Many pupils have special educational needs (SEN) because of learning difficulties, disabilities or behavioural problems...

- about 20 per cent of all children have SEN at some time in their school careers
- about 2 per cent have needs which cannot be met within their schools’ normal resources

...and local education authorities (LEAs) have a major role in helping them.

- they carry out formal assessments and issue statements of SEN
- they provide special schools for pupils who cannot be helped in mainstream schools
- they provide over £1.5 billion to meet pupils’ individual needs

In 1992 the Audit Commission and HMI (Schools) published a study of SEN.

The Government responded quickly to address deficiencies in the national framework identified by the study...

- it incorporated many of the study’s recommendations in the 1993 Education Act
- and others in a new Code of Practice

... and although LEAs have also responded well, results of 61 audits across the country show that more needs to be done.

- requests for pupils to be assessed are increasing
- LEAs should define when a special need warrants a statement, otherwise inequities will persist in the way help is targeted
- most LEAs take much longer than the statutory time of six months to make assessments and issue statements
- up to £30 million could be released from special schools with falling rolls for pupils helped in mainstream schools

Authorities should review progress in improving services to children with special educational needs, and compare their performance with the results in this bulletin.
The Audit Commission

... promotes proper stewardship of public finances and helps those responsible for public services to achieve economy, efficiency and effectiveness.
Introduction

1. Over the last two years a spotlight has been focused on pupils with special needs. In 1992 the Audit Commission and Her Majesty's Inspectorate of Schools (HMI) published the reports of their 18-month review of the provision made by a sample of 12 local education authorities (LEAs): Getting in on the Act and the management handbook Getting the Act Together. The Government responded with a White Paper and the subsequent inclusion in the 1993 Education Act of new provisions for pupils with special educational needs (SEN).

2. During 1993, auditors appointed by the Commission undertook value for money audits in nearly all LEAs in England and Wales. The results of a representative sample of 61 of those audits have been collated centrally for the purpose of preparing this bulletin. Major developments since the publication of the original reports are also charted, but this bulletin does not attempt to be a comprehensive survey of all the issues and developments since 1992.

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OFSTED was formed in 1992 to oversee and regulate the inspection of schools and take over most of the responsibilities of the former HMI (Schools). In Wales the Office of Her Majesty’s Chief Inspector of Schools in Wales was established.

Readers unfamiliar with the original reports may wish to look at them before reading this bulletin.
3. Special needs provision is an important part of the education service: it is estimated that one in five pupils in England and Wales will have a special educational need at some time in their school career (Box A) and over £1.5 billion a year is spent on them. About two per cent of pupils have special needs that cannot be met by the resources ordinarily available in their schools, and the LEA will then undertake an assessment of their needs and, if appropriate, issue a statement of special educational needs. About half of such pupils are educated in special schools (one quarter in Wales).

4. The study that was completed in 1992 found that, although much had been achieved by schools and LEAs since the implementation of the 1981 Education Act, which set the framework for provision for pupils with special educational needs, there were serious deficiencies. There was little consistency in identifying the children who needed extra help. Further, where extra help was being provided, it was often not having the intended effect.

5. The main issues were:

- The 1981 Education Act did not indicate in practical terms the threshold of learning difficulty or disability that warranted an LEA issuing a statement of special educational need. Consequently, LEAs found it difficult to implement the Act consistently, and the proportion of pupils with a statement varied from 0.8 per cent to 3.3 per cent in the LEAs studied. Some variation between LEAs was to be expected, because LEAs differed in the extent to which they made provision for special needs through their general funding formulae for schools.

<table>
<thead>
<tr>
<th>Box A</th>
<th>Special educational needs</th>
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</table>

The law says that a child has special educational needs if he or she has learning difficulties and needs special help.

A child has learning difficulties if he or she finds it much harder to learn than most children of the same age, or if he or she has a disability which makes it difficult to use the normal educational facilities in the area. For example, a child may have learning difficulties caused by:

- a physical disability;
- a problem with sight, hearing or speech;
- a mental disability;
- emotional or behavioural problems;
- a medical or health problem;
- difficulties with reading, writing, speaking or mathematics work.

However, the study found that there were significant inequities, with pupils with lesser needs receiving help from the LEA while others with greater needs were not. These inequities were found both amongst LEAs and amongst schools in the same LEA. It was difficult for parents to challenge an LEA which decided that a child’s needs did not merit a statement.

◆ LEAs were taking significantly longer to assess pupils and prepare statements of special need than the DFE and Welsh Office guideline of six months. In the worst case studied, the average time was three years.

