Statutory assessment and statements of SEN: in need of review?
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© Audit Commission 2002

First published in June 2002 by the Audit Commission for Local Authorities and the National Health Service in England and Wales, 1 Vincent Square, London, SW1P 2PN

Printed in the UK for the Audit Commission by MWL Print Group, Pontypool

ISBN: 1 86240 360 0
1 Introduction

This paper

1. This paper is the first publication from an Audit Commission research project on children with special educational needs (SEN) in England and Wales. It focuses on statutory assessment and statements of SEN – key aspects of the statutory framework for identifying and meeting children’s needs. It will be followed in autumn 2002 by a fuller report, looking at how well children’s needs are being met by local authorities and schools, in the context of Government policy on inclusion.¹

2. Early research raised significant concerns about how well the statutory framework for identifying and meeting children’s needs was working. It also made apparent the existence of a wide range of views about how children’s needs could best be met.

3. This paper seeks to bring together evidence on both the shortcomings and the strengths of the current framework. In light of this analysis, it puts forward a set of recommendations intended to help local authorities and schools to respond more effectively to children’s needs. These recommendations are rooted in innovative local practice and would not require reform to the statutory framework.

4. It also raises questions about the longer-term compatibility of the present framework with the policies currently being pursued by central and local government. In doing so, the paper aims to stimulate debate about how best to meet children’s needs in today’s context.

5. The paper’s intended audiences include policymakers at national and local level; voluntary organisations that play a key role in helping to meet children’s needs and providing advice and support to parents; school governing bodies, headteachers and SEN co-ordinators; and parents of children who have special educational needs.

¹ The SEN Green Paper (Excellence for all children, DfEE, 1997) defines inclusion as follows: ‘By inclusion, we mean not only that pupils with SEN should wherever possible receive their education in a mainstream school, but also that they should join fully with their peers in the curriculum and life of the school.’
Have your say

6. Readers are invited to comment on the recommendations put forward in Chapter Four of this paper by filling in the pull-out centrefold and sending it by 31 July 2002 to:

Andrew Foster
Controller
Audit Commission
1 Vincent Square
London SW1P 2PN

Please mark the envelope ‘SEN consultation’. The research team will analyse the responses and reflect on them in the national report to be published in autumn 2002.

Research base

7. Our analysis is based on a wide range of research:

- fieldwork in five local authorities in England and Wales, including interviews with local education authority (LEA) officers and school staff, questionnaires filled in by heads and school SEN co-ordinators (SENCOs), structured discussions with parents of children who have SEN, and a review of 100 case files of children who have statements. The authorities were chosen to represent the wide variation in local circumstances – for example between urban and rural areas, small and large authorities, counties and metropolitan areas; as well as variations arising from local policy differences, for example, in the proportion of children with statements and the proportion educated in special schools;

- a survey of 50 per cent of LEAs in England and Wales;

- a survey of parent-partnership officers;

- analyses of national data made available by the Department for Education and Skills (DfES), the Welsh Assembly Government (WAG) and others; and

- extensive discussions with key stakeholders in central and local government and in the voluntary sector. Our thanks go to all those who have contributed so generously of their time.

8. The research was mainly carried out between September 2001 and February 2002. This coincided with a period of change for local authorities and schools, as they put in place arrangements to implement a new SEN Code of Practice, effective from January 2002 in England and April 2002 in Wales. Key changes are outlined later in this chapter.
Special educational needs

9. One in five children in England and Wales are identified by their school as having special educational needs. I Special educational needs (SEN) is a very broad term, covering the full range of children’s needs – from mild dyslexia to behavioural problems to complex medical conditions. What children with SEN have in common is the need for some ‘additional or different provision’ in school. This could range from their teacher organising carefully structured group work for them, to needing a full-time assistant and help with feeding and toileting.

10. Most children with SEN will have their needs met by their school, II often drawing on advice from the local authority or other agencies, but without any direct support from outside the school. In most cases, their teacher will work with the school SENCO to draw up an individual education plan (an IEP), setting out targets for them to work towards together with any extra provision, such as occasional one-to-one tuition or special learning materials. Plans should be discussed with the child and their parents and reviewed at least twice a year.

11. The SEN Code of Practice (Ref. 1) sets out a graduated approach to meeting children’s needs in school, in light of the progress they make in response to different interventions (BOX A). III

12. A small minority of children require more support than their school is able to give them. For these children, the local authority draws up a statement of special educational needs, which in most cases provides extra help of some kind for them in school. This may include aspects of health or social services. Just over 3 per cent of children in England and Wales have a statement. IV

I Source: DfES and WAG. In 2001, 22 per cent of pupils in England and 21 per cent in Wales were identified by their school as having SEN (ie, they were on the ‘SEN register’). Figures relate to pupils aged 2–19.

II Children with special needs may also be educated in early years or further education settings – but for ease of reference, we focus primarily on schools in this paper. Many of the issues raised are also relevant to children in early years and post-16 provision.

III A new Code of Practice came into effect in January 2002 in England and April 2002 in Wales. This paper uses the terminology of the new Code, although much of the research was carried out during the transitional phase from the old to the new arrangements.

IV Source: DfES and WAG; figures relate to pupils aged 2-19 in 2001.
13. Most children with statements go to their local mainstream school, where they receive special provision of some kind. For example, some are supported by learning support assistants, some receive extra tuition and others are able to use specialist computer equipment or seating, depending on their needs. A significant proportion of children with statements are educated in special schools, which are funded by the local authority to make appropriate provision for children with higher levels of need. Just over one-third of the children who have statements in England and one-fifth in Wales attend a special school. In addition, a small proportion attend non-maintained or independent special schools\(^1\) (EXHIBIT 1, overleaf).

\(^1\) These schools are run by private or voluntary organisations.
Statutory assessment and statements

14. A statement of special educational needs sets out:

- the child’s needs;
- the additional or different provision they are to receive in school;
- learning objectives related to this;
- which school they will attend; and
- relevant non-educational needs, together with any related provision.
15. Statements are based on a formal assessment process, known as statutory assessment. The LEA must seek a wide range of advice on the child’s needs – from their parents, their school, the educational psychology service, health and social services and any other relevant agencies. This should take place over a six-month period, from when the LEA receives a request for statutory assessment from the child’s parent or their school, or a referral from another agency such as health (EXHIBIT 2).

16. The local education authority has a legal duty to arrange for the provision set out in the statement to be made. Parents may appeal to an independent tribunal (the SEN Tribunal) if they are not satisfied with the provision offered in the statement (including the school named in it) or if the LEA decides not to carry out a statutory assessment or, indeed, not to issue a statement.

Throughout this paper, by parents we mean all those with parental responsibility including carers and corporate parents.

The SEN Tribunal becomes the SEN and Disability Tribunal from September 2002. The current title is used throughout this paper.

---

**EXHIBIT 2 Statutory assessment process**

Statutory assessment takes place over a 26-week period.

**WEEKS 0-6**
LEA receives request and decides whether to assess

**WEEKS 7-12**
Advice sought from other agencies

**WEEKS 13-16**
LEA decides to make statement – or not

**WEEK 18**
LEA issues proposed statement

**WEEK 26**
LEA issues final statement

Source: SEN Code of Practice
17. Statements must be reviewed at least once a year, in an ‘annual review’ meeting organised by the school. This should include the child and their parents, their teachers and any other professionals involved. They will look at the progress made by the child over the last year, set new targets for the coming year, and consider if any changes are needed to the statement. This may lead to the statement being amended or, in some cases, discontinued.

Trends in statements

18. Statements were first introduced nearly twenty years ago, following recommendations made by the Committee of Enquiry into the Education of Handicapped Children and Young People, chaired by the now Baroness Warnock (Ref. 2). The ‘Warnock Report’ marked a significant step forward – both in terms of how children’s needs were thought about and in laying the foundations for a new system for identifying and meeting their needs. This led to the 1981 Education Act, which introduced statements of SEN. Further detail on the statutory framework is provided later in this chapter.

19. Numbers of statements have risen since that time, to just over 3 per cent of pupils today. In 2001, almost 275,000 pupils in England and Wales had a statement – an increase of 10 per cent over the five years from 1997 (EXHIBIT 3). There are signs that this trend may be beginning to slow, probably as a result of local policy changes, in particular, developments in SEN funding arrangements which are described later in this paper.

20. As the number of statements has grown, so too has local authority expenditure on children with special educational needs (EXHIBIT 4, overleaf). In 2001/02, local authorities in England and Wales spent almost £3.6 billion on SEN provision – representing 15 per cent of all spending on schools (or the ‘local schools budget’). SEN is a frequent area of LEA overspending.

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I Source: DfES and WAG; figures relate to pupils aged 2-19.

II Source: CIPFA education estimates 2001/02.
EXHIBIT 3 Percentage of pupils with statements in England and Wales

The proportion of children with statements is rising.

Source: DfES and WAG. Data relate to pupils aged 2-19 in 2001 (English data for 2001 is a DfES estimate).
**EXHIBIT 4  SEN expenditure by local authorities in England and Wales**

As the number of statements has grown, so has LEA spending on children with SEN.

![Exhibit 4 SEN expenditure by local authorities in England and Wales](chart).

*Source: CIPFA education estimates 1999/2000 to 2001/02, England and Wales*

---

**The statutory framework**

21. Arrangements for identifying and meeting children’s SEN are set out in the Education Act 1996 (and prior to that, the Education Acts of 1981 and 1993). The 1996 Act has recently been amended by the SEN and Disability Act 2001. Key elements of the statutory framework for identifying and meeting children’s SEN are summarised in **TABLE 1**.

22. The 1996 and 2001 Acts place a number of other important duties on LEAs and schools, in particular:

- LEAs must ensure that children with SEN are educated in mainstream schools unless their parents choose otherwise or if this is incompatible with ‘efficient education for other children’; and
both schools and LEAs must work closely with parents, keeping them informed and involved throughout the process of identifying and meeting their child’s needs.

