is an important issue, I accept, but there is also clearly an issue about effective co-ordination between schools and colleges. There we believe that the 14–19 agenda and a promotion of much stronger collaboration between schools and colleges, which will come from a much stronger sense of shared interest because of curriculum design and progression which is common between them, will benefit all pupils and I believe will benefit pupils with special educational needs as well, a higher proportion of whom, of course, are likely to proceed to further education rather than to stay in school sixth forms and study traditional A-level programmes.

Q887 Mr Marsden: Do you feel that the new emphasis on vocational qualifications in the 14–19 strategy poses particular challenges for SEN provision in FE?

Lord Adonis: I would genuinely say, in this case, it provides opportunities. Of course a high proportion of pupils with special educational needs are at the lower performing end of the spectrum and are those who the education system, let us be frank, has traditionally failed, who have got to 16 not getting decent qualifications and not getting effective progression routes. It is part of this wider failure that we have had to develop high quality vocational education. If we can get the 14–19 system working well and, for example, looking at best practices being developed in Knowsley, where George Sweeney has been a pathfinder in the development of really strong links between schools and colleges to promote progression, including vocational programmes for 14–16-year-olds which actually take place in the college for a day or two a week, if we can get those sorts of programmes right and embedded and nationally available, I believe, as we must all hope, that this will lead to a step-change in opportunities for people who are less able.

Q888 Mr Marsden: I endorse all of those points and initiatives, and the Knowsley reference, in fact, was touched on by my colleague, the Member of Parliament there, in the schools inspection debate,

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but can I ask finally what mechanism you are going to have to monitor this sort of co-operation and collaboration so that good practice actually works?

Lord Adonis: We are piloting the introduction of the diplomas; so that will give us good evidence of how the relationship between schools and colleges is developing in the areas of the pilots, and we will learn from that as we seek to roll out the specialised diplomas nationally. We have, of course, Ofsted, and we will expect it to pay particular attention to the development of this new area of provision. Ofsted, in my experience, is never slow in coming forward and telling us when it believes there are problems in this area. The other thing I would say is that we also have a lot of money here, and, in my experience of education reform, you can accomplish a huge amount where you have a resource to put behind it, and we have made it clear that we are prepared to put a significant resource behind the development of 14–19 pathways. When I look at Knowsley and other places that have engaged that, it was the pilot funding that was available for new forms of 14–19 collaboration that drove it. I was very struck in Knowsley, when I visited there recently, that part of the reason why the schools were so collaborative with the college is that they did not have to pay much for the additional provision: they were getting a significant additional element to their curriculum which enlarged opportunities for their pupils without sacrificing large parts of their budget. As always in this game, getting the funding incentives right will be absolutely crucial to promoting effective collaboration and seeing that we get the outcomes that we want.

Q889 Mr Carswell: I do not mean this question disrespectfully, but personally are you comfortable with the fact that you, who are not elected and democratically accountable at the centre, should have so much power to decide what is right for other people's children out there?

Lord Adonis: I believe that I am being very accountable this morning, Chairman. I do my best to be as accountable as I possibly can.

Q890 Mr Carswell: For one hour a year?

Lord Adonis: Actually I behave as a Minister in exactly the same way, apart from the fact I do not actually stand up on the floor of the House of Commons, for obvious reasons.

Q891 Mr Carswell: Or stand for election?

Lord Adonis: Or stand for election, but I fulfil exactly the same Ministerial responsibilities as others do, and I can assure you in these particular areas the House of Lords also takes a very keen interest. I have spent many hours debating special educational needs and provision for disadvantaged pupils in the Lords and there are many people there who have very keen front-line experience, including Baroness Warnock. I think at the last count we have six former secretaries of state there, who are never slow to give me the benefit of their experience. I fully accept I am not elected, and it is a matter for the

Prime Minister to decide who he makes his Ministers, but I do hope that I fulfil my responsibilities as you have just mentioned.

Chairman: There is a long tradition in all parties for education ministers to be from the House of Lords. We are moving on now. Roberta, could you lead us through Future Strategy: planning provision, a national framework with local flexibility?

Q892 Dr Blackman-Woods: Minister, you will know that the Audit Commission and Ofsted have found unacceptable variations in SEN in different parts of the country, not only in terms of pupils being placed in special schools but pupils with very similar needs having different levels of support depending on where they live. My question is: do you find that acceptable, why do we still have these unacceptable variations and what is your department proposing to do about it?

Lord Adonis: Ofsted and the Audit Commission have not said that it is unacceptable to have variations in the proportions going to special schools, though we have sought to promote best practice in that regard. I know there has been a lot of evidence given to your Committee about whether it is a good thing or a bad thing for local authorities to have special schools. A lot of evidence has been presented that there are some authorities which have small proportions going to special schools, for example, in terms of the inspection evidence and other objective judgments like numbers of appeals and so on, which seem to perform well in respect of pupils with special educational needs; so I do not regard variations in those areas as being a matter of unacceptable practice, though it is important that authorities learn from each other and that they co-ordinate properly. Part of the problem, as I have gone in detail through figures in respect of special schools and independent special schools, of course, particularly when you are dealing with smaller authorities, is that the statistics tend to record where pupils are placed in school, not necessarily the pattern of provision for pupils within the authority. In terms though of outcomes for pupils, we have always made it clear that we regard wide variations in outcomes as not acceptable and that we expect authorities which are performing poorly in terms of outcomes for their pupils to pay very close attention to best practice elsewhere to see how they can improve; and that is precisely, in respect of SEN, the role that our regional advisers play, to work with local authorities which are performing poorly to see that they do raise their game. Of course, local authorities also have to account to Ofsted in that regard too. Ofsted inspects special educational provision as part of its wider inspections and Ofsted can and does criticise authorities when its special education provision is not up to scratch and they are expected to take action accordingly.

Q893 Dr Blackman-Woods: You have addressed outcomes, but not the different levels of support that students with very similar needs might get in

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different areas. What is your department doing about that? Do you see that there is a role for you in helping local authorities to be more strategic?

Lord Adonis: We do publish a lot of benchmark data now (indeed, some has been provided to the Committee, and I can provide more) on budgets on special educational needs, levels of delegation, levels of delegation in respect of School Action, School Action Plus, the quality of individual professional support services and so on. We are not slow in providing benchmarking data, and, of course, all that data is available to our regional advisers as they interact with local authorities too, but ultimately these decisions are a matter for elected local authorities and, if they can demonstrate that they are achieving good results with different patterns of provision, that is a matter for them in being accountable to their own electors.

Q894 Dr Blackman-Woods: I will come back to that in a minute. Do you have a view about what the long-term balance should be between special schools and students being placed in mainstream schools? Have you got an idea about whether the number of special school places should be reducing, whether it should be increasing, whether we should be moving to more placements in the mainstream?

Lord Adonis: Mr Wilson asked me exactly the same question.

Q895 Dr Blackman-Woods: I just want to get some clarity, if it is possible.

Lord Adonis: What matters to us is that local authorities are providing properly for the needs of their pupils. We do not have a view about a set proportion of pupils who should be in special schools, but we note that in fact the proportion has remained roughly static in recent years. If that is the view that local authorities take in fulfilling their statutory responsibilities, we are absolutely content with that. We have no policy whatever, I should stress, of encouraging local authorities to close special schools or withdraw resource provision where they do not believe that is in the best interests of their localities.

Q896 Dr Blackman-Woods: Can you explain why you think it should just be a role for local authorities: because there is a real danger, if you do that, that you do not tackle the variation in different types and levels of support? Can you deal with that, first of all, and then I will come on to the next point?

Lord Adonis: That is why it is so important, Chairman, of course to promote best practice. It is why it is so important that we have the advisers, we have Ofsted, and we have a large number of monitoring and support services which seek to ensure that local authorities learn from the best in all areas of provision so that the gaps and variations that you have identified do not continue where they are leading to poor outcomes for children.

Q897 Dr Blackman-Woods: So what are you actually going to do if you think that a local authority is not delivering for its pupils with special educational needs?

Lord Adonis: Our regional advisers have what I think are best described as "very full and frank" conversations with chief education officers and their SEN teams where they believe that the provision is not satisfactory. If a local authority is not in fulfilment of its statutory duties then of course we have powers to direct, and that is another matter, but a lot of the issues we are talking about are not the fulfilment of statutory duties, they are of course the development of best practice and services. The audit of low incidence special educational needs, which we published yesterday, is another big contribution to that. If you read the report you will see that a good half of it is actually spent highlighting best practices in individual authorities reviewing the evidence of what works. There are a lot of appendices at the back on provision for particular areas of special educational needs and literature reviews on what sorts of interventions and approaches work best. We would expect chief education officers and directors of children's services and their SEN teams to take full account of all of that work and benchmark data as they draw up their policies.

Q898 Dr Blackman-Woods: There is a significant amount of pressure growing to have some basic minimum entitlement that is available right across the country, provision mapping; what is your view on that so that parents' expectations in a sense can be managed because they know what the minimum should be?

Lord Adonis: We do not specify from the centre. Obviously any authority has to have a sufficient service in each area to meet their responsibilities. We do not specify precisely what that should be. We do not, for example, specify how many special schools a local authority should have. We do not believe that that is appropriate. We do believe though that they must have provision which is adequate to meet their duties.

Q899 Dr Blackman-Woods: I think what I am struggling with is why are you not taking from the centre a more strategic look right across the country so there is at least a basic entitlement there for all parents? It is something that you feel quite comfortable doing in terms of the National Curriculum for all other schools. Why is there this resistance to saying that perhaps we should be giving a bit more direction about what is available for SEN?

Lord Adonis: We do not believe that we are not being very forthright in making clear what we do regard as acceptable and unacceptable practices on the one hand and what is best practice. We do seek to promote that very strongly. As I say, we have significantly enhanced the Department's resource for advising on best practice in recent years with the regional advisers and the networks they are able to put in place. I do not accept that we have not fulfilled our responsibilities there. We have also of course just

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published the audit on low incidence special educational needs and that has a great deal to say about variations in patterns of provision and factors of which local authorities should take account. The point which I think you are seeking to get to is should we actually specify in particular areas and define I assume you mean, in some quantifiable way what is the absolute minimum?

Q900 Dr Blackman-Woods: Yes.