◆ Most statements identified provision in such vague terms that, contrary to the intention of the 1981 Act, they could not be said to guarantee a specific level of provision.

◆ LEAs had succeeded in placing an increasing proportion of pupils with special needs in ordinary rather than special schools. The Act encouraged this integration because, when a pupil with special needs is successfully placed in ordinary schools, there are potential benefits to both that pupil and other pupils.

◆ The quality of learning for pupils with special needs was found to be similar in ordinary and special schools. The greater experience of special schools in this area should have enhanced the quality of teaching but it was offset by a lack of pace in lessons and by too low an expectation of what pupils could achieve. Also, the cost of educating a child with a statement in an ordinary school with additional support was no different from the average cost of a place in a special school for pupils with moderate learning difficulties – about £4,000 per pupil a year.

◆ Few LEAs had reallocated resources from special schools in the light of the fall in their number of pupils. It was estimated that nationally £53 million could have been redeployed from special schools.

◆ Neither special schools nor ordinary schools were called to serious account for their work with pupils with special needs. The system of statutory annual reviews for pupils with statements was left almost entirely in schools’ own hands, and inspection by LEAs of schools in relation to their work with pupils with special needs was very limited.

6. The report concluded that these deficiencies were caused by three key problems:

◆ lack of clarity about what constitutes special educational needs and about the respective responsibilities of the school and LEA;

◆ lack of clear accountability by schools and LEAs for the progress made by pupils, and accountability by schools to the LEA for the resources they receive;

◆ lack of incentives for LEAs to implement the 1981 Act.
The recommendations for action at the national level

7. The study recommended that changes be made both at national and local level. The responses to the national recommendations are briefly summarised in Box B and discussed below. The joint report provoked a response from all interested parties and ultimately led to major changes in the legislative framework. The issues raised were debated in both Houses of Parliament, and the DFE and Welsh Office took into consideration the recommendations for national changes. Part III of the 1993 Education Act is devoted to children with special educational needs, and incorporates many of the study’s recommendations.

8. The DFE and Welsh Office have issued several circulars covering the organisation of special educational provision and pupils with problems. They have also issued a Code of Practice on the Identification and Assessment of Special Educational Needs, which came into force on 1 September 1994. It will lay the foundation for good

<table>
<thead>
<tr>
<th>Problem</th>
<th>Recommended solution</th>
<th>Responses by Central Government, LEAs and other bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of clarity</td>
<td>1 Guidelines on threshold for formal assessment</td>
<td>Code of Practice on Identification and Assessment clarifies responsibilities of schools and LEAs but does not define threshold. LEAs individually have begun to address point 1 and the Code of Practice encourages this.</td>
</tr>
<tr>
<td></td>
<td>2 Framework for defining responsibilities of ordinary schools</td>
<td></td>
</tr>
<tr>
<td>Lack of accountability for pupils with statements</td>
<td>1 Right of parents to state preference for school</td>
<td>The 1993 Education Act addressed point 1. The Code of Practice on Identification and Assessment addresses point 2 and reinforces LEAs' responsibility to ensure an annual review has taken place (point 4). Regulations set a 26-week time limit for assessments and issuing of statements (point 5).</td>
</tr>
<tr>
<td></td>
<td>2 New type of statement specifying objectives and resources</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 Client/contractor split between LEA and school</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4 Annual reviews attended by LEA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 Time limits to complete statements</td>
<td></td>
</tr>
<tr>
<td>Lack of accountability for pupils without statements</td>
<td>Same methods as apply to all pupils but with:</td>
<td>Registered inspectors appointed by OFSTED and OHMCI (Wales) are inspecting schools. Schools are to report annually on the implementation of their SEN policy.</td>
</tr>
<tr>
<td></td>
<td>1 Rigorous inspection</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 Use of special needs performance indicators at school level</td>
<td></td>
</tr>
<tr>
<td>Lack of incentives for LEAs to implement the 1981 Education Act</td>
<td>1 Consider use of financial incentives</td>
<td>Citizen’s Charter indicators include indicators of LEA performance in special needs. The establishment of independent appeals tribunals may give LEAs an incentive to adopt good practice in assessment and statementing.</td>
</tr>
<tr>
<td></td>
<td>2 Publish indicators of LEA performance in special needs</td>
<td></td>
</tr>
</tbody>
</table>
practice, since schools, LEAs and other bodies to whom the Code applies are statutorily obliged to have regard to it. It has been warmly welcomed by almost all those involved in education. The main issues addressed in the Code are set out in the Appendix.