23. Local authorities and schools are also required to have regard to the SEN Code of Practice (Ref. 1), which sets out in some detail how they must carry out their duties under the 1996 Act. A new Code of Practice came into effect in January 2002 in England, and April 2002 in Wales, which LEAs and schools are currently working to implement. Key changes arising from this and the SEN and Disability Act 2001 are to:

- streamline the school-based process prior to statutory assessment, replacing the former four-stage process with action at two levels – ‘School Action’ and ‘School Action Plus’;
- place greater emphasis on the importance of involving parents and young people at every stage of the process;

<table>
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<tr>
<th>TABLE 1 Summary of key provisions in the 1996 Education Act, Part IV</th>
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<tr>
<td><strong>Section s. 312</strong>: A child has SEN if he or she has a learning difficulty or disability which calls for special educational provision to be made; special educational provision is ‘additional to or otherwise different from’ the provision made generally for pupils of the same age.</td>
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<tr>
<td><strong>Section s. 321</strong>: LEAs shall identify children who have special educational needs and for whom they need to arrange special educational provision.</td>
</tr>
<tr>
<td><strong>Section s. 323</strong>: LEAs shall assess the needs of such children.</td>
</tr>
<tr>
<td><strong>Section s. 324</strong>: If assessment shows that the child requires special provision to meet their needs, then the LEA must ‘make and maintain’ a statement and arrange that the provision set out within it is made.</td>
</tr>
<tr>
<td><strong>Section s. 317 (1)</strong>: Governing bodies must ‘use their best endeavours’ to ensure that children with SEN receive the support they need in school.</td>
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*Source: Audit Commission*
• provide for more support to parents by putting LEA parent-partnership services\(^I\) on a statutory footing;

• require LEAs to establish disagreement resolution services, offering parents an ‘early and informal’ means of resolving any disagreements they may have with the LEA or the school;\(^II\)

• clarify the respective roles and responsibilities of LEAs and schools in meeting children’s needs. New regulations\(^III\) require LEAs to publish details of which aspects of SEN provision for children without statements will be funded by them, and which aspects should be provided from the school budget; and

• promote effective multi-agency working in planning and providing services for children with SEN.

These are summarised in the table opposite (TABLE 2).

The paper concludes by putting forward a set of recommendations for policymakers to consider. These are made at two levels:

• actions that local authorities, schools and Government can take within the current framework; and

• the need for a national debate about possible changes to the statutory framework, in the longer term.

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I Parent-partnership services are provided for by the LEA to offer impartial advice and support to parents on SEN matters. Some are contracted out to local voluntary organisations.

II The SEN Code of Practice states that the service must be ‘neutral and involve an independent element’.


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Structure of this paper

24. This paper seeks to draw together evidence on how well the statutory framework for identifying and meeting children’s special needs is working. It considers in turn:

• concerns about statutory assessment and statements; and

• aspects of the framework that are valued by parents and professionals.
### Overview of key concerns and strengths

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<th>Key strengths</th>
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<td><strong>Assessment</strong></td>
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<tr>
<td>Statutory assessment is a <strong>costly, bureaucratic and unresponsive</strong> process ... which <strong>may add little value</strong> in helping to meet a child’s needs.</td>
<td><strong>Parents value the formal recognition of their child’s needs and schools value the external advice</strong> they receive – although often this is provided before statutory assessment even begins...</td>
</tr>
<tr>
<td>Many parents find the process <strong>stressful and alienating</strong>.</td>
<td>...and parents value the support offered to them through LEA <strong>parent-partnership services</strong>.</td>
</tr>
<tr>
<td><strong>Assurance</strong></td>
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<tr>
<td>A lack of monitoring by both schools and LEAs and the fact that LEAs have no control over services provided for children with SEN by other agencies mean that statements often provide <strong>little assurance to parents</strong>.</td>
<td>Statements can provide <strong>added rigour to planning for children with SEN</strong>. This is particularly valuable for vulnerable children and those with complex needs, requiring support from many agencies...</td>
</tr>
<tr>
<td></td>
<td>...and <strong>parents know what support should be provided</strong> – even if it is not forthcoming. Parents also have a <strong>mechanism for redress</strong>, through appeal to an independent tribunal.</td>
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<tr>
<td><strong>Resource allocation</strong></td>
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<tr>
<td>Statements are leading to an <strong>inequitable distribution of resources</strong>...</td>
<td>Statements provide a means of <strong>targeting resources for children requiring very high levels of support</strong>.</td>
</tr>
<tr>
<td>...and may provide funding to schools in a way that is <strong>inconsistent with early intervention and inclusive practice</strong>.</td>
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25. Our research raises significant concerns about how well statutory assessment and statements are working (BOX B). It also demonstrates aspects of the current framework which are valued by both parents and professionals. These are considered in turn over the following two chapters.

A costly and bureaucratic process

26. Statutory assessment is a costly and bureaucratic process to administer. Each statement costs an estimated £2500 I to produce. In 2000, almost 36,000 new statements were issued by local authorities in England and Wales. II We therefore estimate that LEAs are spending more than £90 million every year on statutory assessment and writing statements. The same process must be followed, irrespective of the child’s needs – so, for example, the local authority must take the same steps for a child with behavioural difficulties as for a child with profound and multiple learning difficulties.

I Average cost based on a sample of data from fieldwork sites.

II Source: DfES and WAG.

---

BOX B Summary of concerns raised during research

Statutory assessment is:

- a costly and bureaucratic process (paragraphs 26-31);
- which many parents find stressful and alienating (paragraphs 32-38).

Statements of special educational needs:

- often provide little assurance to parents (paragraphs 39-50);
- lead to an inequitable distribution of resources (paragraphs 51-57);
- and may provide resources to schools in a way that fails to support inclusive practice (paragraphs 58-63).
27. **Statutory assessment diverts key professionals from working with pupils and teachers in schools.** Educational psychologists commonly spend around 30 per cent of their time on statutory assessment, much of which is spent on paperwork. They have a key role to play in advising teachers on how best to respond to the diverse range of needs in the classroom – but statutory assessment-related activities prevent them from spending more time working in schools. Other professionals such as specialist teachers and health therapists are also spending scarce time on statutory assessment.

28. **Statutory assessment is a slow and unresponsive process.** Local authorities have done much to improve their management of the process, such that on average LEAs in England complete 82 per cent of assessments within the 18-week statutory timetable and LEAs in Wales complete 76 per cent. Nonetheless, six months represents a considerable time in a child’s education, particularly for very young children, whose needs may change rapidly – and for those whose needs could best be addressed by prompt action.

29. In practice, the overall process of needs identification – of which statutory assessment is only a part – can feel considerably longer than this to the young person, their family and their teachers. It may take a long time to reach an agreed diagnosis of the young person’s needs, which may involve assessments with professionals such as specialist doctors, over a matter of years. Before agreeing to statutory assessment, LEAs usually require evidence of ongoing difficulties in school and information on the strategies employed by teachers to help address them. It may therefore be a number of years from when a child’s needs first become apparent to when they receive extra provision in school through a statement (EXHIBIT 5, overleaf).

---

I Audit Commission national survey of LEAs (figures do not include work at School Action Plus or Stage 3 of the old SEN Code of Practice).

II Local authority performance indicators 2000/01. The indicator (‘BV 43a’) measures the percentage of proposed statements issued within 18 weeks, excluding those affected by ‘exceptions’ under the SEN Code of Practice (for example, delays in receiving advice from other agencies). LEAs then have a further 8 weeks to issue the final statement.
EXHIBIT 5 One family’s experience of the ongoing process of needs identification

It may be a number of years from when a child’s needs first become apparent to when they receive additional help through a statement...

Mark* begins to attend a resourced unit in a local primary school. His results start to improve and he seems much happier.

Mark is still struggling in class. His parents request a statutory assessment. He is diagnosed as having dyspraxia.

Mark is falling behind his classmates in reading and writing. His teacher draws up an IEP for him. He still has few friends and says he is bullied by the older boys.

Mark is slow to make friends in school. His reception class teacher calls him ‘clumsy’ and ‘naughty’. The GP says his late development of speech is ‘not unusual’.

Mark still has little language and throws frequent tantrums. The nursery reassures his parents that he is ‘just a late developer’.

Parents have no concerns.

*Note: Not real name.
Source: Audit Commission fieldwork
30. Statutory assessment may add little value in helping to meet a child's needs – beyond the resources that are usually provided. Although statutory assessment involves a six-week period during which advice is sought from all relevant agencies, it seldom reveals significant new information. This is because, in most cases, much advice will have already been sought – either by the child’s parents or their school – before the process even began. However, statutory assessment may be the first time all such information is brought together for the purposes of planning how best to meet their needs. And in some cases, new information may be revealed, for example, where a child’s needs have proved difficult to diagnose or have suddenly changed.

‘There are relatively few surprises in terms of recognition and identification of needs as result of statutory assessment.’
Principal educational psychologist

31. This was reflected in SENCOs’ views of statements. They felt that statements seldom added to what they already knew and that individual education plans (IEPs) were often more useful than statements in planning to meet a child’s needs. I The section they valued most was the advice from the educational psychologist – but often this was provided prior to or early on in the statutory assessment process. Less than half of the SENCOs we met felt that both statements and IEPs were needed to meet a child’s special needs, even though statements usually lead to extra resources. We acknowledge that concerns have been raised elsewhere about the quality of IEPs. II

‘By the time they’re on Stage 3 (of the old Code of Practice), you should have a good IEP. So a statement doesn’t add that much.’
SENCO

‘Statements tend to be something you file ... IEPs are much more meaningful in responding to needs.’
Special school headteacher

I Source: Audit Commission interviews and questionnaire of SENCOs in fieldwork LEAs. Less than one-third of 41 SENCOs felt that statements added significantly to the advice already received from the educational psychologist or to the IEP already in existence.

II Ofsted’s report on the SEN Code of Practice, 1999 (Ref. 3) highlighted a range of weaknesses in IEPs, in particular, vague terminology such as ‘improved reading’ or ‘increased confidence’, a failure to indicate which teachers and subjects would be involved and a lack of pupil involvement.
Stressful and alienating to parents

We met over forty parents in five different areas. Although their experiences were diverse, they were largely consistent in their criticism of the statutory assessment process.

32. Most parents said they ‘had to fight’ to have their child’s needs formally assessed. This was often linked to a perception that the local authority was trying to control its expenditure. The 1996 Education Act makes the local authority responsible for arranging provision to meet a child’s needs, as identified by the statutory assessment process and set out in their statement – placing potentially unlimited demands on limited LEA budgets.

‘I found it difficult to start the process. I had to phone, I had to beg ... I asked myself if I was being a good parent ... it was frustrating and draining.’

‘They don’t want to commit themselves ... because it’s down to resources ... I chased them all the time!’

‘Professionals’ advice is based on funding and not the needs of the child. The speech and language therapist wrote such a short report, I went back and said she had to write more.’

33. During assessment, many parents experienced long periods when they did not know what was happening and felt overwhelmed by quantities of often complex information. Statutory assessment is meant to take six months to complete during which there may be long periods when the parent does not know what is happening. Assessment (statutory or otherwise) is an inherently stressful process for parents – and the length and complexity of statutory assessment may be adding to this.

1 Structured discussions were held with over 40 parents, representing a wide range of experience – in terms of the needs of their children, type of school, age and so on. It is difficult to quantify the results of such research precisely. ‘Many parents’ means that a majority of parents made a particular point or agreed with it; ‘some’ means that a significant minority of them did and ‘several’ means that only a handful did. The quotations provided are verbatim.
34. There are also concerns about how well local authorities communicate with parents and young people during the assessment process. Our review of 100 case files demonstrated great variation in the degree of parental involvement in statutory assessment – ranging from only four in ten parents contributing written evidence on their child’s needs in one LEA, to nine in ten in another. There was less evidence of young people’s views being sought or recorded during statutory assessment – with evidence of this in no files at all in one LEA, rising to one in four in another.