Lord Adonis: We have not seen that as our duty. We do not believe there are areas at the moment where that would be a desirable thing to do, but if your Committee were to make recommendations in this area we would study them with great care.

Q901 Dr Blackman-Woods: Can we conclude from what you are saying that you would look at a national framework for minimum standards or you would not?

Lord Adonis: We would look very carefully at anything you recommended to us in this area or other areas.

Q902 Chairman: So you are not worried that Newham does not have any special schools?

Lord Adonis: Newham in fact does. I have been into this exhaustively since reading your evidence. Newham has two special schools. Do you want me to give you all the detail?

Q903 Chairman: No, the evidence we were given said they had none, so it is very refreshing to hear that.

Lord Adonis: Newham has two special schools, one of which is the very attractively named John F Kennedy School. Newham also has—and this is very interesting and this is why it is so difficult to specify this minimum (and I regard it as my duty always to try in so far as one can to ascertain the facts)—a very high level of resource provision attached to its mainstream schools. It has a large number of units and other types of resourced provision attached to the schools. So it is not the case that Newham does not make substantial provision for pupils with low incidence special educational needs; it does. It has two special schools and it has a lot of resourced provision. What it does not have is a more, if you like to call it, traditional pattern of larger numbers of special schools. It has moved to having a pattern of having a larger number of units or resourced provision attached to mainstream schools. I think this is a very helpful set of exchanges here. If we were to try and set minima we would have to grapple with all those issues. I do not think it would be appropriate for instance to set a minima on special schools. The minimum would have to be related to the actual quality of provision across the system, whether it be in mainstream schools, in units or in special schools, or indeed in central support units as well.

Chairman: Roger is a great champion of localism so I am going to give him a quick supplementary.

Q904 Mr Carswell: You said earlier that it is not really central government, despite the 2001 Act, that can be blamed for closure of local schools. However, let us talk specifics here, in Essex the Leas School was shut down and the Schools Adjudicator specifically said that “closure was in line with Government policy”. Were they wrong?

Lord Adonis: I do not know that specific example.

Q905 Mr Carswell: But you are meant to be accountable so could you find out and let me know?

Lord Adonis: I certainly will and I will come back to you on it.¹ I assume that “in line with Government policy” means in respect of whether it is going to achieve outcomes which will promote the interests of pupils with special educational needs. It is certainly not in line with any policy the Department has of requiring the closure or promoting the closure of special schools.

Q906 Helen Jones: I am struggling, like Roberta, with what regional advisers can do with local authorities when we do not have set minimum standards for entitlement for children. If I were a parent of a child with special needs I would not want your regional adviser to have a robust conversation with the local authority. I would want to know that my child could get the same standard of provision, where it is delivered is not the issue, as a child on the other side of the country. Why do you think we have not got that sort of standard? If we are talking about equity in provision should the provision a child gets be dependent on where they live?

Lord Adonis: No, it should not be. There should be a right to a provision that meets their needs wherever they are. There is no disagreement at all about the objective. The issue is how far we from the centre should be in the business of precisely regulating local authorities’ duties to ensure that provision is available, and that is the issue we have to grapple with.

Q907 Helen Jones: Indeed but government does that in other things. The Government sets down Literacy Hour for primary schools. It sets down regulations about how we teach numeracy. It sets down all sorts of things. What do you think is the problem with setting down minimum levels of entitlement for children with special needs?

Lord Adonis: We do set down a lot of requirements. We set down a whole set of requirements in respect of how the statementing process is conducted, and the time lines that local authorities are expected to observe. As I said, we write to local authorities very clearly setting out the parameters from within which they are expected to act. The position that we take in respect of special educational needs is broadly similar to the position we take in other areas which is that we set a framework within which local action takes place. There is a perfectly legitimate debate to be had about whether that framework should be a tighter framework and whether we should specify more from the centre than we do at the moment. I

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completely understand that argument and looking at previous evidence in the Committee I know that in some areas there will be views that would be a worthwhile activity, but it is not a case of us standing back and simply allowing local authorities to get on with it. At the moment we do both set a framework and provide a lot of data and interventions to encourage all local authorities to learn from the best.

Q908 Helen Jones: Encouragement in learning is one thing and minimum standards is something different. What we have at the moment is not minimum standards of provision. The Government sets standards about the process not about the provision. All the evidence is that the provision that children get varies widely in different parts of the country. If personalisation is so important—and I think most of the Committee believe that it is very important—does that not also have to be accompanied by equity? Do you believe that the variations in provision we have currently for children with special needs are unacceptable? And if so what do you want to do about it?

Lord Adonis: I would like to see lesser variations. Indeed, in many key areas outcomes have been improving in poorer authorities and all the work that we do to support schools and local authorities is geared to that end. However of course, it is not simply in respect of special educational needs that there are variations; there are variations in outcomes of schools across a whole set of measures which we would like to see narrowed in all those respects. The issue is the most appropriate intervention to get to that goal. If we believe that setting minimum standards in particular areas of provision would achieve that goal we would look at it very seriously but, as I say, our view at the moment is that that will get us engaged in very difficult processes of judgment where local decision makers are often best placed to make those judgments.

Q909 Helen Jones: Can we look at some of the difficulties that you might encounter because I think that might be useful. The problem is that when you talk about local authorities, local authorities have the responsibility for many of these things but schools actually have the money. What do you do about ensuring that schools have the ability to deliver inclusive education for children, particularly in view of the fact that there are difficulties in making sure that staff are adequately trained, and all that is decided at school level? Should there be minimum training standards and minimum standards of continuing professional development?

Lord Adonis: There are a number of questions in there. So far as the capacity of schools to provide better resources for pupils with special educational needs is concerned, of course they need to have the cash resources to be able to do that in the first place. We have provided, as you know, a very significant increase in the cash resources. Indeed, the latest Section 52 returns, the reports that the schools make to the Department, show that in the last two years there has been a £290 million improvement in the delegation of resources from local authorities to

schools in respect of School Action and School Action Plus, which means that schools have a significantly additional resource—

Q910 Helen Jones: Exactly, that is what I am saying. **Lord Adonis:** That is welcome and we want to see that process continuing. In respect of teaching standards, you took evidence from Ralph Tabberer and I know that you pressed him quite hard on this issue. The TDA is reviewing teaching standards. We are also conducting a review of the standards in respect of SENCOs, which were last updated in 1998 before the 2001 Act and the Code of Practice and *Removing Barriers to Achievement*. We do believe that there need to be proper professional standards in respect of training in the understanding of special educational needs, and we are looking at how we can improve those.

Q911 Helen Jones: So do you want to set minimum training standards for SENCOs? Should they, as many other people have to do in different professions, have to undertake a minimum number of CPD hours in a year?

Lord Adonis: The Code of Practice sets out the duties of SENCOs and their requirement to see that they are properly conversant with all of the material that they need to fulfil those duties. In terms of training and requirements on SENCOs, that is something that we are looking at as part of the review of the professional standards at the moment.

Q912 Helen Jones: Will that apply to all schools then, including those schools like academies and trusts, if you look at minimum standards of provision?

Lord Adonis: In terms of trust schools, yes, is the answer to that question. Academies, for example, under their funding agreements can only employ teachers who have qualified teacher status.

Q913 Helen Jones: Yes, but that was not quite what I asked. If you set minimum standards for training for SENCOs and minimum standards for CPD, will that apply across the board to academies?

Lord Adonis: It will apply in respect of trust schools. Those requirements will be the same because they are the same in respect of trust schools as other schools. The detail of the requirements that we apply to academies in this area I am not clear about. I am happy to come back to you on that. In practice I have not yet visited an academy that does not have an equivalent of a SENCO and does not take their responsibilities in this area very seriously.

Q914 Chairman: Are you worried when SENCOs start to be appointed who are not even teachers and they are just non-graduate administrative people (or maybe graduates), but essentially the downgrading of the SENCO?

Lord Adonis: I think it would need to be a highly exceptional case where a school felt it appropriate not to appoint a qualified teacher to be a SENCO is my answer to that question, but one can envisage cases where it might be appropriate. For instance, it

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could well be that it is appropriate for somebody who comes from the further education sector with very substantial personal experience in this area and who is engaged by a school as a teaching assistant or support. So I would not want to say I could not envisage circumstances where it would be appropriate.

Q915 Chairman: Your concern would be if there was evidence that this was a process of downgrading SENCOs in schools?

Lord Adonis: If that was the case then we would be immensely concerned and we are monitoring it. I know that you took evidence on this earlier and concerns were raised. The issue for us of course is whether you would actually ban any capacity for schools to engage any others than qualified teachers to be SENCOs. I can understand the judgment call on that but if the flexibility is being used to engage people who are professionally qualified in this area then I do not know that we would think that that was a bad thing for a school to do.

Chairman: Right. Gordon

Q916 Mr Marsden: Minister, can I take up a point on the very full national audit that you are publishing today and particular reference in it to the need for Child and Adolescent Mental Health Services to be made more accessible, particularly to young people with low instance needs. This is something I personally I want very much but would you accept that one of the problems there has been in the past with local authorities is that the linkage in that particular area with the educational provision for SEN has been very patchy and that actually we have got to look (and I accept this is not direct ministerial responsibility but obviously you work very closely with the Department) much more closely at prodding CAMHS locally to do that, and that has funding implications, particularly in terms of care trusts?

Lord Adonis: You are absolutely right that the report does make a number of recommendations in this area and highlights issues. We do accept that those issues need to be addressed. They are an important issue for the health authorities. It is very important that they do seek to promote much better practice in the development of CAMH Services. One of the issues raised in the report, for example, is having CAMH Services made much more widely available at school level so that schools can directly access them, this being a big problem at the moment where schools have great difficulty in being able to access them directly. I think those points in the report are very well made and we will seeking to promote them very strongly.

Q917 Mr Marsden: Can I come back briefly to this whole issue of frameworks which has just been discussed, to look at it very specifically in the context of collaboration between mainstream and special schools. I will be going on Friday to High Furlong Special School in my constituency which is an excellent special school and which collaborates very closely with the collegiate high school whose

buildings are physically adjacent. There is an example, in my judgment, of very good practice. Are there enough incentives and is there enough structure in the present system to make sure that that sort of individual good practice is spread across the piece?