9. For guidance, the Code sets out a five-stage model for the identification and assessment of pupils, with the process firmly embedded in the general work of the school. Schools should appoint a special educational needs co-ordinator and keep a record of all children assessed as having special educational needs. The Code sets out the type of evidence that should be considered before deciding to make an assessment. The format and content of the statement are set out and include two major new items:

- the objectives which the special educational provision should aim to meet;
- the arrangements to be made for monitoring progress in meeting those objectives, particularly for setting short-term targets for the child’s progress and for reviewing his or her progress on a regular basis.

The time limits for the statutory assessment process are specified in regulations (Box C). Regulations also require schools to publish information about and report on their special educational needs policy.

10. While the Code represents a significant challenge to LEAs and schools, there is good reason to believe that if implemented successfully it will bring the following benefits:

- clarification of schools’ and LEAs’ responsibilities;
- early identification of special needs and improved record-keeping;
- clear objectives for pupils with special needs;
- better targeting of resources;
- improved information for parents;

| Considering whether a statutory assessment is necessary: the period from the issue of a notice under sections 167(1) or 174(2) or the receipt of a request for a statutory assessment from parents to the decision as to whether to make a statutory assessment must normally be no more than: | 6 weeks |
| Making the assessment: the period from the LEA’s decision to make a statutory assessment to the LEA’s decision as to whether to make a statement must normally be no more than: | 10 weeks |
| Drafting the proposed statement or note in lieu: the period from the LEA’s decision whether to make a statement to the issue of a proposed statement or of a notice of the LEA’s decision not to make a statement, giving full reasons, preferably in the form of a note in lieu, must normally be no more than: | 2 weeks |
| Finalising the statement: the period from the issue of the proposed statement to the issue of the final copy of the statement must normally be no more than: | 8 weeks |
| **Total 26 weeks** | |

Exceptional circumstances in which the bodies concerned are not expected to meet the time limits are specified.

References to sections are references to the 1993 Education Act.
assessment of schools' effectiveness;
- the assurance of the commitment of governors;
- improved efficiency of the process of making formal assessments and issuing statements.

11. In summary, the Government has acted to address most of the deficiencies in the national framework. One notable exception is guidance on the threshold of need that warrants the issuing of a statement, although the Code of Practice sets out criteria that might be considered. The absence of national guidance may be partly for fear of creating a case for extra resources, but it is mainly because the threshold will vary from one LEA to another. A statement should be issued when a child requires some help that cannot reasonably be provided within the resources normally available to mainstream schools in the area. Thus the threshold of need will depend on the extent to which an LEA makes provision for special needs in its general funding formula for schools, and this varies from one LEA to another. This variation should not, however, prevent LEAs from working with other bodies and the Government to develop the criteria set out in the Code of Practice into a national framework for setting the thresholds for different types of special need. For example, it could be agreed that learning difficulty will be measured for pupils in Year 4 in terms of reading age, spelling ability, achievement in mathematics, etc.

‘The Government has acted to address most of the deficiencies in the national framework’
The Local Audit Findings

12. Shortly after the publication of the national reports, the topic was looked at in detail across England and Wales by the auditors appointed by the Audit Commission. Audits were undertaken during 1993 at a total of 103 LEAs out of a possible 117. For the purposes of this report, the results of a representative sample of 61 audits were reviewed. The following issues were consistently raised by auditors in their reports, closely mirroring the picture of deficiencies found in the sample of LEAs in the 1992 study:

◆ poor framework of policy and strategy;
◆ lack of clarity about the roles and responsibilities of LEAs and schools;
◆ lack of monitoring and accountability;
◆ poor targeting of resources;
◆ poor management and administration of the assessment process;
◆ lack of delegation of learning support services.

Policy and strategy

13. Most LEAs had either issued new SEN policies or had revised existing policies in the last 18 months, often in response to the findings of the Audit Commission’s and HMI’s national report. However, in general, policies:

◆ were lengthy and not well focused;
◆ contained little or no reference to aims and objectives;
◆ were not supported by the use of performance indicators.

Policies were, therefore, of little assistance in setting the framework to assess whether the authority and schools were providing a successful service, and were not helping to drive the service in a clear direction.

Roles and responsibilities of LEAs and schools

14. Auditors reported that there was a general lack of clarity about the respective roles and responsibilities of schools and LEAs. This caused a number of problems:

◆ many schools were not aware of the level of funding they received through the LMS formula for pupils with special needs, and some tended to think they received no funding specifically in recognition of such pupils;
◆ schools were unclear when to turn to the LEA for additional support for pupils with special needs;
◆ LEAs were under increasing pressure to assess pupils formally because they had not set out the threshold between schools’ and the LEA’s responsibilities; this is evident in the ever-increasing proportion of pupils with statements (Exhibit 1, overleaf).