35. Parents in most areas we visited also complained about the information they received from the local authority. Several said there was too much information and many found it was difficult to understand and complained about the use of technical terms and jargon.

‘You just don’t know where to go – it’s an alien process.’

‘I didn’t understand what the information meant in English. I felt bombarded! I needed to resort to real people to tell me what it meant!’

‘The jargon was baffling – they tell you “it’s going to panel” – it feels like you’re following the file around the office!’

36. Parents complained about poor communication between professionals in different services. Some parents described a feeling of being passed ‘from pillar to post’ in seeking advice and support to meet their child’s needs. Parents were unhappy with the way professionals failed to share information with each other, for example, from previous assessments or on transfer to a new school. Several parents said that they had to ‘chase’ other agencies to provide information during the statutory assessment process.

‘There’s so much lack of communication between schools and parents, doctors and parents...’

37. Some parents described insensitive dealings with professionals during assessment. The parents we met spoke candidly of their feelings relating to their child’s needs – guilt, inadequacy, anger, isolation, helplessness. In a few cases, these feelings had been exacerbated by insensitive comments made by professionals during the assessment process. This varied from area to area, with the educational psychology service, health and social services all being mentioned at some point.

‘I’m fed up with the word “professional”. It’s like “I’m a professional and you’re nothing”. But I am a professional on my child. They look down on parents. People don’t ask my son’s opinion.’
38. Many parents said they learnt nothing new from the process and some said little changed as a result of it. As already described, little new information tends to be revealed during statutory assessment, although it may be the first time that it has been brought together. Parents generally felt that the process provided confirmation of what they already knew, rather than telling them anything new. Although statements in most areas lead to additional resources being allocated to a school, several parents felt that little had changed. This could be because the school was already making extra provision, so the statement changed the way it was paid for, but not what was provided (in such cases, a statement would allow the school to redeploy its resources to provide more for other children). In other cases, this was because the specialist support the parent wanted simply was not available in that area.

‘You go through a year of your life and at the end of the day, they tell you what you already knew!’

‘It’s everything I knew anyway. There wasn’t anything on what they were going to do – it didn’t change anything for me.’

‘I can sue the authority but I can’t put what I want in the schools...’

39. LEAs are held responsible for arranging that the provision set out in a statement is made – but most provision is made at school level. When statements were introduced in the early 1980s, local authorities managed nearly all of school expenditure and controlled key decisions such as how many staff each school could employ. In this context, there was much logic to holding LEAs responsible for meeting children’s special educational needs.

40. ‘Local Management of Schools’, introduced under the 1988 Education Reform Act, marked a significant change in the way education was managed. Each school’s budget was delegated to its governing body, which became accountable for using the budget to meet the school’s responsibilities and objectives. Since then, schools have taken control of almost nine-tenths of their resources.
41. As school self-management has increased, LEA involvement has declined. The DfES and WAG\textsuperscript{I} issued guidance (Ref. 4) in 1999 which sought to clarify the respective responsibilities of LEAs and schools. The English guidance stated that schools ‘are responsible for their own performance and the achievements of their pupils ... they need the maximum freedom to make decisions and manage their resources’. Along the same lines, the Welsh guidance said that ‘schools are responsible for their own performance and should be given the maximum discretion to make decisions for themselves’. Both emphasised that ‘intervention (by the LEA) should be in inverse proportion to success’. In this context, many of the local authorities we visited seemed unsure about their role in monitoring schools’ performance on SEN. Some were also concerned about their capacity to do so effectively, in light of increased delegation and the priority accorded to fulfilling their statutory duties.

42. Barely half of LEAs report that they have systems in place for monitoring school expenditure, management or pupil outcomes on special educational needs\textsuperscript{II} (EXHIBIT 6, overleaf). This means that they are unable to be confident that schools are meeting children’s needs, as set out in their statements – and so are unable to provide that assurance to parents. It may be that they are instead relying on information gathered through participation in annual reviews and occasional visits by their school inspectors, SEN advisers and so on.

43. Effective monitoring at school level is very variable. Governing bodies have important responsibilities to ensure that children’s needs are met in school and that resources are used appropriately to this end. The 1996 Act requires governors ‘to use their best endeavours’ to ensure that children with SEN receive the provision they need. Under the SEN Code of Practice (Ref. 1), governors are expected to be ‘up to date and knowledgeable about the school’s SEN provision including how funding, equipment and personnel resources are deployed ... and the quality of SEN provision is continually monitored’. The governing body’s duties\textsuperscript{III} in relation to promoting high standards in the school also apply to children who have SEN.

\textsuperscript{I} Then, the DfEE and the National Assembly for Wales.

\textsuperscript{II} Audit Commission national survey of LEAs.

\textsuperscript{III} Governing bodies have a duty to promote high standards in the school under the School Standards and Framework Act 1998.
Our meetings with governors, as well as interviews with SENCOs, heads and LEA officers, suggest that monitoring by governors is very variable (BOX C) – depending on factors such as:

- their own skills, knowledge and experience in relation to SEN;
- their view of the appropriate balance of their role – in terms of support (for example, pressing the LEA for more funding for a particular child) or constructive challenge;
- their relationship with the head; and, critically,
- the information they receive on the performance of children with SEN and on how SEN resources are being used.

One reason why many LEAs and schools have not developed systems for monitoring performance on SEN more systematically is that it is very difficult to do. National performance targets (such as 5 A*-C grades at GCSE) relate to the expected standard of achievement for pupils of a given age – standards which many children with SEN, due to their learning difficulties, are unlikely to reach. Few accepted measures exist for these children, although recent progress has been
made with the introduction of ‘P-Scales’, which help schools to set meaningful targets for children unlikely to reach level one of the National Curriculum. A number of LEAs have also successfully developed their own systems for measuring the attainment of children below national curriculum levels, such as Lancashire’s ‘PIVATS’ system (Performance Indicators for Value Added Target Setting) which is now used in a number of areas. A lack of common definitions of need also undermines attempts to compare how well children with similar needs are doing in different schools – making it hard to assess whether they are making reasonable progress or not.

46. Statements hold LEAs responsible for provision over which they have no control. Statements often include aspects of health or social services provision which the child needs to help them to get the most from their education. For example, some children require speech and language therapy and a small minority require regular medical care. The 1996 Education Act holds the LEA responsible for arranging for all the provision in a statement to be made. It also requires health and social services to comply with a request from the LEA for help in relation to SEN – but only in so far as their resources and overall priorities allow. For their part, health and social services have responsibilities towards many other client groups and, in the context of limited resources and competing priorities, the needs of children with SEN may not be paramount.

BOX C Examples taken from interviews in fieldwork LEAs

The chair of governors in one primary school knew that 180 of the 400 pupils on the school roll were on the SEN register. However, he was not clear as to what exactly this meant, acknowledging: ‘I don’t know enough about stages one to five (of the old SEN Code of Practice) and SEN. I’ve never investigated what it means to be on the SEN register.’ Although the governing body received regular updates on test results and overall levels of attainment, they had no information on how well children with SEN were progressing.

In another school, the headteacher told us: ‘The governing body is very supportive and wouldn’t dream of challenging me.’

Source: Audit Commission fieldwork
47. In one in five of the 100 case files of children with statements reviewed, we found examples of:

- delays in provision (such that support was not forthcoming for many months or was interrupted due to staff turnover); or
- shortfalls in provision (support was provided, but to a lesser extent than set out in the statement); or
- gaps in provision (no support was provided).

48. This is consistent with evidence from our survey of local authorities. Over four-fifths of respondents agreed that aspects of health and social services provision were ‘commonly unavailable or not available at all, despite being specified in a statement’. Speech and language therapy was the most common shortage area, followed by occupational therapy and child and adolescent mental health services (EXHIBIT 7). In Wales, these shortages are compounded for children in some areas by their lack of availability through the medium of Welsh.

49. In light of this situation, many LEAs have decided to fund additional provision – particularly from health – in order to meet their statutory obligations towards children with statements: seven out of ten LEAs responding to the Commission’s survey said that they purchase additional health services for children with SEN. This in turn must impact on their ability to provide other education services.

50. The SEN Tribunal offers parents a mechanism for redress – but few choose to use it. If parents are not satisfied with the provision made in a statement, or if the LEA decides not to carry out an assessment or not to issue a statement, then parents may appeal to an independent tribunal. Few choose to do so. In 1999/00, almost 2500 appeals were registered – representing about 1 per cent of statements. Almost half of these (1225) were withdrawn before being heard, suggesting that the possibility of an appeal may in itself help the parent to resolve the issue. We have not investigated why the overall level of appeals is low. It could be because parents are satisfied that their child’s needs are being met – or it could be because they are worried about escalating the issue to such an extent.

Source: SEN Tribunal annual report 1999/00.
EXHIBIT 7  Support from health and social services for children with statements

Children with statements often do not get the support that they are meant to from health and social services.

“In your area, are there types of health and social service provision that are commonly unavailable or not available at all, despite being specified in the statement?”

<table>
<thead>
<tr>
<th>Service</th>
<th>Number of LEAs</th>
<th>Number of LEAs who answered ’yes’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupational therapy</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>Physiotherapy</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>NHS equipment</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Speech and language therapy</td>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>Social work support</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Child and adolescent mental health</td>
<td>28</td>
<td>28</td>
</tr>
</tbody>
</table>

Source: Audit Commission national LEA survey (49 respondents)
Inequitable distribution of SEN resources

Several factors beyond a child’s level of need appear to influence the likelihood of getting a statement and therefore, in most areas, receiving extra provision in school.

51. The proportion of children with statements varies fivefold between local authorities – ranging from 1 per cent of pupils to 5 per cent (EXHIBIT 8). Therefore, a child with certain needs living in one area may be less likely to receive a statement than a child with the same needs living in another area. For this reason, several of the parents that we met during our research were worried about moving house in future.

‘All of us are probably scared stiff of moving house, because we might lose what we’ve got or have to go through it all over again.’

‘We were planning to move ... but I couldn’t face it. It would have involved seeing five different people, because they would have had to assess (our daughter) again if we moved, the LEA said.’

52. Although the link between some special educational needs and socio-economic factors has long been known, we found only a weak correlation between the level of statements in local authority areas and their level of deprivation (EXHIBIT 9, overleaf). This suggests that factors other than the nature of children’s needs are influencing the likelihood of getting a statement.

