



House of Commons  
Education and Skills Committee

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# Special Educational Needs

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Third Report of Session 2005–06

*Volume I*





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## *Volume I*

*Report, together with formal minutes*

*Ordered by The House of Commons  
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## The Education and Skills Committee

The Education and Skills Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Education and Skills and its associated public bodies.

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# Contents

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<b>Report</b>	<i>Page</i>
<b>Summary</b>	<b>5</b>
<b>Preface</b>	<b>9</b>
<b>Introduction</b>	<b>11</b>
Brief history of Special Educational Needs (SEN)	11
The need for this inquiry	13
A major review of SEN?	14
<b>1 Why SEN matters</b>	<b>16</b>
Defining SEN: no single category	16
SEN and the link to socio-economic background	16
SEN in the wider educational context	18
The cost of failing children with SEN	19
<b>2 Clarification of inclusion policy</b>	<b>22</b>
Defining inclusion	22
Clarifying the Government's position on inclusion	23
A confused message	23
The Government's position on inclusion	23
A change in policy	24
The Government's new position on inclusion	26
<b>3 SEN: Facts and figures</b>	<b>28</b>
Facts and figures	28
Numbers and incidence of pupils with SEN and statements	28
Placement of statemented pupils	28
Special schools	29
Link to socio-economic background	29
Age and gender	29
Variation across schools	29
Geographical variation in statementing and placement in special schools	30
Social, emotional, or behavioural difficulties and autism	31
Outcomes for disabled young people	32
Existing legislation	32
SEN legislation	32
Disability legislation	33
Government expenditure on SEN	35
Voices of young people with SEN and disabilities	36
Voices of parents of children with SEN and disabilities	37
Voices of teachers and other professionals	38

<b>4</b>	<b>Failings within the SEN system</b>	<b>39</b>
	Statementing process	40
	Issuing of statements	41
	Transfer of statements	43
	Other possible models	43
	Placement decisions	44
	Planning role of local authorities	45
	Admissions and parental choice	47
	Fair access for children with SEN	47
	Choice for parents of children with SEN	47
	Academies	49
	Appeals process	51
	The cost of appeal	52
	Equal access to appeal	53
	Local authority role in appeals	55
	Funding process	55
	Delegated funding	56
	Funding of specialist services and provision for low-incidence needs	57
	Funding of places at non-maintained and independent special schools	58
	Allocation of resources through the statementing process	59
<b>5</b>	<b>Future strategy</b>	<b>60</b>
	Pupil-centred provision: a national delivery model	60
	A national framework with local flexibility	61
	The need for a national framework	61
	A flexible continuum of provision—provision mapping	62
	Local flexibility	63
	Personalisation—SEN v. the standards agenda	64
	Outcomes	66
	Equipping the workforce	67
	Equipping the workforce is key	67
	Initial teacher training	69
	Continuous professional development	70
	A new strategy for workforce development	72
	SENCOs	73
	Specialist support services	74
	Educational psychologists	75
	Early intervention and key transition phases	76
	Early intervention	76
	Key transition phases—including post-16	77
	Partnership working and <i>Every Child Matters</i>	80
	Collaboration between mainstream and special schools	80
	SEN and the <i>Every Child Matters</i> agenda	82
	Partnership with health professionals	83
	Effective partnership with parents and communities	84

<b>Annex: A statistical analysis of Special Educational Needs</b>	<b>86</b>
Trends in the number of pupils with SEN	86
Numbers and incidence of statemented pupils	86
Pupils without statements	87
Trends in the placement of pupils with SEN	88
Placement of statemented pupils	88
The number of new statements issued	89
The number and pattern of special schools	90
Special schools	90
The pattern of special schools	92
Age and gender	94
Geographical variation	96
Geographical variation of statementing and placement in special schools	97
<b>Conclusions and recommendations</b>	<b>104</b>
<b>Formal Minutes</b>	<b>120</b>
<b>Witnesses (Volume II)</b>	<b>135</b>
<b>List of written evidence in Volume II</b>	<b>137</b>
<b>List of written evidence in Volume III</b>	<b>138</b>
<b>List of unprinted written evidence</b>	<b>140</b>
<b>Reports from the Education and Skills Committee, Session 2005–06</b>	<b>143</b>



## Summary

In 2005 around 18% of all pupils in school in England were categorised as having some sort of special educational need (SEN) (1.5 million children). Around 3% of all children (250,000) had a statement of SEN and around 1% of all children were in special schools (90,000)—which represents approximately one third of children with statements. With such a large number of children involved, it is important to recognise that many children are receiving the education they need in an appropriate setting. It is equally important, however, to highlight the difficulties faced by a large number of parents for whom the system is failing to meet the needs of their children. This inquiry gives careful consideration – based on the large quantity of written and oral evidence received – to where the SEN system is failing and considers how the Government can improve outcomes for all children with SEN and disabilities in England.

### **Inclusion policy—a confused message**

The Government’s policy of inclusion has come under criticism recently—including by Baroness Warnock in her 2005 article *Special Educational Needs: a new look*—for its confused and changing definition which is reported to be causing the closure of special schools and “forcing”<sup>1</sup> some children into mainstream schools when it is not in their best interests to be there, resulting in distress for pupils and parents.

Inclusion is a broad concept that covers a wide range of issues both within and between schools—and interpretations of the concept vary greatly—but, with specific regard to special schools, the Government has told this inquiry that it does not hold a policy of inclusion that is resulting in the closure of special schools. Lord Adonis, the Minister with responsibility for SEN, described the Government as being “content” if, as a result of local authority decisions, the current “roughly static position in respect of special schools”<sup>2</sup> continues. Lord Adonis specifically said that the Government “do not have a view about a set proportion of pupils who should be in special schools”.<sup>3</sup>

In the 2004 SEN Strategy *Removing Barriers to Achievement*, however, which aims to “set out the Government’s vision on SEN,”<sup>4</sup> guidance to local authorities unmistakably says that “the proportion of children educated in special schools should fall over time” and there should be a “reduced reliance on statements”.<sup>5</sup> The SEN Strategy is not unique in doing so. Based on statutory and non-statutory guidance, and based on the Government’s original 1997 position, it is reasonable for those involved in SEN to assume that the Government holds a policy of inclusion from which it has given guidance to local authorities to reduce

1 The Sunday Times Review, June 11 2006. <http://www.timesonline.co.uk/article/0,,2092-2219892,00.html>

2 Q877

3 Q895

4 <http://www.standards.dfes.gov.uk/primary/publications/inclusion/883963/>

5 DfES *Removing Barriers to Achievement*, 2004 SEN Strategy, pages 37 and 18–19

both the proportion of pupils in special schools and to reduce reliance on statements.

If, as Lord Adonis claims, the Government “have no policy whatever, I should stress, of encouraging local authorities to close special schools”<sup>6</sup> then why do some local authorities “believe they have been instructed to close special schools”?<sup>7</sup>

The most generous reading of the evidence is that the Government is moving forward towards seeking a “flexible continuum of provision”<sup>8</sup> being available in all local authorities to meet the needs of all children, including those with SEN, but this is not the basis for the approach outlined in SENDA 2001, the SEN Code of Practice 2001, or the 2004 SEN Strategy. This should be put right.

What is urgently needed is for the Government to clarify its position on SEN—specifically on inclusion—and to provide national strategic direction for the future. The Government needs to provide a clear over-arching strategy for SEN and disability policy. It needs to provide a vision for the future that everyone involved in SEN can purposefully work towards.

The Government should be up-front about its change of direction on SEN policy and the inclusion agenda, if this is indeed the case, and should reflect this in updated statutory and non-statutory guidance to the sector.

#### **A national framework with local flexibility**

For many children with SEN and disabilities, special schools provide an invaluable contribution to their education. The issue should not be their closure but how to progress to a system based on a broad range of high quality, well resourced, flexible provision to meet the needs of all children.

The Minister confirmed that there will be no major review of SEN policy and officials confirmed that “the focus of our attention is within the (existing) framework”.<sup>9</sup> The education system as a whole has, however, moved on considerably since the existing SEN framework was put in place following the Warnock report in 1978 and persevering with the current SEN system fails to deal with the well-documented problems or to take advantage of the opportunities generated by these changes.

It is the view of this Committee that the original Warnock framework has run its course. With Ofsted identifying a “considerable inequality of provision”<sup>10</sup>—both in terms of quality and access to a broad range of suitable provision—the SEN system is demonstrably no longer fit for purpose and there is a need for the Government to develop a new system that puts the needs of the child at the centre of provision.

6 Q 895

7 Education Review, *A range of Provision*, John Bangs, , Volume 19, page 22

8 Q77

9 Q63

10 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004 paragraph 69

11 SEN 178 paragraph 56

12 Q868

The DfES memorandum states that “Government plays no role in relation to local authority reorganisations or in respect of decisions to close schools”<sup>11</sup> but this is an abdication of responsibility; the Government needs to set a clear national framework in which local authorities can make decisions regarding provision. Of course local authorities must continue to have the capacity to plan and re-organise provision to meet local needs but the Government must clearly state its vision for children with SEN and disabilities. The Government should provide a much clearer National Strategy linked to minimum standards and a statutory requirement for local authorities to provide a broad continuum of flexible provision—including high quality special schools.

### **Child-centred provision**

The Government needs to develop a child-centred approach with regard to each stage of the statementing process: assessment of needs; allocation of resources; and placement. It should develop a system based on early identification and intervention, where schools are fully resourced and staff are fully equipped to meet those needs, and where there is a broad range of suitable high quality provision available to ensure all children are healthy, safe, enjoy and achieve, make a positive contribution, and achieve economic well-being. SEN provision should be integral to the *Every Child Matters* agenda to ensure a seamless service is in place with multi-agency involvement across key transition phases and through adulthood.

The Government needs to radically increase investment in training its workforce so that all staff, including teaching staff, are fully equipped and resourced to improve outcomes for children with SEN and disabilities.

Evidence from this inquiry demonstrates how far the country is from achieving such a vision. It is simply not acceptable for the Minister to say that the current system is “not always working well”.<sup>12</sup> Special educational needs should be prioritised, brought into the mainstream education policy agenda, and radically improved.



## Preface

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1. In 2005 around 18% of all pupils in school in England were categorised as having some sort of special educational need (SEN) (1.5 million children). Around 3% of all children (250,000) had a statement of SEN and around 1% of all children were in special schools (90,000)—which represents approximately one third of children with statements. With such a large number of children involved, it is important to recognise that many children are receiving the education they need in an appropriate setting. It is equally important, however, to highlight the difficulties faced by a large number of parents for whom the system is failing to meet the needs of their children. This inquiry gives careful consideration to where the SEN system is failing and considers how the Government can improve outcomes for all children with SEN and disabilities.

2. This inquiry has been informed by over 230 written memoranda. Memoranda from individuals have been given full consideration but have not been printed for reasons of privacy.

3. During the course of this inquiry we have taken evidence from around 50 witnesses in oral evidence: Baroness Warnock; Rt Hon Ruth Kelly MP the then Secretary of State for Education and Skills; Lord Adonis Parliamentary Under-Secretary of State for Schools; Althea Efunshile, Andrew McCully, and Ian Coates, Department for Education and Skills; Miriam Rosen and Eileen Visser, Ofsted; David Curtis and Joan Baxter, Audit Commission; Ralph Tabberer, Training Development Agency; John Bangs, National Union of Teachers; Rona Tutt, National Association of Head Teachers; Martin Johnson, Association of Teachers and Lecturers; Darren Northcott, NASUWT; Eirwen Grefell-Essam, Network 81; Paula Jewes, Kids First Group; Hugh Payton, Wiltshire Dyslexia Association; Chris Goodey, SPINN; Brian Lamb OBE, SEN consortium; John Hayward, Focus Learning; Claire Dorer, National Association of Independent Schools and Non-Maintained Special Schools; Steve Haines, Cathy Casserley, and Phillippa Russell, Disability Rights Commission; John Wright, Independent Panel for Special Education Advice; Julia Thomas, Children's Legal Centre; Chris Gravell, The Advisory Centre for Education; David Ruebain, Law Society; Simone Aspis, British Council of Disabled People; Richard Rieser, Disability Equality in Education; Micheline Mason, Alliance for Inclusive Education; Elizabeth Clery, Royal National Institute for the Blind; Carol Boys, Down's Syndrome Association; Mike Collins, National Autistic Society; Susan Tresman, British Dyslexia Association; Virginia Beardshaw, I CAN; David Congdon, Mencap; Jean Salt, NASEN; Kevin Rowland, British Psychological Society; Shirley Cramer, Dyslexia Institute; Kate Griggs, Xtraordinary People; Mark Rogers, Solihull Metropolitan Borough Council; Janet Sparrow, Buckinghamshire County Council; Tim Warin, Newcastle City Council; Professor Julie Dockrell, Institute of Education; Professor Alan Dyson, Manchester University; and Professor Brahm Norwich, Exeter University.

4. Our inquiry has also been informed by visits to schools in Essex in March 2006 and Darlington Education Village in May 2006. We would like to extend our thanks to all of those involved in two excellent and highly instructive visits. Individual Members of the Committee also made a number of separate visits relating to this inquiry, including the

Chairman visiting a large meeting of parents in Hampton hosted by SOS!SEN, a helpline for parents of children with SEN and disabilities.

5. We would like to thank *You and Yours* and BBC Radio 4 for their contribution to the work of the Committee through the phone-in discussion they held about special educational needs and the summary report of responses provided to the Committee. The response was overwhelming with *You and Yours* receiving over 700 emails, telephone calls and letters from parents, children, teachers and other interested parties. We are grateful to be able to use the summary of responses within this report.

6. We are very grateful to our specialist advisers: Professor Ann Lewis, Professor of Special Education and Educational Psychology, University of Birmingham; Professor Alan Dyson, Professor of Education, University of Manchester; and Mark Rogers, Director of Education and Children's Services, Solihull Metropolitan Borough Council. We would also like to thank the members of staff in the House of Commons Library for providing information to this inquiry.

7. This report looks at policy relating to children with SEN and disabilities. It does not give comprehensive and detailed consideration to specific issues facing any particular group of category of special educational need or disability. Nor does it cover in detail the following areas, all of which are important areas of SEN that deserve further attention: the special educational needs of gifted and talented children, post-16 provision including FE, children in early years provision or in residential care.

# Introduction

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## Brief history of Special Educational Needs (SEN)

8. Under the 1944 Education Act, children with special educational needs were categorised by their disabilities defined in medical terms. Many children were considered to be “uneducable” and pupils were labelled into categories such as “maladjusted” or “educationally sub-normal” and given “special educational treatment” in separate schools.

9. **The Warnock Report in 1978, followed by the 1981 Education Act, radically changed the conceptualisation of special educational needs.** It introduced the idea of special educational needs (SEN), “statements” of SEN, and an “integrative”—which later became known as “inclusive”—approach, based on common educational goals for all children regardless of their abilities or disabilities: namely independence, enjoyment, and understanding.

10. The various Acts and legislation that have followed demonstrate the progress in attitude that has taken place since the Warnock report towards the aim of trying to include all children in a common education framework and away from categorising children with SEN or disabilities as a race apart. This has been representative of a broader international trend.

11. The Warnock Framework was introduced under the 1981 Education Act but with no additional funding for the new processes involved in statementing or teacher training, despite the closure of many special schools. The 1988 Education Act then established the National Curriculum and a system of league tables where schools competed based on academic attainment. Baroness Warnock described things as getting:

“far worse from 1988 onwards[...] (for children with SEN)[...] who [...] were not going to help the league tables”.<sup>13</sup>

12. The Warnock framework remained firmly in place through the 1990s. **During the 1980s and 1990s there was a considerable decline in the number of children in special schools and a gradual increase in the proportion of children both identified as having special educational needs (SEN) and given statements of SEN** (see section 3: facts and figures on SEN). As Brahm Norwich, Professor of Educational Psychology and SEN at the University of Exeter, identified to this Committee in evidence:

“there has been quite a sizeable decline in the total population of special schools. That was greatest in the 1980s and flattened out somewhat in the 1990s.”<sup>14</sup>

13. In the 1997 Green Paper *Excellence For All Children Meeting Special Educational Needs*, the new Labour Government gave public support to the UN statement on Special Needs Education 1994 which “calls on governments to adopt the principle of inclusive education” and “implies a progressive extension of the capacity of mainstream schools to provide for

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13 Q42

14 Q501

children with a wide range of needs”.<sup>15</sup> By doing so, it “aligned the English education system for the first time with the international movement towards inclusive education. This, in many ways, was a remarkable move. The Government [...] positioned itself at [...] the forefront of thinking in the field and all seemed set fair for the rapid development of an education system that would be a world leader in terms of inclusion.”<sup>16</sup>

**14. Despite this, since 1999–2000 the proportion of children in special schools (around 1%), the proportion of children with SEN (around 18%), and the proportion of children with statements of SEN (around 3%) has plateaued—all within a system still based on the original 1978 Warnock framework.**

15. This Government inherited the existing SEN framework and sought to improve it through the SEN And Disability Act (SENDA) 2001, and the 2004 SEN Strategy *Removing Barriers to Achievement* which claimed to set out “the Government’s vision for the education of children with SEN and disability”. This Government have also substantially increased investment in SEN. Expenditure on SEN has increased from £2.8 billion to £4.1 billion in the last four years. Nevertheless, it is an old framework that is struggling to keep up with the diverse range of needs across the 1.5 million children categorised as having some sort of special educational need.

16. It has been noted by the National Autistic Society and others that society now understands special educational needs to represent a much wider continuum of needs than first identified by the Warnock Report in 1978.<sup>17</sup> As Alan Dyson, Professor of Education at the University of Manchester, told this Committee:

“You have this mismatch of very rapid change in the mainstream education system and this foundation of a Warnock-inspired framework that really has not changed very much at all. It has been tweaked a little, but substantially it is the same framework [...] it is not surprising if the system is creaking at the joints a little.”<sup>18</sup>

**17. The Warnock SEN framework is struggling to remain fit for purpose, and where significant cracks are developing in the system—most starkly demonstrated by the failure of the system to cope with the rising number of children with autism and social, emotional or behavioural difficulties (SEBD)—this is causing high levels of frustration to parents, children, teachers and local authorities.**

18. The Government’s policy of inclusion has come under criticism recently for causing the closure of special schools. In evidence to this inquiry, however, the Minister firmly stated that the Government “have no policy whatever, I should stress, of encouraging local authorities to close special schools”.<sup>19</sup> The Government’s position on inclusion seems confused and there is a need for clarification.

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15 DfEE, *Excellence for all children: meeting special educational needs*, 1997

16 A. Dyson, *Philosophy, politics and economics? The story of inclusive education in England*, 2005 in: D. Mitchell (Ed) *Contextualising Inclusive Education: Evaluating old and new international perspectives* (London, Routledge).

17 SEN 128

18 Q 499

19 Q 895

19. There are a number of similarities between the aims stated in the Government's 2004 SEN Strategy *Removing Barriers to Achievement* and in the *Every Child Matters* agenda, and those in the original Warnock Report in 1978: joined up services, tailoring support around the needs of the children, a wide range of measurements for success, equipping the workforce, and raising standards. The aims of the original Warnock Report proved incredibly difficult to achieve despite the 1981 legislation. The 2004 SEN Strategy provided very little detail of how these aims will become a reality for those children and young people with SEN and disabilities. It is not clear why these aims should be any easier to achieve in 2006 without radical change to the priority given to children with SEN and disabilities.

20. In July 2005 Baroness Warnock wrote an article on SEN in which she called for the Government to set up another commission to review the situation.<sup>20</sup> She concluded that there was an urgent need to review SEN, particularly the concept of inclusion, the process of statementing, and to gain a better understanding of the link between social disadvantage and SEN.

### The need for this inquiry

21. Having received over 230 written submissions, taken evidence from over 40 witnesses in oral evidence, made visits to schools, and having considered the recent Warnock report, as well as Ofsted and Audit Commission reports, it is clear that there are significant problems with the current system of SEN provision and high levels of dissatisfaction amongst parents and teachers. In their written memorandum Ofsted have said that "SEN is becoming more of a confusing and litigious area than ever before."<sup>21</sup> In oral evidence the Kids First Group, a parent-representative organisation, described a situation where:

"[...] too many of our special needs children are severely let down."<sup>22</sup>

22. In its submission to this inquiry the DfES recognised that "the current system is not working perfectly." Lord Adonis, Under Secretary of State for Schools and the Minister with responsibility for SEN, told this Committee that:

"I would be the last person to claim that all is well in the system."<sup>23</sup>

23. The DfES go on to say in their memorandum that "for the great majority of families the system is operating effectively to meet their children's needs".<sup>24</sup> This does not, however, take away from the significant difficulties faced by a large number of parents for whom the system is failing to meet the needs of their children causing frustration and conflict. **The Committee would invite the Minister to read the 230 written memoranda we have received during this inquiry and consider, in full, the conclusions and recommendations of this report.**

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20 Philosophy of Education Society of Great Britain, Baroness Warnock, *Special educational needs: a new look*, 2005. No. 11 in a series of policy discussions.

21 SEN 133 paragraph 1.2

22 Q146

23 Q851

24 SEN 178

## A major review of SEN?

24. In her evidence to this Committee, Baroness Warnock said that a radical review of SEN policy is needed. In their submission the DfES said that “It (The Government) does not believe that a major review of policy on SEN would be appropriate at present [...] what is needed now is change on the ground. Any new review would simply delay progress in making this happen.”<sup>25</sup>

25. Lord Adonis told this Committee that:

“the case for a wholesale replacement of the local authority system and statementing does not appear to us to have been made convincingly.”<sup>26</sup>

26. The Minister went on to say that:

“Ofsted has been critical of the SEN in the past, but ... we know the challenges, we know what works, we know the conditions that make things work and we know what does not work. Ofsted’s view would be: “Let us focus on those things and change them.”<sup>27</sup>

27. In their memorandum to this inquiry, the DfES have argued that it is precisely because of the Ofsted and Audit Commission reports that the issues are known and, therefore, a major review of SEN policy is not needed.<sup>28</sup> The Audit Commission has, however, specifically called for a review of policy on the issue of statements. It published a briefing entitled *Statutory Assessment and Statements of SEN: In Need of Review* in June 2002 which highlighted claims that: demand for statements was rising; statutory assessment was costly and bureaucratic, stressful for parents and added little value in meeting a child’s needs; and that statements were leading to an inequitable distribution of resources, and failed to support early intervention and inclusive practice.<sup>29</sup> **Despite the Audit Commission specifically calling for a review of the statementing process in 2002, four years on the Government still says it has no plans to review the statementing process. This is unacceptable.**

28. When asked about SEN policy during Prime Minister’s Questions on 2 November 2005, however, the Prime Minister said “I accept there is room for improvement and we are keeping SEN provision under review.” Along with the DfES innovations unit, Lord Adonis held a private “Ministerial Seminar on next practice in SEN” in November 2005 which involved a wide ranging discussion with experts—particularly on proposals surrounding “third way provision”<sup>30</sup> on which a paper was provided.<sup>31</sup>

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25 SEN 178

26 Q851

27 Q851

28 SEN 178 paragraph 127

29 SEN 173

30 ‘Third way’ is a term that the discussion paper describes as ‘increasingly used in national policy discussions to describe provision for children with SEN that combines elements of special and mainstream education’.

31 Anne Pinney, Independent Researcher, DfES, *Third Way Provision for children with SEN*, a discussion paper written to inform the Ministerial Seminars on SEN held on 25th October 2005.

29. Furthermore, the Treasury is undertaking a “root and branch” review of funding for children with complex needs. David Singleton of *Children Now* reported that “the DfES has identified this area as the one in which it would most like funding to be increased in the next spending review [...] The Treasury will now begin a process called “zero-base budgeting”, in which it calculates the amount of funding required from a base level of zero (or from first principles). This could lead to a significant increase in the level of funding directed towards children with complex needs—an area that includes looked-after children, children with special educational needs and those with severe disabilities.”<sup>32</sup> The DfES has told the Committee that this is a joint review with the Treasury and will report through the Comprehensive Spending Review either in November 2006 or March 2007.<sup>33</sup>

30. Ofsted do not believe a major review of SEN is necessary, but Eileen Visser, Area Division Manager, Ofsted, did say to this Committee that:

“Some aspects of the structural provision need more than a tweak. They do need us to sit down together, across the political dimension, the inspection dimension and the professional field, and say, “What is it that we need to do?”<sup>34</sup>

**31. Whilst the Government says it does not wish to undertake a major public review of its policy on SEN, it does seem to be re-considering its policy in private.** The fact that the DfES has identified SEN as the area it would most like significant additional funding for is an encouraging sign of progress. The Minister assured us that the Government:

“[...] would look very carefully at anything you recommended to us in this area or other areas.”<sup>35</sup>

**32. The Committee believes this is a critical time to be publishing the results of our inquiry. We would urge the Government to give most careful thought to our recommendations and consider a completely fresh look at SEN. We look forward to constructive and vital progress for children with SEN and disabilities.**

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32 Children Now, David Singleton, *Spending Review: Treasury to review funding for children with complex needs*, 1 March 2006 <http://www.childrennow.co.uk/news/index.cfm?fuseaction=details&UID=27d40f93-5002-4404-9b47-9bc58cc04781>

33 Education and Skills Committee, Second Report of Session 2005–06, *Public Expenditure on Education and Skills*, HC 479, Q 94.

34 Q671

35 Q901

# 1 Why SEN matters

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## Defining SEN: no single category

33. Baroness Warnock, in an interview with the Education Guardian, argued that “one of the major disasters of the original report was that we introduced the concept of special educational needs to try and show that disabled children were not a race apart and many of them should be educated in the mainstream... But the unforeseen consequence is that SEN has come to be the name of a single category, and the government uses it as if it is the same problem to include a child in a wheelchair and a child with Asperger’s, and that is conspicuously untrue.”<sup>36</sup>

34. There is an underlying problem, in that the premise on which SEN provision is based—that there exists a single category of children with SEN—is fundamentally flawed. Children exist on a broad continuum of needs and learning styles but do not fit into neat categories of different sorts of children—those with and those without SEN. The category of “SEN” is an arbitrary distinction that leads to false classifications and, it can be argued that, this is what is causing the high levels of conflict and frustration with all those involved.

35. Furthermore there is the increasing confusion between SEN and disability. Whilst there is considerable overlap, it is not the case that all children with disabilities are defined as having SEN or that all children with SEN are defined as having a disability. With disability legislation providing a stronger rights-based approach than existing SEN legislation, there is growing confusion in this area. This issue is discussed in more detail in section 3 under “existing legislation” but it serves to highlight the difficulties being caused by there being no single, clearly identifiable category of children with SEN.

## SEN and the link to socio-economic background

36. **Special educational needs exist across the whole spectrum of social classes and abilities.** Indeed, in the present system there is a particular category of “gifted and talented” children who are defined as having special educational needs (although provision for these children is not specifically considered within this report). **It is important to recognise that some conditions which give rise to SEN, in particular along the autism spectrum and specifically Asperger’s Syndrome, can defy an easy correlation between those conditions and social deprivation—as well as the children often being above-average intelligence. It is important therefore that social deprivation is not seen as the only and automatic benchmark for addressing SEN issues.**

37. **There is, however, a strong correlation between social deprivation and SEN that deserves careful consideration by the Government. SEN policy should explicitly address these overlapping sets of needs where they occur.**

38. Data from the DfES show that children with SEN are much more likely to be eligible for free school meals (a proxy for socio-economic deprivation) than the average school population. In 2006 13.6% of all secondary and 16% of all primary pupils were eligible for

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36 The Guardian, Katharine Quarmby, *Inclusion debate treads new ground*, Tuesday January 31, 2006.

free school meals (FSM).<sup>37</sup> In comparison, for children with statements of SEN, 26.5% of secondary and 26% of primary pupils were eligible for FSM.<sup>38</sup> **At secondary school level, children with statements of SEN are nearly twice as likely to be eligible for free school meals as the average school population.** Furthermore, this figure rose a great deal higher in some areas with nearly 50% of all children with statements of SEN being eligible for FSM in inner London. See section 3: facts and figures on SEN for further details.

39. In the original 1978 report, Baroness Warnock was prohibited by the DfES from counting social deprivation as contributing to special educational need because of a “belief embedded in the Department [...] that the social conditions in which a child lived[...], were matters for the Social Services and not for them.”<sup>39</sup>

40. The 2005 Warnock paper says that it is “undeniable that socially deprived children tend to have more educational difficulties.”<sup>40</sup> One of its three major conclusions is that SEN policy must reflect “our growing recognition of the crucial differences that social differences make to educational chances.”<sup>41</sup>

41. It is known that outcomes within the system are still heavily differentiated by socio-economic background, gender and ethnicity (for example the direct correlation between social class and educational attainment at 18,16, 11 and even younger remains, despite concerted efforts to tackle this over a long period of time). Moreover, “a particularly worrying phenomenon is that educational risk factors tend to become concentrated in particular areas and in particular schools[...].”<sup>42</sup> As the former HMCI David Bell has pointed out “A stubborn core of pupils at the bottom end of the scale are being let down by the system.”<sup>43</sup> There is increasing evidence that, despite multiple initiatives in recent years, an irreducible tail of low-performing schools remains. The Prime Minister has also recognised “a long tail of under-achievement and failure, concentrated in our poorest communities, weakening our society and economy and undermining the life chances of millions of young people.”<sup>44</sup>

42. The implication is that “those students who are most disadvantaged socially and economically[...] continue to suffer the greatest educational disadvantage. Moreover, it is precisely these students who are disproportionately represented[...] (in the SEN population).” As Ann Lewis, Professor of Special Education and Educational Psychology, University of Birmingham, explains “there is extensive evidence of the overlap between education and social/economic needs. This evidence is well documented and sustained

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37 Parliamentary Written Answer. 18 May 2006. Jim Knight. Column 1147W and 1148W.

38 Data received from the DfES. Correspondence reference number 2006/0218752.

39 Philosophy of Education Society of Great Britain, Baroness Warnock, Special educational needs: a new look, 2005. No. 11 in a series of policy discussions.

40 *Ibid.*

41 *Ibid.*

42 A. Dyson, *Philosophy, politics and economics? The story of inclusive education in England*, 2005 in: D. Mitchell (Ed) *Contextualising Inclusive Education: Evaluating old and new international perspectives* (London, Routledge).

43 Speech by David Bell, the then Chief Inspector of Schools, to a press conference in London, on Tuesday December 14 2004 to launch the Ofsted report, *Reading for purpose and pleasure*

44 Speech by the Prime Minister to the National Association of Head Teachers, Cardiff, 3 May 2004

over time. (As a result) ‘SEN’ policies need to explicitly address these overlapping sets of needs”.<sup>45</sup>

43. There is a category of children in the current system now described as having social, emotional or behavioural difficulties (SEBD).<sup>46</sup> This, along with autism, is the fastest growing category of SEN. To an extent this captures social difficulties within a much broader category but it is by no means sufficient recognition of the overlap of issues. **Children with Autism Spectrum Disorder (ASD), and social, emotional or behavioural difficulties (SEBD) provide an excellent example of where the old Warnock framework is out of date and where significant cracks exist in the system to the detriment of those who fall between them. Far more important, however, is the frustration and upset caused to parents and families by the failure of the system to meet the needs of these children. This needs most urgent resolution.**

### SEN in the wider educational context

44. The SEN system often gets discussed as if it is a separate system that operates outside the broader education sector. It is widely recognised that this is not the case. Children with SEN are the same children that are affected by, and in turn have an effect on, reading strategies, curriculum flexibility, personalised learning, behaviour strategies, *Every Child Matters*, the standards agenda, teacher retention, and even youth crime.

45. SEN provision operates within a much a broader arena of education policy and the context in which it operates has significant consequences for both policy and practice. Mr Andrew McCully, Delivery Director for School Standards Group, DfES, said in oral evidence that:

“I think what we are going to come back to again and again today is the way in which it is very difficult to see provision for SEN in a little box.”<sup>47</sup>

46. SEN policy needs to be more explicitly considered in a broader education context and in light of existing education policies—not just those it sits comfortably with like *Every Child Matters*, personalisation, reading strategies, behaviour strategies, but also those it sits less comfortably with—specifically the continuing priority of raising standards for the majority with its emphasis on league tables and attainment targets and a system of increased choice and diversity for parents (for further discussion of this issue see section on personalisation: SEN v. standards agenda).