Lord Adonis: No, is my view, and I do believe we need to provide more incentives. It is part of the reason why in the White Paper we have given a very strong emphasis to allowing special schools to apply for specialist status, both curriculum specialisms and SEN specialisms, with the resource which comes with that. Part of the resource can be used to do outreach work with other schools in their area. I am the first Minister for Special Educational Needs in recent years who has also had responsibility for mainstream schools. They have always been segmented inside the Department itself, which I do not think is a healthy thing. I bring to this a constant desire to see that the same opportunities are given to special schools in terms of their interaction with the wider system as are given to mainstream schools. For instance, I regard it as a mistake that when *Excellence in Cities* was started it did not extend to special schools. It should have extended to them and we now want to see those services extended. I think it was a great pity when we started the specialist schools programme that that did not as a matter of course comprise special schools as well. It is now doing so and that is the commitment that we gave in the White Paper. I see that as immensely important. You, Gordon, referred to the experience in your constituency. I do not have a constituency but I live in Islington which is currently engaging in a process of relocating its special schools on to the same sites as mainstream schools. The primary section of the Bridge School, which is a very good special school in the borough, is being relocated next to a primary school, with a very big injection of funds to physically relocate it, and its secondary school is being relocated next to a secondary school. The authority also funds the Bridge Special School to do outreach work with mainstream schools in the area in its area of SEN excellence. I think that is a very good model which is worth promoting more widely and as more special schools become specialist schools and therefore get the additional funding they will have the capacity to do that.

Q918 Chairman: Were you in Number 10 when the *Excellence in Cities* excluded special schools? Were you not party to that?

Lord Adonis: Contrary to the myth, Chairman, the details of policy of this kind were always well beyond my capacity to influence!

Q919 Chairman: I thought you would like that! Courtesy of Douglas's introduction we went into two excellent school in Essex with charismatic, wonderful heads—Market Field in Colchester and Shorefield School in Clacton. One of the things—and we thought it was good practice—said by them was that they were keener to get a relationship between their schools so that a student could be part time in one school but they said that the resource

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implications were difficult, so it discouraged that sort of partnership. Are you going to look at that and change that?

Lord Adonis: I think that is an area that we are looking at, how you get budgets which can be shared between schools more effectively. Of course, where you have units which are attached to mainstream schools, budget issues are easier. It is when you are dealing with separate institutions and getting the budgets together that it is more difficult, and I think that is a particular issue in respect of special schools and mainstream schools because there traditionally has been so little interaction. I do believe that that is an important issue and we are looking at it.

Q920 Mrs Dorries: We were talking just before you arrived about the grey area between local authorities and the Government and when we read the transcript back of the evidence that you have given so far today you very firmly put the responsibility onto local authorities and seem to steer away from any responsibility from the Government. We have had a number of witnesses here who have said that the Government has a policy of inclusion so could I ask you to categorically state does the Government have an active policy of inclusion which LEAs across the country attempt to implement?

Lord Adonis: I think I should be very clear that Parliament has a policy in this area. The 2001 Act says that parents should have the right to a place in a mainstream school and the policy should be geared to that so Parliament has a very clear policy in this area. The Government of course are duty bound to implement the law, however, it is equally clear that a parent has the right to express a preference for any school that they so choose. So we have a duty to promote much better provision in mainstream schools for pupils with special educational needs and in all of our experience where that provision is in place and is good it will often meet the needs of parents and it will ensure that they are content. They have an absolute right within the system at the moment, as you know, to apply for a place in a special school and that must be properly considered.

Q921 Mrs Dorries: Could I have a yes or a no. Does the Government have an active policy of inclusion which LEAs across the country attempt to implement? Just a yes or a no.

Lord Adonis: No, the Government is duty bound to implement the 2001 Special Educational Needs and Disability Act and that is my answer to the question.

Q922 Mrs Dorries: Can we move on. My answer to that question would be yes if I were sitting where you are and I think I would interpret your answer as no. Why have the Government seconded seven educational psychologists and educationalists from a variety of LEAs across the UK, including Essex, whose specific remit is to reduce statementing within local education authorities and to increase the Government's inclusion agenda?

Lord Adonis: Reducing statementing within local authorities can of course be a thoroughly worthwhile activity in promoting better outcomes

for pupils with special educational needs. Under the *Removing Barriers to Achievement* policy and the Code of Practice, a graduated response is intended to be the policy so the fact that the advisers to whom you have referred are seeking to promote best practice in statementing, I do not take to be a bad thing at all. There are many authorities with lower proportions of pupils with statements that have higher levels of parental satisfaction and lower levels of appeals to SENDIST, so the Government does not believe that in order to have good provision for special educational needs you must have a high level of statements. That is not our policy at all.

Q923 Mrs Dorries: Why did the Government give £420 million worth of funding to an organisation known as the 2020 Group whose purpose of existence is to have all special schools closed by 2020? Why does the Government employ from time to time one of the leading members of that group as a government adviser?

Lord Adonis: I am not familiar with those particular individuals but I will happily come back to you on that particular point. I assume that there are services which the 2020 Group provide to us which are worthwhile, otherwise the Government would not be funding them, but I will happily come back to you on the detail of that.

Q924 Mrs Dorries: You said that spending on special needs has gone from £2.8 billion to £4.1 billion. Could that be because the majority of children who now go to special schools have to go through the SENDIST tribunal process which costs the parents up to £10,000 and that when those parents are successful at their tribunal those places are awarded in independent schools? Could that be the reason why the spending has gone up?

Lord Adonis: Spending on special schools has also risen very substantially. I have the figures here and can give them all to you. The spending on maintained special schools has risen by 6.7% on average for each of the last three years. Last year it rose by 7.23%. It is not the case that special schools are being under-funded. There have been big increases in funding for mainstream schools in respect of special educational needs but there have also been very big increases for special schools, too.

Q925 Mrs Dorries: What percentage is that of the total increase in spending?

Lord Adonis: I could come back to you with those figures, but we are now looking at the cost of maintained special schools in this financial year 2005–06 of £1.243 billion as against £4.1 billion, which is LEA budgeted expenditure on special educational needs, so you can see that there is a very substantial sum expended by special needs.

Q926 Mrs Dorries: What percentage has gone into the independent sector?

Lord Adonis: The latest figures are that our spending this year on non-maintained independent special schools, which is what you are talking about, is £481 million, which is 9% up in one year, and compares

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with £309 million in 2002, so there has been a very substantial increase in spending on non-maintained and independent special schools, alongside increases in spending on maintained special schools, alongside investments in mainstream schools to provide for special educational needs.

Q927 Mrs Dorries: What safeguards does the Government put in place other than the safeguards you have explained this morning? You have said that the regional co-ordinators report back to you and you talked about a letter you have written to Buckinghamshire telling them they would be acting illegally if they did what they were going to do. Is the official safeguard a letter from you because, as we know, although you spoke about two schools, Newham gave us evidence that they were all closed down. I would just like to ask you if those two schools were independent. However—

Lord Adonis: No, they are maintained.

Mrs Dorries: What safeguards did you do in Newham because we know that most of those children are educated out—

Q928 Chairman: Can I interject and say I have checked, the people who told us that Newham had no special schools were the parent representative organisation from Newham called SPINN!

Lord Adonis: I leave it to the Committee to make a judgment then!

Q929 Mrs Dorries: I will condense my question. What safeguards do you put in place? Is it a letter from the Minister? Is it something more substantial than that? Did you write to Newham and say to them, “You are going to be offering parents no choice within your county, therefore it is illegal”?

Lord Adonis: It is not illegal.

Q930 Mrs Dorries: It is illegal to deny parents a choice.

Lord Adonis: That is absolutely so but Newham has not been denying parents choice. Newham has two special schools. Let me give it to you since you asked me the question. It has 17 specially resourced mainstream schools in addition to its two special schools, and I have a list of them here, and the units and resourced provision that they have attached. I am not here to defend a particular local authority but I think it is very important, Chairman—and you I know would agree with this—that we allow our debate on this issue to be conducted by the facts and not by assertions about what is happening in individual local authorities that bear no resemblance at all to the reality on the ground. It was also claimed, for example, in earlier evidence sessions that it is only in richer authorities that you have large numbers of appeals to SENDIST, which is completely untrue when you look at the evidence. It was claimed that there must be large numbers of out-of-borough placements in respect of Newham because it only has two special schools. Untrue, when you look at the facts. I will happily write to you with the facts on this. I do not believe that we should be in the business of attacking or stigmatising local

authorities which are seeking to do their absolute best to provide for special educational needs on the basis of incomplete or simply erroneous information.

Q931 Mrs Dorries: One of the reasons why Newham is in the position it is is because the vast majority of parents of children with special educational needs in Newham come from the lowest socio-economic groups and do not know how to access SENDIST. Could you tell me who has the final say on SEN provision in this country, you or the elected Secretary of State?

Lord Adonis: I simply do not accept that opening assertion that that is the case. There are other local authorities near Newham which have not that dissimilar socio-economic profiles which have very high levels of reference to SENDIST.

Q932 Mrs Dorries: We are talking about Newham.

Lord Adonis: In the case of Newham it is smaller but in the case of Hackney it is 15.6% which is five times the national average. I could go down the list of authorities. Lewisham is the highest at 21.8%.

Q933 Mrs Dorries: Which just proves it is a postcode lottery and it depends what authority you are in.

Lord Adonis: Not at all. These are a whole set of assertions, Chairman.

Q934 Chairman: Let the Minister reply.

Lord Adonis: It is not the case at all that this demonstrates a postcode lottery. Some of those authorities which have low levels of appeals to SENDIST also have high numbers in special schools and very low numbers of statements so it is not the case that having low numbers of appeals to SENDIST goes hand-in-hand with the refusal of authorities to assess and with having lower socio-economic backgrounds of the pupils. That simply is not the case. I have looked at this in detail because this came up in your evidence session. I will send you the list which I have had prepared for me of all local authorities in England, the number of pupils per 10,000 in respect of which there are appeals to SENDIST, the number in special schools, and the number statemented, and I think that any reasonable person looking at this would not be able to draw the inference that it is simply because Newham is poor that it has a lower number of appeals to SENDIST and that there is a lesser capacity for parents to complain about inadequate provision.

Q935 Mrs Dorries: You have not answered two of my questions.

Lord Adonis: Sorry, I was trying to deal with the first. I will come to the second and third.

Q936 Mrs Dorries: What are the minimum safeguards or standards which ensure that provision is available? Is it a letter from the Minister as you have described so far? Who has the final say in this country on SEN provision, you or the elected Secretary of State?