53. The variation in the proportion of pupils with statements between LEAs may be explained in part by differing local policies, in particular, decisions to delegate SEN budgets to schools. Several LEAs have chosen to delegate much of their SEN funding to schools, with the result that less is now distributed through statements. Fewer statements tend to be issued in such areas as schools are able to make more additional provision from within their own budgets.

I Arguably the most significant British study in this area was Born to Fail? by Wedge and Prosser, NCB 1973.

II Deprivation ratings were taken from the DTLR’s Index of Multiple Deprivation, which measures deprivation in localities based on factors such as income levels, employment and quality of housing.
EXHIBIT 8  Proportion of children with statements in LEAs

The proportion of children with statements varies fivefold between local authorities.

Percentage of pupils with statements

Source: DfES and WAG. Data relate to pupils aged 2-19 in 2000.
EXHIBIT 9 Pupils with statements compared to deprivation levels in English LEAs

The level of statements is only weakly related to the level of deprivation.

Source: DfES. Data relate to pupils aged 2-19 in 2000.
The school a child attends also appears to influence the likelihood of getting a statement (EXHIBIT 10, overleaf). Some schools have far more children with statements than others. This could be because they have been given additional funding to meet certain needs, for example, by developing a ‘resourced unit’ within the school. Equally, it may reflect differences between schools in terms of staff skills, teaching practices, building accessibility and attitudes. Our interviews with headteachers, SENCOs, LEA officers and parents suggested that some schools have successfully developed a positive ethos towards including children with SEN; while others are less willing to admit children with certain needs – and more likely to seek additional resources by requesting statutory assessments or by encouraging parents to do so.

‘Without hard criteria (for assessment) the range of practice is broad. Some schools are more able to access additional resources ... schools who are not as efficient at the process are not accessing those resources.’
Principal educational psychologist

‘Small primaries did poorly – they were meeting needs rather than chasing resources.’
Head of statutory assessment in an authority that has reduced statements

‘Schools in the wealthy suburbs do better through statements.’
Head of inner-city comprehensive

Parental means and attitude also appear to have an influence. As already described, many parents felt they needed to ‘fight’ for a statement. If this is true, then it seems likely that there are other parents who choose not to fight or who perhaps are unable to. Either way, many of the parents we met felt that they had been able to make a difference by being assertive. Independent Parental Supporters and other advocates may also have a significant influence on behalf of parents.

‘The school never really flagged up that something was wrong. We got our own private assessment done – it cost an arm and a leg – and then it moved quickly ... I went in every day to the office (the SEN department).’

‘They ignored me until I took them to court. Now my daughter is the only one out-of-borough in her school and she got speech and language therapy.’

Our national report will provide further evidence on factors influencing the likelihood of a child's needs being identified.
EXHIBIT 10 Distribution of children with statements across schools

Some schools have far more children with statements than others – and often, this does not relate to the level of deprivation locally.

Percentage of school roll

<table>
<thead>
<tr>
<th>Percentage of pupils receiving free school meals</th>
<th>Percentage of pupils with statements</th>
</tr>
</thead>
<tbody>
<tr>
<td>0%</td>
<td>Secondary schools in one LEA</td>
</tr>
<tr>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>10%</td>
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<td>15%</td>
<td></td>
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<td>25%</td>
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<tr>
<td>30%</td>
<td></td>
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<tr>
<td>35%</td>
<td></td>
</tr>
<tr>
<td>40%</td>
<td></td>
</tr>
</tbody>
</table>

Note: percentage of pupils receiving free school meals is used as a proxy for deprivation.

Source: Audit Commission survey of fieldwork LEAs

30 statutory assessment and statements of SEN: in need of review?
56. Sixty-eight per cent of SEN expenditure is focused on children who have statements. In 2000/01, local authorities in England and Wales spent £2.3 billion on pupils with statements and £1.1 billion on pupils with SEN but no statements.¹ In other words, 68 per cent of SEN spending was focused on the 3 per cent of pupils who have statements and the remaining 32 per cent on those pupils with SEN but no statement – some 19 per cent of pupils (EXHIBIT 11). One would expect children with higher levels of need to attract a greater proportion of the available resources. So, this is of concern only in so far as the likelihood of getting a statement appears to vary in relation to a number of factors other than need.

¹ Sources: pupil number data from DfES and WAG, pupils aged 2-19 in 2001; financial data from CIPFA education estimates 2000/01.

EXHIBIT 11 Proportion of LEA spending on children with statements (England and Wales)

Sixty-eight per cent of SEN spending is focused on just three per cent of pupils.

Note: 22 per cent of pupils have SEN. Of these, 15 per cent have a statement (3 per cent of all pupils) and 85 per cent do not (19 per cent of all pupils) – as shown in the left-hand bar.

Sources: As in footnote 1 above
57. **Tribunal decisions lead to some very high-cost placements which can have an impact on a local authority’s ability to provide for other children, including those with similar levels of need.** Our survey of LEAs showed examples of provision costing more than £50,000 a year, which would need to be made on a year-on-year basis. Such decisions may be justified if the local authority has failed in its duty to ensure that a child’s needs are met. However, in the context of limited resources, these decisions may have an impact on the authority’s ability to provide for other children, including those with similar levels of need.

**At odds with inclusion**

Statements may provide funding to schools in a way that fails to support inclusive practice. By this we understand that a child’s needs should be met as early as possible and in a way that does not set them apart from their classmates.

58. **Statements may not support early intervention by schools.** Using statements to allocate resources may run counter to early intervention, if additional resources are only provided after much evidence of difficulties and a lengthy assessment process. If a statement is issued, resources are often not forthcoming until months later\(^1\) (EXHIBIT 12).

59. Some LEAs have sought to redress this balance by providing additional funding for children who have special needs but do not have a statement. Statements may nonetheless act as a disincentive to early intervention. As explained in Chapter One, the SEN Code of Practice (Ref. 1) sets out different levels of action for meeting a child’s needs in school. Local authorities have different arrangements for funding schools; however, schools often receive little or no additional funding for children at the lower level of action, some for those at the higher level, and significant extra resources for children who have statements.\(^\text{II}\) This can create a perverse financial incentive to emphasise a child’s difficulties, particularly for those who are on the borderline of the different levels.

\(^{\text{I}}\) Questionnaire of 41 SENCOs in fieldwork LEAs.

\(^{\text{II}}\) Much of the research was carried out during the transitional phase to new arrangements under the revised SEN Code of Practice. This assumes that broadly similar SEN funding arrangements are still in place.
‘In the past, we have all played games – we’ve been glad that they haven’t made progress as you can get a statement and resources.’
SENCO

‘There’s pressure to get children on to Stage Three (of the old SEN code of practice) for funding and keep them there.’
SENCO
60. **Statements make the LEA responsible for arranging provision to meet a child’s needs, which can detract from the school’s sense of responsibility.** In an inclusive system of education, schools should be willing and able to meet the diverse needs of all children. Our national report, to be published in the autumn, will consider how far this happens in practice. However, there is some evidence that statements can allow schools to ‘pass the buck’ when problems arise. For example, if a child does not make progress, some schools’ first reaction may be to ask the local authority for more support, rather than to consider what they could do differently. However, there are instances where seeking external advice and support is the most appropriate response – for example if the school lacks the necessary expertise or the specialist resources.

‘If you get a statement, everyone sits back and coasts while the support comes through.’

SENCO

61. **Statements focus resources on the individual child, which can set them apart from their classmates.** Responses to special educational needs may be made at a number of levels – the individual pupil, the class or the school. Statements provide support to the individual. A more inclusive approach might be to consider what changes are needed in the way the class is organised or indeed in the school as a whole. Thus, instead of providing a learning support assistant to work full-time with just one child, he or she could help to run small group work within the class. At the whole school level, training in, for example, behaviour management could offer more of a long-term response, potentially benefiting many more children. For children with higher levels of need, action may be appropriate at all three levels – and full-time assistance may be essential to help them to make the most of opportunities in school.

‘The statementing process makes it too rigid – it’s got more and more restrictive over time.’

Headteacher

‘The statement has to go to the individual – but we do try to generalise the benefits.’

SENCO
62. Statements can have the effect of ‘labelling’ a child, defining them by reference to the difficulties they have. As discussed above, the greater a child’s difficulties, the more additional resources the school is likely to receive. For this reason, statements create a perverse financial incentive to emphasise a child’s difficulties. Some parents voiced concern about this. Others felt it could be helpful, for example, in explaining a child’s behaviour and in helping to develop appropriate responses.

‘I questioned whether I was doing the right thing (in seeking assessment) – my child was being labelled’.

‘Don’t you want to pretend they haven’t got needs? And that they’re normal...’

63. A more inclusive approach might be to assess what their chosen school needs to do to meet their needs – rather than what support they, as an individual, need to attend that school.
3 Strengths of the current framework

64. Although our research raises concerns about how well statutory assessment and statements are serving young people with SEN, it also reveals aspects of the current framework which are valued by parents and professionals (BOX D). These should be built on in any consideration of options for future reform.

BOX D Statutory assessments and statements can be valuable in providing...

- formal recognition of a child’s needs and an authoritative summary of them (paragraphs 65-67);
- some assurance to parents and additional protection for vulnerable children (paragraphs 68-74);
- support to parents through a difficult period (paragraphs 75-76); and
- additional resources to meet high levels of need (paragraphs 77-80).

Formal recognition of a child’s needs and an authoritative summary of them

65. Parents valued the formal recognition of their child’s needs provided by the statement. For many, statutory assessment simply confirmed their own conclusions about their child’s needs – but the statement could be valuable in adding weight to what they had been telling teachers, with varying degrees of success. For some parents, the statement provided for the first time a detailed and authoritative description of their child’s needs. Parents also reported that a statement could lead to their child’s needs being viewed in a more constructive way. This was most commonly in relation to children with behavioural difficulties: they might no longer be labelled as ‘naughty’ but, rather, as in need of support.

‘He used to get called a clumsy child. They had no box to put him in – he was a “naughty boy”. No-one seemed able to cope – all you knew was that they wanted to get him moved to another school.’

‘They see children as naughty at first, then investigate for other things.’
66. SENCOs valued the external advice they received, especially from the educational psychologist – although often this was prior to statutory assessment. Schools’ ability to access advice from health and social services varied, depending on factors such as local funding priorities, who the SENCO knew in other agencies and how much time they had available to spend ‘chasing’ them. Statutory assessment could be valuable in requiring an assessment to be made and in some cases this did throw new light on a child’s needs, for example, if their previous school had failed to follow up on their difficulties or if they had moved from another country. Some needs are more complex to diagnose – for example, autistic spectrum disorders – and in such cases statutory assessment could be helpful in reaching an agreed description of need.