47. The UK has “an education system that has to drive up the attainment of the majority of young people so that they become the highly-skilled workers demanded by a modern economy.”<sup>48</sup> But, as Professor Dyson remarks, “as government policies increasingly come up against students and schools that are stubbornly resistant to ‘improvement’ the question

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45 SEN 22

46 This is often referred to as BESD but SEBD is a better reflection of the priority of needs for these young people.

47 Q50

48 A. Dyson, *Philosophy, politics and economics? The story of inclusive education in England*, 2005 in: D. Mitchell (Ed) *Contextualising Inclusive Education: Evaluating old and new international perspectives* (London, Routledge).

of how to include this recalcitrant minority in the form of education that has developed in English schools becomes an issue of growing significance.”<sup>49</sup>

**48. SEN policy continues to operate a separate system for special educational needs (SEN) and, as a result, SEN continues to be sidelined away from the mainstream agenda in education. This must not continue. The Government needs to give greater priority to SEN and take full account of its need to have a central position in education.**

### **The cost of failing children with SEN**

**49. The continuing correlation between children with SEN and exclusions, low attainment, not being in education, employment or training (NEET), and even youth crime, means that there are significant long term economic and social costs involved in failing children with SEN. The personal cost to families of children with SEN should also be considered.**

50. Where a child with SEN is not having their needs met, it is likely that there are also costs in terms of the impact on the broader education system: possible disruption to education of classmates in both mainstream and special schools; and on teacher retention. Evidence of the impact on teacher retention of pupil behaviour (including, although not exclusively, pupils with social, emotional, and behavioural difficulties (SEBD)) is widely acknowledged.<sup>50</sup> Evidence regarding the impact on the education of peers in the classroom of children with SEN is less clear.

51. Better research is needed to identify whether children with similar special educational needs and cognitive ability achieve better in a special school, a segregated or enhanced special unit, or mainstream provision. Long-term, extensive research is not available. The limited research that does exist on this subject is inconclusive.

52. Research undertaken for the DfES has found that there is no evidence that children with SEN reduce the attainment levels reached by their classmates. The DfES memorandum identifies research undertaken by Universities of Newcastle and Manchester in 2003 which “found no evidence of a relationship between inclusion and attainment.”<sup>51</sup> They found that inclusivity was far less significant than other factors such as Free School Meals (a proxy of socio-economic background) month of birth, gender and mother tongue. They also found that “there was some evidence of the positive effects that inclusion can have on the wider achievements of all pupils, such as social skills and understanding—although it can also increase the risk of isolation and low self-esteem.”<sup>52</sup>

53. A recent research report from the University of Cambridge, *The Costs of Inclusion*, found more mixed results. It found that “for children who would, in the past, have been in special schools we find evidence of children thriving in the company of their peers

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49 Ibid.

50 House of Commons, Education and Skills Committee, *Secondary Education: Teacher Retention and Recruitment*, Fifth Report of Session 2003-04. Paragraph 74 said that ‘pupil behaviour is seen as one of the most significant problems in the retention of teachers in secondary teaching’.

51 SEN 178 paragraphs 79 and 80

52 Ibid

supported by enlightened and supportive staff. We also find children and young people struggling in schools and classrooms ill equipped to meet their varied and complex needs. For their peers, changes in teachers' priorities and classroom management often means less time and attention by teachers to the detriment of all children's learning." The report concluded that "while there are many examples of social benefits both for children with special needs and their peers, there is much less positive evidence that learning needs are being met across the whole spectrum of ability."<sup>53</sup>

54. Finally, the impact for those children with SEN who end up being excluded, NEET, or even in crime, is of great concern. We know, for example, that a high proportion of young people in Youth Offender Institutions present with special educational needs and 15% have statements of SEN (compared to 3% of the total school population).<sup>54</sup> **There are considerable costs involved in failing to meet the needs of large numbers of children with SEN. Moreover, the Government has a responsibility to provide high-quality education for all children to enable them to reach their potential.**

55. A relevant example is provided by children with autism. The National Autistic Society (NAS) describe autistic spectrum disorder (ASD) as a "lifelong developmental disability that affect the way a person communicates and relates to people around them." The NAS believe that the "prevalence estimate for autistic spectrum disorders (ASD) in the total population is 1 in 110."<sup>55</sup> The charity I CAN say that "Children's 'invisible' problems with communication mean that they find it difficult to express themselves and develop the learning and literacy skills they need to become independent adults and thrive in a 21st century world. There is a clear relationship between this hidden disability and later literacy problems,<sup>56</sup> and poor educational attainment at 11 and 16 years of age.<sup>57</sup> Being unable to communicate effectively is deeply frustrating: well over half of the children classified as having emotional, behavioural and social difficulties (EBSO) have a communication disability too. An unaddressed communication disability often leads to behavioural problems. This strong inter-relationship is all too often overlooked. As a result, children with EBSO often fail to have their communication disability addressed, with the outcome that their frustrations continue and they become locked in a vicious, self-perpetuating cycle. Isolation and social exclusion is the frequent result."<sup>58</sup>

56. The National Autistic Society point out that "over a quarter (27%) of children with autism have been excluded from school at some point, and most of these (23% (of children with autism)) have been excluded on more than one occasion."<sup>59</sup>

57. With regard to dyslexia, The Dyslexia Institute believe the cost of failing to diagnose and appropriately teach children with dyslexia leads to significant long-term economic and

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53 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

54 Audit Commission, *Youth Justice 2004: a review of the reformed youth justice system*, 2004

55 SEN 128

56 Catts, H. and Kahmi, A., *Language and Reading Disabilities*. 1999 (Boston: Allyn and Bacon)

57 Howlin P & Rutter M, *The consequences of language delay for other aspects of development*. 1987

58 SEN 129

59 SEN 128

social costs in terms of exclusions, lost earnings, and even crime (studies have shown the extent to which dyslexia is over-represented in the prison population with as many as 20% of prisoners having dyslexia and related learning difficulties).<sup>60</sup> Shirley Cramer, Chief Executive of the Dyslexia Institute, told this Committee that the estimated costs to the UK taxpayer could be in the hundreds of millions:

“Last year we did a very specific piece of research in the Prison Service which showed that 52% of prisoners have literacy difficulties and 20% have hidden difficulties, and the assessments used were very robust[...] We had £186 million in the Prison Service, £80 million in Probation, £50 million in school exclusions, so just in those three categories alone £300 million a year.”<sup>61</sup>

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60 SEN139

61 Q818

## 2 Clarification of inclusion policy

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### Defining inclusion

58. There is considerable confusion over the term inclusion with a wide range of meanings applied to the term. The word alone invokes a great deal of strong feeling and antagonism. Polar opposite views have been represented to the Committee: from fervent advocates of inclusion who regard it as a human rights issue that all children should be included in mainstream schools; to those who see inclusion policy as the root of all problems in SEN, such as a hesitance on the part of local authorities to issue statements and the closure of special schools that parents have fought hard to keep open.

59. There is a distinction between inclusion and integration which should also be clarified. Integration was the term first introduced in the 1978 Warnock Report. It was referring to the concept of integrating children with SEN into a common educational framework. The concept has since progressed to the inclusion of all children to reflect the idea that it is not for SEN children to be somehow fitted in or integrated into the mainstream but that education as a whole should be fully inclusive of all children.

60. There is nothing in the word inclusion itself to cause offence but it has become associated with blanket policies of forced inclusion or exclusion from particular schools or access to resources. Associations with such needs-blind policies have raised passionate opposition. As John Hayward, Focus Learning, explained to the Committee:

“It is a good thing to aim for but[...] I cannot quite see the point of inclusion as a blanket policy.”<sup>62</sup>

61. Miriam Rosen, Director of Education at Ofsted, described Ofsted’s view as being that:

“the debate over provision has for too long focused on an unhelpful interpretation of inclusion as a place (that is, special or mainstream) rather than on what the pupils achieve[...].”<sup>63</sup>

62. When described under a more measured and child-focused definition, it is difficult to take issue with the principle of inclusion. When it is defined as being about creating schools with an inclusive approach or ethos so that all children in the school are actively involved, playing a full and positive role in the classroom and with their peers, few would argue against such a principle or aim. Indeed, the Government’s SEN Strategy *Removing Barriers to Achievement* describes “schools effectively responding to a wide range of needs in the classroom” (p50) and “all teachers having the skills and confidence—and access to specialist advice where necessary—to help children with SEN to reach their potential.” (p50).

63. The SEN Strategy does clarify the definition it is applying to the term inclusion at one stage—using an interpretation that would have almost unanimous support. It says

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62 Q241

63 Q660

“inclusion is about much more than the type of school that children attend: it is about the quality of their experience; how they are helped to learn, achieve, and participate fully in the life of the school.” (p 25). This explanation of inclusion is, however, not sufficient to clarify the Government’s position in such a confused area of policy—particularly when the SEN Strategy still includes references to the Government’s “inclusion agenda” (p34) and gives guidance to local authorities to reduce the proportion of children being educated in special schools over time (p37).

**64. The Government’s changing definition of inclusion is causing confusion. If it is going to continue to use this term in key policy documents such as the SEN Strategy, the Government should work harder to define exactly what it means by inclusion. This Committee supports the principle of educators pursuing an ethos that fully includes all children—including those with SEN and disabilities—in the setting or settings that best meets their needs and helps them achieve their potential, preferably a good school within their local community.**

## Clarifying the Government’s position on inclusion

### *A confused message*

65. It is widely presumed that the Government has a policy of inclusion or an inclusion agenda. Indeed, Baroness Warnock in her recent article—which many described as a u-turn in her position on inclusion —concluded that “possibly the most disastrous legacy of the 1978 report, was the concept of inclusion.” She argued in the article that inclusion could be taken “too far” and that this was resulting in the closure of special schools to the detriment of children with SEN.<sup>64</sup>

66. The Government has, in written and oral evidence to this Committee, repeatedly stated that “it is not Government policy to close special schools”<sup>65</sup> and that “Government plays no role in relation to local authority<sup>66</sup> [...] decisions to close schools.”<sup>67</sup>

### *The Government’s position on inclusion*

67. The widely held presumption that the Government has a policy of inclusion arises from both statutory and non-statutory guidance it has published. As put in the 2004 SEN Strategy *Removing Barriers to Achievement*:<sup>68</sup>

“The 1997 Green Paper *Excellence For All Children Meeting Special Educational Needs*, signalled our commitment to the principle of inclusion and the need to rethink the role of special schools within this context. The SEN And Disability Act (SENDA) 2001 delivered a stronger right to mainstream education, making it clear that where parents want a mainstream place for their child, everything possible should be done to provide it.” (p25)

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64 Philosophy of Education Society of Great Britain, Baroness Warnock, *Special educational needs: a new look*, 2005. No. 11 in a series of policy discussions.

65 SEN 178 paragraph 132

66 Every reference to “Local Education Authority” or “LEA” or “LA” in written or oral evidence has been changed to “local authority” in the main body of the report for the purpose of clarity.

67 SEN 178 paragraph 56

68 DfES *Removing Barriers to Achievement*, 2004 SEN Strategy

68. The 2004 SEN Strategy *Removing Barriers to Achievement* claimed to set out “the Government’s vision for the education of children with SEN and disability” and “provide clear national leadership”.<sup>69</sup> The 2004 SEN Strategy refers to the Governments existing “inclusion agenda” (p34). It talks about “developing inclusive practice” (p31) and launching a new “inclusion development programme” (p27 and 31).

69. Furthermore, in terms of guidance given to local authorities, the SEN Strategy specifically says that local authorities “should take account of the following considerations:

- *The proportion of children educated in special schools should fall over time* (emphasis added) as mainstream schools grow in their skills and capacity to meet a wider range of needs;
- A small number of children have such severe and complex needs that they will continue to require special provision; and
- Children with less significant needs[...] should be able to have their needs met in a mainstream environment.” (p37)

70. In clarifying the role of special schools, the SEN Strategy says that “successful special schools have an important contribution to make in preparing mainstream schools to support their inclusion.” (p38). With regard to statements, the SEN Strategy repeatedly refers to the desired goal for local authorities to “reduce reliance on statements” (p18–19).

71. The Strategy also clearly state that “reorganisations need to be carefully planned, involving active consultation with parents” and that it is “critical to ensure that high quality provision is available locally *before* (original emphasis) special school places are reduced.” (p38) Nevertheless, there is an unambiguous presumption that special school places will reduce and that the proportion of children educated in special schools should “fall over time”.

**72. Based on statutory and non-statutory guidance, it is reasonable for those involved in SEN to assume that the Government holds a policy of inclusion from which it has given guidance to local authorities to reduce both the proportion of pupils in special schools and to reduce reliance on statements.**

**73. The Government has been firm and consistent in stating its position on inclusion for this inquiry both in written and oral evidence. It has stated that it does not hold a policy of inclusion that is resulting in the closure of special schools. This is not sufficient. At the very least there is considerable confusion over the Government’s position on inclusion and they must take responsibility for this lack of clear strategic direction and for the consequences of this.**

### ***A change in policy***

74. The vision for SEN outlined in Government publications up to and including the 2004 SEN Strategy was clearly centred on a “commitment to the principle of inclusion.” (p25). In its written memorandum to this inquiry, however, the DfES state that the future strategy

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69 DfES *Removing Barriers to Achievement*, 2004 SEN Strategy (page 6)

for SEN is focused on three goals of “personalisation, inclusion, and partnership”.<sup>70</sup> When asked about the Government’s vision for SEN, the Minister replied that the sole emphasis was around “personalisation”,<sup>71</sup> and the DfES officials replied that future strategic direction was based on the “third way” or “a flexible continuum of provision”.<sup>72</sup>

75. Primarily, written and oral evidence given to this inquiry by the DfES, along with oral evidence from the Minister, has caused confusion. But it also indicates a significant back-tracking on the Government’s part in terms of its commitment to inclusion (in the narrow sense of placement). The Government has repeatedly told this Committee that it does not hold a policy of inclusion that is resulting in the closure of special schools:

- “it is not Government policy to close special schools”,<sup>73</sup>
- “the Government plays no role in relation to local authority[...] decisions to close schools”,<sup>74</sup>
- “The Government has made clear that special schools have an important continuing role to play within the overall pattern of provision.”,<sup>75</sup> and
- “(Government) policy is to promote a continuum of provision to meet a wide range of SEN so that individual children’s needs may be appropriately met in a range of settings.”<sup>76</sup>

76. In a recent article Richard Rieser, director of the charity Disability Equality in Education, was said to be “aghast at the government’s change in tone: ‘up until 2001 the government was clear that all children with disabilities should be included. That movement towards inclusion has stopped.’”<sup>77</sup>

77. The most radical u-turn was demonstrated by Lord Adonis in his evidence to the Committee. The Minister described the Government as being “content” if, as a result of Local Authority decisions, the current “roughly static position in respect of special schools”<sup>78</sup> continues.

78. Lord Adonis specifically said that the Government:

“do not have a view about a set proportion of pupils who should be in special schools.”<sup>79</sup>

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70 SEN 178, section 1

71 Q869

72 Q77

73 SEN 178, paragraph 132

74 SEN 178, paragraph 56

75 SEN 178, paragraph 134

76 SEN 178, paragraph 132

77 <http://education.guardian.co.uk/print/0,,5387032-110908,00.html>

78 Q877

79 Q895

79. This directly contradicts the stated aim in the 2004 SEN Strategy that “the proportion of children educated in special schools should fall over time”.<sup>80</sup> **The Minister’s words demonstrate a significant change in policy direction.**

80. Evidence suggests that this change in policy has not just occurred with the Government. Many of the major disability charities have “sharpened their policy” (Down’s Syndrome Association) on inclusion and now recognise the importance of “specialist units”. Many disability campaigners such as the National Autistic Society and Mencap until recently were strong supporters of a strict line on inclusion policy but are now taking a more pragmatic approach. Lesley Campbell, national children’s officer for Mencap said in a recent article that “a very large group of children are being successfully included but we have to be realistic. Some are not included well and they end up as refugees from the mainstream, in special schools, at secondary level.”<sup>81</sup> In its memorandum, Mencap says that it “supports the concept of inclusive education, which means that every child should have access to education appropriate to their needs and potential.”<sup>82</sup>

81. The National Autistic Society believes that “the autistic spectrum includes children with severe learning disabilities with little or no verbal communication, through to those with an average or high IQ, including those with Asperger’s syndrome. This wide spectrum of needs requires a wide spectrum of educational provision including mainstream schools, special schools, specialist units attached to mainstream schools and residential provision.”<sup>83</sup>

### ***The Government’s new position on inclusion***

82. Ms Althea Efunshile, Director, Safeguarding Children Group, DfES, along with the written DfES memoranda, referred to Ministers considering a “third way”:

“Certainly Lord Adonis is looking for a review of certain aspects of special educational needs and ministers collectively want to look at a ‘third way’ [...]”<sup>84</sup>

83. Mr Ian Coates, Divisional Manager, Special Educational Needs and Disability, DfES, confirmed that:

“what we are looking for, the phrase that we are tending to use now[...] rather than the ‘third way’ is a ‘flexible continuum of provision’.”<sup>85</sup>

84. This “third way” was also mentioned in the DfES memorandum.<sup>86</sup> Taken alongside the Ministers comments, this is very telling. This would suggest that the Government are currently considering a new direction on SEN policy. This would explain why, when asked if the Government held a policy of inclusion that was resulting in the closure of special schools, they were able to say “no” despite the existing publication of such a stated aim in

80 DfES *Removing Barriers to Achievement*, 2004 SEN Strategy (page 37)

81 <http://education.guardian.co.uk/print/0,,5387032-110908,00.html>

82 SEN 47

83 SEN 128

84 Q 62

85 Q77

86 SEN 178, paragraph 96

the SEN Strategy. These answers present a confused message, but one that signals a move away from the Government's original position in 1997.

85. The most generous reading of the evidence is that the Government is moving forward towards seeking a "flexible continuum of provision" being available in all local authorities to meet the needs of all children, including those with SEN, but this is not the basis for the approach outlined in SENDA 2001, the SEN Code of Practice 2001, or the 2004 SEN Strategy. This should be put right.

86. What is urgently needed is for the Government to clarify its position on SEN—specifically on inclusion—and to provide national strategic direction for the future. The Government needs to provide a clear over-arching strategy for SEN and disability policy. It needs to provide a vision for the future that everyone involved in SEN can purposefully work towards.

87. The Government has repeatedly stated it is not going to undertake a fundamental review of SEN policy. Seeking change through evolution not revolution is one thing, but changing a key policy focus and hoping to tie it back in to a particular reading of the existing SEN Strategy is not acceptable. The Government should be up-front about its change of direction on SEN policy and the inclusion agenda, if this is indeed the case, and should reflect this in updated statutory and non-statutory guidance to the sector.

## 3 SEN: Facts and figures

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### Facts and figures

88. A full statistical analysis of special educational needs can be found in the Annex. The following is a summary of key findings. Full references are in the Annex.

#### *Numbers and incidence of pupils with SEN and statements*

- Around 1.45 million children were categorised as having some sort of SEN in England in 2005—18% of all pupils.
  - Of these, around 242,500 pupils had statements of SEN—2.9% of all pupils.
  - The remaining 1.2 million pupils were categorised as having SEN but did not have a statement—15% of all pupils.<sup>87</sup>
- These statistics have all followed a similar pattern of increasing in number and proportion during the 1990s, peaking in 2001, and declining gradually since then.
- 26,000 new statements were issued in 2004. The proportion of pupils with statements has remained broadly constant over the last five years, but there has been significant reduction (almost 8%) in the proportion of new statements issued.

#### *Placement of statemented pupils*

- The percentage of pupils with statements placed in maintained mainstream schools remained at 60.0% in January 2005. The proportion of pupils with new statements placed in mainstream schools also stayed broadly constant at around 75%.
- The percentage placed in maintained special schools or Pupil Referral Units (PRUs) *increased* slightly from 36.9% in January 2004 to 37.2% in January 2005.
- In 1997, 2% of pupils with statements were at PRUs, in 2005 this had risen by 1 percentage point to 3%.
- Looking back, the number of statemented pupils in maintained mainstream schools increased by over 95,000 between 1991 and 2000—over 90% of the total increase in pupils with statements.
- Since 1999–2000, both the numbers and proportions have remained broadly constant in mainstream and special schools.

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87 The 1.2 million children with SEN but without a statement of SEN are provided for within mainstream schools under the School Action and School Action Plus schemes. These are fully explained in the DfES Memorandum [SEN 178] and in the SEN Strategy *Removing Barriers to Achievement*.

### ***Special schools***

- In 2004 there were the 1,148 maintained and non-maintained special schools in England
- The number of special schools in England has fallen in each year since 1979.<sup>88</sup> The vast majority of the decline took place before 1999, and indeed before 1991.
- From 1997–2005 (8 years), the number of special schools has fallen from 1,239 to 1,148—a 7% decline.
- In 2005 there were 90,300 full-time pupils in special schools (not all with statements).
- Looking back, the number of pupils in special schools fell by nearly 30% in the 12 years from 1979 to 1991. From 1997 to 2005 there has been a 4% decline in the total number of pupils in special schools.

### ***Link to socio-economic background***

- In 2006 13.6% of all secondary and 16% of all primary pupils were eligible for free school meals (FSM) (a proxy for socio-economic deprivation). For children with statements of SEN, however, the figures were much higher with 26.5% of secondary and 26% of primary pupils eligible for FSM .
- Furthermore, this figure rose a great deal higher in some areas with nearly 50% of all children with statements of SEN being eligible for FSM in inner London

### ***Age and gender***

- At all ages a significantly higher proportion of boys than girls in the school population have SEN statements (more than twice as many at all ages).
- SEN statements as a proportion of the total school population are greatest between the ages of 12 and 15.
- For the fastest growing types of special needs—behavioural, emotional, and social difficulties (BESD), and Autism Spectrum Disorder (ASD)—boys are more than 5 times as likely to have these types of special needs.

### ***Variation across schools***

- The majority of schools have between 10% and 25% of pupils with SEN (both with and without statements). Around 250 primary schools and 72 secondary schools where over half the pupils have SEN.

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<sup>88</sup> These statistics refer specifically to the number of special schools and do not take into account special units attached to mainstream schools.

- The majority (over 70%) of primary schools in England have less than 2% of pupils with statements. 65% of secondary schools have fewer than 3% of pupils with statements. A few schools have more than 10% of pupils with statements.

**Geographical variation in statementing and placement in special schools**

- There is almost a fivefold difference in the proportion of pupils with statements in different authorities (from 1.08% of all pupils having statements (Nottinghamshire) to 4.83% of all pupils having statements (Halton, Cheshire)).
- Only five local authorities maintain statements for less than 2% of pupils, while 20 maintain statements for over 4% of pupils.<sup>89</sup>

**Table 1: Minimum and maximum % pupils placed by type of provision across local authorities, 2005.**

	mainstream schools	resourced provision, units & special classes in mainstream schools	maintained special schools	non-maintained & ind. special schools
	%	%	%	%
ENGLAND (average)	51.9	7.7	32.8	4.6
<b>In individual authorities</b>				
Minimum	18.9	0.0	0.0	0.4
Median	51.8	6.5	32.0	4.2
Maximum	73.0	42.8	60.0	19.2

Source: SEN2 survey, January 2005, DfES

- Table 1 shows that the percentage of pupils placed in maintained special schools varies from 0% to 60% across different local authorities. The percentage in maintained mainstream schools varies from 19% to 73%. The variation across local authorities in placing pupils in independent special schools was from 0.4% to over 19%.

89. This is a remarkable level of variation and demonstrates the extent to which Local Authorities decide their own strategies for the provision of children with SEN. As Mark Rogers , Director of Children’s Services at Solihull Metropolitan Borough Council, described to the Committee:

“we have 150 systems around the English [...]authorities for assessing children”<sup>90</sup>

90. What is even more concerning is that the DfES memorandum identify that “there are still variations in the availability and quality of planning and provision for children with SEN and disabilities.”<sup>91</sup>

91. The Audit Commission in 2002<sup>92</sup> found that there was unacceptable variation in provision between different parts of the country and they continue to be “especially

89 DfES Research Report *Reducing Reliance on Statements: An Investigation into Local Authority Practice and Outcomes*, 2004. RR508

90 Q418

91 SEN 178

concerned about pupils with low incidence needs (such as autism and multi-sensory impairment) and those with a disability, who are potentially the most disadvantaged pupils in the educational system”.<sup>93</sup> Ofsted in 2004 also found that a “lack of strategic planning was common and services available in any one area varied considerably.”<sup>94</sup> Different groups of pupils with similar needs received different levels of support depending on where they lived which was unacceptable.”

### ***Social, emotional, or behavioural difficulties and autism***

- The Audit Commission found that the vast majority of permanent exclusions in the 22 local authorities surveyed related to pupils with SEN: 87% of exclusions in primary schools and 60% of exclusions in secondary related to pupils with SEN.
- Pupils with attention deficit hyperactivity disorder (ADHD), autistic behaviour and mental health problems made up a significant proportion of these pupils.

92. Young people with social, emotional and behavioural difficulties (SEBD)<sup>95</sup> and autism highlight particular examples of where the 1978 Warnock framework is being stretched and failing to meet the needs of children. Children with SEBD and autism are the fastest growing categories of SEN.

93. As the parent representative group Network 81 describe: “the lack of understanding of conduct disorders, behavioural, and emotional needs is quite unbelievable. Many children are labelled as ‘naughty’, ‘badly brought up’, ‘defiant’ by teaching staff who lump all ‘bad’ behaviour together[...].”<sup>96</sup>

94. It is interesting to note from the statistical analysis of SEN in the Annex that behaviour, emotional, and social difficulties (BESD) and Autistic Spectrum Disorder (ASD) are now high incidence types of special needs but there relatively few pupils in special schools (around a third in each case). This could be because such children are being effectively included in mainstream schools, or it could be that the system has been slow to re-structure to meet the changing needs of pupils with particular types of special needs.

**95. It is widely recognised that there is a strong correlation between exclusions and children with SEN—particularly those with social, emotional and behavioural difficulties and autistic behaviour. The Committee finds it unacceptable that such a well known problem continues to occur. The Government should enhance existing, and improve alternative, forms of provision, training and resources rather than using an increasingly punitive approach for these children and families involved.**

**96. Schools need better guidance and staff training in dealing with disruptive behaviour by children with Autistic Spectrum Disorder, particularly Asperger’s Syndrome, and social, emotional, and behavioural difficulties. Schools should give careful**

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92 Audit Commission, *Special Educational Needs – a mainstream issue*, 2002

93 SEN 173

94 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004

95 Normally referred to as BESD but SEBD is a better reflection of the priority of need for these young people.

96 SEN 64

consideration to these children in their behaviour strategies and make appropriate adjustments in disciplinary responses especially when considering exclusion. This needs to be backed up by closer DfES guidance and local authority monitoring, details of which could be collated by either Ofsted or the Schools Commissioner, with a view to urgent and substantial reduction in the numbers of exclusions.

### *Outcomes for disabled young people*

- Disabled young people are already twice as likely not to be in education, employment or training (NEET) aged 16 as non-disabled young people of the same age.
- 21% of disabled people aged 16–24 have no qualifications whatsoever, compared to 9% of non-disabled people of the same age—a gap of 12 percentage points.<sup>97</sup>

97. The Disability Rights Commission (DRC) recognise, however, that “there has been major progress in providing disabled children and young people with more equitable educational opportunities and a steady improvement in educational outcomes, which show a faster annual increase in achievement of GCSE grades A–C and equivalent over the last six years by disabled people than non-disabled people.”<sup>98</sup>

## Existing legislation

### *SEN legislation*

98. The Education Act 1981 established local authorities’ basic duties towards children with SEN<sup>99</sup> as being:

- to assess children who have, or probably have, special educational needs which cannot be met by their school;
- when assessment confirms that a child’s special educational needs cannot be met by their school, to issue a Statement of Special Educational Needs which describes those needs and specifies the educational provision necessary to meet them; and
- to arrange the special educational provision specified in a Statement.

99. Evidence given to the Committee in both written memoranda and oral evidence sessions has suggested that the crux of the problem with the existing SEN system is the nature of the legal duties local authorities have towards children with SEN. Local authorities do not just have a discretionary duty, they have a statutory duty—therefore are legally obliged—to provide for the needs of a child with SEN once those needs are identified. **There is an inbuilt conflict of interest in that it is the duty of the local authority both to assess the needs of the child and to arrange provision to meet those needs, and all within a limited resource. The link must be broken between assessment and funding of provision.**

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97 Labour Force Survey, Autumn 2004

98 SEN 05

99 These have remained unchanged despite subsequent amendments to the law (in 1993 and 2001).

100. Focus Learning articulated the views of many when they described the situation to this Committee as follows: “the intention of SEN legislation is good, and if widely practised, would be beneficial to SEN pupils. Unfortunately there are several major drawbacks[...] (including) the system lacks effective enforcement procedures, there is no mechanism in place for ensuring that available funds go to the pupils who need them, [...] the end result is that trying to obtain SEN ‘statement funding’ places a heavy time and cost burden on schools with no certainty of securing SEN funds however deserving the case. The system almost forces local authorities, schools and parents to adopt an adversarial stance. Although suitable for a criminal court, it seems quite inappropriate for deciding how best to help a SEN child.”<sup>100</sup>

### ***Disability legislation***

101. As the Disability Rights Commission (DRC) highlight in their submission, “the difference in definitions of Special Educational Needs and Disability, and the different legislative frameworks in which they operate, have caused some difficulties.”<sup>101</sup>

102. It is the case that “not all disabled pupils and students have ‘learning difficulties’ or ‘SEN’. Similarly, pupils and students deemed to have learning difficulties or SEN are not all disabled. Yet policy, regulatory and funding frameworks frequently address the two areas interchangeably because the ‘groups’ overlap. Understandable though this might be, it is important to recognise that the underpinning theory, direction of legislation, and actions required of providers to comply are significantly different.”<sup>102</sup>

### ***Disability legislation***

103. Broadly speaking disability rights are covered by the Disability Discrimination Act 1995 (DDA). The Special Educational Needs and Disability Act 2001 (SENDA) extended the DDA to education (including a Disability Equality Duty since DDA 2005). The duties under the Disability Discrimination Act are there to ensure that disabled pupils are not discriminated against and so seek to promote equality of opportunity between disabled and non-disabled pupils. From September 2002, it has been unlawful for schools to discriminate against a child for a reason related to their disability in admissions, education and associated services (such as school trips, the curriculum, teaching and learning, school sports and the serving of school meals), and exclusions.

### ***SEN legislation***

104. The Education Act 1996 says that “a child has special educational needs if he or she has a learning difficulty which calls for special educational provision to be made for him or her.” This is provided under the SEN Framework, including in some cases a statement of special educational need (SEN). The SEN Framework is there to identify and meet any additional educational needs of children. A disability might give rise to a learning difficulty

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100 SEN 98

101 SEN 05

102 Ibid

that calls for special educational provision to be made if it prevents or hinders the disabled child from accessing education.