15. Getting the Act Together gave examples of two LEAs, Kent and Clwyd County Council, which had undertaken ‘audits’ of the level of special needs amongst their pupils. Most of the LEAs reviewed are now considering the introduction of similar special needs audits, primarily designed to help schools identify and assess pupils with special needs. Kent County Council was keen to involve headteachers
extensively in the moderation of the audit (Case Study 1). The key features of Kent’s approach that are relevant to other LEAs are:

- schools need to gain an initial confidence in the system and process;
- wherever possible, existing processes should be used to verify and moderate schools’ judgements;
- consistent authority-wide guidelines should be used to determine audit levels.

Monitoring and accountability

16. In general, auditors found that LEAs did not have effective systems in place to hold schools to account for their work with pupils with special needs. Most LEAs did not attend annual reviews of pupils with statements and also had no other means of measuring the performance of schools with all pupils with special educational needs.

17. This issue is very closely linked to the lack of clarity about the respective roles and responsibilities of schools and LEAs.

Although schools are free to decide how to spend the money available to them, LEAs generally had not indicated what they might expect schools to do with the money that was delegated for special needs via the LMS formula.

Targeting of resources

18. In common with the findings of the national report, at the time of the local audits the majority of LEAs were using the number of pupils entitled to free school meals as a proxy indicator of special needs to allocate funding to mainstream schools for pupils with special needs but without statements. More LEAs are beginning to follow the recommendation in Getting the Act Together and use direct indicators of special needs, such as the registers used in Kent.

19. Very few LEAs had delegated funding for pupils with statements. Most LEAs allowed schools to appoint teachers or other adults to provide the support outlined in statements. The assessment of the quality of support provided in schools was, in the majority of cases, limited.
The LEA established a system for identifying pupils with special educational needs in 1991 called the ‘SEN Audit’. The audit has four purposes:

- as one of the factors in the LMS formula, it is the means by which funds are distributed equitably to schools according to the incidence of need;
- it provides a county-wide framework for schools to identify, record and review pupils’ SEN on a consistent basis;
- it is used by schools and SEN support services to plan and target resources for individual pupils;
- it serves as a database for the school and the LEA to help plan SEN provision.

The audit consists of allocating pupils identified by a school as having special educational needs to one of six levels based on the extra teaching or assistance required. Levels 1 to 3 are intended to apply to pupils whose needs can be met without recourse to statutory assessment and are broadly comparable with stages 1 to 3 of the Code of Practice for SEN. Levels 4 to 6 represent needs that are more severe and would normally require a statutory assessment and statement. Most pupils on these higher levels are placed in specialist provision such as a unit or special school.

Schools maintain and update a register of pupils with SEN in line with the Code of Practice. The SEN audit takes place each autumn, taking a ‘snapshot’ of school SEN registers across the county. Schools provide evidence of need for a sample of pupils which is externally moderated to ensure county-wide consistency. Schools receive guidance on the type of evidence that is required. Training is also available to schools in the operation of the audit and the interpretation of the descriptions for each level.

About half of the schools are externally moderated each year, including those showing the largest changes since the previous year. Some schools are selected for moderation at random in order to satisfy the Secretary of State’s requirements for formula funding. The team of moderators includes headteachers and school SEN co-ordinators, together with SEN advisers and educational psychologists.

The identification and assessment of pupils is further enhanced by termly in-school reviews (ISR) at each school. The ISR is attended by the headteacher, the school SEN co-ordinator, and an educational psychologist. A teacher from the LEA’s SEN support service may also attend. All pupils on the school’s SEN register are discussed at the ISR. Individual education plans as required under the Code of Practice are reviewed, and any new incidence of need identified. The ISR agrees changes in audit level, although these are not reflected in the school’s funding until the financial year following the next audit.

The LEA has recently reorganised its SEN support services along purchaser/provider lines. A small team of SEN teacher-advisers on the purchaser side monitor the operation of the audit, arrange training for staff new to the process and assist in its moderation.

Schools are responsible for the provision for all pupils with SEN but without statements. In addition to the funding in their delegated budgets, schools have access to support from the LEA’s team of specialist SEN teachers (part of the LEA’s provider-side SEN support service) through an entitlement of time based on the number of level 3 pupils in the audit.