67. SENCOs valued the formal summary of needs provided by a well-written statement, bringing together different sources of advice. We did not investigate how well statements were written, although we heard several complaints about poorly written ones. However, some positive themes did emerge. Statements could ‘add value’ by bringing together advice from different agencies, which is sometimes inconsistent, into a single, coherent plan of action. Statements must include objectives for the child and their teachers to work towards and this could provide a useful ‘baseline’ against which to assess future progress and a framework for doing so.

‘Statutory assessment has been useful in assessing his needs thoroughly and documenting them and planning forward.’

Early years headteacher

‘Some statements are useful and helpful – they vary. Some are not in touch with the real world. The inter-agency advice is useful.’

SENCO

‘Statements are not in a helpful format. They’re churned out – you need to learn how to read them. The useful advice is the EP report.’

SENCO

Some assurance to parents

68. Parents felt they had done their best to ensure that their child’s needs would be met, in seeking a statement. They had done as much as they could within the system that exists. Having a statement let them know what provision their child should be getting and several parents we met were actively monitoring the school to make sure of this.

‘The statement was OK but we don’t know whether it has been implemented. I am keeping a close eye on the school as they have got problems.’
'The statement sounds good, but they haven’t done it. As he can cope, I have to check to make sure he gets what is required.'

69. Statements can add rigour to planning to meet the needs of individual children – and pressure to ensure that agencies work together to this end. This is particularly valuable for vulnerable children, such as those who are looked after by the local authority, and those with complex needs, requiring support from many agencies. Being a statutory document, a statement can help to focus attention on individual children and to make their needs a priority. It can also help to put pressure on schools or other agencies where necessary – for example, statements are said to increase the likelihood of a school admitting a child who is looked after by the local authority.

‘A statement adds rigour in planning, especially for those with more complex needs.’
Statutory assessment officer

70. Children with statements generally benefit from closer monitoring in school and more careful planning of key transitions. While monitoring at whole school level was very variable, at the level of the individual pupil, children with statements appear to be benefiting from closer monitoring through individual education plans and annual reviews (as required by the SEN Code of Practice – (Ref. 1)). We did not gather evidence specifically on the quality of either process, but both appeared to be useful in ensuring that a child’s progress is regularly reviewed against a set of targets and in providing a means for more actively involving the child and their parents.

71. We do not know how far children who have special needs but do not have a statement are benefiting to the same extent. One in three of the SENCOs we met felt that they do not have sufficient management time for their role, so it seems likely that those with statements would take priority.

I Under the 1996 Education Act (s. 324), a school is required to admit a child if named in their statement.

II Based on visits to over 20 schools across 5 LEAs and a review of 100 case files.

III Source: Audit Commission questionnaire of 41 SENCOs in fieldwork LEAs.
72. As regards transition planning, our interviews with headteachers and SENCOs demonstrated examples of considerable efforts being made to support the transition of young people with high levels of need from nursery to primary, primary to secondary, or moving to a new area. More formally, the SEN Code of Practice requires schools to ensure that the annual review meeting for all pupils in year 9 and above, who have a statement, is used to plan for their transition beyond school. The meeting must involve all relevant professionals and their Connexions – or Careers Wales – adviser.

73. **Statements offer parents a mechanism for redress.** Parents can appeal to the SEN Tribunal if they are not satisfied with the provision offered in the statement, or the LEA’s decision not to carry out a statutory assessment (or reassessment), or not to issue or maintain a statement. Although few choose to do so, this nonetheless does give parents a ‘last resort’ option if the LEA fails to respond to their concerns. The fact that almost half of appeals are withdrawn before being heard suggests that the possibility of an appeal may in itself help the parent to resolve the issue. This could be because it prompts a fuller exchange of information between the LEA, the school and the parent, thereby helping them reach a mutually acceptable solution.

74. The SEN and Disability Act 2001 placed a new requirement on LEAs to establish ‘disagreement resolution services’, intended to provide parents with an ‘early and informal’ means of resolving any disagreements they may have with the LEA or the school. An independent person would help all concerned to reach an acceptable solution, as soon as possible. This is welcome as it should provide parents with a more accessible, faster means of finding a way forward should any disputes arise over their child’s education (while in no way affecting their right of appeal to the SEN Tribunal).

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I Connexions is a new service, which provides personal advisers to young people aged 13-19, including those with SEN. They have a key role to play in advising on options on leaving school.

II Source: SEN Tribunal annual report 1999/00.
Support to parents

75. Most parents valued the support they received from parent-partnership services. Most parents spoke highly of the support they received from parent-partnership services, in helping them through the statutory assessment process, advising them on how to deal with concerns about the school or the LEA, and in some cases intervening on their behalf to broker a solution. Parent-partnership services are provided for by the LEA to offer impartial advice and support to parents on SEN matters. Many (particularly in Wales) are contracted out to local voluntary organisations.

76. Parent-partnership services appear to be playing a valuable role. However, most parents said they had not found out about them until during statutory assessment, by which time their relationship with the school and the LEA had often broken down. This may reflect the small size of most parent-partnership services, which are staffed on average by just two people.¹

‘We had a lot of help from her (the PP officer). She would listen to us and made time for us. She told us what to do and how to get the help we needed.’

Additional resources to meet exceptional needs

77. Statements appear to have supported the transition of young people from special to mainstream schools over the past two decades. One of the objectives of the Warnock Report (Ref. 2) was to support the integration of more young people with special educational needs into mainstream schools. Sixty per cent of children with statements in England and seventy-six per cent in Wales are now educated in mainstream settings. It is likely that statements have played a part in achieving this.

¹ Audit Commission survey of parent-partnership officers [based on 45 responses].
78. However, statements should become increasingly less relevant in this respect, as recent legislation has both strengthened the right of children with statements to attend a mainstream school and placed new duties on schools not to treat disabled pupils ‘less favourably’ than others and to make ‘reasonable adjustments’ for them. The SEN and Disability Act 2001 makes it unlawful for schools to discriminate against disabled children in their admissions arrangements, in the education and other activities they provide (such as after-school clubs, trips and orchestra) or by excluding them. It also requires LEAs and schools to plan over time to:

- increase the extent to which disabled pupils have full access to the curriculum;
- increase the accessibility of school premises; and
- improve the provision of written information in a form suited to pupils’ special needs.¹

79. **Statements provide additional resources to meet the needs of children requiring very high levels of support.** A small proportion of children need a lot of support in school, costing more than schools can be expected to pay for from within their own budgets, even if most SEN resources have been delegated.

80. Local authorities delegate funding to schools using a formula which aims to ensure a fair distribution of resources. Formulae vary from area to area, but most take into account factors such as pupil numbers and turnover, deprivation and test results. Most types of special educational needs occur on a fairly even basis and/or have only moderate cost implications and can therefore be taken into account in the funding formula. However, some needs occur rarely and require a very high level of support and can therefore not be accommodated within a formula. Statements provide a means of targeting extra resources to ensure that schools are able to give children who have such needs the support that they require.

¹ Schools are not required to make physical alterations to premises or provide auxiliary aids.
81. Chapters Two and Three set out concerns about statutory assessment and statements that were raised during our research, as well as those aspects of the current framework that were valued by parents and professionals. This concluding chapter puts forward a set of recommendations. These are made at two levels:

- **Action that LEAs and schools can take to meet children’s needs more effectively, within the current framework** [pages 42 to 62]. Twelve recommendations are put forward, based on innovative local practice. They seek to address the shortcomings highlighted earlier in this paper, while building on those aspects of the system that are valued.

- **The need to begin a national debate about possible changes to the statutory framework, in the longer term** [pages 62 to 64]. There are tensions in the statutory framework that lie behind its key shortcomings. While these are widely acknowledged, there is little consensus as to what would be better. Given the great diversity of views that exist – often strongly held – we suggest that a high-level independent review offers the best prospect of moving forward.

82. This paper has focused on the statutory framework for identifying and meeting children’s special educational needs. As we have seen in the course of this paper, this combines three key elements:

Recommendations are set out under these headings. However, we begin by briefly considering the policy context within which the recommendations are put forward.
**Policy context**

83. The Government has taken action to address many of the issues raised in this paper. Local authorities and schools are currently working to put into place changes arising from the new SEN Code of Practice (Ref. 1) and the SEN and Disability Act 2001. Key changes are described in Chapter One (paragraph 23) – in brief:

- a streamlined process for meeting children’s needs in school, prior to statutory assessment;
- greater emphasis on involving parents and young people;
- more support to parents through LEA parent-partnership services and new local disagreement resolution services; and
- greater clarity in the respective roles and responsibilities of LEAs and schools, and more emphasis on the need for effective multi-agency working.

84. Many of these changes have only recently come into effect, or are due to in the coming year, so we are unable to comment on how far they are helping to address the problems raised earlier in this paper. Nonetheless, they provide a backdrop to our recommendations, which consider what further changes would be beneficial in helping schools and local authorities to respond more effectively to children's needs.

85. Another significant change is also occurring in the way in which LEAs are funding schools for SEN. Until recently, most LEAs have retained resources for children with statements, although a small number now delegate some or most of this budget. DfES guidance issued in November 2001 (Ref. 5) draws on their experience and urges all LEAs to review their funding arrangements in light of this. The guidance states that:

> ‘The majority of pupils are most appropriately supported through the allocation of resources on a whole school basis. But the arrangements must be flexible enough to support particular interventions for children who have severe or complex needs, some of whom will require specialist provision.’

86. Government delegation targets are putting pressure on local authorities to go down this route. Current targets require LEAs in England to delegate at least 87 per cent of their schools budget by April 2002. To achieve this, they are increasingly delegating SEN resources to mainstream schools – including resources for provision made in statements.
87. Our analysis suggests that there could be many advantages to moving towards a school-based approach for funding most special educational needs – but that there are also risks. Increased delegation could enable schools to respond quickly and flexibly to more children’s needs without needing to request a statutory assessment and wait for a statement – as in most cases, they would already hold the money that a statement would bring, within their own budget. It could also enable them to make longer-term investments – in particular, developing the skills of their staff to help them to respond to the wide range of needs in today’s classrooms.

88. However, there are also risks associated with this approach. Schools are at different states of readiness in terms of their capacity to manage SEN resources effectively and their knowledge and ability to meet children’s needs. Concerns have also been raised about the impact that delegation can have on specialist support services provided by the LEA.¹

89. Moreover, in the context of often weak monitoring arrangements, there is a danger that the resources delegated may not be used as intended and that some children may lose out as a result. It is therefore critical that any increase in delegation is accompanied by the development of appropriate monitoring arrangements, so that schools and LEAs are able to demonstrate to parents how their children’s needs are being met. In setting out our recommendations we take this as our starting point. Recommendations are considered in the following order:
   • assurance (paragraphs 91-111);
   • resource allocation (paragraphs 112-121);
   and
   • assessment (paragraphs 122-131).

90. Each section begins with a brief recap of the problems and strengths of the current framework, and puts forward a set of objectives that lie behind the recommendations. All recommendations are rooted in innovative local practice and could be achieved within the current statutory framework.