105. The DRC memorandum explained that “the intention of SENDA was for the DDA to sit alongside the SEN framework[...] as a ‘jigsaw’ of provision. However, some evidence suggests that the two systems have not been working alongside each other effectively and there are those whose needs are falling between the gap between the DDA duties and the provisions of the SEN Framework. A fundamental problem is the difference between the thinking behind the two systems, with the SEN Framework emphasising ‘meeting needs’ and the DDA emphasising making reasonable adjustments.”<sup>103</sup>

### *Disability Equality Duty*

106. The DRC reports that “duties to increase access to the curriculum, adjustments to physical features and accessible information have been developed separately with local authorities under the accessibility planning duties. Although these plans were expected to be in place by April 2003, the Ofsted report in 2004 found that over half of the schools they surveyed did not have access plans in place.<sup>104</sup> Only four out of ten schools surveyed in the same report had satisfactory planning for improved access to buildings and few had planned access to the curriculum.”<sup>105</sup>

107. The Disability Discrimination Act 2005 has introduced a duty on all public authorities to promote equality for disabled people. The new Disability Equality Duty will be considerably more onerous than existing accessibility planning duties. As the DRC explain, “to translate this (duty) into action, there is a specific duty, which sets out what public authorities should do to plan, deliver, and evaluate action to eliminate discrimination and promote equality, and to report on the activity that they undertake. (Schools) will have to produce a Disability Equality Scheme (DES) to set out what action they will take. As part of their DES, schools will have to assess the impact of policies and practices that directly or indirectly affect disabled children and young people. Where potential unlawful discrimination is identified, the school will need to show the steps that they plan to take to remove the causes of this potential discrimination.”<sup>106</sup>

108. The DRC report that “although the various strands of legislation are all aimed at promoting inclusive practice, the relatively recent development of the DDA means that awareness of the DDA duties in schools is low. Many schools and other education providers indicate that they need assistance in fully addressing disability as an equalities issue across all aspects of their provision. Schools have welcomed the possibility of training on both the DDA and disability equality generally. In response to this, the DfES have been working with the DRC and a number of other agencies to develop a resource for schools on making reasonable adjustments and accessibility planning.”<sup>107</sup>

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103 SEN 05

104 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004

105 SEN 05

106 Ibid

107 Ibid

109. Recent research undertaken by the University of Birmingham showed that in a survey of parents there was good awareness of the DDA (nearly 50% were aware of the DDA) but that there was much confusion among parents of children with disabilities or SEN about exactly whether DDA applied to their child and if so what the DDA meant, in practice, for their child.<sup>108</sup>

**110. There is a great deal of work still to do to pull together the disability and SEN agendas and legislation. The Government should be prioritising this important work.**

**111. In light of evidence from witnesses that in many schools there is a significant lack of understanding of their duties under the Disability Discrimination Act and a failure to implement the Disability Equality Duty fully, we await improved and more specific guidance from the DfES which is due to be published shortly. Guidance should pay particular attention to ensuring that all teachers and staff have an appropriate awareness of their duties and that this is not left to a single disability officer within schools.**

## Government expenditure on SEN

112. According to the DfES memorandum “information collected from local authorities [...] [suggests that] their planned spending on SEN nationally in 2004–05 was around £3.8 billion and spending of about £4.1 billion is planned for 2005–06 (an increase of 7.8%)—some 13% of all education spending.”<sup>109</sup>

113. It goes on to say that “the figure of £4.1 billion includes about £1.4 billion for maintained special schools, £2.0 billion for mainstream schools, £481 million for placements at independent and non-maintained special schools and £264 million for local authority duties such as educational psychologists, administration and monitoring, parent partnership and child protection.”<sup>110</sup>

114. In addition to this, approximately half of the expenditure associated with home to school transport is spent on transporting children with special educational needs. Between 2000–01 and 2002–03, total expenditure on school transport increased by over 18%, from £560 million to £662 million—approximately £330 million, therefore, is spent on transporting children with SEN.<sup>111</sup>

115. The Minister highlighted that:

“the cost of maintained special schools in this financial year 2005–06 [is] £1.243 billion as against £4.1 billion, which is local authority budgeted expenditure on special educational needs.”<sup>112</sup>

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108 University of Birmingham, Professor Ann Lewis et al, *Survey of parents and carers of disabled children and young people in Great Britain*. Funded by the Disability Rights Commission. May 2006.

109 SEN 178

110 SEN 178

111 Education and Skills Committee, Third Report of Session 2003–04, *The Draft School Transport Bill*, HC 509-I

112 Q925

“The spending on maintained special schools has risen by 6.7% on average for each of the last three years. Last year it rose by 7.23%.”<sup>113</sup>

116. The Minister added that:

“[...]spending this year on non-maintained independent special schools is £481 million, which is 9% up in one year, and compares with £309 million in 2002 [...] there has been a very substantial increase in spending on non-maintained and independent special schools[...].”<sup>114</sup>

## Voices of young people with SEN and disabilities

117. The UK is committed to including the voices of children and young people in evaluating their provision across all services following the UN Convention on Rights of the Child (Article 12). There has been a marked increase in including the voice of children with SEN or disabilities at a range of levels. **We recommend that the Government continues to increase the role of children and young people in reviewing, planning and designing services.**

118. This Committee is grateful to be able to include the voices of young disabled people through recent work done for the *Participation in Education* project, currently taking place at the University of Bristol, and the Powerful Voices Conferences in Ealing in 2004 and 2005.

119. *Participation in Education* is looking specifically at the involvement of the views of children with little or no communication skills. Findings from the first phase of research from the two-year research project at the University of Bristol showed that “a wide variety of often innovative and creative methods is being employed to involve children with little or no verbal communication in their education. However, [...] there are relatively low levels of involvement [...] (this) is a problematic area for many schools [...] and we believe that a need for further research and training has been demonstrated.”<sup>115</sup>

120. The Powerful Voices Conferences held in Ealing in 2004 and 2005 were intending “to provide a platform for encouraging best practice in pupil involvement and to move to active participation of children and young people forward collectively.”<sup>116</sup> The intention of the conferences, attended by hundreds of children and young people, was to encourage the development of a listening culture more broadly.

121. One of the key note speakers was James, a student with cerebral palsy, and another was Phillip, a student with Asperger’s Syndrome—both described their experience of attending mainstream and specialist schools. When asked if it was hard moving from primary to secondary school, James replied “well, I had a lot of friends at my primary school, but I was quite happy to move on. I only went to primary school part-time and as I said I had lots of bad experiences with teachers, so I was very happy to move on to a place

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113 Q924

114 Q926

115 University of Bristol, *Participation in Education: findings of first phase of research*. May 2006

116 Ealing Council, *Powerful Voices Conference*, 2004 and 2005

that was fully accessible, that had its own Special Needs Department, and had somewhere where we could socialise. It was a good mix for me. It was tough, but it was something I think as you get older you get ready for.”

122. James also said that “if I was born 20 years ago I might not have had the opportunity to go to a mainstream school. I wouldn’t have had the friends I’ve got now, so things have got a lot better, but we have got a long way to go.” Stephen commented that “I would say teachers should get better training about how Asperger’s Syndrome affects people and how to deal with it. They should get better knowledge of what to do. I think also I did make friends at high school and they did try and help me[...].”

### Voices of parents of children with SEN and disabilities

123. The role of parents has a unique importance in relation to SEN issues. Too often, however, problems arise because parents feel ignored or that their views and preferences are not being given proper consideration under the current system. Many of the memoranda quoted examples of very poor communication between local authorities, schools, and parents.

124. Network 81, an organisation representing the views of parents said that “as an organisation which deals with parents on a daily basis, what is very concerning to us is the level of involvement, or should we say non-involvement, of parents in the education of their child and the lack of understanding from professionals of the skills of these parents, many of whom have become experts in the educational/medical/physical/mental/emotional needs of their children.”<sup>117</sup> They also said that “there is little evidence of initiatives to bring parents and school staff together to promote a greater understanding about SEN”

125. The DfES memorandum discusses “partnership with parents” but with no indication of how this might be achieved in practice.<sup>118</sup> Wiltshire Dyslexia Association, another parent’s representative organisation, said: “it is an environment of conflict between parents and the professionals with whom they engage when seeking to get the necessary help for their child.”<sup>119</sup>

126. A parent of a 16-year-old boy with Asperger’s who participated in the *Call You and Yours* phone-in Programme on BBC Radio 4<sup>120</sup> on special educational needs, said that “he struggled in mainstream secondary school and experienced considerable bullying for his disabilities—as well as a lack of understanding of his problems by constantly changing staff. He learned to conceal his difficulties[...] he has dropped out of school, is very unhappy, has a drugs problem and is in trouble with the police.”

127. A parent of a disabled child told the programme that “he is thriving from playing and learning alongside his non-disabled mates. I believe that all children learn tolerance and

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117 SEN 64

118 SEN 178

119 SEN 75

120 SEN 232. Radio 4, *Call You and Yours*, between 8 and 22 February 2006 listeners were able to contribute comments to the programme in relation to SEN. Over 700 emails, calls, and letters were received.

respect from each other through encountering difference.” Another parent said that “unless my daughter, who has Down’s syndrome, grows up with her peers in a mainstream school she will be excluded from society for the rest of her life.”

128. Another parent of a son with Asperger’s Syndrome told the programme “there is little or no training available in some areas of the country for teachers or teaching assistants to understand what special needs are, let alone learn how to deal with them.”

## Voices of teachers and other professionals

129. The Audit Commission report in 2002 found that many teachers feel ill-equipped to deal with SEN children in their classrooms. A TES survey showed that over a third of teachers had received no preparation during their initial teacher training course, and 23% said they had no more than one day’s training. Just 12% of heads and 36% of teachers said their school had adequate resources to include children with special needs.<sup>121</sup>

130. A teacher told the *Call You and Yours* Programme on BBC Radio 4 that “I have not encountered any classroom teachers or LSAs (learning support assistants) who have received what they consider to be adequate training to deal with any of the children they are in charge of.<sup>122</sup> In fact the vast majority of teachers and LSAs have received no training at all [on SEN].”

131. A special educational needs co-ordinator (SENCO) told the programme that “there are still too many occasions where it is obvious that the idea of ‘joined up’ services linking health, social services and education is not happening.” A GP told the programme that “in my area there is a three year wait for a child with a problem like possible autism to be assessed and get a diagnosis. Till then they do not get a proper statement of educational needs. Vital missed years for a young child.”

132. Another teacher told the programme that “when I trained as a teacher in the late 1960s special needs teaching was a specialisation requiring a year’s extra training. Before I retired in 2004 we were expected to be effective with pupils with a range of needs but without the requisite training.”

**133. We recommend that the Government urgently address the feeling of both parents and teachers that there is inadequate training and resourcing for dealing with SEN children in mainstream classrooms. We would give the highest priority to the need to radically improve SEN and disability training in initial teacher training, induction, and in the continuing professional development of all staff.**

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121 Times Educational Supplement, 14 October 2005

122 SEN 232. Radio 4, *Call You and Yours*, between 8 and 22 February 2006 listeners were able to contribute comments to the programme in relation to SEN. Over 700 emails, calls, and letters were received.

## 4 Failings within the SEN system

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134. With around 18% of all children being categorised as having some sort of special educational need (1.5 million children), any description of the SEN system is describing a wide ranging area of education.

135. With such a large number of children involved, it is important to recognise, as the DfES did in their memorandum, that “for the great majority of families the system is operating effectively to meet their children’s needs.”<sup>123</sup> This does not, however, take away from the importance of the difficulties faced by a large number of parents for whom the system is failing to meet the needs of their children. The levels of frustration and conflict this causes have already been described in this report.

136. Recent reviews of the SEN system by Ofsted and the Audit Commission have both highlighted serious faults in the system, in standards of provision, and in outcomes for pupils with SEN. It is important that the flaws in the existing SEN system are carefully examined.

137. The Audit Commission’s report *Special Educational Needs—a mainstream issue* (2002) identified some of the challenges in the SEN system as:

- too many children waiting too long to have their needs met;
- parents lacking confidence in the system, leading to pressure for statements; and
- some children who could be taught in a mainstream school being turned away.

138. Ofsted found that for many schools, trying to fully include children with SEN was a significant challenge.<sup>124</sup> It also found that few schools evaluated systematically their provision for pupils with SEN for effectiveness and value for money. It did, however, highlight a growing awareness of the benefits of inclusive practice and some improvements in practice in schools.

139. Provision at special schools has also raised concerns. Recent Ofsted annual reports have noted a gradual improvement in the quality of curriculum delivery and teaching in special schools, though particular problems persist with setting challenging targets for achievement. At the same time, inspection reports have noted concern about the quality of teaching in independent special schools, which is unsatisfactory in nearly one third of these schools, and notes significant weaknesses in the curriculum in over one third.<sup>125</sup>

140. The poor outcomes for children with SEN and disabilities have already been referred to in terms of low-attainment and a high proportion not in education, employment or training. The Audit Commission also found that the vast majority of permanent exclusions in the 22 local authorities surveyed related to pupils with SEN: 87% of

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123 SEN 178

124 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004

125 Ofsted, *Annual Report 2001-02 – Special Schools*  
<http://www.ofsted.gov.uk/publications/index.cfm?fuseaction=pubs.summary&id=3151>

exclusions in primary schools and 60% of exclusions in secondary related to pupils with SEN.

**141. The 2004 Ofsted and 2002 Audit Commission reviews identified serious flaws in the SEN system with regard to standards and consistency of provision, the statementing process, fair access to schools, and outcomes for children with SEN and disabilities. This Committee finds it both surprising and highly concerning that these issues have still not been addressed. Evidence presented to this inquiry has further highlighted that there are significant failings in the system that need to be dealt with urgently. We now turn to these issues in the following recommendations.**

### Statementing process

142. “Statements” are statements of special educational need that identify the needs of a child with SEN, allocate resources to meet those needs and decide the placement of a child with SEN. Around 18% of children have SEN but only 3% have statements—these proportions both rose gradually in the 1980s and 1990s but have remained fairly constant since 1999–2000.

143. One of the major causes of dissatisfaction amongst parents is the issue of statements and the statementing process, which is widely criticised as being a “costly, bureaucratic, and unresponsive process”.<sup>126</sup> Variation of statementing practice is a major concern with local authorities ranging from issuing 1% to nearly 5% of children with statements (see Section 3: Facts and figures).

144. Statements are made up of three separate processes—assessment of need, allocation of resources, and placement. Problems occur at all three stages but the process itself is made even more complicated by the amalgamation of three constituent parts into one statementing process.

145. The major frustrations from parents can be summarised into the following categories:

- local authorities being unwilling to make a statement;
- Assessment of need being inaccurate or undertaken by reportedly biased professionals who are not sufficiently independent from the local authority;
- Allocation of resources being insufficiently detailed/not specific enough. It is claimed that this is done on purpose to give local authorities “wriggle room” not to provide the services they are legally obliged to provide;
- Placement decisions are badly made—complaints are either that a child has been forced into a special school when a mainstream school should have been sufficiently adapted to be able to take them, or that a child has been refused access to a special school of choice either because the local authority was unwilling to fund that place or because it is trying to close that special school; and

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<sup>126</sup> Audit Commission, *Statutory Assessment and Statements of SEN: In Need of Review*, June 2002.

- Transfer of statements is a major problem—when a child moves between authorities, statements cannot move with the child because each local authority has a different method of assessment and allocation of resources.

146. A recent research report from the University of Cambridge, *The Costs of Inclusion*, concluded that “there is an urgent need to reappraise systems of funding and in particular statementing, the rationale for which is less and less obvious. In addition the process can lose the goodwill of parents and teachers who become frustrated by what they see as a stalling and penny pinching policy. It consumes time in individual advocacy which often emanates in a sense of defeat.”<sup>127</sup>

**147. This inquiry received large numbers of memoranda from parents whose lives had been taken over by the statementing process and who had had to “fight” to achieve a better outcome for their child—and were still fighting.** The vast majority of issues can be summarised into the areas above but that does not do justice to the severity of the problem and the sense of injustice and anger felt by many parents of children with SEN. **To say that there is some dissatisfaction with the current system, or to claim that there are “some” problems as the Minister did, fails to give proper regard to the level of unhappiness felt by some parents.**

### *Issuing of statements*

148. One of the major causes of dissatisfaction in the system at present is a view held by many parents that local authorities are unwilling to make a statement of need for their child. There is no national guidance on when a statement should be issued and practice varies considerably across local authorities with some local authorities issuing nearly five times as many as others (see Section 3: facts and figures).

149. Numerous witnesses, including the DfES and the Audit Commission, said to this inquiry that a “postcode lottery” or “lottery of provision” exists for children with SEN.<sup>128</sup> The SEN Strategy accepted that “too often parents face a ‘postcode lottery’ in the support available from their schools, local authority, social services and health services.”<sup>129</sup>

150. There are three possible reasons why a local authority might decide not to issue a statement. The first is that a statement is not needed, the second is that the local authority is trying to reduce the number of statements issued as a matter of policy, and the third is that it is an attempt to save money. The first is acceptable, the second is questionable, and the third is illegal. local authorities have a statutory responsibility to assess and provide for the needs of children with SEN. The DfES have recently issued further guidance in a letter to local authorities stating that any “blanket policies” about who will and will not be issued statements of SEN were illegal.<sup>130</sup>

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127 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

128 Q307, Q458, Q464, Q574, Q577, Q595, Q625, Q645, Q816.

129 DfES *Removing Barriers to Achievement*, 2004 SEN Strategy page 71

130 DfES, Letter to CEOs / Directors of Children’s Services, 15 November 2005, regarding Special Educational Needs

151. Any local authority that has a policy to reduce the number of statements—rather than aiming to improve provision and early intervention with the expectation that this will reduce reliance on statementing—has misunderstood Government guidance on this issue. The responsibility for this confusion must lie with the Government. The letter issued by Ian Coates on 15 November 2005 demonstrated that the DfES are aware of such confusion.<sup>131</sup> **Whilst the DfES letter of guidance to Directors of Children’s Services, 15 November 2005, was a helpful clarification of the Government’s position on the illegality of blanket policies for issuing statements of SEN, it should not have been necessary, and does not make up for a lack of clear national strategy.**

152. The SEN strategy does indeed talk about local authorities seeking to “reduce reliance” on statements. The Strategy clarifies that this should only be sought “in time, through action at local and national level to build the skills and capacity of schools to meet diverse pupils needs”. But a SEN strategy that asks local authorities, already strapped for cash, to reduce the number of statements they make—no matter how many caveats are put in about capacity—is going to be seen by some as a green light to refuse more children a statement of SEN when in some cases this might still be required.

**153. It is better to seek to reduce reliance on statements by improving the skills and capacity of schools to meet a diverse range of needs, but this must be set in a system with much greater clarification and much stronger guidance on minimum standards of provision. Without such a system in place, guidance on “reducing reliance” on statements has led to the inequity of provision and “postcode lottery” that exists. This cannot continue. The sector needs much clearer guidance through a national framework with local flexibility. The Government needs to give local authorities clear national guidance on when to issue statements of SEN.**

154. The length of time that the statementing process takes is another area of concern, which has serious consequences for the education of any child who does not receive a timely decision on a statement. Under the existing SEN Code of Practice, local authorities must provide a draft statement within 18 weeks and a final statement within 26 weeks of the initial request for a statement from parents.<sup>132</sup> There are, however, several circumstances under which a local authority does not have to comply with this timetable.<sup>133</sup> **We recommend that there should be an absolute deadline that a decision on whether to issue statement in respect of any child should be made within the required 26 weeks (six months) of a written request being made with no exceptions.**

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131 DfES, Letter to CEOs / Directors of Children’s Services, 15 November 2005, regarding Special Educational Needs

132 Where parents ask an LEA to assess their child for a statement, the LEA must say within six weeks whether or not it will make such an assessment. Where an LEA decides to assess a child for a statement, it must give the parents a proposed or draft statement within a further 12 weeks i.e. within 18 weeks of the parents first asking for an assessment. Once the parent is given a draft statement, the LEA must consider any comments the parents may make about the statement, and must then give the parents a final statement within a further 8 weeks. Teachernet. <http://www.teachernet.gov.uk/wholeschool/sen/faq/>

133 Where an LEA fails to meet the time limits it may be because it asked the district health authority or social services for advice about the child, and did not receive a response for a long time. If the delay in such a case was for six weeks or more, the LEA is ‘excused’ from having to meet the time limits. The Regulations also cite several other circumstances in which the LEA does not need to comply with the time limits. [Paragraphs 3 (2) and 5(3) and (4) of Schedule 27 of the 1996 Act; regulations 12 and 17 of the SEN Regulations; the summary table on page 120 of the Code of Practice]. Teachernet. <http://www.teachernet.gov.uk/wholeschool/sen/faq/>

### ***Transfer of statements***

155. At present, statements cannot be transferred with a child when they move between local authorities because each local authority operates a different statementing process with a different method of assessment and allocation of resources. This is causing considerable difficulties for many children and parents—particularly those with high mobility such as Service Children, looked after children and many of the most vulnerable children in society. Some witnesses have argued that statements should move with the child and that there should not be automatic reassessment when they move to a new local authority—especially in those areas where a high degree of transience has a significant impact on education provision.

**156. Whilst recognising that it would require significant changes to the existing system, we recommend that the DFES consider how to make statements of SEN transferable between local authorities so that they can follow the child. We believe this would reduce administrative costs, allowing more resources to be devoted to SEN provision, and, more importantly, would prioritise the needs of the child.**

### ***Other possible models***

157. Both the Minister and the DfES said that they had heard much criticism of the existing statementing system but that critics had not proposed a better solution.<sup>134</sup> The Scottish Executive and the Conservative Party's alternative proposals may not be considered "better" by the Government but they are worth considering.

158. The Scottish Executive has introduced the Additional Support for Learning Act 2004 which replaces the Record of Needs with a strengthened and more streamlined staged intervention process, with a new, flexible Co-ordinated Support Plan for children with the most complex needs.

159. Improved staged intervention processes have been put in place using school-based support to provide for all children with additional support needs, including those with behavioural difficulties, children for whom English is an additional language, refugees and asylum seekers and gypsy/traveller children. External agencies, such as education authorities, social workers and health professionals will continue to support children, parents and schools whenever necessary.

160. The Conservative Party's Commission on SEN has suggested an alternative process in its interim recommendations. The Commission recommends that "statements should be replaced by a Special Needs Profile (SNP) drawn up by independent accredited Profile Assessors. [...] Assessments for them would be triggered by professionals within the education, health and social services or by a parent with the agreement of one of the former".<sup>135</sup>

**161. The landscape of local authorities and local health organisations is continually changing which makes it difficult to make specific individual recommendations about**

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134 Q71 and Q880

135 Conservative Party, Commission on Special Needs, *Interim Recommendations for Consultation*, December 2005

the way they should work together. We consider, however, that assessment of SEN should not be made directly by the bodies that fund the provision, and any revision of the system overall should take this principle on board.

162. **Scottish reform to the statementing process demonstrates one way in which the 1978 Warnock framework might be reformed. These proposals may not have all of the answers but they are witness to the fact that something needs to be done to improve the existing system.**

163. **The lack of a ready-made alternative is not a good enough reason to keep a failing system of statementing. If SEN was given sufficient priority this would not be allowed to continue. It is the responsibility of Government to devise better processes for SEN—not necessarily in one statement—and to implement them. This should involve the early identification and assessment of needs, efficient and equitable allocation of resources, and the appropriate placement of pupils based on their needs and taking account of parental preference. We request a specific response from the Government on this issue.**

## Placement decisions

164. It has been repeatedly stated through this inquiry that the debate around placement should not be about mainstream provision v. special school provision but instead about the quality and range of appropriate provision available for children with SEN to meet their needs.

165. In written evidence Ofsted said “there is considerable evidence to show that learners make good progress in a range of types of provision and that neither one nor another by virtue of its type is more or less successful. If we ask the question: does the setting matter? there is an unequivocal reply of no if certain features are always in place. The key indicator is effective and skilful leadership with the ability to apply skills and knowledge and enshrine principles into practice for all learners.”<sup>136</sup>

166. The DRC agreed with this position saying that “Education has played a central role in transforming the wider life chances of disabled people.... Any debate concerning the education of disabled children, therefore, must extend beyond simply the relative merits of placing children in ‘mainstream’ or ‘special’ schools and instead begin from the point of how our schools can effectively meet the quality of experience and outcomes that disabled children and young people deserve.”<sup>137</sup>

167. We have received a large number of memoranda from parents who have had terrible experiences of their children suffering in an unsuitable mainstream setting and having to fight to achieve a place for their child in a special school. Equally, we have had also received a large number of memoranda from parents whose children have been placed in a special school and they have had to fight to allow them to be included in a mainstream school.

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136 SEN133

137 SEN 05

168. Following SENDA 2001 there is an assumption that children with SEN and disabilities should be included in mainstream schools where this is what the parents want and it is compatible with the efficient education of other children whilst preserving parents' rights to seek a special school place.<sup>138</sup> In theory, this guidance sounds fair, but in practice this does not seem to be happening. The language is sufficiently vague—and the parent's rights to “seek” a special school place sufficiently weak—to mean that in practice, some local authorities are not providing a range of appropriate provision for children with SEN.

169. As a result of the nature of the statementing process, there is also a great deal of concern from parents regarding how decisions made, on what basis is placement decided, and who has the final say. A large part of this is caused by poor communication with parents during the statementing process.

**170. Where good practice exists in local authorities the level of parental satisfaction improves greatly. A National Framework of guidance should be put in place based on best practice of local authorities. It should ensure that: multi-agency panels make decisions regarding placement and are accountable for their decisions; parents are kept well-informed at all stages of the process and involved in the decision-making process as much as possible; and there is a wide range of appropriate high-quality provision available to meet the needs of children. There also needs to be much greater consideration given to support for parents of children with SEN who themselves may have SEN issues and require assistance in coming to considered decisions and views about their children's futures.**

**171. For many children with SEN and disabilities, special schools are invaluable. The issue should not be their closure but how to progress to a system based on a broad range of high quality, well resourced, flexible provision to meet the needs of all children. More schools should be positively encouraged to form federations including both mainstream and special schools.**

### Planning role of local authorities

172. Recent reports from the Audit Commission and Ofsted have recognised that SEN is one of the most challenging aspects of local authority's responsibilities. They note that despite a robust statutory framework and improvements in practice and provision in recent years there remains a number of continuing challenges to overcome in order to further improve outcomes for children with SEN and disabilities.

173. Every one of the examples of good practice highlighted in the DfES memorandum about “school and parent partnership”, “communities of schools” and “building local capacity” originated from local authority planning. Good practice is not, however, common place.<sup>139</sup>

174. At present, local authorities have a statutory duty to assess the needs of, and make appropriate provision available for, children with special educational needs. The Independent Panel for Special Education Advice (IPSEA) argue that “local authorities [...]

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<sup>138</sup> Special Educational Needs and Disability Act 2001

<sup>139</sup> SEN 178

are seeking to downgrade their statutory duties towards children with SEN to discretionary duties.”<sup>140</sup> Essentially, they argue, this is breaking the law. In a recent letter to local authorities,<sup>141</sup> the DfES identifies some local authorities as “operating blanket policies of never quantifying educational provision for particular groups of children”. The letter clearly states that such authorities are “in breach of” their statutory responsibilities.

175. The nature of the legal duties which local authorities have towards children with SEN, as recorded in primary legislation, is clearly statutory and this has been upheld by rulings in cases that have reached the House of Lords.<sup>142</sup> IPSEA argue that the Government’s statutory guidance (SEN Code of Practice 2002) recognises the statutory duty but that their non-statutory guidance since the mid-1990s (e.g. SEN Tool kit) has shown that the “Department itself now signals a disregard for the legal framework which is alarming[...].”<sup>143</sup> However, it has been suggested by representatives of local authorities that it is the SEN Code of Practice—the statutory guidance—that immediately waters down the legal duty by using a much weaker form of words and saying only that local authorities must have regard to the SEN Code of Practice. Straight away this creates scope for different interpretation, procedures, and processes—for example, there is no national criteria for the threshold at which statements should be initiated by local authorities so this becomes discretionary.

176. At present, local authorities have a duty to secure sufficient schools for children in their area and in doing so must have particular regard to the need for special educational provision. When the finite resources available to local authorities are considered, this seems to be an impossible situation. It is clear that a great deal of the conflict, frustration, and costly litigation is arising from these continuing circumstances.

**177. While some local authorities have made good progress in managing SEN in recent years, there remains much variation in performance and some poor practice. Clear statutory guidance is in place but local authorities are then told only that they must “have regard to” the SEN Code of Practice. Non-statutory guidance then further muddies the waters. Local authorities have a crucial role to play with SEN but the operation of good practice must become the norm.**

**178. Local authorities must be allowed to continue to plan provision at the local level to meet need but this should be within guidance of a clear National Framework linked to minimum standards to ensure consistency of outcomes for children with SEN.**

**179. All local authorities and schools should embrace the opportunity presented by the new Disability Equality Duty to ensure that they promote and provide a positive environment for children with SEN, both now and in the future.**

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140 SEN 66

141 DfES Letter to CEOs / Directors of Children’s Services, 15 November 2005, regarding Special Educational Needs.

142 R v. East Sussex County Council ex parte T (1998) ELR 251

143 SEN 66

## Admissions and parental choice

### *Fair access for children with SEN*

180. A key issue raised during this Committee’s inquiry was the unwillingness of successful mainstream schools (selective and non-selective) to take their fair share of SEN pupils.

181. This issue should also be considered in light of the evidence from the Sutton Trust that the top 200 non-selective state schools do not take their fair share of children with SEN or on Free School Meals (FSM).<sup>144</sup> The impact on children with SEN of league tables and the priority given to raising standards is discussed in much further detail in the later section “Personalisation: SEN v. the standards agenda”.

**182. The Government should give careful consideration to the impact that key drivers such as league tables are having on admissions—particularly to the most successful non-selective state schools. There is strong evidence that the existing presentation of performance data in league tables does not reflect well on many children with SEN and consequently acts as a disincentive for some schools to accept them. This cannot continue.**

**183. Children with SEN and disabilities should have fair access to all types of provision. The Government should do more to encourage the most successful non-selective state schools to take their fair share of children with SEN and disabilities. Admissions policies in this matter should be carefully monitored with a requirement to report back on progress to Parliament and to this Select Committee. Furthermore, the Government should ensure the protocol for hard to place children makes specific reference to children with SEN and disabilities.**

### *Choice for parents of children with SEN*

184. The DfES have said they have a “policy of including children with SEN and disabilities in mainstream schools where this is what parents want and it is compatible with the efficient education of other children whilst preserving parents’ rights to seek a special school place”.<sup>145</sup> Despite this policy, there are many parents that believe either their children are educated in mainstream schools against their wishes or that their children are not being given access to mainstream schooling when they should be.

185. The word “seek” is crucial. Parents have a legal right to seek a special school place, but do not have a right to be provided with one necessarily. This is a confusing situation.

186. Parents have a right to education provided by the state. They do not, however, have a right to choose between various state educational settings. As Disability Equality in Education explained in their memorandum “The Convention on the Rights of the Child 13(3) provides for the liberty of parents and legal guardians ‘to choose schools’ for their

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144 Sutton Trust, *The Social Composition of Top Comprehensive Schools - Rates of Eligibility for Free School Meals at the 200 Highest Performing Comprehensives*, January 2006

145 SEN 178, paragraph 92

children, other than those established by the public authorities. That is, parents do not have the right to choose a specific type of public educational system for their children ( this has been affirmed by the European Court of HR)—they only have the right to take their children out of the public education system and place them in a private system or home-schooling environment—as long as that system or environment conforms to minimum educational standards laid down by the State. Thus the right to educational choice in current international law refers only to the right to remove a child from public education, not to choose within it.”<sup>146</sup>

187. Parents are increasingly having their expectations raised about parental choice. The Education and Inspection Bill is based on the principle that more choice and diversity will raise standards in schools. The Schools White Paper talks of “progress that is driven by new freedoms” and a “system as a whole (that) is increasingly driven by parents and by choice”.<sup>147</sup> But for parents of children with SEN the situation is often very different.

188. Many parents of children with SEN have reported to this Committee that they feel that they have very limited choice either because of mainstream schools not having the appropriate resources to take their child or because special schools are not being made available to them. As Baroness Warnock said in evidence to this Committee:

“that produces a hollow laugh on the part of parents with children with disabilities because they have no choice”<sup>148</sup>

189. There is a great deal of concern that an increasingly selective and independent market will only further exacerbate the lack of parental choice in admissions for children with SEN. Baroness Warnock added her voice to concerns about the proposals in the Schools White Paper saying that:

“They really have virtually no choice of schools and no control over wishing for anything else, so I think they feel cheated for that reason.”<sup>149</sup>

190. The crux of the issue is that unlike other parents, the choice of parents of children with SEN is qualified by whether it is compatible with the efficient education of other children in the school. Assuming a school is not over-subscribed, if a parent of a child without SEN chooses a school, that school is obliged to accept that child. This is not the case for parents of children with SEN. It is this lack of consistency in approach that causes so much frustration with parents.

191. For children with SEN, the qualification regarding the efficient education of other children puts the final decision making power in the hands of officials and professionals rather than the parents of children with SEN. Parents increasingly have their expectations raised with regard to parental choice and this is understandably causing conflict and frustration when their experience is so different.

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146 SEN 68

147 DfES, *Higher Standards, Better Schools for All—more choice for parents and pupils*, Schools White Paper, October 2005

148 Q8

149 Q8

192. The existing DfES policy regarding the placement of children with SEN is good in theory, but in practice parental choice is not being upheld. Where a special school is sought by a parent this must be given proper consideration. Where a mainstream school is sought by a parent, a local authority must consider whether reasonable adjustments could be made to ensure that their admission could be made compatible with the efficient education of other children in the school.

193. We recommend that in the new Code of Practice on School Admissions, children with SEN and disabilities should be given explicit priority in over-subscription criteria.