Requests for statutory assessments are considered by one of five Local Advisory Teams (LAT). Membership of the LAT consists of:

- the senior caseworker from the SEN section in the Area Education Office;
- a representative headteacher from a school in the Area;
- an educational psychologist;
- an SEN teacher-adviser;
- a representative of the Social Services Department and/or Health Authority as appropriate.
20. While in most LEAs auditors found a gradual trend of integration of pupils into mainstream schools, the majority of LEAs had not adjusted staffing levels in special schools in line with the reduction in pupils on roll. Since the pupil:adult ratio in special schools is on average about 3:1, it does not take many pupils leaving the roll to make it feasible to redeploy one staff member. While some LEAs claim that their special schools now cater for pupils with more severe levels of need than previously, very few LEAs had even reviewed whether or not staffing levels needed to be adjusted. In fact, in the LEAs audited, the mix of pupils in special schools had changed only slightly since 1989 (Exhibit 2). There has been a small drift downwards in the proportion of moderate learning difficulty (MLD) provision, which has meant that provision for severe learning difficulties (SLD) and emotional and behavioural difficulties (EBD) now represent slightly larger percentages of the total.

21. At the audits where calculations were made, if the pupil:adult ratio in special schools had remained at the same level as five years previously, an average of £440,000 per annum per LEA would have been saved in 1993. In total, auditors identified savings (or redeployment) opportunities of £31 million a year, mainly from rationalisation of special school staffing levels and places. This could have been redeployed to support pupils with special needs in mainstream schools, if the LEAs chose to use the savings in that way. It is incumbent on LEAs to see how much of this could still be released, by reviewing the need for places in and funding of special schools, if they have not already done so.

22. Such reviews need to take into account the introduction of Local Management of Special Schools (LMSS) and formula funding. Since LMSS funding is largely based on the number of places to be made available in special schools and not on the number of pupils occupying places, LEAs should regularly review the likely demand for places and adjust their place-funding accordingly. They need to take account of the change in the number of children of school age, the likely future incidence of special needs and the proportion of pupils with special needs who will require a place.
in a special school. While no increase in the number of pupils in special schools is projected in Wales, projections by the DfE of the total number of pupils in special schools in England suggest about a 1 per cent rise each year for the next few years. However, the picture will vary from LEA to LEA.

23. Getting the Act Together gave examples of authorities who had reviewed their level of places and number of staff in special schools. Nottinghamshire was able to release surplus teaching staff from its special schools to support pupils with special needs in ordinary schools. Leeds had undertaken a rationalisation of its special school provision following a comprehensive programme of consultation. Case Study 2 describes how the London Borough of Hammersmith and Fulham addressed a problem inherited from the abolition of the Inner London Education Authority.

The Inner London Education Authority (ILEA) planned special schools on a divisional or cross-London basis. Thus when the new education authorities were established, none of them inherited provision which exactly matched the needs of their children. Many inherited residential schools that catered for only one or two of their own pupils but cost a lot to run. As a result all boroughs had to carry out reviews of their provision.

An effective review was carried out by Hammersmith and Fulham in 1991/92:

**Special Schools in Hammersmith and Fulham**

<table>
<thead>
<tr>
<th>BEFORE</th>
<th>AFTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>♦ 3 out-borough schools</td>
<td>♦ 1 out-borough school</td>
</tr>
<tr>
<td>♦ 6 in-borough all-age schools</td>
<td>♦ 1 in-borough secondary school</td>
</tr>
<tr>
<td>♦ 1 in-borough primary school for autistic children</td>
<td>♦ 2 in-borough all-age schools</td>
</tr>
<tr>
<td>♦ 2 in-borough primary schools (one for autistic children with a nursery shared with a mainstream primary)</td>
<td>♦ 3 new primary units</td>
</tr>
</tbody>
</table>

The changes were carried out in phases following wide consultation. The whole exercise was conducted within the special school budget. The new pattern of provision more closely meets borough needs:

♦ placements in schools within the borough are considerably easier to manage;
♦ the age range of most remaining schools aids the delivery of the national curriculum;
♦ costs per place have been stabilised;
♦ the shift towards more unit places has meant an increase in flexibility between mainstream and segregated provision;
♦ recoupment payments have been reduced;
♦ the physical condition of all the schools has been improved.

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**Case Study 2**

**Rationalising special schools in Inner London**

Source: District Audit (DA). A forthcoming report will look at special educational needs in inner London boroughs, the problems and the initiatives taken to deal with them.
Management and administration of the assessment process

24. The time taken to issue statements varied widely and the local audit findings show that many authorities face a significant challenge to complete assessments within the six months now specified in the regulations (Exhibit 3). In those LEAs where the time taken was measured by the auditors for both 1993 and 1992 there was an improvement of over two months on average. However, considerable improvement is still required by the majority of LEAs.