¹ For example, Impact of Delegation on LEA Support Services for SEN, NfER, November 1999.
Assurance: recommendations

Recap
Statements often fail to provide assurance to parents due to:

- weak monitoring of schools’ work with children who have SEN, both by schools themselves and by the LEA; and
- shortfalls in the availability of some health and social services for children with SEN.

However, children with statements appear to benefit from more careful planning in school and in preparation for key transitions. This is particularly valuable for children who are looked after by the local authority and those with complex needs. Parents know what extra help their child should be receiving in school – and while few parents make use of it, the SEN Tribunal does provide an option of last resort for them.

Objectives in considering reform
What systems could be put in place so that:

- parents could be confident that systems are in place for ensuring that schools are making appropriate provision to meet their child’s needs?
- schools could evaluate how well they are meeting children’s special needs, and
- LEAs could be confident that schools are giving children the necessary support?
- other agencies could be held to account for their part in meeting children’s needs?
**Recommendation One: LEAs should develop with their schools systems for supported self-review of their work on SEN.**

91. Both schools and LEAs are responsible for ensuring that children’s special needs are met. Monitoring by governors is very variable and at LEA level, barely half of authorities reported that they had in place systems for monitoring school expenditure, management or outcomes on special educational needs.

92. For parents to be confident that their child’s needs will be met – particularly in the context of increased delegation – effective monitoring systems must be in place at both school and LEA level. Systems for supported school self-review, which as have been developed in some areas, can provide a light-touch framework for schools to evaluate their own performance on SEN – and for the LEA to satisfy itself that children’s needs are being met (CASE STUDY 1).

93. Supported self-review involves the school reviewing its own practice within a framework agreed with the LEA. By using the same framework and measuring their performance against a common set of criteria, schools are able to compare their performance against other similar schools. Self-review may also include occasional surveys of parents of children with SEN and this is something that we would recommend.

94. SENCOs have a key role to play in school self-review. Many of the SENCOs we met said that they already struggle to fulfil their existing responsibilities. LEAs should therefore seek to minimise the paperwork required for school self-review and ensure that the necessary information and training is available to support them in this role.

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**CASE STUDY 1 Supported self-review in Norfolk**

In Norfolk, the LEA supports schools by preparing an annual statistical profile for them, providing detailed information on their performance, including comparisons with similar schools. They collect a range of data from schools on an annual basis, including information on:

- use of resources;
- pupil attainment;
- needs profile of pupils in the school; and
- samples of IEPs, annual review forms etc.

LEA officers meet to discuss this with the school on a four-yearly basis, to review their work on SEN and to agree areas for improvement. The SEN governor is always invited to this meeting.
**Recommendation Two:** Governors should play a more active role in monitoring SEN provision – including how resources are used and the progress made by children with SEN. LEAs should ensure that information and training is available to support them in this role.

95. Governors have important duties towards children who have special needs. They are required to ‘use their best endeavours’ to ensure that the necessary provision is made for any pupil who has SEN and are expected to know how resources are deployed. Our research suggested that the extent to which governors fulfilled these responsibilities varied considerably.

96. We recommend that governors should play a more active role in monitoring SEN provision in school – both in terms of how resources are used and the outcomes achieved. We recognise that governors are often under considerable pressure and that they are to a large extent dependent on the quality of information provided to them by the headteacher (or senior management team) and the LEA. We therefore recommend that:

- Headteachers should ensure that they provide governors with information that specifically identifies the performance of children with SEN and relevant resource decisions.
- LEAs should ensure that the necessary information and training is available to help governors to fulfil their responsibilities on SEN; comparative performance data arising from supported self-review could play a valuable role in this respect.

Our national report, to be published in autumn 2002, will consider this issue in further depth.

**Recommendation Three:** LEAs should put in place systems for monitoring and, where necessary, challenging schools’ work with children who have special needs.

97. As we have seen, nearly half of LEAs still do not have in place systems for monitoring schools’ work with children who have SEN. Many of the LEAs we visited seemed unsure of their role in this respect – and some had doubts about their capacity to do this effectively. If increasing resources for children with statements are delegated to school level, and more children who would have had statements are supported through School Action Plus, it is important schools are held to account for their work with these children.

98. Robust systems for monitoring school performance on SEN are therefore a priority for development. Our national report, to be published in autumn 2002, will examine effective monitoring systems in further detail.
Different models are evolving around the country, in light of the relationship that each LEA has with its schools (CASE STUDY 2). We suggest that an effective system should incorporate the following three elements:

- supported self-review – providing a light-touch framework in which schools can evaluate their own performance, including a set of common indicators;
- LEA oversight of this through analysis of the data collected; and

**CASE STUDY 2  Monitoring and intervention of schools in Bristol**

Bristol City LEA has defined a range of objective measures on SEN as part of their overall system for monitoring schools. These can provide ‘triggers’ for a visit by an SEN adviser. Key measures include:

- a high proportion of very low attaining pupils (ie, children performing significantly below age-related expectations), when compared to similar schools;
- Ofsted judgements on the effectiveness of the school’s SEN provision;
- if more than 60 per cent of the school’s applications for individual child SEN funding were turned down by the LEA in its annual audit (as an indicator that the school may have poor systems in place).

LEA officers also consider the level of exclusions in each school and the extent of their SEN provision. In interpreting the data, they take into account two important contextual factors:

- the percentage of children for whom English is an additional language; and
- the percentage of children with ‘complex special needs’, as a measure of how inclusive the school is (indicated by the number of children receiving additional LEA-funded support above a certain level).

If potential concerns are highlighted, this triggers a visit from an SEN adviser. Working with the school, they explore how far the concerns are borne out in practice – and how they might work together to make any improvements. The system was developed in consultation with local schools and is used in conjunction with a school self-evaluation framework.
• agreed ‘triggers for intervention’ by the LEA, where serious or repeated concerns are raised about a school by parents or others, or where children with SEN appear not to be making reasonable progress.

Recommendation Four: LEAs should consider expanding their parent-partnership service to support more parents.

99. Parent-partnership services (PPS) offer an additional, less formal means of assurance to parents. They are well placed to respond to parental concerns about a school or the LEA and will often seek to broker a solution on behalf of the parent. They can also provide valuable feedback to the LEA about which schools parents are unhappy with and why.

100. The parents we met were generally very positive about the support they received from parent-partnership staff. However, at present PPSs tend to be in contact with only a small minority of parents and employ on average only two people.\textsuperscript{1}

101. If more resources are to be delegated to schools, the need to maintain an open and constructive dialogue with parents becomes all the more important. LEAs should therefore consider the costs and benefits of expanding their PPS to support more parents. An early priority might be to target those schools known to have difficult relations with parents, both by publicising the PPS to parents of children in those schools and through offering advice and training to key staff. In the longer term the PPS could play a valuable role in helping to develop the skills and understanding of staff in all schools, in terms of how to engage effectively with parents of children who have SEN.

102. LEAs should also establish systems to gather regular feedback from the PPS\textsuperscript{II} about parental concerns, both in terms of which schools and which issues are most often mentioned (CASE STUDY 3, overleaf).

\textsuperscript{I} Audit Commission survey of PPS officers.

\textsuperscript{II} The SEN Code of Practice states that LEAs are expected to ‘actively seek feedback from the (PP) service and service users to inform and influence decisions on SEN policies, procedures and practice’.
Recommendation Five: 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 held a statement.

103. Children with statements appear to benefit from more careful planning in school and in preparation for key transitions. This should not diminish, if fewer statements are issued as a consequence of increased delegation. Regular review of a sample of IEPs and annual review papers as part of the system of supported self-review could help schools and LEAs to assess how effectively schools are monitoring and planning for children with SEN.

104. LEAs should also consider how they might monitor and evaluate the progress made by children who would previously have held a statement, in this context. This could enable them to evaluate more closely the consequences of increased delegation and any reduction in statements for the children involved – and to provide more assurance to their parents (CASE STUDY 4).

105. In particular, they should consider what arrangements are needed to ensure that vulnerable children, such as those looked after by the local authority, and those with more complex needs, continue to benefit...
from careful planning and monitoring. For this reason many LEAs that have delegated SEN resources to school level have retained statements for this group of children.

**Recommendation Six: Government should support the introduction of common definitions of need to enable comparative data on pupil outcomes to be developed.**

106. Effective monitoring of schools’ work with children who have SEN is held back by a lack of needs-based data – making it difficult to assess whether children with certain needs are making the progress that they should. The DfES piloted a set of definitions in 2001 (Ref. 6) and we would urge them to take this forward as a priority, working in consultation with the Department of Health. We acknowledge that this is a complex area that will require considerable development.

107. Common definitions would permit school performance to be measured and compared on the basis of the outcomes they achieve with children who have certain needs. This could provide a more meaningful basis for evaluating their performance than the present focus on ‘inputs’ – ie, how schools use their SEN resources – encouraged by increasingly specific statements.

108. Meaningful outcomes measures could also allow more recognition of the valuable work that schools do with pupils who have SEN, whose progress is often not reflected in national league tables (such as GCSE results) due to the nature of their learning difficulties.

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**CASE STUDY 4  Monitoring pupils who no longer have statements in Slough**

Slough LEA has delegated resources for supporting most children with statements (or those who would have had statements) to its secondary schools and, more recently, to its primary schools. However, the LEA still monitors these pupils as if they had a statement, through a system which categorises them as a ‘three-star’ pupil – ie, at School Action Plus with additional support. All three-star pupils continue to have annual reviews and formal transition plans on leaving school. The LEA identifies them in their monitoring systems for planning purposes and is able to highlight their status to other LEAs should they move to a new area. Their educational psychologists are also evaluating the relative progress made by samples of young people with similar needs in different settings and with/without statements.
Recommendation Seven: Government departments should consider how all relevant agencies may be held to account for their part in meeting children’s SEN.

109. Statements purport to offer a guarantee to parents that their child’s needs will be met, but LEAs cannot control how other agencies deploy their staff or other resources. We found much evidence of delays, gaps and shortfalls in health and social services provision that had been specified in a statement. As a result, some children are not getting the support that they need to benefit fully from their education and their parents feel let down by the system.

110. ‘Joined-up’ planning and provision is a challenge both to local agencies and Government. There is a general consensus that agencies need to work more closely together to meet the needs of young people with SEN, but differing spending priorities, boundaries and cultures make this difficult to achieve in practice.

111. LEAs have an important strategic role to play in developing effective partnership arrangements to support children with SEN, within the resources available. Two existing options could help to contribute to this:

- Relevant agencies could ‘pool’ their budgets for certain children (such as those with complex needs requiring a high level of support) or certain services (such as language support/speech and language therapy). New powers (known as ‘Health Act flexibilities’) to enable health and local authority services to work together came into effect in April 2000, but few authorities have taken advantage of them so far (CASE STUDY 5).