194. As long as the choice of parents of children with SEN continues to be qualified by whether it is compatible with the efficient education of other children in the school, the final decision-making power regarding placement will remain out of the hands of parents and we do not suggest that this should be changed. This is appropriate where expert independent advice has been sought but should be the exception rather than the rule. There is a great deal more that could be done to increase involvement from parents: to seek their views and understand their choices more carefully, to work in partnership with them as much as possible, and to ensure they are fully informed at all stages of the process. Careful consideration should be given to parent-partnership schemes being funded independently of local authorities being trialled on a pilot basis. The system should not have to rely on an appeals process to achieve fair access for children with SEN.

195. The Government should work with local authorities and schools to raise the level of detailed understanding amongst parents of the implications of disability rights in education.

### **Academies**

196. There are particular issues of admissions and parental choice for children with SEN in relation to Academies.

197. Firstly, the Committee has received reports throughout the inquiry of fears that academies are failing to seek the right approach towards children with SEN—and possibly even turning away children with SEN to improve their results. Steve Haines, Policy manager for Education and Employment at the Disability Rights Commission (DRC), told this Committee that:

“[...] what seems to be coming through what I am hearing through various networks that we are in contact with is that there is that lack of onus on children with special educational needs.”<sup>150</sup>

198. *Children Now* reported earlier this year that:<sup>151</sup>

“the percentage of pupils with special educational needs has dropped dramatically at two of the most successful academies, when compared with the ‘failing’ schools they

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150 Q303

151 *Children Now*, David Singleton, *Analysis: Special educational needs - Fresh controversy over academies*, 22 March 2006

replaced. The Walsall Academy registers the biggest drop with the total percentage of children with special educational needs plummeting from 41% to 8%. The City Academy Bristol has seen the percentage of children with special educational needs fall from 46% to 28%.<sup>152</sup>

199. The Minister, in contrast, gave us other statistics suggesting that, overall, academies were taking both a greater proportion and number of children with SEN than their predecessor schools. Figures provided for 2005 show that the number of children with statements had increased from 411 to 508 (a static proportion of 3.3% of pupils) from the predecessor schools to the new academies, and that the number of children with SEN but without statements had increased from 3,231 to 4,184 (an increase from 26.5% to 27.5%).<sup>153</sup>

**200. Evidence presented to us has been inconclusive, but if it is the case that some Academies are turning away children with SEN, this is of great concern.**

201. Secondly, there is a legal issue with regard to the naming of a school in a statement. It is the case for all state schools that if a school is named by a local authority on a statement, that school is obliged to take that child. Parents have the right to state a preference of school during the process.

202. When we asked the Minister if parents of children with special educational needs can state a preference for an academy, we were very clearly told by Rt Hon Jacqui Smith MP, the then Minister of State for Schools and 14–19 Learners, that “they can” “yes”.<sup>154</sup> However, the DfES letter of 15 November clearly says “since Academies are independent schools the admission arrangements are different.<sup>155</sup> Parents do not have a statutory right to express a preference for an Academy, though they can make representations as to the particular Academy they would like their child to attend.” It then goes on to make it clear that if the Academy does not consent, the authority should not name it in the statement.

203. Although they were partly clarified in reply to Q663, other discrepancies were not covered: Annex 1 of the SEN dispute pack document makes clear that even if a parent appeals to the SEN Tribunal about an academy’s refusal to accept their child and wins the appeal, the Academy is not required as a matter of law to admit the child —though it is “highly likely” that the Secretary of State would direct it to do so. The key point is that parents’ rights are dramatically diminished. They must rely on the Secretary of State intervening rather than the protection afforded by statutory rights that arise from education legislation which applies to maintained schools but not to academies. Lord Adonis said that:

“the legal basis on which they are governed means that they are legally independent schools governed by funding agreements with the Secretary of State.”<sup>156</sup>

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152 Children Now obtained figures for 14 academies and their predecessor schools. They show that the total percentage of children with special educational needs has fallen at seven of the academies. The percentage of children with statements has fallen at eight of the academies.

153 SEN 223

154 Q660 and Q661, evidence taken from Ministers by Education and Skills Committee 19 December 2005.

155 DfES Letter to CEOs / Directors of Children’s Services, 15 November 2005, regarding Special Educational Needs.

156 Q862

When asked why it would not be possible to have a different kind of basis on which there is a funding agreement but still have a universal right for a child with special educational needs to go to any school which the statement recommends, the Minister agreed this would be possible. Lord Adonis said:

“You could have, is the answer to your question. Of course you could do that.”<sup>157</sup>

204. Lord Adonis was not convinced, however, that there was a legitimate concern to justify such a change:

“[...] my answer to that is that the Government is not persuaded that we should propose that change because we do not see there being a legitimate concern in this area.”<sup>158</sup>

205. When evidence was put to Lord Adonis regarding the reduction in children with SEN at some academies he said that it was the average levels that mattered:

“I do not come before you to account for each individual school and its policy, I am sure that there are good reasons in those individual ones of why that may have happened, but if you look at the average, which is what should concern us, the average is very clear. The numbers are higher and the proportions are higher.”<sup>159</sup>

206. Average figures can disguise what is happening at an individual school level. In light of the evidence presented to this Committee, we believe that the risk of discrimination to children with SEN is not worth taking for the sake of maintaining the legal independence of Academies in this area. As Steve Haines, DRC, identified in oral evidence:

“My concerns are really focused on where funding agreements mean that academies are not as responsible to that legislation [which promotes equality of outcome] as perhaps they might be.”<sup>160</sup>

**207. To guard against the possibility that academies could discriminate against children with SEN this Committee recommends that the Government take the relatively simple step of changing the funding agreement so as to put academies on the same legal footing as all other schools with regard to children with SEN.**

**208. Local authorities should monitor admission of children with SEN to schools in their area, including academies and trust schools in England, and report publicly on this each year.**

## Appeals process

209. There were 3,354 appeals to the Special Educational Needs and Disability Tribunal (SENDIST) in 2003–04. From 1996–97 to 2002–03, the number of appeals rose steadily from 2,051 to 3,532—an increase of over 70% in 6 years. In the year from 2002–03 to

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157 Q863

158 Q864

159 Q858

160 Q301

2003–04, however, the number of appeals declined by 5%. The majority of appeals are either against refusal to assess (nearly 40%) or against the contents of the statement (nearly 50%). Appeals against the failure to name a school or refusal to change the name of a school made up only 1.5% of appeals.

210. 3,354 appeals represents less than one per cent of children with SEN, as the DfES point out in their memorandum, but this does not imply necessarily that “for the great majority of families the system is operating effectively to meet their children’s needs.”<sup>161</sup>

### **The cost of appeal**

211. It is true to say that in principle, as SENDIST explain in their memorandum, “there are no direct costs in appealing to the Tribunal.”<sup>162</sup> In practice, however, there are often considerable additional costs involved in commissioning expert reports and further costs if parents choose to instruct their own legal representative. Parents have reported spending up to £18,000 on Tribunals.<sup>163</sup>

212. SENDIST do not collect data on the costs incurred by parents but they do recognise that there are “significant costs that parents may incur.”<sup>164</sup> With regard to the cost of legal representation, SENDIST have argued that “in recent years we have seen greater use of legal representatives, but it is misleading to present it as the norm.”<sup>165</sup> Their data show that in 2004-05:

- 20% of parents had the help of a legal representative throughout the process.
- At hearings, 25% had legal representation and a further 23% had a non-legal representative.

213. In reference to whether these costs are necessary, SENDIST refer to recent research undertaken by the DCA Research Unit to demonstrate that legal representation did not improve the success rates of appeals.<sup>166</sup> Researchers “conducted thorough statistical analysis of over 1,100 cases and concluded that “whether or not an applicant was represented had not impact upon outcome.” Although represented parents were more likely to be successful [represented cases had a higher success rate by 7 percentage points than non-represented cases—82% to 75%], the differences were not found to be statistically significant [demonstrated through regression analysis].”<sup>167</sup> SENDIST argue that “unless there are complex areas of law to be explored, factual and relevant evidence is better than unnecessary legalese and most parents are well able to argue their cases effectively.”<sup>168</sup>

161 SEN 178

162 SEN 230

163 The Observer, Anushka Asthana, ‘Meet James and Joshua: too difficult to teach in school?’ Sunday May 14, 2006,

164 SEN 230

165 SEN 229

166 Department for Constitutional Affairs, Research Unit *Tribunals for Diverse Users*, January 2006

167 SEN 230

168 SEN 229

214. With regard to the cost of commissioning expert reports, however, SENDIST recognise that “a single report is likely to cost several hundred pounds”.<sup>169</sup> Furthermore, they recognise the need for such expenditure in many cases. They say that “even if it is not a necessary part of the tribunal process for parents to commission such reports, we would have to recognise that there are cases where an alternative professional opinion will be necessary to sway the Tribunal against the advice of the relevant local authority professional[...].”<sup>170</sup>

215. SENDIST argue that “[...] it is for others to consider whether or not parents should receive any assistance if they decide to commission professional reports. It is not easy to see how the Tribunal itself might help.”<sup>171</sup>

### **Equal access to appeal**

216. Parents should have equal access to an appeals process. There are, however, some specific issue of equity of access—such as for looked after children—as well as broader concerns regarding equity of access to a formal legal process. As one head teacher said, “tribunals are a complicated process and it’s often only the dogged, middle-class parents that are prepared to take the process on.”<sup>172</sup>

217. The high level of variation in the number of tribunals that take place across different local authorities suggests that there is a significant problem regarding equal access to the appeals process, but the access issues are complex. Evidence shows that there is no correlation between the number of tribunals and the wealth of the population of a local authority area (see Table 2 below). SENDIST do not collect data on the socio-economic backgrounds of parents making appeals. They do, however, in their memorandum make the point that “if one looks at LEAs with relatively high and relatively low levels of appeals, one cannot see any clear link to economic circumstance.”<sup>173</sup>

**Table 2: Local Authorities attracting most appeals, 2004–05**

Local Authority	Appeals per 10,000 of school population
Lewisham	21.76
Lambeth	20.38
Hackney	15.61
Richmond	14.37
Croydon	12.55
Southwark	12.46
Wandsworth	11.78
Bromley	11.27
Kingston	11.14
City of Bristol	10.72

Source: SENDIST memorandum [SEN 230]

169 *Ibid.*

170 SEN 230

171 SEN 230

172 Guardian, John Crace, *Not so much a choice, more a battle of wills*, November 8<sup>th</sup>, 2005

173 SEN 230

218. Equal access to tribunal is an important issue that needs urgent remedy but it is not a simple case of discrimination by affordability or by any particular policy held by a local authority. As the Minister said:

“[...] it is not the case that having high numbers of appeals to SENDIST goes hand-in-hand with the refusal of authorities to assess and with having lower socio-economic backgrounds of the pupils. That simply is not the case. I have looked at this in detail because this came up in your evidence session. I will send you the list which I have had prepared for me of all local authorities in England, the number of pupils per 10,000 in respect of which there are appeals to SENDIST, the number in special schools, and the number statemented.”<sup>174</sup>

219. One particular issue of equality of access that does need urgent resolution is that of access to appeal for looked-after children. Julia Thomas, a solicitor for the Children’s Legal Centre, explained to the Committee that:

“We have a huge concern about looked after children because at the moment the only people who can make an appeal to the tribunal on behalf of a looked after child are the social workers who are employed by the same authority that the appeal is being made against. This is a huge problem.”<sup>175</sup>

**220. Parents must have the right to appeal against decisions made regarding the education of their children. All parents and legal guardians must have equal access to the appeals process. Evidence suggests this is not the case at present. The Government is responsible for ensuring steps are taken to guarantee equal access to an appeals process for all parents and guardians; in doing so it should give particular attention to the access of parents from low socio-economic backgrounds, parents with SEN themselves, and the fair representation of looked-after children. The Government should start to collect data on the background of parents at tribunal, and on expenditure in relation to outcome.**

221. Earlier attempts to have informal discussion to aid resolution of provision issues between local authorities, schools and parents could reduce expenditure on tribunals significantly and also remove much unnecessary delay and trauma in meeting the needs of the children concerned. Again, the effectiveness of local authorities in promoting such informal resolution needs to be closely monitored.

**222. The standard approach should not be adversarial. We recognise, however, that all too often parents had little choice in taking an adversarial approach during the appeals process in order to obtain what is in the interests of their children. With a range of appropriate high quality SEN provision in place, a clearer understanding of roles and responsibilities and more transparent processes, the confidence of parents in the system should increase and the level of anxiety, frustration and litigation should reduce.**

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174 Q934

175 Q381

### **Local authority role in appeals**

223. The memoranda received from local authorities each refer to frustrations regarding the Tribunal process and the lack of ‘fairness’ inherent in the system.<sup>176</sup> Buckinghamshire County Council said “The Tribunal process, initially established as a means of appeal for parents in disagreement with the local authority, has become a quasi-legal process where affluent parents engage barristers to ‘fight’ their case, irrespective of the educational rationale.”<sup>177</sup>

224. Mark Rogers, Director of Education and Children’s Services, Solihull Metropolitan Borough Council, argued that:

“I do not think it is helpful [for Tribunals] to be able to make decisions out of context especially as they also have no financial responsibility for the decisions that they make.”<sup>178</sup>

225. It is the role of a local authority to distribute a limited amount of funding for SEN. Parents seek an entitlement to have their child’s needs met, and a local authority seeks to distribute finite resources as effectively as possible. This is a situation that inevitably raises conflict. **Conflict between parents and local authorities needs to be minimised through clear understanding of roles and responsibilities, transparent processes, and better management of expectations.**

226. Mark Rogers described the need to consider SEN appeals within a broader appeal system—rather than creating a separate system for SEN. He suggested:

“[...] if we took the opportunity that the Child Care Bill gives us to boost our Children’s Information Service to include an [...] advocacy and disagreement resolution function [it] would be a major start. We have a Disagreement Resolution Service already for special educational needs, but we do not have it more broadly [...] I would like to see the introduction of a generic advocacy and disagreement resolution service that had within it the specialisms that you need for particular areas of disagreements... I think that there are ways and means of putting in place universal systems for all children and families and not the specialised ones [...] [and] have the specialisms within it.”<sup>179</sup>

**227. The Government should review whether SEN appeals should be part of a broader education appeal process as part of a strategy to reduce reliance on a separate system for SEN.**

### **Funding process**

228. Section 3 of this report “Expenditure on SEN”, describes the increase in Government spending on SEN in recent years. Lord Adonis told this Committee that:

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176 SEN 38, 44, 45, 60, and 135.

177 SEN 45

178 Q411

179 Q496

“Spending on special educational needs has risen from £2.8 billion to £4.1 billion in the last four years”<sup>180</sup>

229. Recent increases and planned expenditure on SEN should, however, be put in the context of there being a long history of SEN being under-funded. Network 81, an organisation representing parents, described the majority of opinion by saying “resource availability is variable and too often led by the funding available from the local authority and not applicable to the needs of the children.”<sup>181</sup>

230. Lord Adonis told us that:

“[...] in my experience of education reform, you can accomplish a huge amount where you have a resource to put behind it.”<sup>182</sup>

231. He said this in reference to the Government being prepared to put a significant resource behind the development of 14–19 pathways,<sup>183</sup> however, not with regard to SEN.

**232. This Committee welcomes the additional investment in SEN and special schools in the last three years but SEN remains under-funded, particularly in mainstream schools. We agree with the Minister that the Government can accomplish a huge amount when they put the resource behind it. The Committee recommends that this principle is applied to SEN. The Government should radically increase funding for SEN in order to achieve a range of appropriate, high-quality provision across every local authority with a fully equipped and resourced workforce. The Committee hopes that the Treasury review of funding for children with complex needs, which we welcome, will provide an opportunity to do just this.**

### **Delegated funding**

233. The Government are committed to increasing the amount of delegated funding to schools for SEN. In their memorandum the DfES said that “the Government believes that schools are best placed to make decisions about support arrangements for pupils experiencing barriers to their learning. It is encouraging the delegation of more SEN resources to schools to enable head teachers and SENCOs to address the individual needs of pupils more quickly and without the need to ‘demonstrate need’ to their local authority before resources are made available. But the Department has always made clear that this must result in a better deal for children and not a reduced entitlement.”<sup>184</sup>

234. Because there is only a limited national framework in place, there is no common practice with regard to the extent to which local authority budgets for SEN are being devolved to individual schools. The advantage of delegated funding is that early-intervention can be implemented at the schools level. The disadvantage of delegated funding is that the money is not ring-fenced and it is difficult to know whether it is being

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180 Q851

181 SEN 64

182 Q888

183 Q888

184 SEN 178 paragraph 39

spent on SEN. Ofsted has found evidence that SEN budgets have been used for other “priority” areas in schools.<sup>185</sup> Mrs Eirwen Grefell-Essam, a SENCO and representative of Network 81 (a parent representative organisation), told the Committee that, in her experience:

“There is no ring-fencing of funding in any shape or form. In my particular school, we have over 60% on the SEN register and there is no ring-fencing of that money whatsoever from county. It could be spent on watering the garden or building a new tarmac playground. There is nothing to say where it has to go and there is nobody who comes to check. Ofsted do not check; nobody checks.”<sup>186</sup>

235. The DfES memorandum said that “delegating funding for SEN to schools can help to boost earlier intervention for children with SEN so that support can be provided, wherever appropriate, without the need for a statutory assessment or a statement.”<sup>187</sup> The majority of memoranda this Committee have received, however, do not support the practice of delegating funding. Network 81, for example, said “[...] the resources are allocated to each individual school to do with as they see fit. This may then not be allocated to the individual needs of the child. We can give many examples of individual schools where resources are provided but the individual children receive very little of the provision. As there is no ‘ring fencing’ of SEN funding it can easily be used in other ways by schools. There is also often no effective monitoring of these resources by the local authority.”<sup>188</sup>

**236. The Government should stop and think before further increasing the level of delegated funding to schools without other necessary conditions first being in place and without improved accountability for school spending. Delegated funding should enable more early intervention, in theory, but it needs to be implemented hand in hand with other key factors—a clearer national framework linked to minimum standards, a broad range of suitable provision, and a workforce that is fully equipped and resourced to identify and meet the needs of children with SEN. Without these other conditions in place further delegation of funding is a high-risk approach, particularly in light of evidence from Ofsted that some delegated funding to schools is not being spent on SEN.**

**237. We believe there would be much merit in reserving part of central government’s funding to encourage flexible access and co-operation between special and mainstream schools, the Minister himself having said in evidence that it was “crucial to see that money intended for SEN is spent on SEN”.**<sup>189</sup>

### ***Funding of specialist services and provision for low-incidence needs***

238. NASUWT and NUT, along with others submitting evidence to the inquiry, argue that the increasing delegation of funding to schools prevents effective co-ordination of services

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185 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004

186 Q194

187 SEN 178

188 SEN 64

189 Q948

at area level and puts specialist services—such as that provided by educational psychologists—at risk.

239. SEN Delegated funding also makes coherent and effective overall planning very difficult in relation to, for example, (1) low incidence special needs (2) coordinated, systematic, varied-level training/CPD around SEN and (3) schools' access to high level local expertise on SEN/disability. These difficulties are compounded by the growing diversity of school types.

240. The DfES have said that “following the recent Ofsted report [...] the Department will also be consulting on minimum standards for SEN advisory and support services to promote greater consistency in their quality, availability and cost effectiveness, however they are provided.”<sup>190</sup> The result of this is the recent National Audit of Support, Services and Provision for Children with Low Incidence Needs, funded by the DfES, which took a thorough look at the sector and concluded that there was a “significant level of agreement” that “the DfES should give a clear steer to regions and local authorities with regard to good practice for children with low incidence needs.”<sup>191</sup>

241. The NUT have argued that “SEN support services can be undermined and become disjointed by the delegation of funding for statemented pupils. Such support services require guaranteed funding in order to be able to plan provision, give appropriate levels of support, and employ sufficient permanent specialist teachers and other staff with the necessary skills and experience.”<sup>192</sup>

**242. Local authorities should be required to maintain a proportion of SEN funding to resource specialist services and services to meet low-incidence needs. The Committee supports the recommendations made in the recent SEN Audit on low-incidence needs.**

### ***Funding of places at non-maintained and independent special schools***

243. With regard to local authority funded places in non-maintained and independent special schools (NMISS), the Audit Commission have found that “between 2002–2003 and 2004–2005 there has been a 43% increase in spending on these placements. We now intend to expand on this by examining the role, potential contribution and costs of non-maintained and independent special schools, which tend to cater for those pupils with the most complex needs. We consider this to be an important issue for local authorities, children and parents and will be producing a national report on third party placements by May 2006”.<sup>193</sup>

**244. Non-maintained and independent special schools (NMISS) provide invaluable provision for many pupils—including some children with low-incidence special needs. The Committee notes with some concern the rapid increase in expenditure on NMISS places in recent years. NMISS places must remain an essential component of a broad**

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190 SEN 178

191 DfES, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, Peter Gray, The Special Needs Consultancy. Research Report RR729.

192 Education Review, *A range of Provision*, John Bangs, Volume 19, number 1, page 18.

193 SEN 173

range of flexible provision within all local authorities but we recommend that fees for NMISS places should be monitored by the DfES.

### *Allocation of resources through the statementing process*

245. Concerns have been raised throughout this inquiry regarding the allocation of resources in statementing process. 50% of appeals to Tribunal are regarding the content of a statement—a large part of which seeks to allocate resources based on identified need.

246. It has been proposed during this inquiry that a voucher system of funding could be allocated through the statementing process and that money and resource would then follow the child to whichever school they chose to attend. The aim would be to create a very specific financial entitlement through the statementing process. A listener to the Radio 4 *You and Yours* Programme on SEN<sup>194</sup> emailed the programme to ask “why can’t the education department give the parents a voucher equivalent to the cost of educating their child which could be used to pay towards the school of their choice. Often a small private school with smaller classes is better, but many parents cannot afford this, to the detriment of their children.”

247. The Minister was asked if he would endorse such proposals, and he replied “no” for what he described as a “perfectly immediate reason.”<sup>195</sup> As the Minister implied in his response, a voucher system is not, in itself, going to fix the underlying faults in the statementing process that impact on whether or not the resource follows the child: firstly the continuing lack of specificity in the part of the statement that allocates resources (despite statutory guidance on specificity); secondly the role of the local authority in having the final say in decisions regarding placement. The difficulty is that a voucher system cannot, in itself, resolve these more fundamental problems in the system. Furthermore, if these problems were resolved then the resource would—as in theory it should—follow the child and a voucher system would not be necessary.

248. Others have argued that funding can better follow the child if some is retained in a central resource. Primarily, this is because of capacity issues for children low-incidence needs, but also because of funding complications if the child moves schools or if there is dual-registration.<sup>196</sup>

249. The Government should improve the extent to which funding follows the child. Whether this be through a voucher system or through an increased central resource for low-incidence needs, this issue should be given further consideration. **The fundamental problems in the statementing process that prevent funding from following the child should be resolved as a matter of urgency.**

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194 SEN 232. Radio 4, *Call You and Yours*, between 8<sup>th</sup> and 22<sup>nd</sup> February 2006 listeners were able to contribute comments to the programme in relation to SEN. Over 700 emails, calls, and letters were received.

195 Q972

196 Education Review, *A range of Provision*, John Bangs, Volume 19, number 1, page 18.

## 5 Future strategy

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250. In this final section we look at proposals for future strategy on special educational needs and, based on the evidence we have received, make recommendations for an approach which puts the needs of pupils at the centre of provision.

251. The following is a summary of our proposals regarding future strategy:

### Pupil-centred provision: a national delivery model

252. **The Government needs to develop an approach to SEN that is based on pupil-centred provision. This would require:**

- **A National Framework linked to minimum standards:** there should be a statutory requirement placed on local authorities to maintain, or have access to, a wide range of provision, including a range of special schools, specialist units, and services for low incidence special educational needs.
- **Local flexibility within a national framework:** local flexibility must be maintained so that local authorities can plan provision to meet the needs of a local area. This will involve a new role for special schools where they are fully resourced to share both their expertise and their facilities. The aim should be to develop communities of schools working in collaboration—including special schools—where pupils feel they belong.
- **A pupil-centred approach with SEN at the heart of personalisation:** there is no single category of children with SEN. All children should be considered on an individual basis with a sliding scale of additional resource to meet their needs.
- **Equipping the workforce: a major priority is to properly train and resource all staff:** teachers, TAs, SENCOs and specialist staff. Initial teacher training and continuing professional development needs to be radically improved.
- **Early intervention:** facilitated by local flexibility, fully equipping the workforce, and taking a pupil-centred approach. These are all required to improve existing difficulties experienced at key transition stages as well, along with collaborative working across schools and agencies.
- **Partnership working:** collaboration is essential to improve the outcomes for children with SEN—between schools, between agencies (health, social services, and education), with local authorities and with parents and local communities.
- **A radical review of statementing:** a fundamentally different approach is needed to ensure effective assessment of need, efficient and equitable allocation of resources, and appropriate placement to high quality provision for children with SEN and disabilities.

## A national framework with local flexibility

### *The need for a national framework*

253. A number of witnesses have articulated a need for “a national framework with local flexibility which recognises, as NASUWT suggested, “these are some sort of common entitlements everyone would have... getting a national framework right and, within that, you allow—on a local authority or school basis—the flexibility to meet specifically identifiable local needs.”<sup>197</sup>

254. The charity I CAN have told the Committee “a national delivery model must be developed and implemented across all schools and educational settings in the UK to actively support children’s[...] (needs).”<sup>198</sup> Virginia Beardshaw, Chief Executive Officer of I CAN, told the Committee that:

“We need a system of national standards with professionals trained appropriately to meet those standards.”<sup>199</sup>

255. At present, with an insufficient national framework in place, it is not clear what role the DfES has in regional planning of SEN provision and placement. The 2004 SEN Strategy was not properly implemented in terms of policy priority, funding, and training. It proposed a more “strategic role” for local authorities with regard to SEN provision in 2004 but the strategy failed to give details of how this might be achieved and, more importantly, guaranteed across all local authorities. Ofsted also found that different groups of pupils with similar needs received different levels of support depending on where they lived which is unacceptable.<sup>200</sup> **The Government need to take a lead and develop an overarching strategy for SEN in order to set minimum standards for children with SEN—whilst maintaining local decision-making powers—to give a clear lead on policy direction for the sector to follow.**

256. The DfES described the recent SEN Audit<sup>201</sup> as “a national audit of specialist provision for children with the most severe and complex needs.” It said “the audit will identify where the gaps are and enable the Department to support local authorities in improving regional planning and provision to meet those needs.”<sup>202</sup>

257. The SEN Audit has recommended that the Government introduce a “clearly articulated national framework, linked to quality standards.”<sup>203</sup> It said that “Strategic planning is needed at regional, sub-regional, and local levels[...] however, it should take place within a clearly articulated national framework linked to quality standards.”

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197 Q775

198 SEN 129

199 Q623

200 Ofsted, *Inclusion: the impact of LEA support and outreach services*, 2005.

201 DfES, *National Audit of Support, Services and Provision for children with low incidence needs*, Peter Gray, The Special Needs Consultancy, 2006. Research Report RR729.

202 SEN 178

203 DfES, *National Audit of Support, Services and Provision for children with low incidence needs*, Peter Gray, The Special Needs Consultancy, 2006. Research Report RR729.

258. We back the SEN Audit’s recommendation that “there is a currently a range of standards for provision and services (for example, within the SEN Code of Practice, Removing Barriers to Achievement, Ofsted, National Service Framework (Disabled Children), Every Child Matters and Quality Protects). The DfES should bring these together within a unitary framework that is accessible to all relevant providers.”

259. The Minister assured us that “we (the Government) would look very carefully at anything you recommended to us in this area”.<sup>204</sup> This Committee adds its voice to the recommendation in the SEN Audit for the Government to introduce a “clearly articulated national framework, linked to quality standards”. There is now wide consensus on the need for the Government to produce a national framework with local flexibility.

### ***A flexible continuum of provision—provision mapping***

260. The NUT urges the Government to place a statutory requirement on local authorities to “maintain, or have access to, a wide range of provision, including high cost provision and a range of special schools, schools and dedicated units for pupils with emotional and behavioural difficulties and services for low incidence special educational needs”.<sup>205</sup>

261. The National Autistic Society have recently recommended that “the Government [...] should enshrine in law a duty upon local authorities to ensure that every child with autism has local access to a diverse range of mainstream and specialist educational provision, including autism-specific resource bases attached to mainstream schools, special schools and specialist outreach support.”<sup>206</sup>

262. We support the recommendation made by the National Autistic Society that “local authorities should ensure that every child with autism has local access to this diverse range of mainstream and specialist educational provision, and report publicly on the range of provision that is provided”<sup>207</sup> and would extend the requirement to all children with SEN and disabilities.

263. We believe early diagnosis of children with autism and particularly Asperger’s Syndrome is likely to be a preferential route, as witnesses have suggested, rather than statementing. We urge that local authorities be given a statutory responsibility to consult and work with autism groups, both locally and nationally to forward this objective.

264. This idea of national level guidance and minimum standards with local flexibility has been described as provision mapping. The provision map would describe the additional strategies, interventions, resources and staffing which a school should have in place for those pupils identified as having SEN. It would aim to ensure a coherent, whole-school approach to planning, intervention and resources for children with SEN.

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204 Q901

205 SEN 01

206 National Autistic Society, *Autism and education: the reality for families today*, 2006.

207 *Ibid.*

265. There is considerable evidence of demand for such guidelines. The recent audit of provision for children with low-incidence SEN undertaken for the DfES concluded that “there is evidence that clearer national guidelines for good practice would be welcomed as a basis against which local quality can be judged more systematically. These will need to go beyond process and start to define desired outcomes[...]<sup>208</sup> In oral evidence, Mark Rogers, Director of Children’s Services at Solihull Metropolitan Borough Council, identified a need for:

“ ‘provision maps’ [...] which [...]set out then for some local determination our expectations of the range of strategies and interventions, staffing arrangements, et cetera[...] that schools should have in place to meet the needs of children with additional needs, including SEN[...] we have of 150 English authorities doing their own thing within a framework but too loose a framework.”<sup>209</sup>

266. I CAN described an example of provision mapping where: “all settings should achieve Level One [universal]; designated and additionally resourced settings in each [...] area should achieve Level Two [enhanced]; and specialist/regional provision should achieve Level Three [specialist].”<sup>210</sup> Special schools would, of course, be fully included within provision mapping as they are the major providers of specialist capacity.

**267. We recommend that parents and children are given a clearly defined entitlement that is described in a (statutory) guidance framework that sets out the expectations that schools and other providers should meet in terms of a provision map. One of the key benefits would be to ensure that every local authority maintains broad range of flexible provision—including special schools.**

**268. The Government should provide much clearer guidance on minimum standards and implement a statutory requirement for local authorities to maintain a broad ranging and flexible continuum of provision which should then be monitored on a regular basis.**

### **Local flexibility**

**269. Any national framework must allow for local flexibility. Local authorities must continue to have the capacity to plan and re-organise provision to meet the needs identified locally—including support, services and provision for low-incidence needs.**

270. The recent audit of provision for children with low-incidence SEN concluded that “the DfES should[...] encourage flexibility in the services and support provided by statutory agencies[...]<sup>211</sup> It also recommended much greater levels of flexibility at the school level. It said that “the DfES should [...]foster a more ‘open’ role where special schools are willing

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208 DfES, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, Peter Gray, The Special Needs Consultancy, Research Report RR729.

209 Q424

210 SEN 129

211 DfES, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, Peter Gray, The Special Needs Consultancy, Research Report RR729.

and able to adjust their provision to meet changing local needs and support the strengthening of local options[...]"

271. Many witnesses, including the schools we visited in Essex, have said that a much greater local flexibility is needed in the system (this could be within a National Framework) to allow the desired expansion of collaborative opportunities such as dual-location, dual-placement, and cluster working between mainstream and special Schools to encourage shared expertise. Head teachers of special schools on our visit to Essex described to the Committee how they were trying to do more collaborative work with but the system was not helping them. The dual-registration of pupils between mainstream and special schools, for example, was very difficult to set up because of funding difficulties.