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Lord Adonis: Of course it is the Secretary of State in terms of powers to direct. The Secretary of State exercises all these functions and other Ministers only exercise functions in the name of the Secretary of State and with the authority of the Secretary of State, but of course in terms of individuals where does the final say lie; it lies with SENDIST. When it comes to individuals who are seeking to access special educational needs and they believe that their needs are not being met, they have a proper legal route through which to go and of course, as we know, 3,000 parents a year do that and they can appeal to SENDIST on refusal to—

Q937 Mrs Dorries: But it costs £10,000.

Lord Adonis: It does not cost £10,000. That is again another—

Q938 Chairman: If I hear any more remarks from people in the public gallery, I will exclude them.

Lord Adonis: It may be the case that some parents do choose to spend that sum but there is no cost whatever for going to SENDIST. Let that be very clearly understood. There is no cost for going to SENDIST. Also legal assistance can be provided for those from lower income backgrounds. It is not the case that there is a cost to go to SENDIST. 3,000 parents a year do. They have a right to go to SENDIST because of the refusal to assess; they have a right to go to SENDIST because of the definition of their special educational needs; and they have a right to go to SENDIST on part four of the statement, which is the naming of the school. In terms of the safeguarding of their rights, that is a very powerful set of rights and SENDIST has the last say. It is not the local authority and it is not the Secretary of State and it is not me.

Q939 Mrs Dorries: How many of the parents who access the SENDIST tribunal do so at no cost to themselves?

Lord Adonis: I do not have those figures and I have asked SENDIST and they do not have those figures either because they do not have that data.

Q940 Mrs Dorries: We had a witness here, Simon Oliver, saying that it cost between £2,000 and £10,000 to access a SENDIST tribunal, and we have all as members on this Committee spoken to parents who have had to pay for SENDIST tribunals.

Lord Adonis: And I do not accept that and Kevin Mullany, the Secretary of the Tribunal—

Q941 Mrs Dorries: Do you not accept the truth?

Lord Adonis: I simply do not accept that. It may be, Chairman, that you should invite the Tribunal to give evidence to you. I have met the Secretary of the Tribunal last week and I have asked him these questions directly, reflecting the evidence, and he has made it absolutely clear to me that there is no cost to go to the Tribunal—

Mrs Dorries: Which planet are you on?

Chairman: Nadine, let the Minister finish.

Q942 Mrs Dorries: I am sorry, I cannot listen to this.

Lord Adonis: I think it does a great disservice to parents to suggest to them that they can only access the rights which are given to them by Parliament or the Tribunal by indicating to them they have to spend the sorts of sums of money that you have just suggested.

Chairman: Minister, we hear what you say and we may call the Tribunal Chairman in order to give evidence. Would that make you happy, Nadine?

Q943 Mrs Dorries: It would certainly make me happy. I would like those figures please as to how many parents who have accessed SENDIST have paid for it?

Lord Adonis: I have made it clear that I do not have figures because the tribunal itself does not collect figures.

Q944 Mr Chaytor: Minister, you referred to the increase in spending on SEN in mainstream schools from £2.8 billion to £4.1 billion over the last three years. Do you know that that money is being spent by schools on children with SEN?

Lord Adonis: In respect of children that have School Action and School Action plus, a school would be held up pretty quickly by its local authority if it was not making that provision. As you know, with our devolved budgeting, I cannot say that every penny of that money was spent on that purpose, just as I cannot say how much money that goes through mainstream budgets for schools will end up being spent on special educational needs.

Q945 Mr Chaytor: Do you think there is a significant issue of schools not ring-fencing the money allocated for SEN to children with SEN?

Lord Adonis: Not that I am aware of. We have not been made aware that this has been a significant issue, and indeed the fact that hand-in-hand with the increased delegation of those funds we have had fewer requests for assessments, with the 15% decline in the number of statements over that period, I think would tend to indicate that there is a higher level of parental confidence amongst students who are at School Action and School Action Plus stage, otherwise of course they would be seeking assistance. I think you can draw a fair conclusion from that that must be because the quality of the provision in the schools is improving, but of course I cannot say there are no cases where schools are not using that money to—

Q946 Mr Chaytor: Would it be possible to identify any discrepancies through analysis of the section 52 statements?

Lord Adonis: No, the section 52 statements would have to identify the resources that the school has and from whence they have come and from what stream of funding they have come. It is because of that that we can identify the £4.1 billion but it does not of course identify precisely what schools spend their funds on.

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Q947 Mr Chaytor: But is there a case for a refinement of the Section 52 model to require schools to indicate where they spend them?

Lord Adonis: The difficulty, as ever, is red tape on schools. If we were to do that, that would be a very significant additional burden on schools that would need to account to the Department for the breakdown of their budgets in some detail. Of course, one could do it. It would be absolutely possible to do it but we would need to think of the bureaucracy implications of requiring schools to report in that detail. At local authority level of course, local authorities do have much greater knowledge of what is going on at school level in their budgets than we do. In many local authorities it may well be that they can pretty closely identify money that is being spent, particularly at School Action Plus, where you have got more defined needs and are working with their schools to see that the money is properly allocated.

Q948 Mr Chaytor: On the question of the balance between the role of the local authority and the role of the school, to what extent do you think the fact the local authority has the legal responsibility but the school has the power and the resources is the root of many of the difficulties that have been identified?

Lord Adonis: There are three answers to that question because it is a very important issue. I fully accept that it is crucial to see that the money intended for SEN is spent on SEN. The local authorities themselves agree their delegated funding model and of course if schools are not playing fair in seeing that the funding is delegated then local authorities can change their formula. This all works according to a formula. That is the first point I would make. It is usually done in very close collaboration. Secondly, there is the work of the schools forums which brings together the local authorities and the schools directly, and of course one of the key roles of the schools forums is to discuss delegated expenditure each year, and that gives a constant interaction between the schools and the local authority. The third element, which is key to this of course, is that if that system is not working parents have the capacity then to seek an assessment of special educational needs and a statement, which of course has to be maintained by the authority, so the authority and, in its own way, the school have a strong incentive from different perspectives to see that delegated funding does actually serve to meet special educational needs and is not just going into a pot irrespective of it.

Q949 Mr Chaytor: You referred to a figure of £290 million which has been transferred from local authorities to schools in the last three years. Do you consider that that process is going to continue and is that likely to eradicate the problem or will it exacerbate the problem?

Lord Adonis: What I think is interesting in this one is the decisions that local authorities themselves are making. That £290 million means that in 2005-06, the current financial year, £1.45 billion is being delegated to schools directly in respect of SEN

without statements. That is an 18.5% increase in just two years. So there is something quite big taking place out there in the local authority and school world of local authorities delegating significant additional funding to schools to meet SEN. It has gone alongside two other developments. The first is significant increases in school numbers which has meant that these sorts of resources are available. The second thing is *Removing Barriers to Achievement* and the much greater emphasis on school level action to improve support for outcomes for pupils with SEN, and that has concentrated the minds of both local authorities and schools and I think has got them together through the schools forums and other local discussions that take place to agree delegation schemes which involve much more money being passed down to the school level.

Q950 Mr Chaytor: Can we move on to the Treasury review of complex needs. Could you say something about the scope of the Treasury review and what is the timescale for the reporting?

Lord Adonis: It is taking place at the moment. As I understand it, it is not just complex needs, it is deprivation factors as well, in the allocation of funding to schools. I am not sure when it is due to conclude and report but I will let you know.

Q951 Mr Chaytor: Could we move on to workforce development and initial teacher training. In the audit of support services and provision for low instance needs that you published, my quick reading of it suggests that it does not say a lot about the question of teacher training, either initial teacher training or continuing professional development?

Lord Adonis: No.

Q952 Mr Chaytor: Are you confident that the proposals for improved CPD that are outlined in the SEN Strategy are actually being implemented on the ground or that the new proposals for optional modules in ITT fully reflect the spirit of the SEN Strategy?

Lord Adonis: I am confident that what is there at the moment is being broadly implemented. I cannot say in each individual cases but I also believe that we need to do more. Ralph Tabberer said that to you when he came. The TDA is looking both at teacher standards and the support it gives for training of teachers in special educational needs. He gave you a number of particular initiatives that the TDA is taking, for instance longer placements in special schools as one of the elements that will ensure much better awareness by teachers who choose to specialise in this area of provision of special educational needs. He talked also about the provision of much better units and reviewing the teacher education standards. He talked about new graduate programmes that are going to be available too. Whether all of this put together is sufficient is something we are considering at the moment, alongside the professional standards which are up for review.

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Q953 Mr Chaytor: Again, what is the timescale for that?

Lord Adonis: The professional standards need to be agreed after this summer so that work is advanced.

Q954 Mr Chaytor: And one final point on the SENCO, you said that you could not exclude the possibility that someone who was not a qualified teacher could be appointed to a SENCO post. In that situation would they not be excluded from certain forms of CPD that only qualified teachers can participate in?

Lord Adonis: Yes, I assume that that is true. I am thinking rapidly. There will be certain types of CPD available I assume only to qualified teachers. Having said that though, by and large head teachers can buy what they want. I do not think there is much training provided by higher educational institutions that is limited to those with QTA, providing of course the school itself is prepared to fund the training. I did make clear that I think it would need to be a highly exceptional case where a school appointed a SENCO who was not a qualified teacher.

Chairman: I want to move on to statementing and the immensely patient Jeff Ennis.

Q955 Jeff Ennis: Could I begin with an aside. When the Minister mentioned the John F Kennedy school in Newham it set my mind wondering how many George W Bush schools we will get opened across the country in the next 20 years. I think the George W Bush Trust School, Huddersfield has got a good ring to it, Chairman!

Lord Adonis: Chairman, I am happy to leave the possible naming of special schools to your Committee in its report.

Q956 Jeff Ennis: Following the line of questioning from Helen to start with, Minister, do you agree that SEN will have to be at the heart of the personalisation agenda if it is to be successful? If so, then why is this not the case at present? Do you recognise the conflict between flexible curriculum to personalise learning in schools and the standards agenda in schools?