- Unified children’s services, with a shared budget, also create the potential for more joined-up planning and provision. A few authorities have already put such structures in place, but we do not know at present how far this has helped them to respond to children with SEN. Examples include Hertfordshire and Flintshire, both of which have merged the education department with social services for children.

Our national report will examine effective arrangements for joint working further, as will the forthcoming Audit Commission study on disabled children and young people.
CASE STUDY 5 Language support in Leicestershire

Leicestershire County Council has been working collaboratively with the local NHS Trust for several years to help meet the needs of young people with language and communication difficulties. Their joint strategy has focused primarily on developing the skills of those who are in regular contact with young people – classroom teachers, GPs and so on – enabling them to respond more immediately and effectively to their needs. This in turn has allowed speech and language therapists to spend more time working with children with higher levels of need.

The strategy has been delivered through a variety of training packages for staff in early years settings, primary, secondary and special schools, targeted at deprived areas as a priority. The training is both developed and delivered by a joint team of specialist teachers and speech and language therapists, based within the educational psychology service. Some of the staff are employed by the LEA and some by the NHS Trust. One is paid for from a pooled budget, using Health Act flexibilities.

The project has led to a marked improvement in teachers’ skills and knowledge in responding to speech and language difficulties – and has received much positive feedback from local schools and early years providers.
Recommendation Eight: LEAs should develop a phased approach to delegating more SEN resources to school level, in light of local circumstances. (This should be accompanied by the development of robust monitoring arrangements, as suggested in recommendations 1 to 5.)

112. This would put funding for meeting more children’s needs at school level, enabling schools to respond more quickly and flexibly to them. It could also allow more children’s needs to be met without requiring a statement – as additional resources would already be held within the school’s budget. For this reason, some authorities that have already gone down this route have seen a significant reduction in demand for statements for children in mainstream schools (CASE STUDY 6).

Resource allocation: recommendations

Recap

- Statements are leading to an inequitable distribution of resources; and
- they may provide funding to schools in a way which fails to support early intervention or inclusive practice.

However, they do provide a means of targeting extra resources to schools to ensure that children with very high levels of need receive the support they require.

Objectives in considering reform

What method of SEN funding would:

- achieve a fairer distribution of resources?
- encourage schools to take action to meet children’s needs at the earliest opportunity?
- encourage schools to develop ‘whole class’ and ‘whole school’ responses to children’s needs?
- ensure that schools have sufficient resources to enable children with high support needs to participate fully?
- reward schools for their work with children who have special educational needs?
CASE STUDY 6  Delegating resources to schools in Slough

From April 2000, Slough LEA piloted an approach with its secondary schools for delegating resources for most children with statements. Resources have been delegated for about two-thirds of statements maintained by the LEA – for children with moderate learning difficulties, specific learning difficulties and ‘non-complex’ emotional and behavioural difficulties. Funding has been delegated to schools based on the number of children with statements (or who would have had statements prior to the scheme) relating to these needs.

All parents and the young people involved are having the new arrangements explained to them in their annual review. They do not have to agree to ending their statement, but so far most have been happy to. The Parent-Partnership Service has been able to provide advice on what the change means for them and respond to any concerns.

The approach has been well received. Pupils receive support more quickly as they no longer have to wait for a statutory assessment to be completed and educational psychologists have been able to spend more time on training, working with school staff and on other development projects. SENCOs and heads have welcomed the increased scope that they have to plan on a longer-term basis, particularly in relation to the learning support staff they employ. Although SENCOs were concerned about the potential increase in paperwork, they report that it has involved less bureaucracy than statutory assessment. The LEA is rolling out the scheme to all primaries from April 2002.

113. This recommendation is in line with recent DfES guidance (Ref. 5) to local authorities, which provides detailed advice on how authorities might go about implementing this change. It describes a number of different models for distributing SEN resources to schools, namely:

- indicators – such as free school meals, key stage attainment, pupil numbers and turnover;
- deprivation indices – such as free school meals or the Index of Multiple Deprivation; and
- pupil audit – based on the special needs of pupils in each school. Criteria are agreed and used to determine a resource band for each pupil. The audit may apply to all children with SEN or just those with higher levels of need. Audits are usually moderated by other heads or SENCOs to ensure a fair and consistent approach.
114. These options are not mutually exclusive and many LEAs use a combination of them. Pupil audit is thought to be the most commonly used at present. Concerns have been raised about the potential bureaucracy associated with this option. However, it does have the attraction of ensuring a close fit between the funding a school receives and needs of its pupils. This could encourage schools to admit more pupils with special needs and reward them for doing so.

115. In making this recommendation, we recognise that schools vary widely in their skills and experience – both in terms of managing SEN resources and responding to the diverse range of needs in today’s classrooms. LEAs should therefore develop a phased approach to delegation, in light of local circumstances and build in sufficient time to evaluate the consequences of the first phase, before taking it further.

116. Extensive consultation with all concerned – including parents and local voluntary organisations – is essential to develop a clear understanding of the new arrangements and to help build up the necessary trust between all parties, to make them work effectively. Parent partnership services may be able to play a valuable role in helping to engage parents meaningfully in the process of change.

117. As highlighted earlier in this section (Recommendations 1-5), it is critical that effective monitoring arrangements are put in place, to ensure that children continue to receive the provision that they need in school and that their parents may be confident of this. Achieving greater clarity in the respective roles and responsibilities of schools and the LEA in meeting the needs of children with and without statements (and in particular, who pays for what) is a key element to this.

118. LEAs may wish to consider the option of linking increased delegation to school performance on SEN, based on information arising from supported self-review. Schools which are performing well on key indicators could be rewarded with greater delegation of SEN resources and lighter-touch monitoring. Schools giving greater cause for concern could be subject to closer monitoring and the LEA might choose to retain more of the SEN resources that could be delegated to them.

Recommendation Nine: LEAs should consider how best to provide additional funding to schools for children with very high support needs.

119. A small proportion of children require very significant support in school. Some of them attend special schools, which are funded by the LEA to make appropriate
provision for children with higher levels of need. Many attend their local mainstream school and it is important that funding arrangements are in place to ensure that their parents are able to make this choice – and be confident that their child will receive the provision in school that they need.

120. Most types of special educational needs can be taken into account in the funding model that the LEA uses to distribute SEN resources to schools (as described in Recommendation Eight). However, some needs occur rarely and require a very high level of support, so special arrangements need to be put in place to ensure that schools receive the necessary funding for such children.

121. Statements provide one means of targeting extra support to children with high levels of need. Other models exist which LEAs may wish to consider in developing their approach to delegating more SEN resources to school level. For example, the DfES guidance (Ref. 5) recommends ‘cluster funding for pupils with complex needs’. Under this model, resources for children with complex needs are allocated to groups or ‘clusters’ of schools. This approach has been used successfully in Nottinghamshire for some years (CASE STUDY 7). A similar approach is described overleaf (CASE STUDY 8).

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**CASE STUDY 7  Allocating resources to meet high-level needs**

In Nottinghamshire...

Resources for children with significant needs are delegated to seven area ‘Mainstream Support Groups’ and schools are grouped into ‘families’ beneath these, usually consisting of a secondary school and its local primary schools. SENCOs can apply for additional funding for individual pupils by completing a pro forma, detailing the resources they think they require and how they intend to use them, together with supporting evidence. Each submission is moderated by SENCOs within the family of schools. A lead SENCO then takes them forward to the Mainstream Support Group where allocations are agreed once a year. A small contingency fund within each family of schools allows for unexpected changes during the year.
CASE STUDY 8 Allocating resources to meet high-level needs

In the London Borough of Newham...

Newham LEA delegated resources for pupils with statements from April 2000, including funding for learning support teachers and assistants. They also developed special arrangements for providing additional funding for children with ‘exceptional resource requirements’ – those that are hard to predict and often very high cost.

All schools are part of one of ten clusters, involving nursery, primary and secondary schools. Clusters meet every term to agree which children to request additional funding for, through their Exceptional Resource Panel. The panel is made up of representatives from each cluster, together with LEA officers. The emphasis is on peer moderation: officers act largely in an advisory capacity. The panel considers each case in turn and decides whether to allocate extra funding. About 270 children are supported in this way at present.

Some schools have concerns about the system, including the paperwork involved and funding decisions. However, SENCOs report that they now have a clearer understanding of the resources available and how other schools are seeking to meet similar needs. The system has enabled children with very high levels of need to be included in local schools, without requiring a statement. Now that it has been operating for a year, the LEA is commissioning an external review of the system.
Assessment: recommendations

Recap

- Statutory assessment is a costly, bureaucratic and unresponsive process,
- which many parents find stressful and alienating.

However, parents value the formal identification of their child’s needs – and schools value the external advice they receive, although this is often prior to statutory assessment.

Objectives in considering reform

How could assessment be delivered in a way that would:

- be more responsive to parental concerns; and
- enable schools to access advice on a child’s needs at the earliest opportunity?
- enable schools to access advice more readily from health and social services?
- be more efficient – both in terms of the time taken and paperwork involved?

Recommendation Ten: Advice on children’s needs should be provided at an early stage, without having to go through a bureaucratic process.

122. It is likely that increased delegation of SEN resources will in time result in a reduction in the number of statutory assessments requested and new statements issued. This could enable educational psychologists and other key professionals to spend more time working with schools in support of ‘early intervention’ and less time on statutory assessment-related activities. In this context, more advice could be provided to schools for children at School Action and School Action Plus – and the main purpose of assessment would be to identify what needs to be done to support a child, rather than to access additional resources.

123. Equally, if schools held most SEN resources in their own budgets, they would have every incentive to take action to address a child’s needs at the earliest opportunity, as early intervention may pre-empt the need for later, more costly provision.
124. Some LEAs have actively tried to shift the balance of their educational psychologists’ work in this way. For example, in 1998/99, Birmingham LEA set a target for their educational psychologists to spend more of their time on ‘early intervention/prevention’ work and less on ‘statutory/reactive’ work. At the time, they were spending just 42 per cent of their time on early intervention/prevention work. This more than doubled to 85 per cent in 2000/01. There has been much positive feedback from schools about this change.

Recommendation Eleven: LEAs should consider how they can help schools to access advice from other agencies.

125. As already described, schools often have difficulty accessing advice from other agencies. Their ability to do so appears to be dependent on a number of factors such as local funding priorities, who the SENCO knows in the relevant bodies and how much time they have to ‘chase’ them. There is a danger that this could become even more difficult, if statements decrease as a result of further delegation, in areas where agencies currently prioritise advice for children with statements.

126. LEAs should therefore consider how they can help schools to access the advice they need from local agencies. This may not have significant resource implications, as the children involved may already be known to the relevant agencies and information arising from previous assessments may be available. However, there are instances when a new assessment may be needed, such as when a child moves into the country from abroad, or when new needs become apparent.