**272. The Government should do a great deal more to enable greater local flexibility at the school level. Funding arrangements for dual-placements and other sharing of facilities, specialist resources and expertise should not be a barrier. More needs to be done to enable children to attend both specialist and mainstream provision. To encourage and reward local authorities and schools to do so, Government should give more practical and financial incentives to co-operation, as the Minister indicated was their desire in evidence.**

### Personalisation—SEN v. the standards agenda

273. The Minister described personalisation as the “key” to the Government’s strategy on SEN. This had not previously been stated anywhere. It had been said that SEN “should play a central part in the personalisation agenda”,<sup>212</sup> and the SEN strategy says that the Government will “put children with SEN at the heart of personalised learning”<sup>213</sup> but this is quite different to putting personalised learning at the heart of the SEN strategy. This is further indication that the Government is re-thinking its policy on SEN.

274. There still remains the question of whether the Government has achieved its promise made in the 2004 SEN strategy to “put children with SEN at the heart of personalised learning”. Personalised learning was a major theme in the recent Schools White Paper but the chapter on this subject gave little more than a passing mention of SEN.<sup>214</sup> Baroness Warnock was not alone in thinking:

“There was not one tiny paragraph, unless I missed it, which mentioned children with special needs in the recent White Paper.”<sup>215</sup>

275. The Schools White Paper did make a brief reference to SEN. It said that “Children and young people with SEN already benefit from the personalisation inherent in the SEN framework, which provides an individualised assessment of need and tailored provision.” This is not the finding of this inquiry.

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212 DfES, *Removing Barriers to Achievement*, 2004 SEN Strategy, page 50

213 *Ibid*

214 DfES, *Higher Standards, Better Schools for All—more choice for parents and pupils*, Schools White Paper, October 2005

215 Q43

276. The Schools White Paper made it clear that the goal of raising standards was at the heart of personalised learning, not SEN. It showed that raising attainment in schools is still the main agenda for the Government and, as a result, targets and league tables will continue to drive behaviour in the education sector. In theory, it might be possible to have both raising standards and SEN at the heart of personalised learning but in practice this seems far from being realised. As Jean Salt, President of NASEN, described to us:

“we would see the cohort of pupils being targeted under personalised learning to be a different cohort to those with special educational needs... the personalised learning pathway seems to target those who are just missing those crucial level boundaries or grade boundaries at GCSE level.”<sup>216</sup>

277. There is a recognised conflict between the aims of raising standards and SEN: raising standards focuses on the narrow outcome of academic attainment whilst a SEN focus would require a broader definition of outcomes in line with the five outcomes set in *Every Child Matters*—healthy, safe, enjoy and achieve, make a positive contribution, and achieve economic well-being. As Dr Rona Tutt, Immediate Past President of the National Association of Head Teachers, said to the Committee:

“I think it is very difficult to continue to run a system that relies so heavily on tables, targets and tests and (then) say that every child matters and we want personalisation which fits in entirely with SEN.”<sup>217</sup>

278. In practice there is still a strong and very stubborn correlation between children having SEN and low academic attainment. Headteachers have articulated a conflict between taking children with SEN and a negative effect on their league-table position. NASUWT argue that the existence of performance league tables act as a disincentive for schools to accept pupils with SEN onto their rolls.<sup>218</sup> Professor Dyson believes that “attitudes have hardened towards low-attaining students—including those with SEN.” He believes that the environment that schools operate in—driven by League Tables, targets, and inspection regimes—is such that certain students are inevitably ‘less welcome’ if it is thought that they might reduce the performance of the school.<sup>219</sup>

279. In her 2005 paper, Baroness Warnock has said that “the greater the pressure to improve academic standards, the worse the fate of those who could never achieve under such measures”.<sup>220</sup>

280. The DfES argue that by improving league tables and using “contextualised value added” results—that can take account of SEN—there needs to be no conflict between raising standards and prioritising SEN.<sup>221</sup> The evidence, however, demonstrates quite the

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216 Q847

217 Q790

218 SEN 140

219 A. Dyson, *Philosophy, politics and economics? The story of inclusive education in England*, 2005 in: D. Mitchell (Ed) *Contextualising Inclusive Education: Evaluating old and new international perspectives* (London, Routledge).

220 Philosophy of Education Society of Great Britain, Baroness Warnock, *Special educational needs: a new look*, 2005. No. 11 in a series of policy discussions.

221 The Department is working closely with Ofsted to streamline the provision of data analysis to schools by merging the Performance and Assessment reports - the PANDA - with the Pupil Achievement Tracker. The intention is that

contrary. The decisions made by the most successful schools are clearly demonstrated by the fact that the top 200 performing non-selective state schools take far below their “fair-share” of children with SEN.<sup>222</sup>

281. Evidence exists of this conflict existing for teachers as well as head teachers. This was articulated by the British Association of Teachers for the Deaf who suggested “the inexorable pressure of the curriculum, examination/SATs requirements and league tables[...] demand that mainstream teachers drive forward in a way that may not be conducive to good inclusive practice—causing tensions between the two.”<sup>223</sup>

**282. Regardless of the theory, in practice the evidence clearly demonstrates that SEN and the raising attainment agenda sit very uncomfortably together at present. Furthermore, it is clear from the Education and Inspection Bill that the standards agenda still remains the much greater priority for the Government. It is the standards agenda, not SEN, that is at the heart of the existing personalisation agenda. As a result, it is difficult to see how personalisation can be the key to the Government’s strategy on SEN as the Minister claims. Again, we recommend that the Government clarifies its strategy for SEN and gives SEN sufficient priority so that it might indeed sit at the heart of personalised learning as promised in the SEN Strategy.**

## Outcomes

283. The DfES recognise that many people identify a conflict between the standards agenda and SEN. Recent research from the University of Cambridge has highlighted the “contradictions inherent in (the) interface of the standards and inclusion agendas”.<sup>224</sup> In oral evidence to this inquiry Mr McCully, DfES, said:

“I have heard of schools which are worried about their relative position in so-called performance tables, because of issues with SEN. That has been a constant issue which headteachers always raise with me and my colleagues[...].”

284. Whilst they recognise that a conflict has been identified they claim, however, that it does not have to be true. The SEN Strategy states that “some have argued that there is a conflict between the Government’s school improvement and inclusion agendas. The reverse is true. Helping children with SEN to achieve is fundamental to sustaining improvements in schools’ performance.”<sup>225</sup> Whatever the theory, in practice this is still far from happening.

285. The DfES memorandum starts by referring to the five outcomes identified as being crucial to a child’s wellbeing and development in the Children’s Green Paper *Every Child Matters*—being healthy, staying safe, enjoying and achieving, making a positive

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‘this contextual value-added information takes account of a range of pupil factors such as SEN and deprivation, in addition to pupils’ prior attainment and, in secondary schools, school level factors’ [SEN 178].

222 Sutton Trust, *The Social Composition of Top Comprehensive Schools - Rates of Eligibility for Free School Meals at the 200 Highest Performing Comprehensives*, January 2006

223 British Association of Teachers of the Deaf.  
<http://www.batod.org.uk/index.php?id=/articles/inclusion/inclusionofsted.htm>

224 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

225 DfES. *Removing Barriers to Achievement*, 2004 SEN Strategy (page 49)

contribution to society, and achieving economic well being.<sup>226</sup> It says that “the five outcomes define the purpose of local planning and services for children and form the basis for measuring progress locally and nationally.”<sup>227</sup> The Schools White Paper,<sup>228</sup> however, does not make a single reference to these five outcomes and continues to focus solely on raising academic attainment as the key priority and, presumably, the primary measure of success and progress for children. Furthermore, whilst the DfES memorandum might have introduced the five outcomes and the start of the submission, it then makes no reference to them the section dedicated to “How Children with SEN are Achieving”. Once again, the only measure of achievement referred to is academic attainment.

286. The Government is now beginning to try to link SEN to the attainment agenda (e.g. through the Barriers to Achievement Strategy) and is moving away from language about having “needs met”, towards “raising attainment” for children with SEN. But despite this attempt it is still unclear where SEN sits in relation to the government’s mainstream agenda (or key priority) of raising standards in schools. SEN clearly links—or could be linked—to other areas in education policy such as the *Every Child Matters* agenda and five outcomes, personalised learning, multi-agency working, and behaviour strategies, all of which are buzz words in government documents at present. But SEN will never be given sufficient priority until it is seen as a key part of the strategy for raising standards.

**287. In identifying the five *Every Child Matters* outcomes—being healthy, staying safe, enjoying and achieving, making a positive contribution to society, and achieving economic well being—the Government is beginning to broaden out its focus away from just the standards agenda. We are still a long way, however, from SEN and the achievement of the five outcomes playing a central role in mainstream education policy. This Committee recommends that SEN is prioritised, recognised as being in the centre of mainstream education policy and radically improved.**

288. We also believe that to fulfil the objectives of *Every Child Matters* it is important that social care and out-of-hours family support augments and is integrated within the educational provision during school hours and that at local level those objectives are delivered as seamlessly as possible.

## Equipping the workforce

### *Equipping the workforce is key*

289. There is much evidence that teachers and support staff are struggling without the appropriate training to improve outcomes for children with SEN. Equipping the workforce (teachers, TAs, and early-year professionals) with appropriate levels of training and expertise would facilitate the possibility of much earlier intervention and reduce the level of dissatisfaction in the system. In the detailed 60 page memorandum from the DfES, however, there is just a small section on “improving staff skills” embedded within the

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226 SEN 178

227 SEN 178

228 DfES, *Higher Standards, Better Schools for All – more choice for parents and pupils*, Schools White Paper, October 2005

chapter on “raising expectations and achievement”. The document contains nothing significant on workforce development.<sup>229</sup>

290. In evidence taken on 1st March, witnesses agreed that “the key is training”.<sup>230</sup> A recent research report from the University of Cambridge, *The Costs of Inclusion*, has argued that “effective and targeted professional development for school staff—for teachers, TAs, administrative staff and senior leaders—is an urgent priority.”<sup>231</sup> In evidence to this Committee Ofsted said that:

“what is really important is to look at professional development across the piece, at school level, local authority level, in terms of ensuring that teaching and learning with curriculum flexibility meets better the needs of a wider group of learners[...].”<sup>232</sup>

291. The Audit Commission report (2002) found that teachers were feeling ill equipped to meet the wide range of needs in today’s classrooms. The 2004 SEN Ofsted report concluded that expectations of achievement were often ill-defined or pitched too low for children with SEN so that progress in learning was slower than it should be for a significant number of pupils, that use of data on pupil outcomes was limited, and that schools under-used the potential for adapting the curriculum and teaching methods to give pupils suitable opportunities to improve key skills.

292. Ofsted have found that “the use of flexibilities at Key Stage 4 is having some profound effects on engagement and progress.[...] The best practice in schools clearly indicates that when personalised learning is part of the culture of a whole school approach to curriculum development, the systems for assessing, planning and teaching match the needs of all pupils. This reduces the need to define learners according to categories of need”.<sup>233</sup> But, as was argued in evidence on 1 March, personalisation will only help [with regard to SEN provision] if those who are facilitating are trained to implement it.<sup>234</sup>

293. The Training and Development Agency (TDA) recognised that there had been a focus on improving teacher training for the majority over the last decade, and that there was a need to re-focus training to equip teachers to improve the outcomes of the 20% of children with SEN and disabilities. In oral evidence to this Committee Ralph Tabberer, the then Chief Executive of TDA, said:

“There are a number of places now where we can look at boosting[...] the[...] teaching (of) the 20%. We have almost, for the last eight or nine years, been developing[...] teaching 80% of our children in classrooms extremely effectively—I think there is momentum up now to have a bit of a push in this realm, so we do accept the challenge.”<sup>235</sup>

229 SEN 178

230 Q618

231 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

232 Q728

233 SEN 133

234 Q625

235 Q669

294. **It is unrealistic to expect teachers and other members of the workforce to be able to meet the needs of children with SEN if they have not received appropriate training. Particular concerns have been raised with regard to both initial teacher training and continuing professional development for all staff.**

### ***Initial teacher training***

295. Concerns were raised to this Committee regarding the lack of training on SEN given during Initial Teacher Training. Susan Tresman from the British Dyslexia Association said the “biggest barrier is training.”

296. The DfES memorandum refers to a “commitment to improve staff skills” made in 2004.<sup>236</sup> The SEN strategy did indeed set out a bold strategy for workforce development described as a “welcome pledge” by NUT. It is very disappointing, however, that this much needed strategy is not being implemented in anything like its original form.

297. The TDA have been asked by the DfES to look at strengthening SEN training but their proposals are limited in their scope. They include non-compulsory modules in initial teacher training (ITT). Given the time constraints of the course, it is unlikely any PGCE students would be able to take these modules (2/3 of a PGCE is spent in schools). The SEN Consortium argued that “it is essential that all trainee teachers have access to initial training on SEN and disability.”<sup>237</sup> As Richard Rieser, Director of Disability Equality in Education, told the Committee:

“we are not preparing teachers of the future for this. The (TDA) is looking at bringing disability equality and inclusion training on the three-year course, but actually 80% of teacher trainees now come through the one-year course and they are still not extending it to that. They have to. I think it is really important that your Committee argues that that has to be mandatory, because at the moment it is one hour on the Code of Practice. How does one hour on the Code of Practice tell you what to do in the classroom when you are faced with a lot of different children?”<sup>238</sup>

298. In their oral evidence to us, the DfES did accept that more needed to be done:

“I think we recognise that there needs to be more[...] We are already doing some work with the TDA [...] but I think we are aware that it is only a starting-point.”<sup>239</sup>

299. **One of the key issue is that the DfES have asked the Training and Development Agency (TDA) to develop optional modules within initial teacher training. Unless the intention is for these optional modules to be followed rapidly by assessment and then rolled out on a compulsory basis, this is unacceptable—particularly in light of the bold commitment to improve staff skills in the 2004 SEN Strategy.**

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236 SEN 178

237 SEN 136

238 Q581

239 Q142

300. In evidence to the Committee, the TDA agreed that there was “not a big emphasis on SEN in initial teacher training”. Ralph Tabberer said that when newly qualified teachers (NQTs) were asked by the TDA what they would have liked to have done more of “NQTs always say they want more time on SEN”.

**301. Based on evidence that demonstrates the level of need, and demand from teachers for training on SEN, SEN training should become a core, compulsory part of initial teacher training for all teachers. The Government should re-start negotiations with TDA on these grounds and in conjunction with the three-fold strategy of SEN training as part of initial teacher training, induction and continued professional development that we have advocated.**

### ***Continuous professional development***

302. Continuous professional development is a key area, but with the numerous priorities a school has to manage, it is unsurprising to hear that SEN falls down the list and 23% of teachers say they have received no more than one day’s training on SEN.<sup>240</sup>

303. The TDA have been asked to develop an approach to continuing professional development (CPD) based on looking at “standards” for teachers and raising expectations through different stages of a teacher’s career. In a written answer to a parliamentary question, the Government said that “The National Occupational Standards for Teaching/Classroom Assistants contains elements relevant to working with pupils with SEN or particular educational needs. The TDA will be reviewing these standards as part of its new responsibilities.”<sup>241</sup>

304. Expectations or standards are being emphasised as being key to the professional development of teachers but it is not clear how teachers can be expected to meet expectations without proper training. David Curtis, Director of Education, Culture and Social Care at the Audit Commission told us that:

“it is our intention to endeavour to strengthen expectations at different stages in the career of teachers so that we are reinforcing much more. The assessment skills, the diagnostics, the early assessment, the interventions, the ability to apply these regimes are something that are part of the progression of every teacher if they want to go up to “senior” teacher and “excellent” teacher status. It is very important that the Committee keeps an eye on those standards as a further potential lever for putting over the message that this is something we need to get stronger. At the moment we accept that professional development in this area is patchy and does need serious attention.”<sup>242</sup>

305. There is already an expectation that teachers should be able to differentiate the curriculum for pupils including those with SEN—it is required as part of the General Teaching Requirements of the National Curriculum. The DfES memorandum implies

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240 Times Educational Supplement, *Inclusiveness and Behaviour Research Report*, September 2005

241 HC Deb, 1 Nov 2005, col 1003W

242 Q740

from this that teachers are already able to differentiate the curriculum in order to teach children with SEN.<sup>243</sup> Recent findings, however, have found this not to be the case.

306. The National Autistic Society have found, for example, that “in mainstream schools only 27% of parents say that all their child’s teachers could adjust their approach and teaching materials—and therefore meet their legal duties under the SEN and Disability Act (2001).”<sup>244</sup> The TES Survey found that teachers feel ill-equipped to deal with children with SEN and receive little or no relevant training.<sup>245</sup> Teachers are expected to be able to differentiate the curriculum for children but are not given appropriate training including knowledge of child development psychology to equip them to do so to the greatest effect.

307. The charity Young Minds says that it spends a great deal of time “pointing out to the government that there should be much more emphasis on child development in teacher training” which would enable teachers to take a much more effective use of personalised learning. The Schools White Paper set goals of wanting to “tailor education around the needs of each individual so that no child falls behind”. But, as the Dyslexia charity Xtraordinary People who raise money to train teachers say, “how will the government deliver this when 96% of teachers don’t have training to teach children with specific learning difficulties?”<sup>246</sup> They said that “the answer to ensuring all children succeed lies in the quality of the training and expertise our teachers and support staff are given.”<sup>247</sup>

308. The Association of Teachers and Lecturers (ATL), in their evidence to this Committee, said that the TDA had reported a year ago that CPD for teachers was in a “dire state”.<sup>248</sup> NASEN, along with many others, argue that “SEN needs to be a priority in schools for training—if teaching is right for those pupils with special or additional needs then teaching will be right for the school population. If SEN is a priority then teachers will take up CPD opportunities and good quality CPD needs to be offered”.<sup>249</sup>

**309. Professional expectations through the General Teaching Requirements are no replacement for training and equipping teachers. Teachers cannot be expected to properly fulfil requirements such as differentiating the curriculum for all children, including those with SEN, without receiving the appropriate training to enable them to do so. In some cases, this may require a detailed knowledge of child development psychology to equip them to do so to the greatest effect. Good quality, appropriate continuing professional development should be made available for all teachers and schools should be resourced to fund them. Compulsory in-service training should include SEN if it is to be given sufficient priority in schools.**

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243 SEN 178

244 The National Autistic Society, *Autism and education: the reality for families today*, 2006.

245 Times Educational Supplement, *Inclusiveness and Behaviour Research Report*, September 2005

246 SEN 199

247 SEN 215

248 Q759

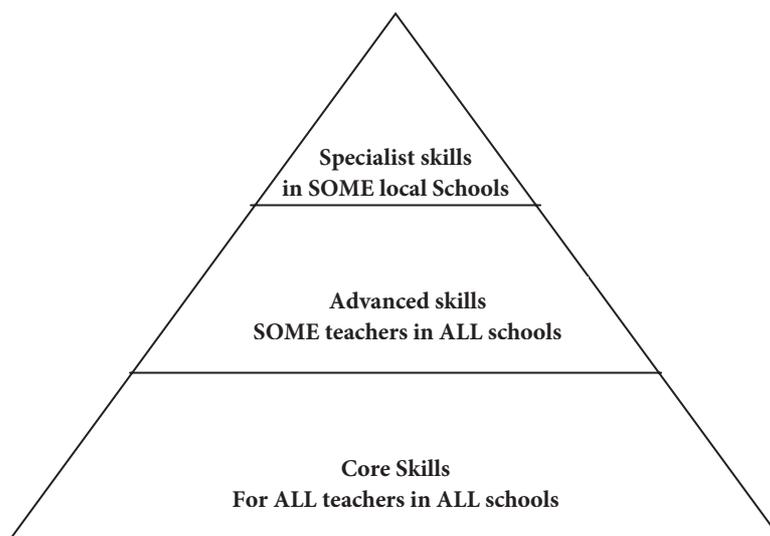
249 SEN 218

### **A new strategy for workforce development**

310. There is a strong consensus across various charities and organisations regarding the proposed solution for teacher training for SEN. The Dyslexia charities for example, such as the Dyslexia Institute and Xtraordinary People, believe that training and equipping teachers to recognise, assess, and teach children with SEN is the single most important factor in radically improving SEN provision. Agreement has been reached on a “triangle of training need” which is a strategy to equip various numbers of teachers to various levels.

311. A recent research report from the University of Cambridge, *The Costs of Inclusion*, has concluded that “additional and strategically targeted resources for professional development are of the highest priority, together with realistic levels of staffing and ongoing expert support for teachers.”<sup>250</sup>

312. Not only is there consensus across many charities and training organisations but this “triangle of training needs” with regard to SEN training was recognised and proposed in the Government’s own 2004 SEN Strategy *Removing Barriers to Achievement*. The document was bold in stating that action would be taken along these lines. It said “every teacher should expect to teach children with SEN—and we must ensure that they are equipped with the skills to do so effectively.”



313. This will require action at three levels:

**Stage 1:** core skills or foundation stage for all teachers and LSAs (recognise problems and have knowledge of early intervention strategies including phonics strategies). All teachers and support workers will teach children with some level of SEN and therefore should have a basic understanding of child development and psychology.

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<sup>250</sup> University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

**Stage 2:** advanced skills or certificate teacher stage (1 year on-the-job training to allow screening, assessment and some specialist teaching)

**Stage 3:** specialist skills or diploma teacher stage (2 years on-the-job training to allow full diagnostic assessments and highly specialised teaching—proposals suggest approximately 1 for every 5 schools).

314. Xtraordinary people have costed this at approximately £5,000 per school.<sup>251</sup>

315. Despite such bold assertions in the Government’s SEN Strategy, however, there has been very little action in the last two years to achieve a strategic approach to training. The TDA’s proposals for non-compulsory modules in ITT and limited CPD opportunities seem very limited in light of the proposals in the SEN strategy. This has been contrasted to how the National Literacy and Numeracy Strategies were integrated into ITT and CPD as compulsory and core elements.

**316. We recommend that the Government prioritises the training of its workforce (teachers, TAs, and early-years professionals), across a broad range of provision, to equip them with the skills and support they need to effectively teach children with SEN.**

**317. More specifically, we recommend that the Government fully implements its own strategic approach to training outlined in the SEN Strategy: putting into practice the “triangle of training needs” in order to achieve the proposed three tiers of specialism in every school; making SEN training a core, compulsory part of initial training for all teachers; and ensuring appropriate priority and quality of continuing professional development to equip all of the workforce. There is a broad consensus of agreement on these proposals and yet little progress has been made since 2004. This is not acceptable.**

**318. The Government should make training and equipping its workforce a top priority and re-start its talks with the TDA on far more ambitious grounds.**

## **SENCOs**

319. The DfES memorandum continues to lay a great deal of responsibilities on Special Educational Needs Co-ordinators (SENCOs) within schools—including some significant new responsibilities such as the proposal to “encourage the delegation of more SEN resources to schools to enable head teachers and SENCOs to address the individual needs of pupils more quickly and without the need to ‘demonstrate need’ to their local authority before resources are made available.” It is not at all clear, however, that SENCOs are always given the appropriate training—or the appropriate authority—to be able to undertake these significant responsibilities. Despite the recommendation in the SEN Code of Practice that SENCOs should be a part of the Senior Management team within a school, this is often not the case, and furthermore, this Committee has received evidence of Teaching Assistants being asked to take on the role of SENCOs in some schools. Baroness Warnock told this Committee that:

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251 SEN 199 and 215

“They were at the beginning senior teachers, but [...] there is now a very large number of schools where the SENCO is actually a teaching assistant and not a teacher at all, with no experience and they are no longer a member of the senior management team but someone with peripheral duties to see how many children there are in that school who are getting this, that and the other.”<sup>252</sup>

320. The growth in non-teaching roles, including the SENCO role being taken by a non-teacher, is having considerable repercussions on whole-school issues re SEN. Some SENCO tasks (e.g. administration of records, appointments) can readily and sensibly be devolved to a non teaching assistant. However other roles, particularly in the context of increasing multi-agency working, can much less convincingly and effectively be carried out by a non-teaching SENCO. A SENCO who is not a qualified teacher is possibly not therefore entitled to advanced formal specialist training (i.e. top tier) as outlined in the Government Strategy for SEN (2004).

321. A recent research report from the University of Cambridge, *The Costs of Inclusion*, has recommended that “SENCOs should in all cases be qualified teachers. Training and support for SENCOs is vital in ensuring the effectiveness of their strategic role in provision. Their influence will be enhanced if they have senior status and are enabled to play a substantive role in planning and policy development.”<sup>253</sup>

**322. Special educational needs co-ordinators (SENCOs) should in all cases be qualified teachers and in a senior management position in the school as recommended in the SEN Code of Practice. Firmer guidelines are required rather than the Government asking schools to “have regard to” the SEN Code of practice. The role and position of a SENCO must reflect the central priority that SEN should hold within schools.**

**323. SENCOs should be given ongoing training opportunities to enable them to keep their knowledge up to date as well as sufficient non-teaching time to reflect the number of children with SEN in their school. These baseline standards for SENCOs to be given training both on and off the job should apply to all schools, including academies and trust schools. Schools should set out in their SEN policy action to ensure that all SENCOs are adequately monitored and supported in their vital roles.**

### **Specialist support services**

324. In its 2004 report,<sup>254</sup> Ofsted recognised the important contribution of specialist support services. The report by the Audit Commission in 2002 identified concerns about a “shortfall of specialist support”.<sup>255</sup>

325. The role of SEN regional partnerships has been important in bringing together policy and provision for low-incidence SEN. Uncertainty about sustained funding has, however, hampered their strategic planning. **We recommend that SEN regional partnerships are**

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252 Q39

253 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

254 Ofsted, *Special educational needs and disability; towards inclusive schools*, 2004

255 Audit Commission, *Special Educational Needs – a mainstream issue*, 2002.

given increased and guaranteed funding for their role in planning provision for low-incidence SEN.

326. Local authorities should take action towards achieving the standards set out in the National Service Framework for children, young people and maternity services in respect of disabled children and speech and language therapy.

### **Educational psychologists**

327. A recent article has said “Educational psychologists have a vital and frequently misunderstood role within Britain's education system.[...] Their expertise is in child development. They usually work with children whose special needs require a tailored educational regime. Those needs can be behavioural, medical, cognitive or social. Educational Psychologists work with schools to develop teaching strategies.”<sup>256</sup>

328. Changes to the training route for Educational Psychologists will mean a move from a one-year master's to a three-year doctorate. The new route, which is broadly welcomed, will also remove the requirement for Educational Psychologists to be qualified teachers. The British Psychological Society was keen to bring the training of Educational Psychologists into line with other areas of applied psychology. They said “we have worked towards the introduction of three-year doctoral training since 1997 because we want to implement the highest standards and have a unified training route. Raising the standards of training in educational psychology reflects changes in national education policy and takes account of developments in Europe.”<sup>257</sup> While welcomed by many, it is likely that the changeover period will exacerbate an already difficult situation because there will almost certainly be no educational psychologists qualifying in the next two years.

329. The government's move towards joined-up children's services is seen as an opportunity for the profession to be recognised for its essential work. The government has recognised that they have a “particular, distinctive contribution”<sup>258</sup> to make and is undertaking a review of the profession that is due to report next month. The minister has, however, already ruled out funding for “expensive changes” to the new training route. The Association of Educational Psychologists say that they are staggered by the government's “dual standards” in making this decision. In evidence to this Committee Kevin Rowland, Chair of the Division of Child and Educational Psychology, British Psychological Society, explained that:

“We are now at a point where we can finally clarify the funding issue. A model used to exist of secondments based on local education authorities but that did not work because some authorities did have teachers train as educational psychologists and some did not. We are moving now to a fair and equitable model. The DfES and LGA are unable to resolve those issues and so at the moment we are faced with no funding mechanism whatsoever.”

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256 ‘Reverse Psychology’, March 7<sup>th</sup> 2006 <http://education.guardian.co.uk/egweekly/story/0,,1724631,00.html>

257 *Ibid.*

258 HC Deb, 1 February 2005, Col 52 WS

330. The Government has recognised the particular, distinctive contribution of educational psychologists. They have a vital role to play in moving towards truly joined-up services for children. The Government should re-consider how the new training route for educational psychologists is funded to ensure that a sufficient number and calibre of professionals are being supported in their training. The Government urgently needs to take additional steps to ensure that the shortfall of educational psychologists is not exacerbated in the two year transition period up to 2008.

## Early intervention and key transition phases

### Early intervention

331. *Removing Barriers to Achievement* 2004 says early intervention is the “cornerstone” of the Government’s SEN strategy (p.9). Evidence presented in this report demonstrates how far that is from being true. Many children are failing to have their needs recognised or diagnosed early enough, if at all, in the present system. Often when a need is identified, it can take many months or even longer for appropriate provision to be made available to meet that need. The Audit Commission report concluded that “too many children wait for too long to have their needs met.”<sup>259</sup> Evidence would suggest that little progress has been made since 2004 under the present system.

332. Ofsted found that “there is a conflict between the language of assessment and categorisation that has given rise to the unacceptable variations of identification of need and appropriateness of provision across the country. This requires urgent resolve.”<sup>260</sup>

333. Early intervention requires the ability of the workforce to recognise or diagnose a particular learning need. As Focus identify, “at present, many cases of SEN go undetected all through primary school, and even secondary school. (this is partly) because the assessments procedure is so complicated, requiring the input of professionals who are in relatively short supply[...].”<sup>261</sup>

334. This goes back to the earlier recommendation that fully equipping and resourcing the workforce must be a key priority for the Government if it is to make progress for children with SEN. The SEN Strategy does not make enough of the link between the capacity for early intervention and training staff. It focuses on existing measures to increase the level of delegated funding which is by no means a sufficient solution in isolation of other conditions being in place.

335. To achieve real progress in terms of early intervention, the Government must move away from the fundamental flaw in the current system that attempts to categorise a certain group of children with SEN. Children exist on a broad continuum of needs and learning styles but do not fit into neat categories of different sorts of children. A system of identification, assessment, and intervention that currently exists for children with SEN should be in place for all children under the personalisation agenda. The system should

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259 Audit Commission, *Special Educational Needs – a mainstream issue*, 2002

260 SEN 133 paragraph 2.1

261 SEN 98

start from the position of every child being seen as having individual learning needs and then establish a sliding scale of additional needs right up to severe complex needs.

**336. The Government should follow through the proposals of *Every Child Matters* to their logical conclusion and fully implement an “assessment for learning” for every child. The workforce must be equipped and resourced to achieve this.** Assessment for learning<sup>262</sup> is gradually being introduced in Primary Schools by the DfES and the recent Schools White Paper talks about “personalised, tailored learning” for individuals but none of this goes as far as would be necessary to replace existing SEN provision with a streamlined and staged intervention process. **To achieve real progress in terms of early intervention the Government needs to change the premise on which SEN is provided to one in which literally “every child matters”.** This would mean a radically new approach to SEN provision where a system of assessment of learning and intervention takes place for every child on a spectrum of provision that can be geared up for children that require high levels of support. A swifter and more intelligent system of assessment is required. The Government should deliver on their promise to put SEN at the heart of the personalisation agenda.

### **Key transition phases—including post-16**

337. Key transition phases are currently a big problem for children with SEN. Changes in provision, location, people, curriculum and ethos can cause major difficulties for some children with SEN and disabilities. Problems have been identified to the Committee at each stage of education from early years to post-16 and into adulthood.

338. A recent research report from the University of Cambridge, *The Costs of Inclusion*, found that “transitions—from home to school, from nursery to primary, from primary to secondary and secondary to FE or elsewhere, as well as lateral transfer from school to school, were mentioned most frequently by parents as the single most prevalent cause of difficulty for children with special needs.”<sup>263</sup>

339. The difficulties in transition from primary to secondary school was raised in oral evidence by Carol Boys, Chief Executive Officer of the Down’s Syndrome Association, who explained that:

“It starts to break down when the child moves into secondary school: the child goes to a comprehensive; a different member of staff for different lessons; having to move around the school. We also have evidence that social isolation starts to cut in at secondary schools as well.”<sup>264</sup>

340. Mike Collins, Head of Education Services at the National Autistic Society, agreed that:

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262 Assessment for Learning is the process of seeking and interpreting evidence for use by learners and their teachers to decide where the learners are in their learning, where they need to go and how best to get there. (Assessment Reform Group, 2002). <http://www.qca.org.uk/printable.html?url=/7659.html&title=Assessment%20for%20learning>

263 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

264 Q577

“Primary schools are beginning to get there but ... they suddenly arrive at secondary school and their world collapses.”<sup>265</sup>

“I think within primary schools [...] there is a greater partnership between a class of children and their teacher. When you arrive in a secondary school, you can be taught by up to 12 or more teachers in a week, so the opportunities to form and establish those sorts of relationships and understanding on both parts is not as great, so that might be one factor.”<sup>266</sup>

341. Mr Collins described the change in environment and ethos that made it difficult for some children with autism to cope with their new surroundings at secondary school:

“In the mainstream settings again the ethos of secondary schools can be quite challenging for young people who are often of at least average ability and intelligence, but find the whole way in which secondary schools operate, which can often be on a very confrontational basis which children with autism do not understand.... That is seen as passive (aggressive) ... challenging the teachers’ authority, so consequently they find themselves being short-term expelled and so on.”<sup>267</sup>

342. Post-16 provision was identified as another major concern in current provision for young people with SEN and disabilities. On a visit hosted by SOS!SEN, a parent-representative organisation, the Chairman heard about the concerns facing many parents of children with severe SEN and disabilities that face a future of their children being dependent for a large part of their life. Although this inquiry is not looking at post-16 provision in detail, it does recognise the challenges faced by these parents. This issue deserves further consideration at a future stage.