Lord Adonis: I would hope not because I would hope that head teachers and teachers would seek to personalise to improve the outcomes to pupils, not to reduce them, so let me be very clear about that. The personalisation agenda as we intend it is one that enables the curriculum to be varied and improved to meet individual needs. For example, we were talking with Gordon earlier about specialised diplomas and giving more flexibility to the curriculum so pupils can do specialist diplomas. In respect of pupils who wish to develop a vocational track that would improve their outcomes, not reduce them. That is not to say there is not some tension. There clearly is tension in some areas. One of the most difficult decisions that I think we have taken in curriculum policy in recent years was the decision on allowing the disapplication of modern languages in Key Stage 4. These are very difficult decisions about whether in subjects of that kind where you give greater flexibility to schools you are going to be

removing an entitlement from pupils. As you know, Jacqui Smith has written to all local authorities making clear to them that this entitlement is for real and we do not expect to see very little provision for students in modern foreign languages. I am not saying that there are not areas of tension but the whole purpose of giving the greater flexibility and the resources that go with it is that it should improve the curriculum for students and not endanger it.

Q957 Jeff Ennis: Following a point from Roberta's line of questioning, in the absence of any national SEN framework and the difficulties of assessing the outcomes for pupils with SEN, are current arrangements for inspecting SEN provision at school level sufficiently robust?

Lord Adonis: Of course SEN provision is inspected as part of the Ofsted inspection which takes place now more frequently.

Q958 Jeff Ennis: It is very much seen as an add-on in many respects, or it has been in the past.

Lord Adonis: You took evidence from Ofsted on that point and I know Ofsted do take their responsibilities seriously there. It is incumbent on them, and the new inspectorate that is being developed under the Education and Inspections Bill, to see that it does give a firm priority to SEN in its inspection work.

Q959 Jeff Ennis: Do you anticipate many special schools applying for trust status, Minister?

Lord Adonis: I have no idea is the answer to the question. This will be a decision for them to take individually. I would expect, though, a large number to apply for specialist status. In my discussions with the special schools sector, I found very strong enthusiasm amongst special schools for being specialist schools, both taking on curriculum specialisms and taking on special educational needs specialisms within the specialist schools programme. The Specialist Schools and Academies Trust is now giving much greater emphasis in its work to special schools. It is going to set up a part of its organisation for that and I think that will have the effect of bringing them much more into the mainstream of school provision. On your specific question, Jeff, about trust status, I think this will clearly be determined school by school.

Q960 Jeff Ennis: Would you like to see mainstream schools and special schools forming a trust federation?

Lord Adonis: I think that could be a very interesting avenue to explore.

Q961 Jeff Ennis: You would like to see that pursued?

Lord Adonis: If schools and local authorities believe that this would help to promote collaboration and effective curriculum design between them, we would welcome it. What we would not seek to do is to impose it. It could be a thoroughly welcome development of trust models which bring together special schools and mainstream schools.

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Q962 Jeff Ennis: The Minister has obviously got well on top of his statistical brief and he will know that the top 200 performing secondary schools in the country have two factors in common: the lowest number of children on free school meals and the lowest number of children with special educational needs. I know we have covered this territory to some extent in earlier questions. Obviously the bottom 200 have got the highest number on free school meals and the highest number of SEN children. Given the fact that I would hope a trust school is going to try and achieve a better social mix, et cetera, why do we not nail our colours to the mast, we are very much a government of setting targets and league tables in education; why can we not put an added value measure on the league tables for all the schools of how many children have special educational needs in that particular school? Like the five GCSEs, an added value measure on that same league table saying how many children there are with special educational needs.

Lord Adonis: Have it on the performance tables how many pupils in each school are in free school meals.

Jeff Ennis: I will speak to special educational needs. I would like it to include free school meals.

Chairman: Will we get a better balance in terms of how you interpret those results?

Q963 Jeff Ennis: We are focusing on special educational needs today so I am just targeting special educational needs.

Lord Adonis: In terms of the specific question why can you not; the answer of course is we could.

Q964 Jeff Ennis: So why do we not?

Lord Adonis: Until you put the question to me I had not given that issue consideration. That is something that one could consider, but it would involve more elements in the performance tables. It would be perfectly possible to do that. The question is how much—

Q965 Jeff Ennis: But there is obviously a direct correlation, Minister, between higher school performance and lower numbers of children with statements in that particular school.

Lord Adonis: It is possible to ascertain how many pupils with statements are in each school, but your point is that if this were more generally available by putting it in performance tables, that is a point which I understand and it is one that one could consider.

Q966 Chairman: Why did you not like our recommendations in our analysis of the White Paper that there should be a role for the Social Commissioner to look at the social mix going into each school?

Lord Adonis: I thought Jeff was asking a distinct question which is—

Q967 Chairman: It is related.

Lord Adonis: Your recommendation was to do with benchmarks, was it not, and whether the Commissioner could take it into account?

Q968 Chairman: Yes.

Lord Adonis: We believe that could come to be seen as quotas if it was done in a crude way, which is the reason we were not attracted to that policy.

Q969 Chairman: It is not seen as quotas in universities?

Lord Adonis: But in universities, though, the issues are less complex than in the case of schools. Defining what is the “catchment area” or “appropriate intake” for a school is not always an easy basis. A faith school for example, reflecting on the Peter Lampl evidence, will draw from a much wider area than its immediate locality.

Q970 Chairman: Would you not think it is an interesting direction of travel?

Lord Adonis: In my experience of educational policy making I always want to be quite clear where I think I am going to end up before I embark on the direction of travel.

Q971 Mr Carswell: Two very brief questions about statementing. We have heard quite a lot of dissatisfaction about the statementing process: it is bureaucratic; it can be costly; it is ineffective. There is a very interesting suggestion that it discriminates against more vulnerable people and tends to favour the more determined. We have also heard some evidence that suggests it puts too much power in the hands of the so-called expert and leaves parents with very little choice and ultimately it ends up with the LEA officers steering children to the outcomes they want and not what the parents want. Is it time for a radical overhaul?

Lord Adonis: If you were to believe that there was something better than statements, so far as I can see having looked at this issue, you would have to have some formal means of assessing additional educational needs for those with very serious additional needs. The more you look at this, the closer this looks to abolishing statements simply to reinvent them. The experience of Scotland has been cited. In fact, Scotland does have proper assessments for additional educational needs but it does not call them statements. It does expect what are I think are called co-ordinated development plans, or something like that, to be in place in respect of those who have these assessments. My view of the matter is that if you sought to abolish statements you can only abolish them in the context of re-creating them into something that would be pretty close to what a statement is now.

Q972 Mr Carswell: Not talking about the abolition of statementing but refining it, I am very interested in your personal view with your expertise on this rather than your view wearing your government hat. Of the two suggestions we have had made to us is one is to make the statement, Section 3 far more specific to clamp down on the “wiggle room” that it currently gives LEAs, and, secondly, to quantify the finance to deliver that outcome so that it would give a parent a legal right to request and receive their share of LEA funding to deliver that outcome,

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perhaps enforceable through the courts. This would certainly remove a lot of the problems of inclusion versus mainstream, and it would be even more localist than what you profess is a localist system (and some of us doubt) in that it would allow individual solutions to meeting the special needs of children rather than just allowing it to be done by the LEAs, so it would be far more individual and tailor-made. Some people would say that in effect that sort of statement system would be almost like a voucher-type system. I am not afraid of that word. Would you endorse that kind of very specific financial entitlement through the statementing process?

Lord Adonis: No is the answer to that for one perfectly immediate reason which becomes apparent when you look at this, which is that if you sought to have a voucher of that kind for parents who have pupils with very complex needs it would not work unless the voucher was in the order of £40,000, £50,000 or £60,000. If you are going to do that, you are in the business of assessing because you then need to assess directly. You could not be in the business of simply having large categories of pupils to whom you gave a voucher of £40,000. We need to think through the policy. The voucher is either enough to cover the additional educational needs of that child or it is not enough, and if it is going to cover whole categories of pupils then it has to be of a very high order, otherwise it is precisely the poorer and less advantaged families who will lose out who will not get a voucher sufficient to cover the actual costs if they need to send their child to an independent or non-maintained special school. In response to your first question (because you included a number of questions there about being specific in the statements) we are very clear that local authorities do have duties in this regard. The letter which I mentioned sets out at length the recent judgments of the Court of Appeal that statements clearly have to spell out the provision appropriate to meet the particular needs and objectives that are identified for the individual child. "Any flexibility built into the statement must be there to meet the needs of the child, not the needs of the system." It remains the case—and this is the judgment of the Court of Appeal—that "vague statements which do not specify provision appropriate for the identified special needs of the child will not comply with the law." That is the law. That is the guidance we have given to local authorities that they must observe the law, and it is very clear.

Q973 Mr Carswell: I would argue with the terms in which you chose to categorise your critique of what I was suggesting but that is a debate for a later date. Before I throw it open, you are basically saying that despite this dissatisfaction with the lack of empowerment and choice that the statementing process gives, you are not prepared to radically address it?

Lord Adonis: We do believe that replacing the statementing process would be advantageous. I did say in my opening remarks that I believe it is important that parents have good-quality, independent advice. The parents partnership

services that I have seen often work well. We say in the guidance that parents partnership services should be at arms' length from local authorities. I think it is a case for consideration. It is one which I am paying attention to myself at the moment as to what "at arms' length" means. When parents are dealing with people giving them independent advice in "taking on a local authority" they must be satisfied that that advice is truly independent. They must have confidence that the parents partnership service that they are using does have their interests absolutely at its heart. In response to your question I believe that it is important that we have good quality and universally available independent advice for parents when they are seeking to engage with local authorities in this area. It may well be that we can improve the parents partnership services to ensure that that happens.

Q974 Helen Jones: Minister, do you not think that much of the problem with the statementing process arises from the fact that parents cannot get the provision they need without going through that? Would it not be better if we improved the way we sort out provision for children? For instance, if you have a child with Asperger's, which is something I have dealt with, you have got a diagnosis; why do you then have to go through a statementing procedure to get the provision in place? It happens to many parents.

Lord Adonis: The answer of course is I completely agree where you do have the provision at school and local authority level available which does not require parents to go through a statement to get it, that is definitely preferable, and we do need to see that much more widely available. It looks to me as if it is becoming more widely available, which is the reason why we have fewer applications for assessment at the moment, but I completely agree with you, we do need much better services that do not require parents to go through what is often the extremely difficult and in some cases traumatic process of statementing to get the provision that is clearly necessary for their children.