25. Those LEAs with better performance had a number of good practices in common:
- good management information systems;
- time targets for advice-givers;
- time targets for administrative staff;
- good management supervision (largely because the task was seen as important).

26. Conversely, the poorer performers did not have these features. It was also apparent that for some LEAs constraints on the overall budget for special educational needs may provide a disincentive to address delays. Rather than managing the assessment process over the long term by establishing clear criteria and guidelines, these LEAs try to overcome the problem of the demand for statements in the short term by not addressing delays in the process. This situation will not be allowed to persist now that LEAs are obliged to observe the statutory time limits set out in regulations.

Delegation of support services

27. The approach to delegating control of learning support services varied across the LEAs. The following two issues were uppermost in influencing views:
- the majority of LEAs were reluctant to delegate because of a concern about the effect that a loss of central control over the use of learning support services might have on provision for children with special needs;
- this concern was born largely out of an uncertainty about the way schools might use delegated funds, compounded by the fact that in LEAs there was an absence of systems to call schools to account for their work with all pupils with special needs.

Exhibit 3
Average time to complete assessments and issue statements

To complete the process within six months, most LEAs need to improve significantly...

Note: ‘Time taken’ is the period from the LEA deciding to assess to the final statement.

Source: Sample of local audits. Data are for most recent year available.

There is a difference between the definition of time taken used in the local audits and the definition now in the regulations and the Code of Practice. The time limit in the regulations and the Code is tighter.
28. The majority of schools visited by auditors (estimated at approximately 400 mainstream schools nationally) were clearly in favour of delegation of support services. They perceived inefficiencies and ineffectiveness in the way services were provided, although the majority recognised that specialist support (e.g. for sensory impairment) was not always amenable to delegation. The following issues were consistently raised by schools across the country:

- a lack of continuity where different support service teachers served the same school;
- a lack of flexibility with regard to the timing of support service teacher visits – particularly where part-day attendance was planned;
- a feeling that, at least for general learning difficulties, the same level of expertise could be provided from within the school if additional resources were made available.

29. Some schools felt time would be better spent by support service teachers training their teachers and thereby raising their overall level of ability to provide for pupils with special needs in mainstream schools.
Issues Still Facing LEAs

30. Box D summarises the 1992 study’s recommendations at a local level and the responses by LEAs. Auditors reported that although some of the messages had been uncomfortable for LEAs, their work had generally been very favourably received. So, although at the time of the audit LEAs had many shortcomings to correct, their willingness to respond to the audit recommendations augured well.

31. There are many problems still facing schools and LEAs, not least the apparently significant increase in the number of pupils with statements of special need. Some LEAs claim that this is a result of a sharp increase in the incidence of special needs. While in some LEAs this may partly account for the increase, it is more likely to be indicative of a lack of definition of the threshold between which special needs should ordinarily be provided for by schools from within their own resources and which require additional resources provided by the LEA.

32. LEAs should follow the example of those LEAs that have defined the threshold of need that warrants the issuing of a statement (see Getting the Act Together, page 19). Otherwise they will not be able to target their resources to the pupils that most need them. This stands out as the most difficult issue LEAs need to address if they are to improve provision in the spirit of the Code of Practice.

33. The Code of Practice was published in May 1994 and came into force in September 1994. The foreword to the Code recognises that it might take time for procedures fully to match those set out in the guidance, although schools and LEAs have a statutory duty to have regard to the Code from September 1994. To see what might be required to implement the Code, visits were made to two LEAs, selected because they were starting from different points (Case Studies 3 and 4, on pages 18 and 19). The key finding is that implementation of the Code of Practice will depend on the degree to which LEAs and schools had developed systems and arrangements in advance of its introduction.
### Box D
#### The 1992 study’s recommendations at a local level