343. We know that “disabled young people are considerably more likely than non-disabled people to be not in education, employment or training (NEET).”<sup>268</sup> The Minister agreed that the current education system was failing many of these young people:

“Of course a high proportion of pupils with special educational needs are at the lower performing end of the spectrum and are those who the education system, let us be frank, has traditionally failed, who have got to 16 not getting decent qualifications and not getting effective progression routes.”<sup>269</sup>

344. The Adult Learning Inspectorate (ALI) have recently found that FE Colleges are failing to meet the needs of young people with learning difficulties or disabilities. In a report that David Sherlock, Chief Inspector of Adult Learning for England, described as “difficult reading”, ALI are very critical of the FE sector. That say that “what is missing in many organisations that the ALI inspects are the skills and knowledge to help disabled people fully to realise their potential[...] there is a wealth of energy and talent which is still

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265 Q618

266 Q649

267 Q635

268 Prime Minister’s Strategy Unit, *Improving the life chances of disabled people*. 2005

269 Q887

denied its fulfilment.”<sup>270</sup> **In terms of both availability and quality, post-16 provision is currently failing to meet the needs of young people with SEN and disabilities.**

345. Although this report is not specifically considering SEN at the FE level it does give further support to the conclusions of the Little Report.<sup>271</sup> The report, commissioned by the LSC and independently chaired by Peter Little OBE, argued that radical change was needed in the planning and funding of learning for people with learning difficulties and/or disabilities. In a comprehensive analysis of this provision across the learning and skills sector, it recommended that “the LSC should develop a national strategy for regional and local delivery, through collaboration with partners, to provide provision that is high quality, learner-centred and cost-effective.” Lord Adonis assured the Committee that the recommendations of the Little Report are being taken forward:

“The Little Report... makes a number of particular suggestions about the need for the FE sector to invest in provision for pupils with learning difficulties in colleges and to give this work a higher profile. The Learning and Skills Council has accepted that report. It is now working with local Learning and Skills Councils to see that they all have a proper investment strategy to upgrade their provision and we will be taking forward further work in the White Paper next week.”<sup>272</sup>

346. One of the key aims of Darlington Education Village, visited by the Committee as part of this inquiry, is to reduce the negative impact of key transition stages—in particular the move to secondary school age 11. Having a primary school on site as part of the Education Village, and a special school that caters for children from the ages of 2–19, enables a much smoother transition through the key stages in education. Furthermore, the Education Village is working in collaboration with other local primary schools to encourage new pupils to visit and be involved in the Village as much as possible before enrolling. This will be achieved through a broad range of specific and community-based events.

347. The Education Village also has a close relationship (including at the Governing Board level) with the local FE College to ensure that post-16 transition is made easier for many pupils. The intention is that collaboration across the 14–19 curriculum with regard to resources, provision, and workforce expertise is the rule rather than the exception.

**348. Many children with SEN and disabilities are being let down in transition phases across the education system from early years to post-16 and into adulthood. There needs to be much greater collaboration between schools, special schools and children’s service providers working with parents and children to reduce the negative impact of transition between key stages such as the transition between primary and secondary education.**

**349. For young people with a statement, transition planning for post-16 provision should start when the child reaches year 9 (aged 14 years) and should involve inputs**

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270 Adult Learning Inspectorate, *Greater Expectations, provision for learners with disabilities*, 2006.

271 Learning and Skills Council, *LSC strategic review of the planning and funding of provision for learners with learning difficulties and disabilities* November 2005. Chaired by Peter Little OBE.

from a range of agencies. Young people without a statement should also be offered guidance and support with post-16 transition.

350. There needs to be an urgent examination of how to boost practical links over SEN between schools and post-16 colleges, drawing on some of the successful examples such as the Darlington experience. The emphasis by Government in developing 14–19 vocational qualifications make this particularly urgent if children with SEN and disabilities are not to be discriminated against in this process.

### Partnership working and *Every Child Matters*

351. This report has repeatedly referred to the importance of collaboration and partnership working to improve outcomes for children with SEN. **Collaborative working is required across schools and across agencies to achieve the sharing of provision, facilities, expertise, and support for the benefit of children with SEN. Communities or clusters of schools should be working together where all children feel they belong. These should include special schools, which have a great deal to offer to such collaborations with regard to specialist facilities and expertise.**

### *Collaboration between mainstream and special schools*

352. A recent research report from the University of Cambridge, *The Costs of Inclusion*, has recommended that SEN policy “should not rely on individual schools struggling to contain children with special needs but should be conceived as a collaborative effort, sharing resources in a spirit of mutual support. Special schools should have a significant role to play as an expert resource for mainstream schools while they in turn have a supporting role to play in partnership with special schools.”<sup>273</sup>

353. There is considerable consensus of opinion that collaboration and partnership working between mainstream and special schools is advantageous and should be encouraged. There are advantages in terms of access to resources and facilities—in both directions—and access to shared expertise and broader professional development—again in both directions. As Brian Lamb OBE, of RNID and the Chair of the Special Educational Needs Consortium, told the Committee:

“I do not think there is the cliff-face that people often assume between mainstream over here and special school over there, and a wasteland between. If you look at the way the system is actually developing (and I think is going to develop much more), the whole idea of mainstream as ‘one particular school over there’ is falling apart, because what you have is specialist support services, you have co-location of specialist support within mainstream schools[...] and you have children moving between those different kinds of support. More and more, with federated schools and with clustering of schools and clustering of resources, that whole distinction

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<sup>273</sup> University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

between, somehow, mainstream being [...] over here and special schools being [...] over there is breaking down.”<sup>274</sup>

354. Ofsted (2004) found that effective collaboration between mainstream and special schools was the exception rather than the rule. The ATL argued that collaboration between mainstream and special schools is a productive way forward but often difficult to achieve in practice; Local authorities, they say, should ensure adequate resources are available for partnership working.<sup>275</sup> Ofsted (2004) have also found that collaboration between mainstream schools and special schools is most effective when driven by the local authority.

355. Partnership can also be achieved with non-maintained independent special schools. NASS argue that “Although there are some tensions between NMISS and local authorities surrounding funding, there are also many examples of strong partnerships. The development of the 11 SEN Regional Partnerships has created opportunities for NMISS to work closely with authorities in their area. Relationships between NMISS and local mainstream schools are often particularly strong.” They maintain that “It is appropriate that local authorities should be reviewing and developing their own provision and considering regional provision. NASS argues that NMISS are ideally placed to be part of that regional picture of provision.”<sup>276</sup> Claire Dorer, Chief Executive of the National Association of Independent Schools and Non-Maintained Special Schools (NASS) described to the Committee that:

“There is a continuum[...] ranging from children who are entirely in mainstream placements, at one end, to children who are exclusively in a special school placement at the other. In between[...] it may well be that you have a special school and a mainstream school on the same site and children will spend sessions in both schools; it could be children who are in a special school for part of a week and also registered with a mainstream school for the other part of the week. There is a whole range. It could be about support services going in, or the children coming out for specific sessions. It is a broad continuum. We would like to see a whole range of activities that removes the debate for saying that it is either mainstream or it is a special school.”<sup>277</sup>

356. Personalisation, inclusion and partnership are said to define the DfES strategy to SEN in their memorandum to this inquiry. The memorandum talks a great deal about collaboration between schools, federations or clusters of schools, and developing a third way (an approach that combines elements of mainstream and special education). It highlights examples of “communities of schools” where “the aim is for children to be educated in their locality and have the opportunity to participate in mainstream activities as a result of special and mainstream schools working together in clusters.”<sup>278</sup>

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274 Q243

275 SEN 117

276 SEN 156

277 Q260

278 SEN 178

357. **The focus in the Education and Inspection Bill on creating autonomous, independent schools seems to contradict the aim of creating clusters and communities of schools.** The Schools White Paper stated “our aim is the creation of a system of independent non-fee paying state schools.”<sup>279</sup> Under these arrangements it is not clear what incentives a successful independent school would have to join a cluster of local schools including special schools and it is very unclear what leverage a local authority would have to encourage them to do so within its planning role.

358. The NUT also states that there are “alarming contradictions in the Government’s Five Year Strategy and in the Government’s SEN strategy. The Five Year Strategy advocates greater autonomy for individual schools, greater diversity among schools, and a weakened role for local authorities as well as the increasing number of City Academies. The Government’s SEN strategy urges schools to work together and to build collaborative structures to share expertise. There is an inherent contradiction between the direction of travel set out in these respective strategies.”<sup>280</sup>

359. The Cambridge research report *The Cost of Inclusion* recommended that “future policy should serve to enhance collaboration among schools to ensure the best service to all children. Currently collaborative initiatives are undermined by fragmentation of school types (specialist schools, academies, selective schools), competition for pupils and reluctance to accept children seen as detrimental to the school’s attainment profile. Advocacy of network learning communities, joined-up child and family services and co-operative multi-agency work will be futile and counter productive if policy fails to address these systemic issues.”<sup>281</sup>

360. **The Government should resolve apparent contradictions in its strategy outlined in the Education and Inspection Bill between, on the one hand, giving greater autonomy to individual schools including a greater number of City Academies and, on the other hand, its SEN strategy that urges schools to be working in partnership to build collaboration to share resources and specialist knowledge. The Government should provide specific funding to local authorities to increase the extent to which they are able to facilitate and encourage collaborative arrangements where communities of schools work together, sharing facilities and professional expertise, to improve the outcomes for children with SEN.**

### **SEN and the Every Child Matters agenda**

361. The importance of Joint Services working in partnership for children with SEN cannot be overstated.

362. In their memorandum to this inquiry Ofsted described the situation very well. They said “we need to move away from developing a future based on historical issues related to place and systems, to a future focused on successful learning and social outcomes through

279 DfES, *Higher Standards, Better Schools for All—more choice for parents and pupils*, Schools White Paper, October 2005

280 SEN 01, *summary*.

281 University of Cambridge, John MacBeath et al, *The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools*. Commissioned and funded by the National Union of Teachers.2006.

flexible provision which ensures good value for money.[...] A way forward is through the ECM and Children’s services agenda that brings the dimensions of children and young people’s education, care, and health together through pooling of resources.”<sup>282</sup>

363. The five objectives of *Every Child Matters* apply across education provision from early years provision through to further and higher education and should be utilised to improve outcomes for children with SEN. As the DRC said in their memorandum “The DRC supports the Government’s strategy *Removing Barriers to Achievement* and the *Every Child Matters* change for children programme, which sets out to improve outcomes for all children and to narrow the gap in outcomes. The DRC encourages the Government to implement in full and build upon these strategies.”<sup>283</sup>

**364. The *Every Child Matters* agenda with its emphasis on five broad outcome measures (being healthy, staying safe, enjoying and achieving, making a positive contribution to society, and achieving economic well being), inter-agency working, establishing lead professionals, and using the extended services agenda to bring sectors together has the capacity to achieve a great deal for children with SEN. The potential benefits of implementing this key Government agenda for children with SEN should be fully realised.**

### **Partnership with health professionals**

365. Particular problems have been highlighted with regard to working in partnership with health professionals. Newcastle City Council said: “The DfES are clear in their guidance about the level of teaching staff required in specialist settings. However there is no guidance about the level of health/therapy provision which should be available. This means the level of provision is left to the decisions of PCTs and Health Trusts, where the priorities, with restricted budgets, will always be on the demands of the acute rather than long term ongoing therapy provision for children and young people with SEN. Without any clear national guidance the levels of therapy provision in specialist provision are currently inadequate, with the added inequality across the region of significant variations between local PCTs and health trusts. local authorities have had to move to make up the shortfall in health provision and across the region are now funding additional therapy posts in specialist provision—we’ve just recently allocated £150,000 to new therapy posts in Newcastle. However this local authority, like other local authorities in the region, now has very restricted budgets which are focused on providing central services and it is difficult to know whether we will be able to continue to fund therapy posts on long term sustainable basis.”<sup>284</sup>

366. In oral evidence Virginia Beardshaw, I CAN, made a strong call for joint working between health and education. She argued:

“I would recommend to the Committee a really important point [...]about ensuring and enforcing joint ownership between education and health.[...] Many, many I

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282 SEN 133

283 SEN 05

284 SEN 135

CAN parents are driven to distraction and despair by the fact that, although there are recommendations about speech and language therapy in a child's statement, they cannot be accessed because the statement is not enforceable on health. I believe that, with the changes to children's services and particularly the implementation of integration across children's trusts, we have a once-in-a-generation chance to address that, and I would recommend that to the Committee. It needs to be enforceable on all the agencies concerned. It is quite wrong to make recommendations which have budgetary impacts on other agencies and then there is no way of families enforcing that, so I am making that point very strongly."<sup>285</sup>

367. There needs to be much closer working at the local level, between Child and Adolescent Mental Health Services (CAMHS) and educational providers on addressing the needs of children with SEN and disabilities who either do access or are eligible to access such activities. It is crucially important that as Children's Trusts develop under *Every Child Matters*, and as local authority education and social care departments work together to that agenda, that provision such as family support for example, for children on the autistic spectrum, is not lost in disputes during the integration process.

**368. The Government should seek to resolve issues with regard to partnership working with health professionals. A national strategy should include minimum standards in terms of access to therapy provision and other health provision for those children that need it. The DfES should work with the Department for Health to achieve joint-service working and ensure that children's needs are being met.**

### ***Effective partnership with parents and communities***

369. The very difficult question is how to effectively achieve a partnership relationship with parents. Many of the memoranda we have received from parents claim that they are not being involved or informed and are far from being partners in any decisions regarding the provision for their children.

370. The DfES memorandum discusses "partnership with parents" within the section that describes "the current position" rather than in the section on Government priorities for the future or next steps. This seems to assume that there is already effective partnership working with parents. It refers to the rights of parents to be informed through the SEN code of practice, and the procedures available for resolving disagreements, and then concludes from very limited evidence, that "for the great majority of families the system is operating effectively to meet their children's needs".

371. Within the section titled "Next Steps" the statement is made that local authorities "have a key role in ensuring that parents from all backgrounds can be involved in this (reforms of services)", but with no indication of how they might go about doing this.

372. The language used in guidance seems to be setting the wrong tone for a partner relationship as well. The SEN Code of Practice, SEN Strategy, DfES memorandum and the Schools White Paper repeatedly refer to the "rights" of parents in comparison to the "responsibilities", "requirements" or "duties" of the local authority. The language used

seems to reflect an assumption that the rights lie with the parents and the responsibilities with the local authorities. It is not clear that this is a helpful basis on which to establish a partner relationship. Rights and responsibilities come hand in hand and both exist for all parties involved. The local authority also has the right to undertake a planning role with regard to provision for example, and parents also have a responsibility to act in the best interest of their child, and a duty to act as a partner in a proposed partnership with parents. The language used in guidance should be more balanced to reflect the rights and responsibilities that exists for all parties and to encourage responsible partnership arrangements.

**373. The Government need to re-think their approach to involving parents. The Government should set out clear expectations for parents in terms of minimum standards of provision and access to a broad and flexible range of appropriate provision. The Government should seek to actively involve parents as part of their early intervention strategy and keep them involved as much as possible at all stages. The Government should try to ensure that local councils and schools do their utmost to co-operate in this process. It is essential that mechanisms are in place to ensure that parents are well informed throughout the whole process.**

374. Community level involvement and partnership in collective working strategies is also important for the improvement of outcomes of children with SEN and disabilities. Community involvement is key to improving early intervention, key transition stages, and for reaching the most hard to reach young people and families. Integrated health services, pre-school children's services, and shared facilities across local communities—not just communities of schools—can all help to build links and relationships for the benefit of all children including those with SEN and disabilities.

## Annex: A statistical analysis of Special Educational Needs

### Trends in the number of pupils with SEN

In 2005, 18% of all pupils in England were recorded as having some sort of special educational need (SEN) or disability—around 1.5 million pupils.

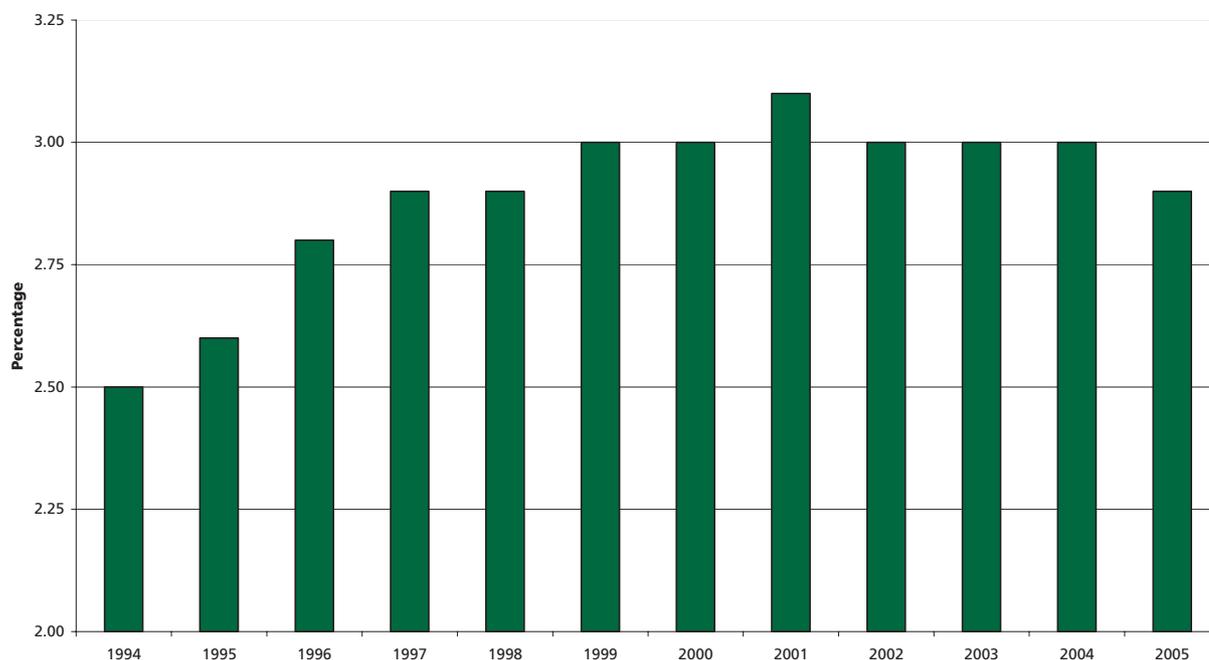
This was made up of 3% of all pupils with statements of SEN and 15% of all pupils with SEN but without a statement.

### Numbers and incidence of stated pupils

Around 242,500 pupils had statements of SEN in England in January 2005—a slight decrease from the 247,600 in January 2004.

The percentage of pupils with statements also fell slightly to 2.9%. The following chart shows the percentage of pupils with statements from 1994 to 2005.

Chart 1: Percentage of pupils with statements 1994 to 2005



Data source: DfES Trends in Education and Skills.

<http://www.dfes.gov.uk/trends/index.cfm?fuseaction=home.showChart&cid=3&iid=13&chid=49>

Looking back, from 1991 until 1999 there was a constant pattern of increase in both the number and the proportion of statements made in England.<sup>286</sup> Chart 1 above shows the

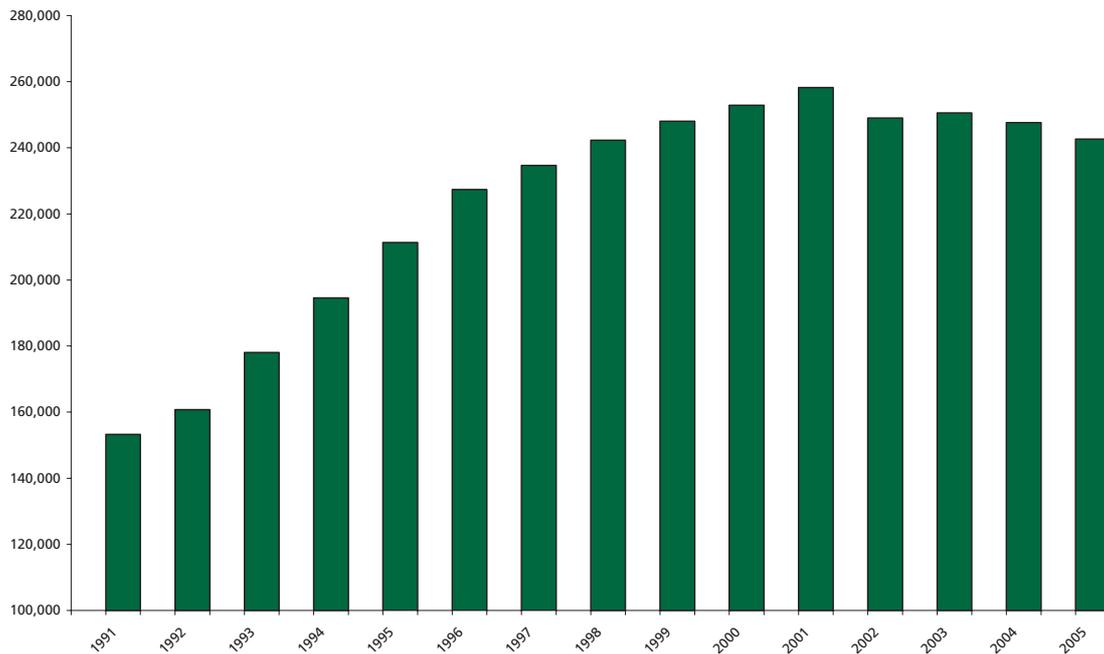
286 DfEE statistical bulletin *Special educational needs in England: January 2000* Ref 09/00; National Assembly for Wales statistical report, *Pupils with statements of special educational needs: January 2000*, SDB 113/2000. And from House of Commons Library, *The Special Educational Needs and Disability Bill (HL): Statistical Appendix*, Bill 55 of Session 2000-01. Research Paper 01/29.

proportion of pupils with statements increasing up until 1999. Since 1999, however, both the number (around 250,000) and the proportion of pupils with statements (around 3%) have been broadly constant.

To give further detail, the proportion of pupils with statements increased from 2.5% (1994) to 3.0% (1999). There was a peak of 3.1% (2001) after which it subsequently declined to 2.9% (2005).

Chart 2 below shows the trend in the actual number of pupils with statements in schools in England since 1991.

**Chart 2: Total number of pupils with statements of SEN 1991 to 2005**



Source: DfES. *Statistical First Release 24/2005*

Chart 2 shows that the total number of pupils with statements increased in each year from 1991 to 2001, peaking at over 258,000. Since then numbers with statements have slowly declined, reaching 242,580 in 2005.

### ***Pupils without statements***

In 2005, 15% of children were recorded as having SEN without statements. Statistics on pupils with SEN but without statements were collected for the first time for maintained primary and secondary schools in England in 1995 and independent schools from 1996. Figures are given in the appended Table 7. The number of such pupils increased by nearly one third from 1.2 million in 1997 to 1.6 million in 2001 but then declined again after 2001. By 2005 this figure had returned to 1.2 million. Incidence (the proportion of the total school population) has also declined from 19% (2001) to 15% (2005).<sup>287</sup>

287 Excluding maintained and non-maintained special schools

## Trends in the placement of pupils with SEN

### Placement of statemented pupils

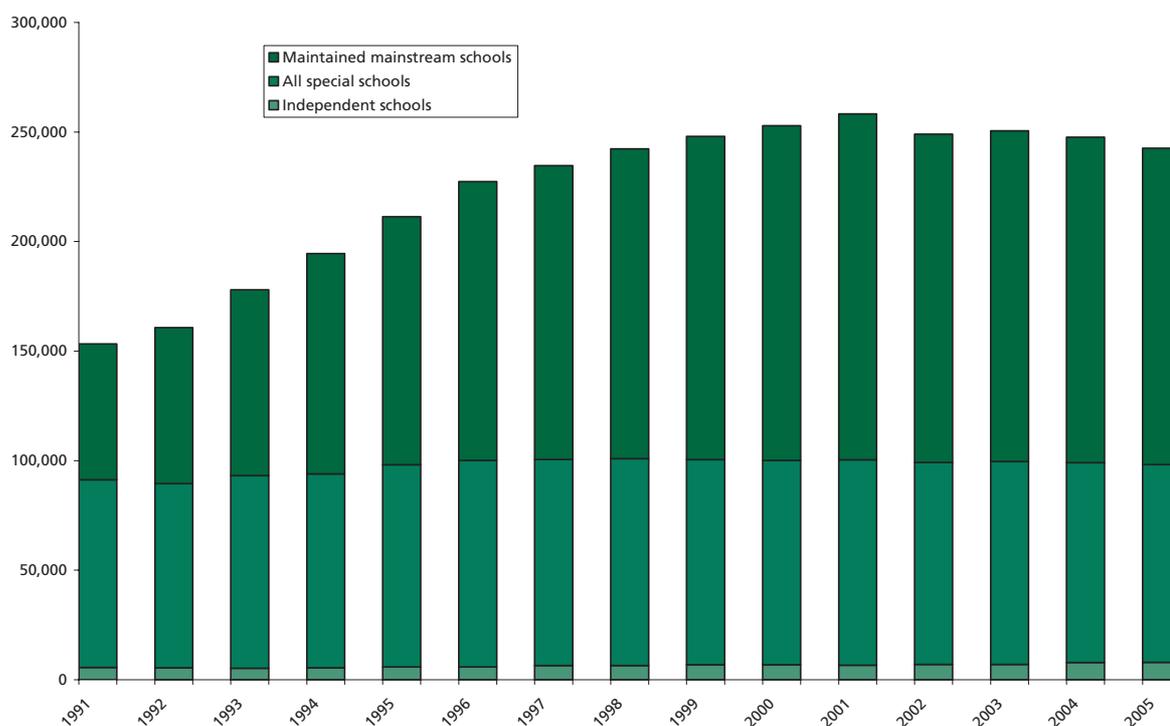
The percentage of pupils with statements placed in maintained mainstream schools remained at 60.0% in January 2005. The percentage placed in maintained special schools or Pupil Referral Units (PRUs) increased slightly from 36.9% in January 2004 to 37.2% in January 2005.

Charts 3 shows the trend in the placement of pupils with statements of SEN by school type: 1991 to 2005. The chart shows very clearly that the considerable increase in the number of pupils with statements were all placed into the mainstream sector from 1991 to 2000—the numbers in special schools increased very slightly but nothing like as much as numbers in mainstream schools.

It was from 1991 to 2000 that the balance of pupils with statements between mainstream and special schools shifted so dramatically. The number of statemented pupils in maintained mainstream schools increased by over 95,000 from 1991 to 2000. This represents over 90% of the total increase in statemented pupils. At the same time, the number of statemented pupils in special schools stayed relatively constant. The consequence of this was that in 1991, around a half of all pupils with statements were being educated in special schools but by 2000 the proportion had fallen considerably to around one third.

Chart 3 also shows that since 1999–2000, both the numbers and proportions have remained broadly constant in mainstream and special schools.

**Chart 3: Placement of pupils with statements by type of school, 1991–2005**

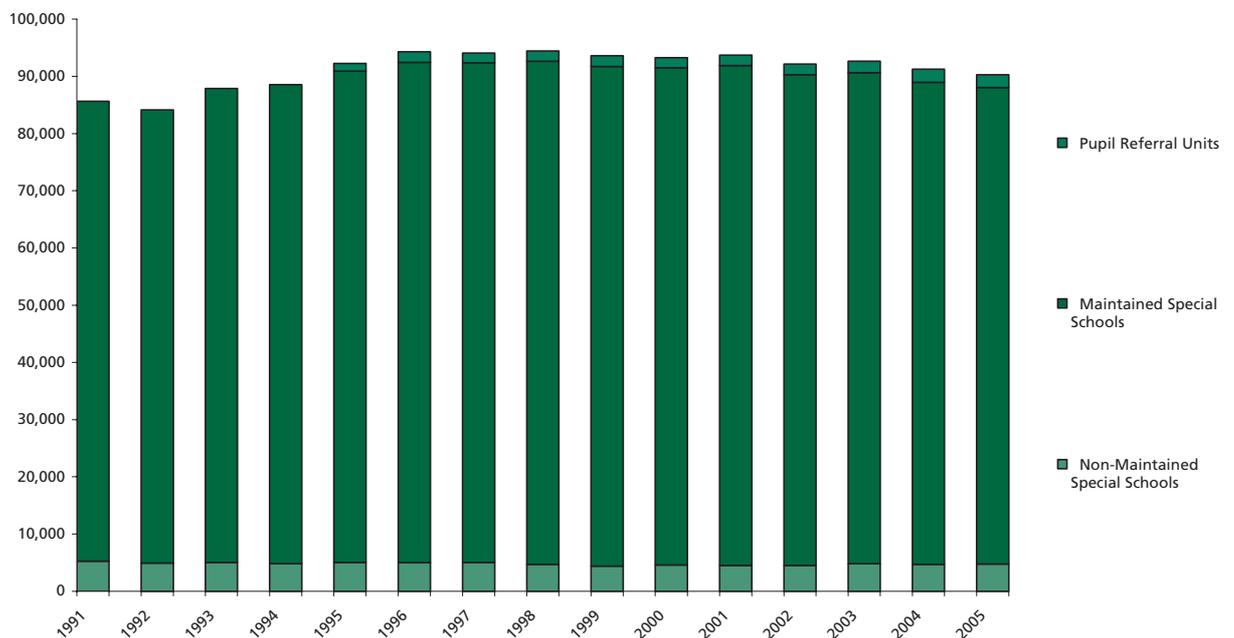


Source: Information provided by the DFES. Table 1a of SFR 24/2005 extended over time.

Chart 4 below shows the placement of pupils with statements in special schools by type of Special School from 1991–2005. It shows the broadly constant number of pupils with statements in special schools over time and the broadly constant number in each type of Special School. In 1991 there were 85,600 pupils in special schools, and in 2005 there were 90,300.

Chart 4 shows the introduction of Pupil Referral Units (PRUs) in 1995 and shows the numbers in relation to the total number of pupils in maintained special schools. In 1997, 2% of pupils with statements were at PRUs, in 2005 this had risen by just 1 percentage point to 3%.

**Chart 4: Placement of pupils with statements in special schools by type of special school, 1991–2005**



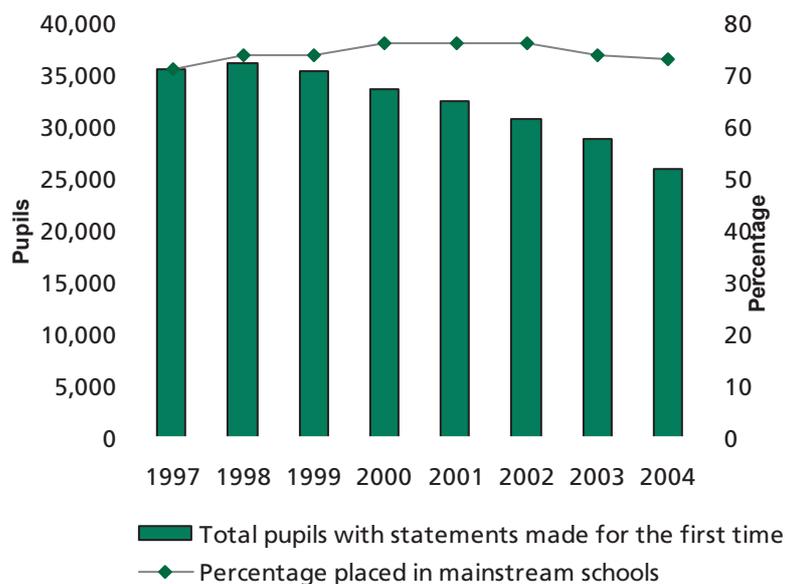
Source: Information provided by the DFES. Table 1a of SFR 24/2005 extended over time

### **The number of new statements issued**

Chart 5 and appended Table 6 provide data on the number of new statements made from 1992 to 2004. Table 6 shows that there was a high level of new statements made from 1992 to 1999.