Q975 Chairman: You say you have looked at the Scottish system and you have got people in your Department going to look at the Scottish system. Have you assessed what is called the Conservative Party Cameron Report interim recommendations?

Lord Adonis: I fear I have not yet done so, Chairman, but if in your report you wish us to do so we will certainly give it close attention.

Q976 Chairman: I am surprised at that. There were some quite—

Lord Adonis: We have considered some elements of it like the voucher idea and I have responded to it but we have not done any formal evaluation. Indeed, I do not believe it is an appropriate use of taxpayers' money for us to undertake formal evaluations of Opposition party policies.

Mr Wilson: The Prime Minister is always doing it!

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Q977 Jeff Ennis: It appears to me then, Minister, from your last response that you are still viewing the retention of the statementing process very much as a safety net for parents in case the system is being manipulated against their wishes, shall we say. Is that the case?

Lord Adonis: I would not want to use the term “safety net” because of course for many parents the needs that they have require it. For example, of course you cannot go to a special school without a statement and therefore parents of children whose needs are clearly additional and can best be met by special schools will need to go through the statementing process immediately, often at a very young age too. So I would not want to use the term “safety net”, but what I would accept is the point Helen was making that there is a large number of areas of special educational needs where if the provision was better in the schools and the support services were better at local authority level, there would be less demand by parents to have to go through the assessment process because of their sense is that the only way they can get this additional need is to be formally statemented. I would hope that through the delegation of funding to schools, much better practice at school level, better training of teachers, and better support services, including CAMH Services and others, which are not just in the education world, that we could get to that position.

Q978 Mr Chaytor: Minister, the new Education and Inspections Bill contains provisions for parents to make representations to local authorities to build new schools. Do you think this will be of particular advantage to parents of SEN children?

Lord Adonis: In the case of special schools I am not sure. It may be that in some areas, for example in areas of special educational needs where parents think there is not adequate local provision, that they do start clubbing together to promote new schools, and where that is what they wish to do, it would be a perfectly appropriate use of the legislation.

Q979 Mr Chaytor: What happens in a given area if there are two sets of parents of broadly equivalent numbers who make diametrically opposed representations to the local authority? How does the local authority respond?

Lord Adonis: The local authority has to use its judgment. The Bill is very clear that parents have a right to make formal representations but it is the local authority which decides.

Q980 Mr Chaytor: In a system that is driven still largely by conventional forms of league tables, will that not always be a block on some schools being more proactive in wishing to admit children with SEN?

Lord Adonis: I think that performance tables should promote the performance of all pupils.

Q981 Mr Chaytor: But the key criterion is five A to C GCSEs.

Lord Adonis: But we also have the contextual value added tables which we have introduced alongside, which again are given a lot of attention as well. I think you want performance indicators that give incentives to schools to meet the needs of all of their categories of students not just any one. I have never myself believed that withholding information from parents is a good way of improving attainment, and the problem with seeking to behave otherwise is that we would need to withdraw publicly available information they can get at the moment.

Q982 Mr Chaytor: But are you satisfied that the existing performance tables do that adequately to reflect the achievement of all children?

Lord Adonis: I think they can always be improved over time and we have been seeking to do that, hence the recent introduction of the contextual value added indicators in those tables, precisely to meet the concerns that you are raising. Do I think they could be improved further? I am sure they can and we have large teams of officials in the Department who constantly look at these issues and make recommendations to us; hence the concerns that you are raising. Do I think that they could be improved further? I am sure they can be improved further and we have large teams of officials in the Department who look constantly at these issues and make recommendations to us.

Q983 Mr Chaytor: Finally, are you satisfied with the existing Code of Practice on school admissions in respect of the emphasis it gives to special needs?

Lord Adonis: It gives a very strong emphasis in respect of special educational needs and we will be seeking to carry that through into the revised Code of Practice, too.

Q984 Mr Chaytor: Is there any scope for strengthening that when the new Code of Practice comes in?

Lord Adonis: There are some areas which we have made clear we do want to strengthen, for instance the ambition of looked after children, many of whom will have special educational needs, to make that an absolute requirement that they must be the first item for admission in a school's admissions criteria. Let me add that we will include academies in that through the funding agreements and they will also be required to allow mid-year admissions for such pupils even if the school is full. So there are some areas where we can make improvements but the system at the moment is robust.

Q985 Mr Chaytor: So if the criterion that prioritises looked after children can be incorporated into the funding agreements for academies why cannot the issue of a statement that specifies an academy also be incorporated?

Lord Adonis: It can be. The point I was making earlier (because I was not wanting in any way to be difficult about this) is that we believe that the current framework for academies does deliver that objective and it is demonstrated in the actual facts of

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admissions to academies. They are under an obligation, in effect, to accept pupils with special educational needs where the proper local processes have been gone through. It is not that it cannot be; it is that we believe that the current system actually delivers that objective.

Q986 Mr Chaytor: But earlier you argued that if the specification of an academy in the statement was compulsory on the academy then that would establish a precedent?

Lord Adonis: No, I was making a distinct point if it was done by statute. It could be made compulsory through amendments to the funding agreements and we are looking at issues relating to funding agreements in this area. A funding agreement is an absolute set of conditions on an academy which it is not allowed to breach otherwise the Department could withdraw funding from it. The issue for us is how one can most closely replicate those duties in the funding agreements. I was making a wider point that we have not sought to regulate academies in any of these areas by statute but we have given undertakings in this area that they will behave in fairness and in accordance with the policies that we have in respect of other schools.

Chairman: Nadine?

Q987 Mrs Dorries: Minister, I owe you an apology. I have just been to check on my facts and you are absolutely right the SEN Tribunal is free. However, the SEN Tribunal is free and those parents from the lower socio-economic groups who access the SEN Tribunal who do not pay for legal representation and who do not pay for specialist reports to be undertaken on their children have a 98% failure rate. However, the middle class parents who are affluent and able to pay for the legal representation and the reports to prove that their child has Asperger's or whatever have a 94% success rate. Can I put it to you

that your answer should have been to me that SENDIST is free but almost all local education authorities employ a barrister and therefore parents have no chance of being successful unless they themselves also pay for legal representation.

Lord Adonis: Those are not figures that I recognise.

Q988 Mrs Dorries: I am sure SENDIST will supply them.

Lord Adonis: If SENDIST would like to send them to me then of course I will look at them but those are not figures that my Department recognises.

Q989 Chairman: Minister, one of the things that we have not touched on, and it would be remiss of me if I did not mention towards the end of this session, is that one of the areas that keeps coming up as not having enough focus is what happens to children with special educational needs as they grow older, as they get not just to 16 or 18 but 18 and for quite a long period afterwards. That is a tremendous burden on parents if there is not the right provision in terms of mixture of education and skills, of employment and respite. Have we got that right? Is it part of your remit?

Lord Adonis: It is not part of my remit of course when they become older but I do agree these are very big issues for us. As we look at policy on direct payments, individualised budgets and much greater co-operation between services at the local level, we need to pay more attention to this, and we hope the Children's Trust will make that a key part of their work.

Q990 Chairman: Minister, it has been a very good and interesting session. Thank you for putting us right on Newham and couple of other things and we look forward to good communication with you in the future.

Lord Adonis: Thank you very much.

Supplementary memorandum submitted by Lord Adonis, Parliamentary Under Secretary of State for Schools

I promised to write following my evidence session to provide further information on some of the points raised during discussion and in particular to confirm:

- Statistics relating to the SEN and Disability Tribunal.
- When the review of complex needs will be completed.
- The situation regarding the recent proposals for special school reorganisations in Essex, with reference in particular to the School Adjudicator's comments.
- Whether a review of training and requirements on SENCOs would apply to Academies.
- Whether the Government has funded the 2020 group.
- The percentage increase in spending on special schools as compared to the percentage increase in education spending.

SEN AND DISABILITY TRIBUNAL

Questions were asked in my evidence session about the costs to parents of access to the Tribunal. Let me re-emphasise that there is no requirement on parties to appeals to the Tribunal to employ legal help or obtain their own professional reports, and there are no charges to take an appeal to the Tribunal. Furthermore, neither my Department nor the Tribunal recognises or accepts the figures alleged at the end of my evidence

session, that success rates at the Tribunal are related to the amount spent by parents on legal and professional representation. On the contrary, the Tribunal's 2004–05 annual report shows that some 58% of cases concerning local authority decisions to refuse to carry out a statutory assessment or to cease to maintain a statement and 87% of appeals about the contents of statements were won by parents, while only a minority of parents, and 11% of local authorities, are legally or otherwise represented at the Tribunal. So there is no factual basis to claims that considerable expense or legal representation are in effect necessary for an appeal to be successful, and the Tribunal itself strongly refutes this suggestion.

I should add that public assistance is also available to those on low incomes who go to the Tribunal and wish to engage appropriate professional support. The Access to Justice Act 1999, and the Legal Aid Act 1988 before it, exclude advocacy services in most tribunals from the scope of public funding, but legal assistance is available for eligible parents to engage a solicitor to help prepare their appeal, including obtaining private reports on their child. A number of voluntary organisations and parents groups also provide help to parents in preparing their case. We understand from the Legal Services Commission that legal help was provided in around 1,100 cases involving special educational needs in 2004–05, and whilst it is not possible to determine how many of those related to preparation of appeals to the SEN and Disability Tribunal, it is reasonable to assume that many did. There is also no factual basis whatsoever to claims that appeal numbers to the Tribunal are related to socio-economic figures of deprivation.

I enclose a table showing appeals to the SEN and Disability Tribunal in 2004–05 in each local authority area per 10,000 of the school population alongside comparable figures for the numbers of pupils with SEN and numbers in special schools. The figures do not support the contention that the levels of appeals in respect of individual local authorities are related to the levels of disadvantage, or to number of statements, or to the amount of special school provision. For example, appeals per 10,000 of the school population were 15.61% in Hackney, 20.38% in Lambeth and 21.76% in Lewisham. Richmond Upon Thames, which has been frequently cited in your evidence sessions, stands at 14.9%, which is far below the other cases cited above. And there are affluent LEAs which are also far below Richmond's 14.9% level, as you will note from the data.