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Responses by LEAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specification of funding and responsibilities of ordinary schools</td>
<td>Encouraged by the Code of Practice and local audit reports, LEAs typically are clarifying responsibilities and alerting schools to their funding for special needs through their LMS allocation.</td>
</tr>
<tr>
<td>Greater managerial supervision of administration of statements</td>
<td>Code of Practice reinforces six-month time limit and local audit reports highlighted time taken – issue now has a much higher profile than before.</td>
</tr>
<tr>
<td>Strategies to increase the capability of ordinary schools to meet special needs</td>
<td>Evidence of good practice is variable, but the introduction of a staged approach to assessment should encourage early identification and assessment. OFSTED’s and OHMCI’s inspection framework also sets out what schools should be doing. Some LEAs have embarked on a programme of adapting school buildings to take pupils with physical disabilities.</td>
</tr>
<tr>
<td>Change special school staffing levels in response to changes in pupil numbers</td>
<td>Local audits revealed that few authorities had done this and showed the opportunity cost of not doing so – averaging out at £440,000 per LEA where measured.</td>
</tr>
<tr>
<td>Monitor whether extra resources for pupils with special needs in ordinary schools continue to be required</td>
<td>New annual review procedures reinforce this.</td>
</tr>
<tr>
<td>Use objective measures of schools’ performance with pupils with special needs</td>
<td>LEAs that are predisposed to doing this may wait until results of key stage assessments are more widely available.</td>
</tr>
<tr>
<td>Schools should plan the use of extra adults in more detail and should direct their work more closely</td>
<td>Schools are keen to take responsibility for engaging additional support rather than relying on LEA central support teams.</td>
</tr>
<tr>
<td>Increased delegation of special needs funds to schools</td>
<td>Pressures from central government to delegate more of general schools budget have encouraged LEAs to delegate funding for special needs.</td>
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Northamptonshire County Council had introduced a system for the identification, assessment and recording of pupils with special educational needs that was based on the Warnock stages. Now in its third year, it had developed sufficiently for it to be a real aid to implementing the staged approach to identification and assessment outlined in the Code of Practice. The LEA needed to change its system only slightly in order to match it. Northamptonshire reports that the introduction of the Code of Practice has been greeted favourably by its schools. Record-keeping and reporting requirements about pupils with special needs were already in place.

Northamptonshire has a banding structure ranging from 1 to 6 which covers the whole range of SEN. Pupils with special needs but without statements are banded 1-2, pupils with statements fall in bands 3-6. If a school has 10 per cent or more of its pupils in band 1 it attracts additional resources. If this figure reaches 30 per cent, then a higher level of funding is triggered. Each band 2 pupil is assessed termly and the school will normally, but not always, be allocated a fixed sum in recognition of such pupils. The LEA effectively operates a year-round moderation of the numbers of pupils in each banding using its Support Teaching and Educational Psychology Service (STEPS).

The LEA is using the information it holds about categorisation of pupils to monitor shifts between bands, both at school and LEA level. These are useful indicators of either successful interventions or of the potential build-up of significant levels of need.

Northamptonshire was already managing to complete assessments and issue statements in eight months on average, which is a relatively good performance. It cited the following two issues as the key to conducting timely assessments:

- advice-givers having good pre-assessment information;
- having good computerised management information on case progress.

However, to ensure that it completed assessments in line with the target in the Code of Practice it is proposing to abolish its multidisciplinary decision-making panel in its present form. The panel had included a headteacher representative and this had proved very successful in ensuring that schools’ views were integrated into the placement process. The LEA has a slight concern that this will now be lost, although appropriate consultation with representative headteachers is built into the new system and it will be holding periodic post-placement reviews.
In the London Borough of Camden a system for the identification, assessment and recording of pupils with special educational needs was introduced on a pilot basis in 1993, and was still in a developmental phase. Like Northamptonshire, Camden needed to change its system only slightly in order for it to match the staged approach outlined in the Code of Practice.

However, the LEA’s system has not been in place long and some schools are wary of their ability to provide the information about individual pupils specified in the Code of Practice. Schools see the provisions of the Code as requiring extra administrative resources and are accordingly putting pressure on the LEA to meet those perceived needs. Schools and the LEA fear that time currently spent by the SEN co-ordinator on creative activities such as promoting curriculum differentiation for pupils with special needs in the classroom will be diverted to the bureaucratic demands of the Code of Practice, if additional resources for administration are not available. However, Camden can demonstrate that the records kept by some of its schools are sufficient to meet the requirements of the Code and is encouraging all schools to operate at the level of the best schools in this respect.

Camden’s formula for additional SEN funding was based on a combination of free school meals, the level of English as the second language and the results of its pilot identification scheme. The LEA had exercised only a high-level audit of the pilot scheme results, but has extended this significantly for the current year using a group of headteachers, educational psychologists and officers.

Camden has a very high proportion of pupils with statements (3.6 per cent, 1994), and would like to reduce this in forthcoming years, so long as savings that may be made in the budget for pupils with statements could be guaranteed to be re-invested to support other pupils with special needs.

Like Northamptonshire, Camden is using the information it holds about categorisation of pupils to monitor shifts between bands, both at school and LEA level.