Chart 5 shows the number of new statements made since 1997. It shows that the number of new statements peaked at 36,000 in 1998. Since then year-on-year decreases resulted in 26,000 new statements in 2004, a 28% decline from 1998. Chart 5 also shows that the proportion of pupils with new statements placed in mainstream schools has stayed broadly constant since 1997 at around 75%.

Chart 5: New statements made 1997–2004 and the percentage placed in mainstream schools



Source: DfES Trends in Education and Skills.

<http://www.dfes.gov.uk/trends/index.cfm?fuseaction=home.showChart&cid=3&iid=13&chid=49>

## The number and pattern of special schools

### Special schools

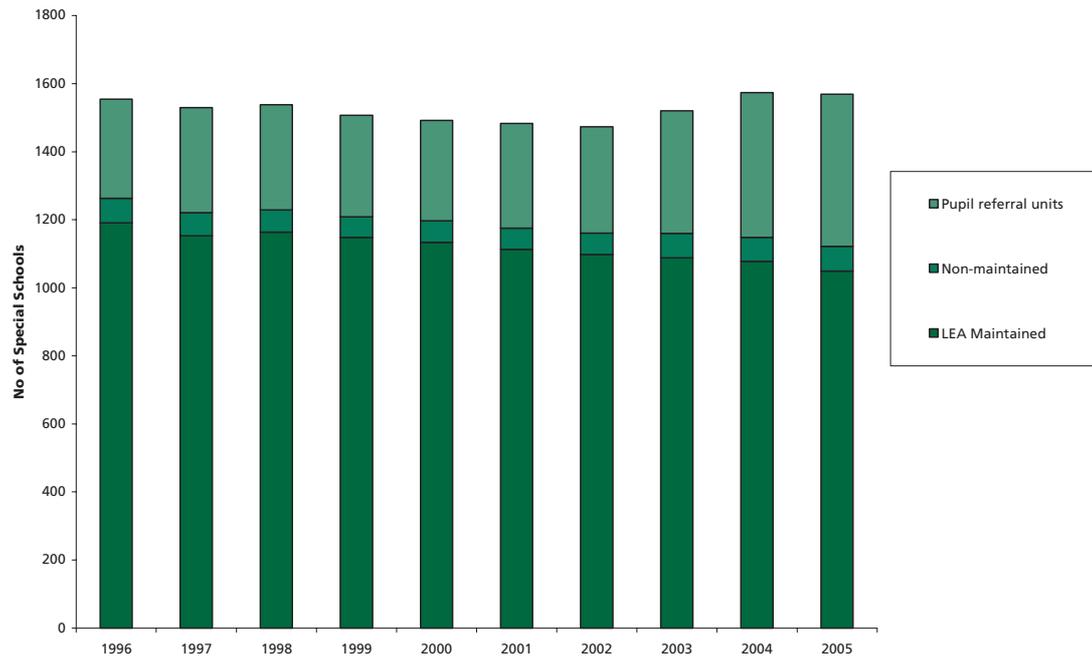
The number of special schools in England has fallen in each year since 1979.<sup>288</sup> It should be noted that the rate of decline has slowed significantly since 1997 but nevertheless, the number of maintained and non-maintained special schools in England has continued to fall from 1,239 (1997) to 1,148 (2004) as shown in Chart 6. If Pupil Referral Units are taken into consideration, however, Chart 6 shows that there has not been a decline in the overall number of special schools from 1996 to 2005.

The number of maintained special schools, specifically, has reduced slightly from 1,171 in 1997 to 1,049 in 2005. The number of non-maintained special schools has, in contrast, risen from a low of 61 in 1999 to 73 in 2005. During the same period the number of independent schools approved specifically by the Department as suitable for the admission of pupils with statements has fallen from 99 to 93, while the number of independent schools registered with, but not approved by, the Department as catering wholly or mainly for children with statements has increased from 69 to 148.<sup>289</sup>

<sup>288</sup> DfEE, *Schools in England, 2000* and earlier editions. And House of Commons Library, *The Special Educational Needs and Disability Bill (HL): Statistical Appendix*, Bill 55 of Session 2000-01. Research Paper 01/29.

<sup>289</sup> SEN 178

**Chart 6: Number of special schools by type, 1996–2005**



Source: DfES. *Statistical First Release 24/2005*

The number of full-time pupils in special schools has also fallen consistently since 1979 although, again, the vast majority of decline in pupil numbers took place before 1997, and indeed before 1991. Table 3 below shows that the number of pupils in special schools fell by nearly 30% in the 12 years from 1979–1991.

As with the decline in the number of schools, the rate of decline of pupils has slowed significantly since 1997 as shown in Table 3 below. From 1997–2005 there has been a 4% decline in the total number of pupils in special schools.

**Table 3: The number of full-time pupils in special schools 1979–2005**

<b>Year</b>	<b>Number of full-time pupils in special schools</b>	<b>% change (from previous recording)</b>
1979	131,000	n/a
-----	-----	-----
1991	95,400	-27.5%
-----	-----	-----
1997	94,050	-1.5%
1998	94,440	+0.1%
1999	93,610	-1%
2000	93,260	-1%
2001	93,700	+1%
2002	92,130	-2%
2003	92,650	+0.5%
2004	91,250	-2%
2005	90,290	-1% (4% drop since 1997)

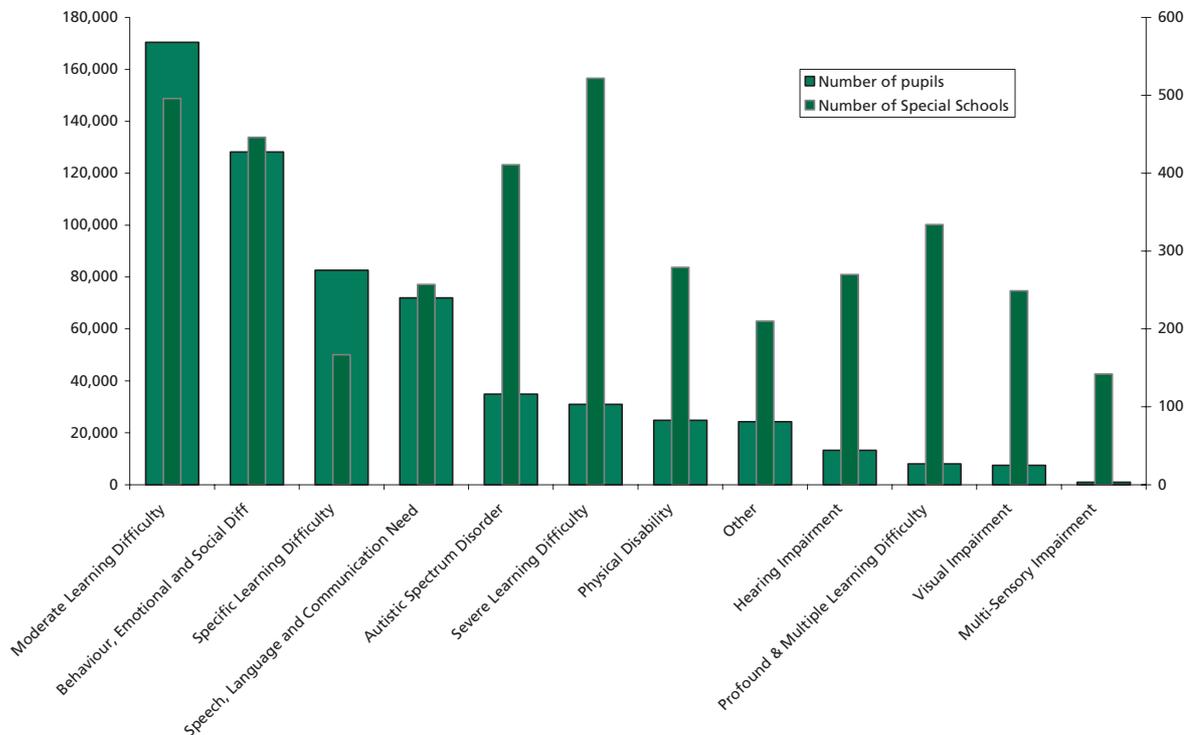
*Source: Data for 1979 and 1991 from Schools in England, 2000 and earlier editions, DfEE. Data from 1997 onwards includes special schools. Provided by House of Commons Library*

### ***The pattern of special schools***

In terms of the type of special schools in the sector, it has been suggested by witnesses to the Committee that there is a certain amount of “re-structuring” going on as some types of special schools close and others open.

Chart 7 below compares the number of pupils with SEN by type of special need against the number of special schools in that area.

**Chart 7: Number of pupils with SEN by type of special need compared to number of special schools in that area**

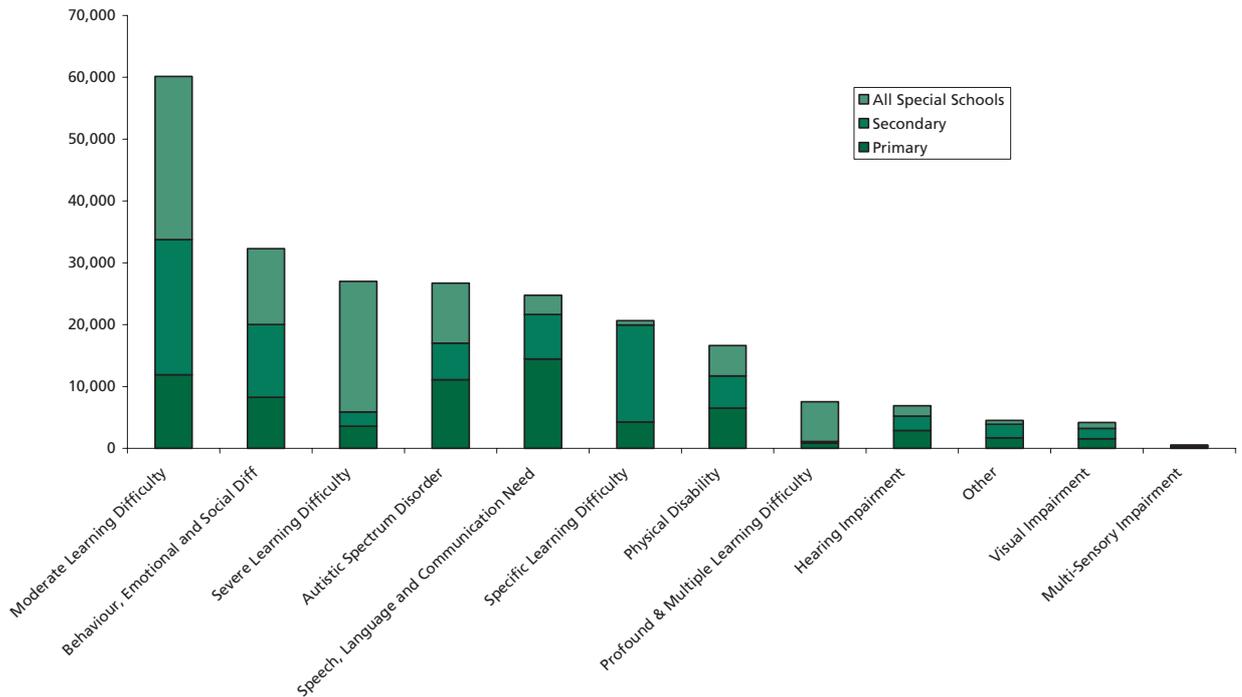


Source: Statistical First Release 24/2005. Pupils with SEN are those with statements and on School Action Plus.

Chart 7 above shows the pupils by their type of special needs, ranked by order of incidence. In comparing the pattern of special schools to this ranking, it is clear that the number of each type of special school does not correlate with the incidence of pupils with that particular special need. This would suggest that there is further scope for re-structuring in the sector. However, there are other factors to consider before this assertion could be made.

One important consideration to make is the fact that there will be greater proportions of pupils with particular special needs in special schools. For example, Chart 8 below shows that the types of special needs with by far the highest proportion of pupils in special schools are those with “profound and multiple learning difficulties”, and “severe learning difficulties”.

**Chart 8: Pupils with statements of SEN by type of special need and placement**



Source: DfES. Statistical First Release 24/2005. Pupils with statements of SEN only.

Chart 8 above suggests that there are various factors affecting the incidence of pupils in special schools for any type of special need. There is no doubt a relationship between placement in special schools and the extent to which pupils can be effectively included in mainstream schools, but this is by no means the only factor.

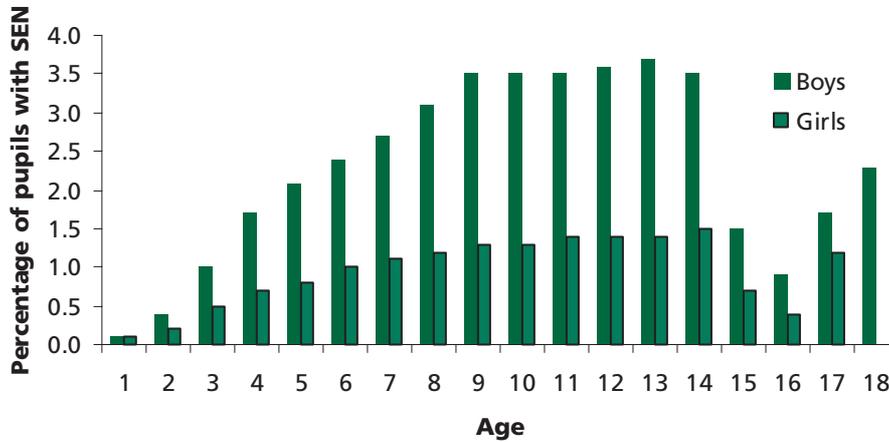
It is interesting to note from Chart 8 that the newer types of special needs such as behaviour, emotional, and social difficulties (BESD) and Autistic Spectrum Disorder (ASD) are now high incidence types of special needs but there relatively few pupils in special schools (around a third in each case). This could be because such children are being effectively included in mainstream schools, or it could also be because the SEN system has been slow to re-structure to meet the changing needs of pupils with particular types of special needs.

It is interesting to note that whilst some types of special needs have relatively few pupils in special schools (Specific Learning Difficulties, Speech Language and Communication Difficulties, Physical Disability and Hearing and Visual Impairment), there are some types of special needs where nearly all pupils are taught in special schools (Profound and Multiple Learning Difficulties and Severe Learning Difficulty).

### Age and gender

Chart 9 and appended Table 9 show the proportion of the school population with SEN statements by age and gender.

Chart 9: Percentage of school population with SEN statements by age and Gender—Jan 2005

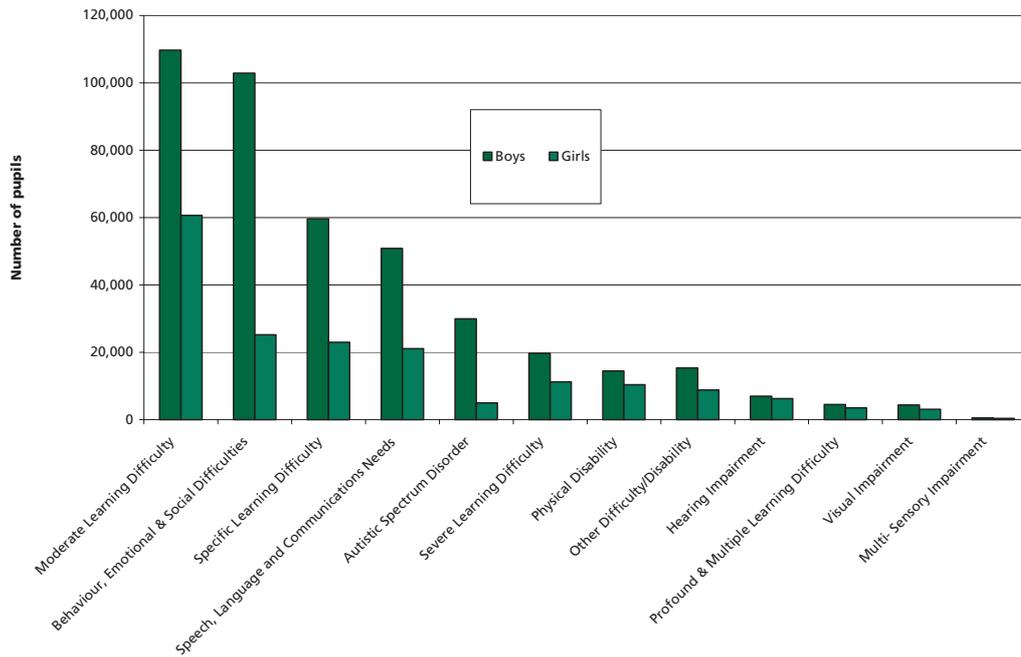


Source: Appended Table 8: SEN in England, 2005, DfES

At all ages a significantly higher proportion of boys than girls in the school population have SEN statements (more than twice as many at all ages). SEN statements as a proportion of the total school population are greatest between the ages of 12 and 15. Some 2.5%–2.6% of all pupils within this age band possess statements—Chart 9 shows that this is more than 3.5% for boys.

Chart 10 below shows the number of pupils with SEN by type of special need and gender. It shows that with the fastest growing types of special needs—behaviour, emotional, and social difficulties (BESD), and Autism Spectrum Disorder (ASD)—boys are more than five times as likely to have these types of special needs. This suggests that any policies aimed at improving SEN provision must pay particular attention to whether the appropriate teaching strategies are in place to meet the needs of this growing number of boys with particular special needs.

**Chart 10: Pupils with SEN by type of special need and gender**

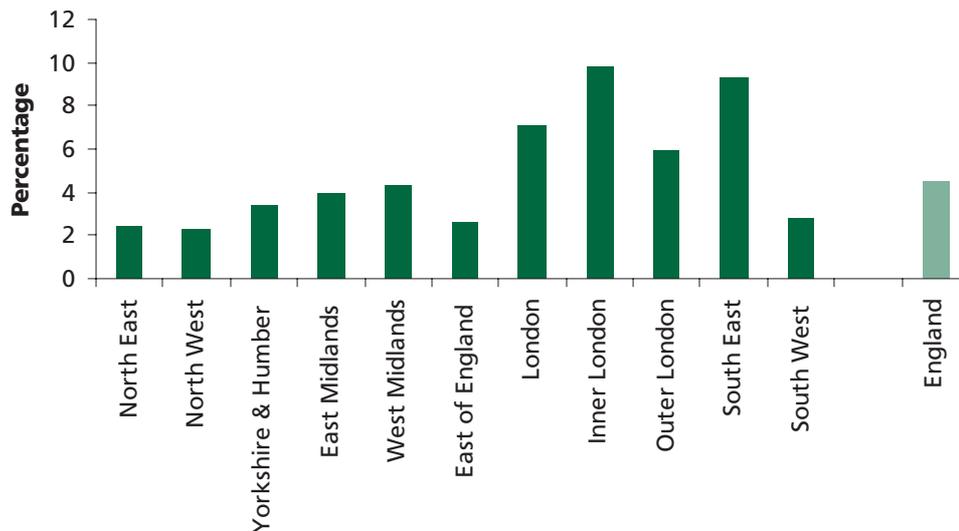


Source: Statistical First Release 24/2005, DfES (from Table 18 in SFR 24/2005)

### Geographical variation

Charts 11 and 12 and appended Table 8 show the geographical variation in the percentage of secondary schools with a given proportion of the pupils with SEN. First, schools where 35%–50% of pupils have SEN:

**Chart 11: Proportion of secondary schools with 35%–50% of pupil population with SEN—Jan 2005**



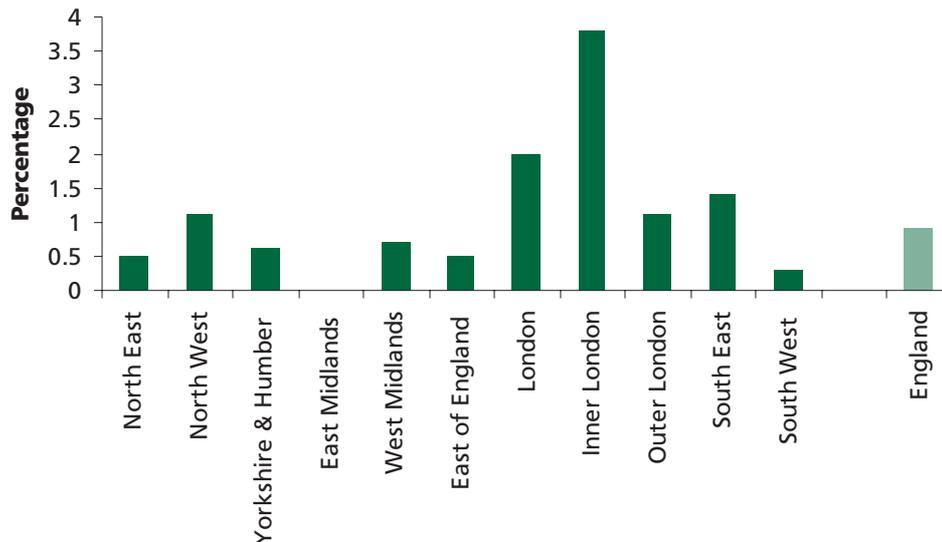
Source: Appended Table 7, SEN in England, 2005, DfES

It is also possible to look at the differences between mainstream schools in proportion of pupils with SEN. The majority (over 70%) of primary schools in England have less than 2% of pupils with statements. 65% of secondary schools have fewer than 3% of pupils with statements.

In January 2000 there were 121 primary and 25 secondary schools which had more than 1 in 10 pupils with statements. The majority of schools have between 10% and 25% of pupils with SEN (both statemented and unstatemented).

There are, however, around 250 primary schools and 72 secondary schools where over half the pupils have SEN. Chart 12 shows schools where over 50% of pupils have SEN.

**Chart 12: Proportion of secondary schools with 50% plus of pupil population with SEN—Jan 2005**



Source: Appended Table 7, *SEN in England, 2005*, DfES.

Schools where the concentration of SEN pupils is above the national average are in London (particularly Inner London), and the South East.

### ***Geographical variation of statementing and placement in special schools***

There are considerable variations between local authorities in the provision made for children with statements. Table 4 shows the variation in the minimum and maximum percentage of pupils placed in different types of provision across individual Local Authorities.

Table 4 shows that the percentage of pupils placed in Maintained Special Schools varies from 0% to 60% across different Local Authorities. The percentage in maintained mainstream schools varies from 19% to 73%. The variation across LAs in placing pupils in Independent Special Schools was from 0.4% to over 19%. This is a remarkable level of variation and demonstrates the extent to which Local Authorities decide their own strategies for the provision of children with SEN.

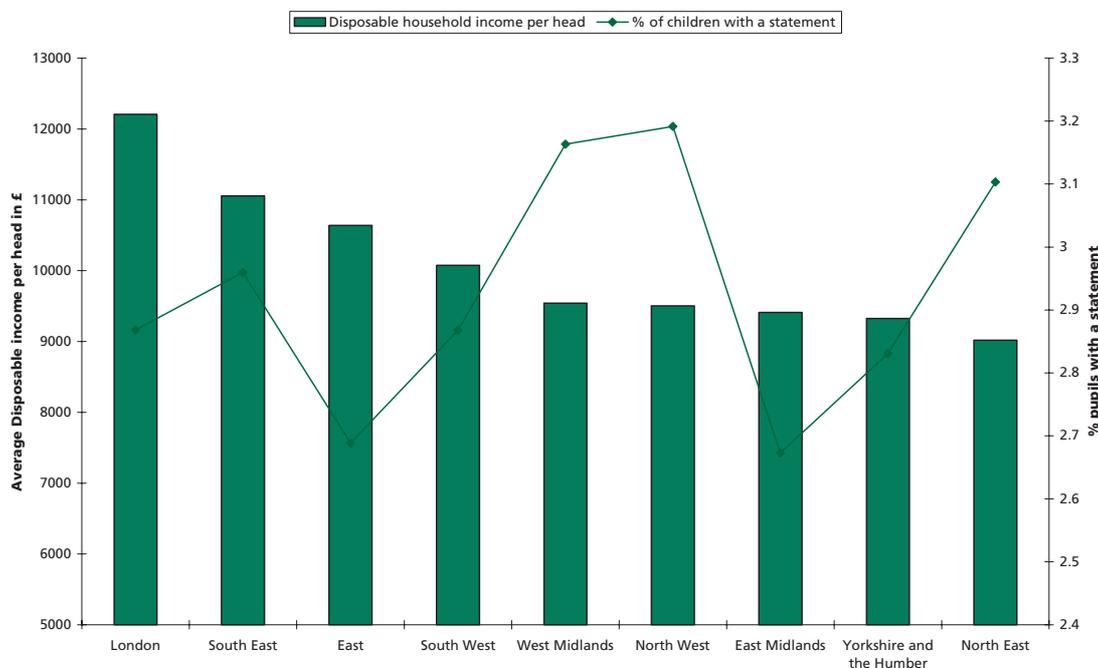
**Table 4: Minimum and maximum % pupils placed by type of provision across Local Authorities, 2005**

	mainstream schools	resourced provision, units & special classes in mainstream schools	maintained special schools	non-maintained & ind. special schools
	%	%	%	%
ENGLAND (average)	51.9	7.7	32.8	4.6
<b>In individual authorities</b>				
Minimum	18.9	0.0	0.0	0.4
Median	51.8	6.5	32.0	4.2
Maximum	73.0	42.8	60.0	19.2

Source: SEN2 survey, January 2005. From DfES memorandum SEN 178

Evidence given to this Committee has suggested that, in the more wealthy areas of England there is a higher incidence of statementing of children with SEN—it is argued that more affluent parents will fight harder to obtain a statement of SEN which specifies provision for their child. Chart 13 shows an analysis of geographical variation of statementing by region measured against the average disposable income per head (as a measure of wealth). Chart 13 below shows that this assertion is not borne out in the data at a regional level.

**Chart 13: Average disposable income by region compared to the percentage of pupils with statements**



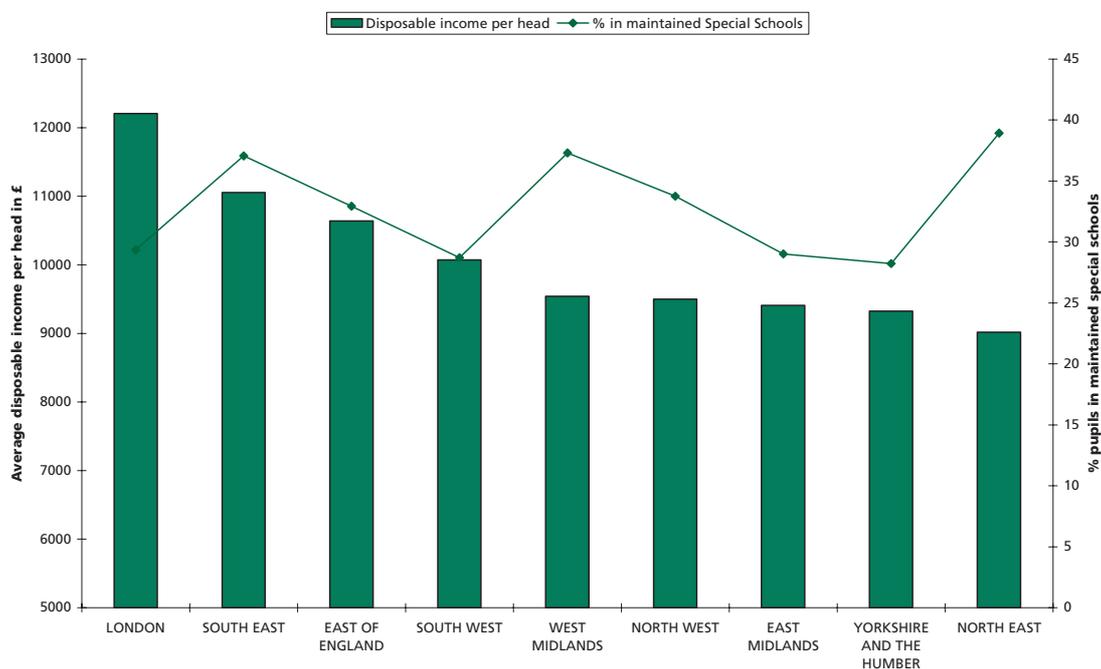
Source: DfES. SFR 24/2005 and income data from Household Income and Disposable Household Income, Regional Trends 37, Office of National Statistics (ONS).

There could still be a higher incidence of statementing in some wealthy LEAs in comparison to others, but if this was a wider systemic issue it would show up in the

regional level data. Because there are no national guidelines on which pupils should be given a statement of SEN, the considerable variation of local approaches across the country *are* showing up in the data and are likely to reduce the extent to which more subtle variations can be measured at this level.

Chart 14 below shows that there does seem to be a slightly stronger correlation between the wealth of a particular region and the proportion of pupils placed in special schools. With the exceptions of London, the West Midlands and the North East, there is a broad pattern showing that the wealthier regions have a higher proportion of students with statements in maintained special schools.

**Chart 14: Average disposable income by region compared to the percentage of pupils in maintained special schools**



Source: DfES. SFR 24/2005 and income data from Household Income and Disposable Household Income, Regional Trends 37, Office of National Statistics (ONS).

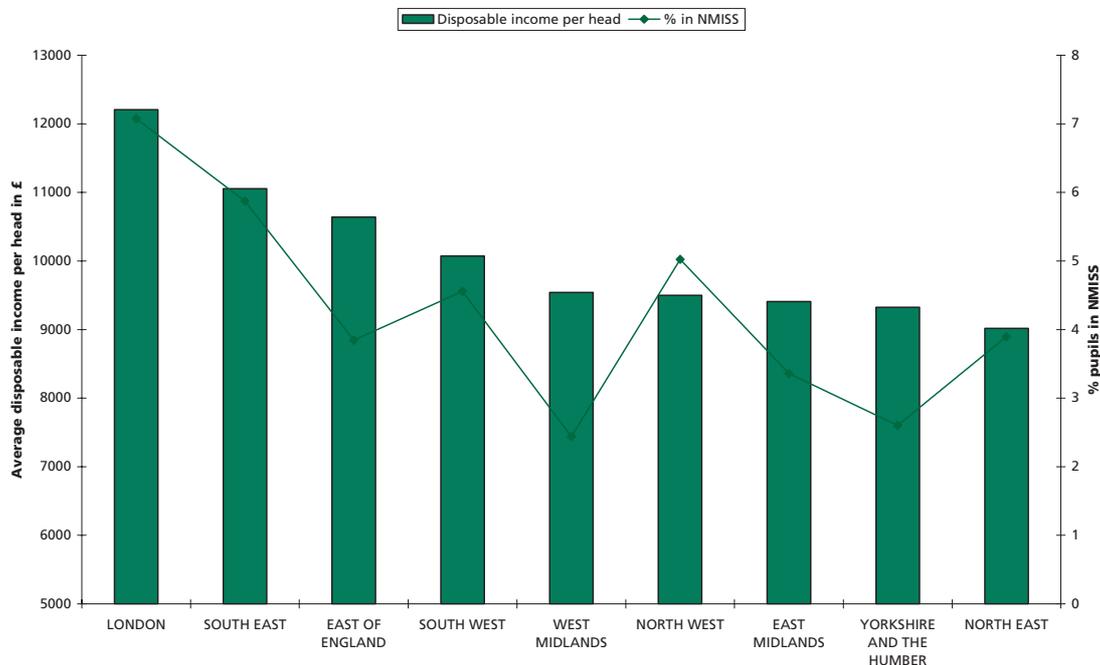
Finally, Chart 15 below shows a much stronger correlation between the average wealth of a region and the proportion of children with statements placed in Non-maintained and Independent Special Schools (NMISS). With the exception of the West Midland and possibly the North West, there is a strong correlation between these two sets of data suggesting that the regions with a higher number of more affluent parents have a higher number of children with statements of SEN in NMISS.

There are many factors that affect whether a child with a statement is placed in a NMISS—including the local availability of suitable provision—but this does seem to give some backing to the evidence this Committee has received about the relationship between the number of successful tribunals for those parents that can afford them, and the placement of children in NMISS as a result of these tribunals.