127. One option would be for the LEA to develop agreements with local agencies (CASE STUDY 9), setting out key contacts and the procedures to be followed if schools wish to seek advice from them, as well as arrangements for sharing information where appropriate. The agencies for their part would need to commit staff time and resources to working with schools.

<table>
<thead>
<tr>
<th>CASE STUDY 9</th>
<th>School referrals to the local primary care trust in Newham</th>
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<td>Newham LEA carries out far fewer statutory assessments since it delegated most of its SEN resources to schools, even for children with relatively complex needs. For the last two years, the LEA has had in place an agreement with the local community health service (now the primary care trust), which enables schools to refer children directly for a multi-disciplinary assessment, using an agreed referral form.</td>
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Recommendation Twelve: LEAs should seek to develop ‘joined-up’ assessment frameworks for children with complex needs. Government should consider what changes at a national level would support such developments.

128. One of parents’ key complaints about statutory assessment related to the failure of professionals to work together effectively – whether in terms of sharing information or helping to move the process forward. This adds to the considerable stress which parents of children with special needs may already be experiencing.

129. Some LEAs have developed ‘joined-up’ assessment arrangements which can offer a faster, more co-ordinated means of assessing children’s needs and planning provision for them. In several areas, these are being used instead of statutory assessment as a more responsive means of meeting the needs of very young children (CASE STUDY 10). While such arrangements have been made to work well in the early years sector, it appears that ‘joined-up’ working often declines once a child reaches school age.

**CASE STUDY 10 Multi-agency assessment in Manchester**

Manchester LEA’s pre-school special needs service provides home support from birth, to young children with disabilities. Good links with special care midwives help to ensure early referrals. The head of the pre-school service is a member of the city’s core multi-agency, multi-disciplinary Child Development Team (CDT). Babies and young children with complex needs are referred to the team. When all the necessary assessments have been completed by the relevant professionals, usually over a period of about three months, a member of the team visits the parents at home to talk with them about their child and what the results have shown.

Parents are then invited to a CDT meeting so that they and the team can plan together for any support their child may need. There is no news-breaking at the meeting. A wide range of professionals from health, education and social services can be involved, but only those directly involved with the family attend. Parents can bring a friend or relative. A ‘management and action plan’ is agreed at the meeting and the parents can choose who they want to be their ‘key worker’, who will act as their first point of contact in future. The meeting will often result in formal referral to the LEA (but not decisions about specific educational provision). Afterwards, a team member will go through the minutes of the meeting with the parents to ensure that they understand them and to answer any queries.
130. At a national level, the Department of Health and the Department for Education and Skills are developing good practice guidance on how children aged 0-2 should receive multi-agency assessment, intervention and family support. This will also help to inform the development of new national standards for health and social services for children (the ‘National Service Framework for Children’). The development of the framework offers a valuable opportunity to review how well these agencies are working with the education service to meet the needs of disabled children – including those of school age – and to consider what changes could make this easier to achieve in practice.

131. Another Audit Commission project on services for disabled children and young people is considering these issues in further depth. They will be publishing their findings in spring 2003.

Moving forward

132. In a paper of this length, we have only been able to highlight a range of recommendations in brief. Further work needs to be done to evaluate each of them in greater depth and to consider the merits and practicalities of rolling out such practice nationally. Our national report, which will be published in autumn 2002, will contribute to this, by offering further evidence and analysis on areas including:

- funding schools to meet the needs of children with statements;
- developing the skills and confidence of school staff in meeting special needs;
- monitoring school performance on SEN; and
- LEA’s role in multi-agency planning and provision.

The forthcoming Audit Commission report on disabled children and young people will provide further evidence on effective arrangements to assess and meet the needs of children requiring support from several agencies.

133. Returning to this paper, the question remains: will these changes be sufficient to address the concerns raised in the problem analysis, while building on those aspects of the system that are valued ... or is the system in need of more fundamental reform?

134. Collectively, these recommendations could help schools and LEAs to meet children’s needs more effectively. Robust systems for monitoring schools’ work with children who have special needs could offer parents more assurance than they have at present. Delegation of more SEN resources could create positive incentives for schools to respond to children’s needs at the earliest
opportunity and to invest in developing the skills of their staff to meet more children’s needs. Moreover, these changes would not diminish the protection offered to parents by the legal framework: they would still be able to request a statement and their right of appeal to the SEN Tribunal would remain.

135. However, as more SEN resources are held at school level, experience suggests that a gradual reduction in the number of statutory assessments requested, and therefore new statements issued, would probably occur – as schools should increasingly have the necessary resources and in-house expertise to respond to children’s needs themselves. This in turn could allow some of the considerable resources spent on the bureaucracy of statutory assessment to be redirected towards meeting children’s needs.

136. We recognise that schools vary considerably in their skills and experience in terms of identifying and meeting children’s needs and managing SEN resources. It is therefore critical that moves towards increased delegation proceed in a carefully planned way, in light of local circumstances, and that time is built in to review the effect of such changes on the children involved.

A long-term solution?

137. While this gradual approach may offer opportunities for improvement in the short to medium term – as schools develop their own expertise in managing SEN resources and responding to more children’s needs without requiring support from outside – it leaves some important issues outstanding.

138. Our system of education has changed significantly since statements were first introduced almost two decades ago. Key parts of the statutory framework are inconsistent with the roles now played by schools, local authorities and other agencies in meeting children’s needs. Under the 1996 Education Act, LEAs are held responsible for arranging provision to meet the needs of children who have statements, but:

- resources for children with SEN are increasingly held by schools rather than LEAs;
- some children require aspects of health and social services to meet their needs, but these agencies are required to respond only in so far as their resources and overall priorities allow; and
- statements place unlimited demands on limited LEA budgets.
139. These tensions lie at the root of parents’ perceived need to fight for a statement, as LEAs seek to control their budgets, and explain why statements do not in practice always provide a guarantee that a child will get the provision that they need. As budget delegation increases, these tensions are likely to grow. LEAs are in effect being encouraged to run two systems in parallel. They continue to be held responsible for ensuring that children’s needs may be met – but, increasingly, the resources to do so are held at school level (or, indeed, controlled by other agencies).

140. We are aware of the existence of a wide range of views about how children’s special educational needs should be met – some rooted in years of negative experience. There appears to be some consensus about the shortcomings of the present system. However, there is little agreement as to what, if anything, would serve children with SEN better. Changes arising from recent legislation and the new SEN Code of Practice represent steps in the right direction. But our analysis suggests the need to go further than this if we are to address the tensions that exist at the heart of the statutory framework.

141. We therefore recommend that the Government should establish a high-level independent review. The review should engage all key stakeholders – young people and parents, schools, local authorities, health services, voluntary organisations and others – in considering options for future reform. Key questions that need to be addressed are set out in the box opposite.

142. Readers are invited to share their views on these questions – and the twelve recommendations put forward earlier in this chapter – by completing the pull-out centrefold and returning it by 31 July 2002. The research team will analyse the responses received and reflect on them in our second report, to be published in autumn 2002.
Questions to be addressed by the independent review

What arrangements would:

Q1. ensure that all children who would benefit from it are able to access multi-disciplinary assessment, at the appropriate time?

Q2. ensure that all children receive the provision they need to make the most of their education – including support from other agencies?

Q3. create positive incentives for schools to intervene to meet children’s needs at the earliest opportunity?

Q4. create positive incentives for schools to review class and school-wide policy and practice, to ensure that children with SEN are able to participate fully?

Q5. provide parents with assurance that their child’s needs will be met in school?

Q6. provide additional safeguards for the most vulnerable children and those with the highest levels of need?

Q7. make best use of the available skills and resources?

Conclusion

143. This paper has put forward a number of recommendations which we believe would help to address the weaknesses in the statutory framework while building on its strengths. The most significant of these are a carefully managed move towards a school-based approach to funding the majority of special needs, linked to the development of effective monitoring procedures to ensure that children receive the provision that they need in school. Other recommendations consider how, within the current framework, assessment could be made more responsive to the needs of young people and parents could be provided with more assurance than at present.

144. But our analysis leads us to conclude that these changes – together with the recent SEN policy developments – can only take us so far. The Warnock Report (Ref. 2) marked a sea change in the way children’s needs were thought about and met in our schools. Much progress has been made since that time – but much has changed, such that key parts of the statutory framework no longer reflect the reality of today’s system of education.
145. The tensions in the statutory framework are significant and are likely to become more acute as increasingly, SEN resources are delegated to school level. For this reason, we urge Government to initiate a debate about possible changes to the statutory framework in the longer term, by establishing a high-level independent review. Such a review could pave the way for a fairer, more sustainable system – enabling schools to respond quickly and effectively to all children’s needs and making better use of the available resources; ensuring that all those who need it, receive advice and support from other agencies; and giving parents greater confidence that their child’s needs will be met in school.
References


Recommendations for action by local authorities, schools and Government

Assurance
To provide parents with more assurance that their child’s needs will be met...
1. LEAs should develop with their schools systems for supported self-review of their work on SEN.
2. Governors should play a more active role in monitoring SEN provision – including how resources are used and the progress made by children with SEN. LEAs should ensure that information and training is available to support them in this role.
3. LEAs should put in place systems for monitoring and, where necessary, challenging schools’ work with children who have special needs.
4. LEAs should consider expanding their parent-partnership service to support more parents.
5. 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.
6. Government should support the introduction of common definitions of need to enable comparative data on pupil outcomes to be developed.
7. Government departments should consider how all relevant agencies may be held to account for their part in meeting children’s SEN.

Resource allocation
To promote early intervention and inclusive practice in schools...
8. LEAs should develop a phased approach to delegating more SEN resources to school level, in light of local circumstances.
9. LEAs should consider how best to provide additional funding to schools for children with very high support needs.
Assessment

To make assessment more responsive to the needs of young people and their families...

10. Advice on children's needs should be provided at an early stage, without having to go through a bureaucratic process.

11. LEAs should consider how they can help schools to access advice from other agencies.

12. LEAs should seek to develop 'joined-up' assessment frameworks for children with complex needs. Government should consider what changes at a national level would support such developments.

Finally, we recommend that Government should establish a high-level independent review to consider options for future reform – engaging all key stakeholders.
This is the first publication in a national research project on children with special educational needs. It focuses on the statutory framework for identifying and meeting children's needs – presenting evidence on both its shortcomings and strengths and making recommendations to local authorities, schools and Government. A second report, to be published in autumn 2002, will look at how well children's needs are being met in the context of policy on inclusion.

Statutory assessment and statements of SEN: in need of review? should be of interest to policymakers at national and local level, as well as LEA officers, headteachers, governors and SEN co-ordinators, voluntary organisations and parents.

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