REVIEW OF COMPLEX NEEDS

As part of preparations for the Comprehensive Spending Review 2007, my Department is conducting a review of specialist services for children with complex needs. The purpose of this review is to examine the extent to which we are achieving value-for-money in children's social care and other specialist services for children with complex needs. In particular, we want to examine the costs and benefits of children's social care and other specialist services. This includes:

- children's social care services for Children in Need in particular disabled children, children with mental health problems, Looked after Children and those at risk of becoming looked after; and
- other specialist services for disabled children and/or children with mental health problems and/or with other complex needs, for example, children with special educational needs (SEN) placed in special schools.

SCHOOL REORGANISATIONS IN ESSEX

Essex Local Education Authority's special school reorganisation plans involving The Leas School were mentioned and it was suggested that the School Adjudicator's report on the proposals indicated that they were in line with Government policy.

I have obtained a copy of the School Adjudicator's report dated 28 September 2004 in which she approved the proposals. The proposals involved:

- closure of The Leas School, a special school with a capacity for 120 boys and girls mainly between the ages of three to 16 years with moderate learning difficulties (MLD) or autistic spectrum disorders (ASD) from 31 August 2005,
- alterations to The Windsor School, a special school with capacity for 65 pupils with severe learning difficulties (SLD) to extend the range of special needs for which the school makes provision to include complex needs and increase the capacity of the school from 65 to 130 pupils and provide outreach and support for young people up to age 25, and
- subject to the approval of these proposals, the local authority planned a variation to the published admission arrangements for Bishops Park College to allow the admission of secondary age children with statements previously at The Leas School into Year 11 for the academic year commencing 1 September 2005.

Under the proposals The Windsor School was to be established as a New Model Special School (NMSS) remaining on the existing school site. From 1 September 2005 provision for children of primary age at The Leas would be made on its site but under the management of The Windsor School. From September 2005 until 31 August 2008, pupils joining the NMSS were to be placed either at the Windsor or The Leas site until 2008 when any children remaining at The Leas site would move to The Windsor site. From September 2005,

pupils of secondary age at The Leas School were to transfer to either The Windsor School or Bishops Park College depending on their needs and their parents'/carers' wishes. This was to be discussed with parents/carers during annual statement reviews.

Paragraph 11 of the School Adjudicator's report says: "The LEA is seeking to respond to the Government's policy on inclusion and make appropriate provision for all children". That is indeed government's policy—to make appropriate provision for all children, and I note that the proposal in question in Essex involves a combination of new special schools and new mainstream school provision to meet this objective. There is no government policy of closing special schools, and the Adjudicator did not refer to any such policy. On the contrary, it is our policy that the needs of pupils with SEN must be met, including in special schools as appropriate. There is nothing to the contrary on the Adjudicator's decision in Essex. I further note that the Adjudicator concluded that the local authority's consultation on the proposals was extensive and met legal requirements, despite some unfortunate lapses in parts of the process: and the Adjudicator further concluded that making good provision for the children had been kept at the forefront of planning.

REVIEW OF STANDARDS FOR SENCOs

The Teacher Training and Development Agency is currently engaged in a major review of the range of standards for teachers and we are in contact with them about a review of the SENCO standards published in 1998. Our overriding aim is to spread the most effective SENCO practice across the system and support those who carry the SENCO role in schools, and the revision of the standards is focused on these objectives. We have already made a positive start on this through the SENCO sessions we organised last year with the National Association for Special Educational Needs, subsequently written up in their journal. You asked whether the outcomes of the review and any new standards for SENCOs would apply to Academies and I can confirm that we would expect that they would.

THE 2020 GROUP

The Department has not funded the 2020 Campaign Group. Rather we have, jointly with the Disability Rights Commission, provided funds to a group of partners including the Council for Disabled Children, the SEN Joint Initiative on Training at the University of London's Institute of Education, and Disability Equality in Education (the Director of which is known to support the aims of the 2020 campaign) for the development of practical resources for schools and local authorities on meeting their duties under the Disability Discrimination Act to:

- prevent discrimination against disabled pupils; and
- plan strategically to increase access to schools for disabled pupils, over time.

The resources were developed with, and draw on the practice of, schools (including special schools) and local authorities and the work was taken forward under the direction of a steering group involving Ofsted, the Qualifications and Curriculum Authority, the National Strategies and the Disability Rights Commission. The resources are due to be finalised shortly and I will arrange for a set to be sent to you when they become available.

LOCAL AUTHORITY SPENDING ON SEN

Local authorities' budgeted expenditure on the education of children with SEN has increased from £2.8 billion in 2000–01 (when data was first available) to £4.1 billion in 2005–06—an increase of 49%. Planned expenditure on maintained special schools, after allowing for centrally retained expenditure, has risen from £890.7 million to £1.243 billion and spending on non-maintained and independent school places rose from £287.8 million to £481.1 million over the same period, an increase of around 68.3%. Local authority expenditure on special schools currently accounts for 41.4% of their total SEN expenditure. I believe it is impossible on the basis of these figures with claims that special schools, as a sector, are being neglected.

Between 1997–98 and 2003–04 the Government also allocated a total of £360 million through specific grants, to support SEN. The separate Standards Fund grant for SEN, worth £81 million, ended in March 2004, and was added into a new School Development Grant (SDG). The SEN element of the SDG in 2004–05 was £84 million. Total SDG for 2005–06 is £674 million and this will increase by 3.4% per pupil in 2006–07 and 3.7% in 2007–08. This, again, is a substantial rate of increase.

I hope I was able to convey the Government's firm commitment to continuing to improve outcomes for children with special educational needs, on the basis of sustained investment in SEN, taking forward the policies set out in Removing Barriers to Achievement. We will, of course, give very careful consideration to any recommendations you make in due course. In the meantime, I hope this additional information is helpful to the Committee, and I stand ready to provide any further information you may require.

	Number of pupils in special schools (based on where pupil attends school)								Pupils with statements of SEN	Pupils with SEN without statements	SEN Tribunal Appeals			
	Maintained		Non-Maintained		Independent Special		Total							
	Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population			1/9/04-3/1/05 No. of Appeals	Number of pupils per 10,000 of the school population		
England	85,497	103.3	4,874	5.9	3,126	3.8	93,497	113.0	242,579	293.2	1,230,797	1,487.5		
351 Bury	206	66.7	0	0.0	0	0.0	206	66.7	914	295.9	3,879	1,255.9		
352 Manchester	1,076	146.8	0	0.0	64	8.7	1,140	155.5	2,230	304.2	11,532	1,572.9		
353 Oldham	418	99.1	0	0.0	0	0.0	418	99.1	780	184.9	5,583	1,323.6		
354 Rochdale	482	135.3	0	0.0	4	1.1	486	136.5	1,144	321.2	5,551	1,558.6		
355 Salford	477	133.7	51	14.3	0	0.0	528	148.0	895	250.9	5,335	1,495.4		
356 Stockport	401	85.7	209	44.7	39	8.3	649	138.8	1,562	333.9	6,816	1,457.2		
357 Tameside	380	102.5	0	0.0	0	0.0	380	102.5	1,007	271.6	5,065	1,366.2		
358 Trafford	444	116.2	0	0.0	0	0.0	444	116.2	927	242.7	4,808	1,258.6		
359 Wigan	776	158.3	0	0.0	0	0.0	776	158.3	1,877	382.9	7,614	1,553.0		
370 Barnsley	156	44.8	0	0.0	12	3.4	168	48.2	828	237.6	5,336	1,531.3		
371 Doncaster	571	111.7	33	6.5	0	0.0	604	118.2	1,793	350.9	6,041	1,182.2		
372 Rotherham	642	140.1	0	0.0	0	0.0	642	140.1	1,742	380.0	7,723	1,684.8		
373 Sheffield	834	105.4	0	0.0	22	2.8	856	108.2	2,017	254.8	13,484	1,703.7		
380 Bradford	905	97.9	0	0.0	0	0.0	905	97.9	2,413	261.0	14,656	1,585.5		
381 Calderdale	195	53.8	55	15.2	16	4.4	266	73.3	1,049	289.2	4,623	1,274.5		
382 Kirklees	650	99.1	41	6.3	0	0.0	691	105.4	2,269	346.0	9,064	1,382.0		
383 Leeds	902	77.1	96	8.2	0	0.0	998	85.3	2,978	254.5	13,812	1,180.5		
384 Wakefield	409	71.8	0	0.0	12	2.1	421	73.9	1,359	238.6	7,150	1,255.3		
390 Gateshead	371	119.5	0	0.0	0	0.0	371	119.5	864	278.4	4,221	1,360.1		
391 Newcastle upon Tyne	449	104.5	113	26.3	0	0.0	562	130.9	980	228.2	6,655	1,549.6		
392 North Tyneside	427	133.8	174	54.5	0	0.0	601	188.3	1,019	319.3	4,713	1,476.9		
393 South Tyneside	509	211.0	0	0.0	0	0.0	509	211.0	797	330.4	3,328	1,379.6		
394 Sunderland	671	142.1	0	0.0	0	0.0	671	142.1	1,492	316.0	8,077	1,710.4		
420 Isles of Scilly	0	0.0	0	0.0	0	0.0	0	0.0	5	199.2	37	1474.1		
800 Bath and North East Somerset	279	94.6	0	0.0	0	0.0	279	94.6	877	297.3	3,138	1,063.7		
801 Bristol City of	663	115.1	0	0.0	76	13.2	739	128.2	1,728	299.9	8,701	1,510.0		
802 North Somerset	239	81.9	0	0.0	0	0.0	239	81.9	733	251.2	3,702	1,268.6		
803 South Gloucestershire	293	70.3	0	0.0	22	5.3	315	75.6	1,142	274.2	5,302	1,272.9		
805 Hartlepool	138	85.4	0	0.0	0	0.0	138	85.4	383	237.0	2,762	1,709.5		
806 Middlesbrough	427	178.5	0	0.0	0	0.0	427	178.5	1,002	418.8	3,913	1,635.4		
807 Redcar and Cleveland	228	94.3	0	0.0	0	0.0	228	94.3	669	276.6	4,478	1,851.7		
808 Stockton-on-Tees	513	156.7	0	0.0	0	0.0	513	156.7	1,048	320.1	4,528	1,383.0		
810 Kingston Upon Hull	574	140.1	0	0.0	51	12.4	625	152.5	1,238	302.1	6,816	1,663.0		
811 East Riding of Yorkshire	226	43.4	0	0.0	2	0.4	228	43.8	1,325	254.3	6,229	1,195.4		
812 North East Lincolnshire	247	92.1	0	0.0	0	0.0	247	92.1	1,061	395.8	5,608	2,091.9		
813 North Lincolnshire	204	80.7	0	0.0	0	0.0	204	80.7	1,038	410.4	4,757	1,880.9		
815 North Yorkshire	676	71.1	65	6.8	5	0.5	746	78.5	2,198	231.2	10,904	1,147.2		
816 York	205	76.3	0	0.0	0	0.0	205	76.3	650	242.0	3,705	1,379.3		
820 Bedfordshire	933	132.4	0	0.0	4	0.6	937	133.0	2,300	326.5	9,884	1,403.0		
821 Luton	263	81.3	0	0.0	0	0.0	263	81.3	773	238.9	5,074	1,568.0		
825 Buckinghamshire	1,016	120.4	47	5.6	52	6.2	1,115	132.1	2,370	280.8	10,127	1,199.8		
826 Milton Keynes	533	141.4	0	0.0	0	0.0	533	141.4	1,114	295.6	5,441	1,443.7		
830 Derbyshire	755	62.3	0	0.0	24	2.0	779	64.3	3,820	315.4	13,975	1,153.8		
831 Derby	379	92.7	97	23.7	0	0.0	476	116.4	1,301	318.2	5,794	1,417.2		
835 Dorset	555	90.1	0	0.0	45	7.3	600	97.4	1,865	302.8	10,203	1,656.8		
836 Poole	199	97.1	126	61.5	0	0.0	325	158.6	491	239.7	3,555	1,735.3		
837 Bournemouth	220	98.2	0	0.0	0	0.0	220	98.2	428	191.1	3,462	1,545.6		
840 Durham	1,076	136.3	0	0.0	0	0.0	1,076	136.3	2,620	331.8	13,861	1,755.5		
841 Darlington	211	127.9	0	0.0	0	0.0	211	127.9	524	317.7	2,336	1,416.1		
845 East Sussex	832	111.9	215	28.9	37	5.0	1,084	145.7	2,358	317.0	11,796	1,586.0		
846 Brighton and Hove	527	149.9	247	70.3	10	2.8	784	223.0	1,238	352.1	6,143	1,747.2		