Camden reported a vast improvement in the time taken to complete assessments and issue statements. It had undertaken a review of its processes to identify bottlenecks and pressure points. The following changes have been made:

- a revision of the process for deciding on placement (as placement decisions were consuming a large part of the time taken to prepare statements);
- the introduction of tight targets for each contributor and each administrative phase of the process;
- weekly monitoring of progress;
- finally, the average time taken to complete assessments and issue statements is now reported to committee on a regular basis, giving it a higher profile.

The LEA is also planning to computerise the process in the near future.
Conclusions

1. Much progress has been made over the past two years in the area of special educational needs. There has been a positive response by the Government to the call to create the right national framework; LEAs and schools have responded constructively to the issues highlighted in the joint AC/HMI report *Getting in on the Act*, but more still needs to be done.

2. Four key points need to be addressed by LEAs:
   i. developing guidelines on the threshold of need that warrants the instigation of the process of formal assessment. These guidelines need to be developed urgently – at least by early 1996. Without them, LEAs will be poorly equipped to meet the increasing demand for assessments from schools and parents, and inequities will persist. The criteria set out in the Code of Practice provide a good starting point for this work;
   ii. ensuring schools are aware of the amount they receive for pupils with special needs through their normal allocation under formula funding;
   iii. improving the speed with which assessments are undertaken and statements are prepared;
   iv. making a forecast of the likely demand for places in special schools, and adjusting the funding of places accordingly.

3. If these points are addressed, then the developments since the implementation of the 1981 Act and the 1993 Education Act will mean that significant improvement has been made in the provision of education for pupils with special needs.

4. At an appropriate time, the Audit Commission and the auditors it appoints will review LEAs’ progress in developing guidelines on the threshold of need. The revisit will aim to identify good practice and may also look at other aspects of the new framework, such as the level of resources used by schools and LEAs in following the Code of Practice. The early identification of children with special educational needs will be considered in a Commission report on education provision for children under five to be published towards the end of next year.
Main issues addressed in the Code of Practice on Identification and Assessment of Special Educational Needs

The Code covers the identification and assessment of pupils with special needs; some of the main topics are highlighted below.

◆ The roles and responsibilities in mainstream schools
The Code outlines the statutory duties of governing bodies for pupils with special educational needs (SEN) and also describes the factors that schools should bear in mind when deciding on the division of responsibility in the school. In particular:

- the governing body should, in co-operation with the headteacher, determine the school’s general policy and approach to providing for children with special educational needs, establish the appropriate staffing and funding arrangements and maintain a general oversight of the school’s work;
- the headteacher has responsibility for the day-to-day management of all aspects of the school’s work, including provision for children with special educational needs. He or she will keep the governing body fully informed. At the same time, the headteacher will work closely with the school’s SEN co-ordinator or team.

Whatever arrangements are made in a particular school, statutory duties remain with the governing body.

◆ The school’s SEN policy
Information which regulations require schools to make available includes:

- the school’s special educational provision;
- the school’s policies for identification, assessment and provision for all pupils with SEN;
- the school’s staffing policies and partnership with bodies beyond the school.

The governing body must report annually on the implementation of its policy for pupils with special needs. The report must include information on:

- the success of the SEN policy;
- significant changes in the policy;
- any consultation with the LEA, the Funding Agency for Schools (in Wales, the Welsh Office) and other schools;
- how resources have been allocated to and amongst children with special educational needs over the year.

◆ The SEN co-ordinator.
In all mainstream schools a designated teacher should be responsible for the day-to-day operation of the school’s SEN policy and for co-ordinating the school’s work with pupils with SEN and liaising with parents of children with special educational needs and with external agencies, including the educational psychology service and other support agencies, medical and social services and voluntary bodies.

◆ School-based stages of assessment and provision.
The Code recommends a staged approach to the identification and assessment of special educational needs. For guidance, the Code sets out a five-stage model. These generally follow the Warnock stages 1 to 5, but the Code expands on the responsibilities of both schools and LEAs in some detail. Responsibility for pupils within stages 1 to 3 lies with the school, although the LEA will be closely involved at stage 3. The LEA and the school share responsibility at stages 4 and 5.

Schools should keep a record of all children with special educational needs and the
steps taken to meet those needs. If schools refer a child for formal assessment they will be asked to provide these records, which should show the work carried out at stages 1 to 3.

- **Statutory assessment. The Code sets out:**
  - the means by which a child may be brought to the LEA’s attention and the procedures the LEA should follow;
  - the mandatory time limits within which assessments and statements must normally be made;
  - criteria for making statutory assessments;
  - the procedures and practices the LEA should follow in making statutory assessments.
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