		Number of pupils in special schools (based on where pupil attends school)						Pupils with statements of SEN	Pupils with SEN without statements	SEN Tribunal Appeals					
		Maintained		Non-Maintained		Independent Special				1/904-31/8/05 No. of Appeals		Number of pupils per 10,000 of the school population			
		Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population			Number	Number of pupils per 10,000 of the school population	Number	Number of pupils per 10,000 of the school population		
England	85,497	103.3	4,874	5.9	3,126	3.8	93,497	113.0	242,579	293.2	1,230,797	1,487.5	3,215	4	
850 Hampshire	2,310	121.6	141	7.4	185	9.7	2,636	138.8	4,632	243.9	30,983	1,631.3	104	5.98	
851 Portsmouth	460	164.1	0	0.0	0	0.0	460	164.1	767	273.6	5,156	1,839.3	10	4.03	
852 Southampton	340	111.7	22	7.2	0	0.0	362	118.9	560	184.0	7,435	2,442.6	7	2.44	
855 Leicestershire	542	53.1	0	0.0	11	1.1	553	54.2	2,966	290.5	11,292	1,106.1	26	2.69	
856 Leicester	755	149.4	0	0.0	0	0.0	755	149.4	1,705	337.4	8,780	1,737.3	21	4.44	
857 Rutland	27	38.5	0	0.0	0	0.0	27	38.5	161	229.7	677	965.8	0	0.00	
860 Staffordshire	1,987	148.4	0	0.0	32	2.4	2,019	150.7	5,037	376.1	13,735	1,025.5	36	2.78	
861 Stoke-on-Trent	523	140.6	0	0.0	0	0.0	523	140.6	1,286	345.7	7,533	2,024.8	15	4.06	
865 Wiltshire	461	63.2	35	4.8	38	5.2	534	73.2	1,754	240.5	9,344	1,281.2	47	7.15	
866 Swindon	404	140.1	0	0.0	0	0.0	404	140.1	823	285.3	4,007	1,389.1	7	2.43	
867 Bracknell Forest	181	101.2	0	0.0	0	0.0	181	101.2	507	283.6	2,655	1,484.9	5	3.30	
868 Windsor and Maidenhead	132	52.3	49	19.4	0	0.0	181	71.7	701	277.7	3,115	1,233.9	14	7.23	
869 West Berkshire	328	116.4	237	84.1	58	20.6	623	221.2	1,146	406.8	3,533	1,254.2	4	1.59	
870 Reading	184	92.6	0	0.0	14	7.0	198	99.7	566	284.9	2,831	1,424.8	4	2.35	
871 Slough	249	115.4	0	0.0	0	0.0	249	115.4	630	291.9	3,448	1,597.7	2	0.96	
872 Wokingham	250	94.2	50	18.8	0	0.0	300	113.0	925	348.4	2,851	1,073.8	8	3.38	
873 Cambridgeshire	792	91.4	0	0.0	13	1.5	805	92.9	2,852	329.3	11,142	1,286.5	26	3.32	
874 Peterborough	364	124.4	0	0.0	0	0.0	364	124.4	1,118	382.0	5,267	1,799.8	15	5.20	
875 Cheshire	984	87.1	147	13.0	61	5.4	1,192	105.5	3,523	311.8	11,124	984.5	26	2.49	
876 Halton	359	185.7	0	0.0	0	0.0	359	185.7	936	484.2	3,197	1,653.7	5	2.59	
877 Warrington	306	94.7	58	18.0	6	1.9	370	114.5	1,185	366.7	4,019	1,243.8	1	0.31	
878 Devon	695	65.0	277	25.9	24	2.2	996	93.1	3,288	307.3	13,477	1,259.6	32	3.26	
879 Plymouth	607	148.7	0	0.0	5	1.2	612	150.0	1,530	374.9	6,144	1,505.6	6	1.52	
880 Torbay	319	156.3	0	0.0	8	3.9	327	160.2	885	433.7	2,820	1,381.9	4	2.04	
881 Essex	1,780	83.5	105	4.9	32	1.5	1,917	89.9	4,858	227.8	27,761	1,301.8	127	6.29	
882 Southend-on-Sea	466	162.3	0	0.0	0	0.0	466	162.3	829	288.8	3,657	1,274.0	12	4.40	
883 Thurrock	241	104.7	0	0.0	0	0.0	241	104.7	746	324.1	4,505	1,957.1	11	4.78	
884 Herefordshire	183	70.4	0	0.0	75	28.8	258	99.2	914	351.5	3,953	1,520.3	4	1.66	
885 Worcestershire	1,097	122.7	84	9.4	0	0.0	1,181	132.1	2,805	313.8	12,744	1,425.9	38	4.67	
886 Kent	2,622	112.2	328	14.0	145	6.2	3,095	132.4	7,245	309.9	45,325	1,939.0	149	6.94	
887 Medway	460	100.5	0	0.0	52	11.4	512	111.9	1,345	293.9	9,897	2,162.8	14	3.17	
888 Lancashire	2,205	120.8	0	0.0	174	9.5	2,379	130.3	7,391	404.8	23,089	1,264.6	66	3.76	
889 Blackburn with Darwen	310	107.5	0	0.0	58	20.1	368	127.6	838	290.6	4,695	1,627.9	2	0.79	
890 Blackpool	292	129.4	0	0.0	4	1.8	296	131.1	651	288.4	4,184	1,853.6	3	1.40	
891 Nottinghamshire	761	61.2	83	6.7	11	0.9	855	68.8	1,287	103.5	17,599	1,415.4	9	0.74	
892 Nottingham	352	80.9	81	18.6	0	0.0	433	99.5	642	147.5	8,805	2,023.0	12	2.98	
893 Shropshire	273	59.7	0	0.0	63	13.8	336	73.5	1,312	286.9	6,953	1,520.4	23	5.64	
894 Telford and Wrekin	446	155.2	0	0.0	14	4.9	460	160.1	1,195	416.0	4,553	1,584.9	6	2.15	
908 Cornwall	419	54.9	28	3.7	0	0.0	447	58.6	2,859	374.5	10,995	1,440.3	20	2.72	
909 Cumbria	438	54.3	0	0.0	39	4.8	477	59.1	2,539	314.6	10,040	1,243.9	15	1.94	
916 Gloucestershire	896	94.5	58	6.1	10	1.1	964	101.7	2,537	267.5	13,657	1,440.1	19	2.20	
919 Hertfordshire	2,158	108.5	46	2.3	7	0.4	2,211	111.1	4,180	210.1	25,201	1,266.7	84	4.76	
921 Isle of Wight	213	103.7	75	36.5	0	0.0	288	140.2	710	345.5	2,795	1,360.2	9	4.57	
925 Lincolnshire	1,226	113.2	0	0.0	0	0.0	1,226	113.2	3,884	358.7	15,716	1,451.4	42	4.05	
926 Norfolk	905	75.2	0	0.0	183	15.2	1,088	90.4	3,469	288.1	19,559	1,624.4	40	3.51	
928 Northamptonshire	1,023	90.6	0	0.0	22	1.9	1,045	92.5	3,343	296.0	21,149	1,872.5	16	1.50	
929 Northumberland	434	84.6	40	7.8	0	0.0	474	92.4	1,667	324.9	5,553	1,082.2	6	1.18	
931 Oxfordshire	798	78.9	141	13.9	50	4.9	989	97.8	2,544	251.5	13,426	1,327.1	21	2.44	
933 Somerset	454	56.2	0	0.0	120	14.8	574	71.0	1,558	192.7	10,088	1,248.0	26	3.64	
935 Suffolk	864	78.5	0	0.0	54	4.9	918	83.4	3,279	297.9	15,186	1,379.7	55	5.40	
936 Surrey	1,928	107.8	538	30.1	131	7.3	2,597	145.2	5,616	313.9	26,216	1,465.5	120	8.50	
937 Warwickshire	990	118.1	0	0.0	3	0.4	993	118.5	2,377	283.6	14,082	1,680.0	9	1.16	
938 West Sussex	1,420	120.7	76	6.5	73	6.2	1,569	133.3	4,007	340.5	17,910	1,522.1	39	3.67	

Source: Annual Schools Census

April 2006