In and of itself, it is interesting to note that there is a pattern of a higher incidence of children with statements in NMISS in the wealthier regions of England. Regardless of the

merits of attaining a place in a NMISS it is another part of the considerable geographical variation of provision.

**Chart 15: Average disposable income by region compared to the percentage of pupils in Non-Maintained and Independent special schools**



Source: DfES. SFR 24/2005 and income data from Household Income and Disposable Household Income, Regional Trends 37, Office of National Statistics (ONS).

**Table 5: Pupils with statements of SEN by type of school in England since 1993**

At January each year

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
<b>All schools</b>	178,029	194,541	211,307	227,348	234,630	242,290	248,040	252,860	258,200	248,980	250,550	247,590	242,580
Maintained mainstream schools	84,910	100,572	113,224	127,260	134,120	141,410	147,580	152,800	158,000	149,890	150,910	148,550	144,370
Nursery	332	318	416	425	490	440	450	480	600	550	550	460	410
Primary	43,464	50,112	55,768	61,698	63,550	67,010	69,800	72,530	75,300	70,730	71,040	69,610	67,380
Secondary	41,114	50,142	57,040	65,137	70,080	73,960	77,330	79,790	82,100	78,610	79,320	78,480	76,580
Special schools	82,855	83,673	85,879	87,458	87,330	87,930	87,330	86,880	87,400	85,800	85,800	84,250	83,290
PRU	..	..	1,325	1,828	1,690	1,800	1,890	1,770	1,800	1,840	2,010	2,300	2,260
Independent schools	5,227	5,458	5,826	5,810	6,460	6,450	6,860	6,820	6,600	6,970	6,990	7,800	7,930
Non-maintained special	5,037	4,838	5,053	4,992	5,030	4,710	4,390	4,610	4,500	4,490	4,840	4,700	4,740
<b>Incidence (1)</b>	2.3	2.5	2.6	2.8	2.9	2.9	3.0	3.0	3.1	3.0	3.0	3.0	2.9
<b>Placement (%) (2)</b>													
Maintained mainstream schools	47.7	51.8	53.6	56.2	57.0	57.9	59.5	60.4	61.2	60.2	60.2	60.0	59.5
Special schools	46.5	43.0	40.6	38.5	37.2	36.3	35.2	34.4	33.8	34.5	34.2	34.0	34.3
PRU	..	..	0.6	0.8	0.7	0.7	0.8	0.7	0.7	0.7	0.8	0.9	0.9
Independent schools	2.9	2.8	2.8	2.6	2.8	2.7	2.8	2.7	2.6	2.8	2.8	3.2	3.3

1) Incidence - no of pupils with statements as a proportion of the no of pupils on the roll

2) Placement - no of pupils with statements as a proportion of the no of pupils with statements in all schools  
2001 data are estimated

From 2002 data may not be comparable with previous years

Source: *Special Educational Needs in England 2005, DfES***Table 6: Assessment and placement of children with new statements of SEN, England**

1992-2004

	Maintained mainstream		Maintained Special		Other		Total	
	Number	%	Number	%	Number	%	Number	%
1992	20,051	58.9	11,687	34.3	2,289	6.7	34,037	100.0
1993	24,627	64.3	11,204	29.3	2,461	6.4	38,292	100.0
1994	30,067	65.7	12,348	27.0	3,377	7.4	45,792	100.0
1995	26,238	66.4	9,747	24.7	3,563	9.0	39,541	100.0
1996	25,282	69.0	8,186	22.3	3,168	8.6	36,636	100.0
1997	25,140	70.5	7,560	21.2	2,950	8.3	35,650	100.0
1998	26,780	74.0	7,050	19.5	2,350	6.5	36,180	100.0
1999	26,330	74.3	6,470	18.3	2,620	7.4	35,420	100.0
2000	25,510	75.6	5,990	17.7	2,250	6.7	33,750	100.0
2001	22,350	68.8	5,730	17.6	4,390	13.5	32,470	100.0
2002	21,090	68.7	5,520	18.0	4,110	13.4	30,720	100.0
2003	19,280	67.0	4,960	17.2	4,540	15.8	28,780	100.0
2004	17,140	65.9	4,760	18.3	4,090	15.7	25,990	100.0

Data exclude Staffordshire in 1997, Derbyshire in 1993, Enfield and Leicestershire in 1992

Source: *Special Educational Needs in England 2005, DfES*

**Table 7: Pupils without statements of SEN by type of school in England since 1997**

At January each year

	1997	1998	1999	2000	2001	2002	2003	2004	2005	Change	% change
<b>All schools</b>	1,222,973	1,331,219	1,409,811	1,465,106	1,556,160	1,402,000	1,169,780	1,197,490	1,230,800	7,827	0.6
Maintained mainstream schools	1,206,493	1,306,260	1,379,364	1,432,635	1,518,640	1,358,200	1,119,640	1,140,090	1,170,100	-36,393	-3.0
Nursery	5,020	5,243	5,236	5,277	5,340	4,940	4,460	4,270	4,110	-910	-18.1
Primary	759,449	821,342	859,742	885,952	927,000	834,140	685,100	685,700	692,480	-66,969	-8.8
Secondary	442,024	479,675	514,386	541,406	586,300	519,120	430,080	450,120	473,510	31,486	7.1
Special schools	..	..	..	..	..	2,410	1,890	1,800	1,750	..	..
PRU	3,915	4,270	4,906	4,425	4,768	4,940	5,600	6,440	6,540	2,625	67.0
Independent schools	12,565	20,689	25,541	28,046	32,750	36,450	42,610	49,140	52,370	39,805	316.8
Non-maintained special	..	..	..	..	..	..	10	#	10	..	..
<b>Incidence (1)</b>	15.1	16.3	17.2	17.8	18.6	16.8	14.0	14.4	14.9	-0.2	..

# - less than 5

2001 data are estimated

Incidence - no of pupils with statements as a proportion of the no of pupils on the roll

From 2002 data may not be comparable with previous years

Source: *Special Educational Needs in England 2005, DfES***Table 8: Number of schools by percentage of schools with SEN**

Maintained Secondary schools, Jan 2005

	35% up to 50%			50% plus		
	Number of schools	% of schools in area	Difference wrt nat. average	Number of schools	% of schools in area	Difference wrt nat. average
North East	5	2.4	-2.1	1	0.5	-0.4
North West	11	2.3	-2.2	5	1.1	0.2
Yorkshire & Humber	11	3.4	-1.1	2	0.6	-0.3
East Midlands	12	4.0	-0.5	0	0.0	-0.9
West Midlands	18	4.3	-0.2	3	0.7	-0.2
East of England	11	2.6	-1.9	2	0.5	-0.4
London	29	7.1	2.6	8	2.0	1.1
Inner London	13	9.8	5.3	5	3.8	2.9
Outer London	16	5.9	1.4	3	1.1	0.2
South East	47	9.3	4.8	7	1.4	0.5
South West	9	2.8	-1.7	1	0.3	-0.6
England	153	4.5	..	29	0.9	..

Source: *Special Educational Needs in England 2005, DfES*

**Table 9: Pupils with statements by age and gender**

January 2005

	Boys		Girls		Total	
	Number	% of school population	Number	% of school population	Number	% of school population
2 and under	30	0.1	10	0.1	40	0.1
3	580	0.4	260	0.2	840	0.3
4	2,820	1	1,310	0.5	4,130	0.8
5	4,810	1.7	1,880	0.7	6,690	1.2
6	5,970	2.1	2,340	0.8	8,310	1.5
7	7,190	2.4	2,730	1.0	9,920	1.7
8	7,830	2.7	3,010	1.1	10,840	1.9
9	9,030	3.1	3,440	1.2	12,470	2.2
10	10,580	3.5	3,720	1.3	14,300	2.4
11	10,340	3.5	3,710	1.3	14,050	2.4
12	10,750	3.5	4,010	1.4	14,760	2.5
13	10,990	3.6	4,220	1.4	15,210	2.5
14	10,930	3.7	4,140	1.4	15,070	2.6
15	10,180	3.5	4,110	1.5	14,290	2.5
16	1,320	1.5	740	0.7	2,060	1.1
17	590	0.9	290	0.4	880	0.6
18	110	1.7	70	1.2	180	1.4
19+	10	2.3	..	..	20	1.3

Totals may not appear to equal sum of constituent parts due to rounding  
% of all pupils in primary/secondary schools of same age and gender

Source: *Special Educational Needs in England 2005, DfES*

# Conclusions and recommendations

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## Introduction

### Brief history of SEN

1. The Warnock Report in 1978, followed by the 1981 Education Act, radically changed the conceptualisation of special educational needs. (Paragraph 9)
2. During the 1980s and 1990s there was a considerable decline in the number of children in special schools and a gradual increase in the proportion of children both identified as having special educational needs (SEN) and given statements of SEN. (Paragraph 12)
3. Since 1999–2000 the proportion of children in special schools (around 1%), the proportion of children with SEN (around 18%), and the proportion of children with statements of SEN (around 3%) has plateaued—all within a system still based on the original 1978 Warnock framework. (Paragraph 14)
4. The Warnock SEN framework is struggling to remain fit for purpose, and where significant cracks are developing in the system—most starkly demonstrated by the failure of the system to cope with the rising number of children with autism and social, emotional or behavioural difficulties (SEBD)—this is causing high levels of frustration to parents, children, teachers and local authorities. (Paragraph 17)
5. The Committee would invite the Minister to read the 230 written memoranda we have received during this inquiry and consider, in full, the conclusions and recommendations of this report. (Paragraph 23)

### A major review of SEN?

6. Despite the Audit Commission specifically calling for a review of the statementing process in 2002, four years on the Government still says it has no plans to review the statementing process. This is unacceptable. (Paragraph 27)
7. Whilst the Government says it does not wish to undertake a major public review of its policy on SEN, it does seem to be re-considering its policy in private. (Paragraph 31)
8. The Committee believes this is a critical time to be publishing the results of our inquiry. We would urge the Government to give most careful thought to our recommendations and consider a completely fresh look at SEN. We look forward to constructive and vital progress for children with SEN and disabilities. (Paragraph 32)

## 1. Why SEN matters

### SEN and the link to socio-economic background

9. Special educational needs exist across the whole spectrum of social classes and abilities. It is important to recognise that some conditions which give rise to SEN, in particular along the autism spectrum and specifically Asperger's Syndrome, can defy an easy correlation between those conditions and social deprivation—as well as the children often being above-average intelligence. It is important therefore that social deprivation is not seen as the only and automatic benchmark for addressing SEN issues. (Paragraph 36)
10. There is, however, a strong correlation between social deprivation and SEN that deserves careful consideration by the Government. SEN policy should explicitly address these overlapping sets of needs where they occur. (Paragraph 37)
11. At secondary school level, children with statements of SEN are nearly twice as likely to be eligible for free school meals as the average school population. (Paragraph 38)
12. Children with Autism Spectrum Disorder (ASD), and social, emotional or behavioural difficulties (SEBD) provide an excellent example of where the old Warnock framework is out of date and where significant cracks exist in the system to the detriment of those who fall between them. Far more important, however, is the frustration and upset caused to parents and families by the failure of the system to meet the needs of these children. This needs most urgent resolution. (Paragraph 43)

### SEN in the wider educational context

13. SEN policy continues to operate a separate system for special educational needs (SEN) and, as a result, SEN continues to be sidelined away from the mainstream agenda in education. This must not continue. The Government needs to give greater priority to SEN and take full account of its need to have a central position in education. (Paragraph 48)

### The cost of failing children with SEN

14. The continuing correlation between children with SEN and exclusions, low attainment, not being in education, employment or training (NEET), and even youth crime, means that there are significant long term economic and social costs involved in failing children with SEN. The personal cost to families of children with SEN should also be considered. (Paragraph 49)
15. There are considerable costs involved in failing to meet the needs of large numbers of children with SEN. Moreover, the Government has a responsibility to provide high-quality education for all children to enable them to reach their potential. (Paragraph 54)

## 2. Clarification of inclusion policy

### Defining inclusion

16. The Government's changing definition of inclusion is causing confusion. If it is going to continue to use this term in key policy documents such as the SEN Strategy, the Government should work harder to define exactly what it means by inclusion. This Committee supports the principle of educators pursuing an ethos that fully includes all children—including those with SEN and disabilities—in the setting or settings that best meets their needs and helps them achieve their potential, preferably a good school within their local community. (Paragraph 64)

### Clarifying the Government's position on inclusion

17. Based on statutory and non-statutory guidance, it is reasonable for those involved in SEN to assume that the Government holds a policy of inclusion from which it has given guidance to local authorities to reduce both the proportion of pupils in special schools and to reduce reliance on statements. (Paragraph 72)
18. The Government has been firm and consistent in stating its position on inclusion for this inquiry both in written and oral evidence. It has stated that it does not hold a policy of inclusion that is resulting in the closure of special schools. This is not sufficient. At the very least there is considerable confusion over the Government's position on inclusion and they must take responsibility for this lack of clear strategic direction and for the consequences of this. (Paragraph 73)
19. The Minister's words demonstrate a significant change in policy direction. (Paragraph 79)
20. These answers present a confused message, but one that signals a move away from the Government's original position in 1997. (Paragraph 84)

### A change in policy

21. The most generous reading of the evidence is that the Government is moving forward towards seeking a "flexible continuum of provision" being available in all local authorities to meet the needs of all children, including those with SEN, but this is not the basis for the approach outlined in SENDA 2001, the SEN Code of Practice 2001, or the 2004 SEN Strategy. This should be put right. (Paragraph 85)
22. What is urgently needed is for the Government to clarify its position on SEN—specifically on inclusion—and to provide national strategic direction for the future. The Government needs to provide a clear over-arching strategy for SEN and disability policy. It needs to provide a vision for the future that everyone involved in SEN can purposefully work towards. (Paragraph 86)
23. Seeking change through evolution not revolution is one thing, but changing a key policy focus and hoping to tie it back in to a particular reading of the existing SEN Strategy is not acceptable. The Government should be up-front about its change of direction on SEN policy and the inclusion agenda, if this is indeed the case, and

should reflect this in updated statutory and non-statutory guidance to the sector. (Paragraph 87)

### 3. SEN: Facts and Figures

24. It is widely recognised that there is a strong correlation between exclusions and children with SEN—particularly those with social, emotional and behavioural difficulties and autistic behaviour. The Committee finds it unacceptable that such a well known problem continues to occur. The Government should enhance existing, and improve alternative, forms of provision, training and resources rather than using an increasingly punitive approach for these children and families involved. (Paragraph 95)
25. Schools need better guidance and staff training in dealing with disruptive behaviour by children with Autistic Spectrum Disorder, particularly Asperger’s Syndrome, and social, emotional, and behavioural difficulties. Schools should give careful consideration to these children in their behaviour strategies and make appropriate adjustments in disciplinary responses especially when considering exclusion. This needs to be backed up by closer DfES guidance and local authority monitoring, details of which could be collated by either Ofsted or the Schools Commissioner, with a view to urgent and substantial reduction in the numbers of exclusions. (Paragraph 96)

### Existing legislation

26. There is an inbuilt conflict of interest in that it is the duty of the local authority both to assess the needs of the child and to arrange provision to meet those needs, and all within a limited resource. The link must be broken between assessment and funding of provision. (Paragraph 99)
27. There is a great deal of work still to do to pull together the disability and SEN agendas and legislation. The Government should be prioritising this important work. (Paragraph 110)
28. In light of evidence from witnesses that in many schools there is a significant lack of understanding of their duties under the Disability Discrimination Act and a failure to implement the Disability Equality Duty fully, we await improved and more specific guidance from the DfES which is due to be published shortly. Guidance should pay particular attention to ensuring that all teachers and staff have an appropriate awareness of their duties and that this is not left to a single disability officer within schools. (Paragraph 111)

### Voices of young people, parents and teachers of children with SEN and disabilities

29. We recommend that the Government continues to increase the role of children and young people in reviewing, planning and designing services. (Paragraph 117)

30. We recommend that the Government urgently address the feeling of both parents and teachers that there is inadequate training and resourcing for dealing with SEN children in mainstream classrooms. We would give the highest priority to the need to radically improve SEN and disability training in initial teacher training, induction, and in the continuing professional development of all staff. (Paragraph 133)

#### 4. Failings within the SEN system

##### Statementing process

31. The 2004 Ofsted and 2002 Audit Commission reviews identified serious flaws in the SEN system with regard to standards and consistency of provision, the statementing process, fair access to schools, and outcomes for children with SEN and disabilities. This Committee finds it both surprising and highly concerning that these issues have still not been addressed. Evidence presented to this inquiry has further highlighted that there are significant failings in the system that need to be dealt with urgently. We now turn to these issues in the following recommendations. (Paragraph 141)
32. This inquiry received large numbers of memoranda from parents whose lives had been taken over by the statementing process and had had to fight to achieve a better outcome for their child—and were still fighting. To say that there is some dissatisfaction with the current system, or to claim that there are “some” problems as the Minister did, fails to give proper regard to the level of unhappiness felt by some parents. (Paragraph 147)

##### Issuing of statements

33. Whilst the DfES letter of guidance to Directors of Children’s Services, 15 November 2005, was a helpful clarification of the Government’s position on the illegality of blanket policies for issuing statements of SEN, it should not have been necessary, and does not make up for a lack of clear national strategy. (Paragraph 151)
34. It is better to seek to reduce reliance on statements by improving the skills and capacity of schools to meet a diverse range of needs, but this must be set in a system with much greater clarification and much stronger guidance on minimum standards of provision. Without such a system in place, guidance on “reducing reliance” on statements has led to the inequity of provision and “postcode lottery” that exists. This cannot continue. The sector needs much clearer guidance through a national framework with local flexibility. The Government needs to give local authorities clear national guidance on when to issue statements of SEN. (Paragraph 153)
35. We recommend that there should be an absolute deadline that a decision on whether to issue statement in respect of any child should be made within the required 26 weeks (six months) of a written request being made with no exceptions. (Paragraph 154)

## Transfer of statements

36. Whilst recognising that it would require significant changes to the existing system, we recommend that the DFES consider how to make statements of SEN transferable between local authorities so that they can follow the child. We believe this would reduce administrative costs, allowing more resources to be devoted to SEN provision, and, more importantly, would prioritise the needs of the child. (Paragraph 156)

## Other possible models

37. The landscape of local authorities and local health organisations is continually changing which makes it difficult to make specific individual recommendations about the way they should work together. We consider, however, that assessment of SEN should not be made directly by the bodies that fund the provision, and any revision of the system overall should take this principle on board. (Paragraph 161)
38. Scottish reform to the statementing process demonstrates one way in which the 1978 Warnock framework might be reformed. These proposals may not have all of the answers but they are witness to the fact that something needs to be done to improve the existing system. (Paragraph 162)
39. The lack of a ready-made alternative is not a good enough reason to keep a failing system of statementing. If SEN was given sufficient priority this would not be allowed to continue. It is the responsibility of Government to devise better processes for SEN—not necessarily in one statement—and to implement them. This should involve the early identification and assessment of needs, efficient and equitable allocation of resources, and the appropriate placement of pupils based on their needs and taking account of parental preference. We request a specific response from the Government on this issue. (Paragraph 163)

## Placement decisions

40. Where good practice exists in local authorities the level of parental satisfaction improves greatly. A National Framework of guidance should be put in place based on best practice of local authorities. It should ensure that: multi-agency panels make decisions regarding placement and are accountable for their decisions; parents are kept well-informed at all stages of the process and involved in the decision-making process as much as possible; and there is a wide range of appropriate high-quality provision available to meet the needs of children. There also needs to be much greater consideration given to support for parents of children with SEN who themselves may have SEN issues and require assistance in coming to considered decisions and views about their children's futures. (Paragraph 170)
41. For many children with SEN and disabilities, special schools are invaluable. The issue should not be their closure but how to progress to a system based on a broad range of high quality, well resourced, flexible provision to meet the needs of all children. More schools should be positively encouraged to form federations including both mainstream and special schools. (Paragraph 171)

### Planning role of local authorities

42. While some local authorities have made good progress in managing SEN in recent years, there remains much variation in performance and some poor practice. Clear statutory guidance is in place but local authorities are then told only that they must “have regard to” the SEN Code of Practice. Non-statutory guidance then further muddies the waters. Local authorities have a crucial role to play with SEN but the operation of good practice must become the norm. (Paragraph 177)
43. Local authorities must be allowed to continue to plan provision at the local level to meet need but this should be within guidance of a clear National Framework linked to minimum standards to ensure consistency of outcomes for children with SEN. (Paragraph 178)
44. All local authorities and schools should embrace the opportunity presented by the new Disability Equality Duty to ensure that they promote and provide a positive environment for children with SEN, both now and in the future. (Paragraph 179)

### Admissions and parental choice

45. The Government should give careful consideration to the impact that key drivers such as league tables are having on admissions—particularly to the most successful non-selective state schools. There is strong evidence that the existing presentation of performance data in league tables does not reflect well on many children with SEN and consequently acts as a disincentive for some schools to accept them. This cannot continue. (Paragraph 182)
46. Children with SEN and disabilities should have fair access to all types of provision. The Government should do more to encourage the most successful non-selective state schools to take their fair share of children with SEN and disabilities. Admissions policies in this matter should be carefully monitored with a requirement to report back on progress to Parliament and to this Select Committee. Furthermore, the Government should ensure the protocol for hard to place children makes specific reference to children with SEN and disabilities. (Paragraph 183)

### Choice for parents of children with SEN

47. The existing DfES policy regarding the placement of children with SEN is good in theory, but in practice parental choice is not being upheld. Where a special school is sought by a parent this must be given proper consideration. Where a mainstream school is sought by a parent, a local authority must consider whether reasonable adjustments could be made to ensure that their admission could be made compatible with the efficient education of other children in the school. (Paragraph 192)
48. We recommend that in the new Code of Practice on School Admissions, children with SEN and disabilities should be given explicit priority in over-subscription criteria. (Paragraph 193)
49. As long as the choice of parents of children with SEN continues to be qualified by whether it is compatible with the efficient education of other children in the school,

the final decision-making power regarding placement will remain out of the hands of parents and we do not suggest that this should be changed. This is appropriate where expert independent advice has been sought but should be the exception rather than the rule. There is a great deal more that could be done to increase involvement from parents: to seek their views and understand their choices more carefully, to work in partnership with them as much as possible, and to ensure they are fully informed at all stages of the process. Careful consideration should be given to parent-partnership schemes being funded independently of local authorities being trialled on a pilot basis. The system should not have to rely on an appeals process to achieve fair access for children with SEN. (Paragraph 194)

50. The Government should work with local authorities and schools to raise the level of detailed understanding amongst parents of the implications of disability rights in education. (Paragraph 195)

### Academies

51. Evidence presented to us has been inconclusive, but if it is the case that some Academies are turning away children with SEN, this is of great concern. (Paragraph 200)
52. To guard against the possibility that Academies could discriminate against children with SEN this Committee recommends that the Government take the relatively simple step of changing the funding agreement so as to put Academies on the same legal footing as all other schools with regard to children with SEN. (Paragraph 207)
53. Local authorities should monitor admission of children with SEN to schools in their area, including academies and trust schools in England, and report publicly on this each year. (Paragraph 208)

### Appeals process

54. Parents must have the right to appeal against decisions made regarding the education of their children. All parents and legal guardians must have equal access to the appeals process. Evidence suggests this is not the case at present. The Government is responsible for ensuring steps are taken to guarantee equal access to an appeals process for all parents and guardians; in doing so it should give particular attention to the access of parents from low socio-economic backgrounds, parents with SEN themselves, and the fair representation of looked-after children. The Government should start to collect data on the background of parents at tribunal, and on expenditure in relation to outcome. (Paragraph 220)
55. The standard approach should not be adversarial. We recognise, however, that all too often parents had little choice in taking an adversarial approach during the appeals process in order to obtain what is in the interests of their children. With a range of appropriate high quality SEN provision in place, a clearer understanding of roles and responsibilities and more transparent processes, the confidence of parents in the system should increase and the level of anxiety, frustration and litigation should reduce. (Paragraph 222)

- 56. Conflict between parents and local authorities needs to be minimised through clear understanding of roles and responsibilities, transparent processes, and better management of expectations. (Paragraph 225)
- 57. The Government should review whether SEN appeals should be part of a broader education appeal process as part of a strategy to reduce reliance on a separate system for SEN. (Paragraph 227)

### Funding process

- 58. This Committee welcomes the additional investment in SEN and special schools in the last three years but SEN remains under-funded, particularly in mainstream schools. We agree with the Minister that the Government can accomplish a huge amount when they put the resource behind it. The Committee recommends that this principle is applied to SEN. The Government should radically increase funding for SEN in order to achieve a range of appropriate, high-quality provision across every local authority with a fully equipped and resourced workforce. The Committee hopes that the Treasury review of funding for children with complex needs, which we welcome, will provide an opportunity to do just this. (Paragraph 232)

### Delegated funding

- 59. The Government should stop and think before further increasing the level of delegated funding to schools without other necessary conditions first being in place and without improved accountability for school spending. Delegated funding should enable more early intervention, in theory, but it needs to be implemented hand in hand with other key factors—a clearer national framework linked to minimum standards, a broad range of suitable provision, and a workforce that is fully equipped and resourced to identify and meet the needs of children with SEN. Without these other conditions in place further delegation of funding is a high-risk approach, particularly in light of evidence from Ofsted that some delegated funding to schools is not being spent on SEN. (Paragraph 236)
- 60. We believe there would be much merit in reserving part of central government’s funding to encourage flexible access and co-operation between special and mainstream schools, the Minister himself having said in evidence that it was “crucial to see that money intended for SEN is spent on SEN”. (Paragraph 237)

### Funding of specialist services and provision for low-incidence needs

- 61. Local authorities should be required to maintain a proportion of SEN funding to resource specialist services and services to meet low-incidence needs. The Committee supports the recommendations made in the recent SEN Audit on low-incidence needs. (Paragraph 242)
- 62. Non-maintained and independent special schools (NMISS) provide invaluable provision for many pupils—including some children with low-incidence special needs. The Committee notes with some concern the rapid increase in expenditure

on NMISS places in recent years. NMISS places must remain an essential component of a broad range of flexible provision within all local authorities but we recommend that fees for NMISS places should be monitored by the DfES. (Paragraph 244)

### Allocation of resources through the statementing process

63. The fundamental problems in the statementing process that prevent funding from following the child should be resolved as a matter of urgency. (Paragraph 249)

## 5. Future Strategy

64. The Government needs to develop an approach to SEN that is based on pupil-centred provision. This would require: a national framework linked to minimum standards; local flexibility within a national framework; a pupil-centred approach with SEN at the heart of personalisation; equipping the workforce (a major priority is to properly train and resource all staff); early intervention; partnership working; and a radical review of statementing. (Paragraph 252)

### A national framework with local flexibility

65. The Government need to take a lead and develop an overarching strategy for SEN in order to set minimum standards for children with SEN—whilst maintaining local decision-making powers—to give a clear lead on policy direction for the sector to follow. (Paragraph 255)
66. We back the SEN Audit’s recommendation that “there is a currently a range of standards for provision and services (for example, within the SEN Code of Practice, Removing Barriers to Achievement, Ofsted, National Service Framework (Disabled Children), *Every Child Matters* and Quality Protects). The DfES should bring these together within a unitary framework that is accessible to all relevant providers.” (Paragraph 258)
67. The Minister assured us that “we (the Government) would look very carefully at anything you recommended to us in this area”. This Committee adds its voice to the recommendation in the SEN Audit for the Government to introduce a “clearly articulated national framework, linked to quality standards”. There is now wide consensus on the need for the Government to produce a national framework with local flexibility. (Paragraph 259)

### A flexible continuum of provision

68. We support the recommendation made by the National Autistic Society that “local authorities should ensure that every child with autism has local access to this diverse range of mainstream and specialist educational provision, and report publicly on the range of provision that is provided” and would extend the requirement to all children with SEN and disabilities. (Paragraph 262)

69. We believe early diagnosis of children with autism and particularly Asperger's Syndrome is likely to be a preferential route, as witnesses have suggested, rather than statementing. We urge that local authorities be given a statutory responsibility to consult and work with autism groups, both locally and nationally to forward this objective. (Paragraph 263)
70. We recommend that parents and children are given a clearly defined entitlement that is described in a (statutory) guidance framework that sets out the expectations that schools and other providers should meet in terms of a "provision map". One of the key benefits would be to ensure that every local authority maintains broad range of flexible provision—including special schools. (Paragraph 267)
71. The Government should provide much clearer guidance on minimum standards and implement a statutory requirement for local authorities to maintain a broad ranging and flexible continuum of provision which should then be monitored on a regular basis. (Paragraph 268)

### Local flexibility

72. Any national framework must allow for local flexibility. Local authorities must continue to have the capacity to plan and re-organise provision to meet the needs identified locally—including support, services and provision for low-incidence needs. (Paragraph 269)
73. The Government should do a great deal more to enable greater local flexibility at the school level. Funding arrangements for dual-placements and other sharing of facilities, specialist resources and expertise should not be a barrier. More needs to be done to enable children to attend both specialist and mainstream provision. To encourage and reward local authorities and schools to do so, Government should give more practical and financial incentives to co-operation, as the Minister indicated was their desire in evidence. (Paragraph 272)

### Personalisation—SEN v. the standards agenda

74. Regardless of the theory, in practice the evidence clearly demonstrates that SEN and the raising attainment agenda sit very uncomfortably together at present. Furthermore, it is clear from the Education and Inspection Bill that the standards agenda still remains the much greater priority for the Government. It is the standards agenda, not SEN, that is at the heart of the existing personalisation agenda. As a result, it is difficult to see how personalisation can be the key to the Government's strategy on SEN as the Minister claims. Again, we recommend that the Government clarifies its strategy for SEN and gives SEN sufficient priority so that it might indeed sit at the heart of personalised learning as promised in the SEN strategy. (Paragraph 282)
75. In identifying the five *Every Child Matters* outcomes—being healthy, staying safe, enjoying and achieving, making a positive contribution to society, and achieving economic well being—the Government is beginning to broaden out its focus away from just the standards agenda. We are still a long way, however, from SEN and the

achievement of the five outcomes playing a central role in mainstream education policy. This Committee recommends that SEN is prioritised, recognised as being in the centre of mainstream education policy and radically improved. (Paragraph 287)

76. We also believe that to fulfil the objectives of *Every Child Matters* it is important that social care and out-of-hours family support augments and is integrated within the educational provision during school hours and that at local level those objectives are delivered as seamlessly as possible. (Paragraph 288)

### Equipping the workforce

77. It is unrealistic to expect teachers and other members of the workforce to be able to meet the needs of children with SEN if they have not received appropriate training. Particular concerns have been raised with regard to both initial teacher training and continuing professional development for all staff. (Paragraph 294)

### Initial Teacher Training

78. One of the key issue is that the DfES have asked the Training and Development Agency (TDA) to develop optional modules within initial teacher training. Unless the intention is for these optional modules to be followed rapidly by assessment and then rolled out on a compulsory basis, this is unacceptable—particularly in light of the bold commitment to improve staff skills in the 2004 SEN Strategy. (Paragraph 299)
79. Based on evidence that demonstrates the level of need, and demand from teachers for training on SEN, SEN training should become a core, compulsory part of initial teacher training for all teachers. The Government should re-start negotiations with TDA on these grounds and in conjunction with the three-fold strategy of SEN training as part of initial teacher training, induction and continued professional development that we have advocated. (Paragraph 301)

### Continuous professional development

80. Professional expectations through the General Teaching Requirements are no replacement for training and equipping teachers. Teachers cannot be expected to properly fulfil requirements such as differentiating the curriculum for all children, including those with SEN, without receiving the appropriate training to enable them to do so. In some cases, this may require a detailed knowledge of child development psychology to equip them to do so to the greatest effect. Good quality, appropriate continuing professional development should be made available for all teachers and schools should be resourced to fund them. Compulsory in-service training should include SEN if it is to be given sufficient priority in schools. (Paragraph 309)

### A new strategy for workforce development

81. We recommend that the Government prioritises the training of its workforce (teachers, TAs, and early-years professionals), across a broad range of provision, to

equip them with the skills and support they need to effectively teach children with SEN. (Paragraph 316)

82. More specifically, we recommend that the Government fully implements its own strategic approach to training outlined in the SEN Strategy: putting into practice the “triangle of training needs” in order to achieve the proposed three tiers of specialism in every school; making SEN training a core, compulsory part of initial training for all teachers; and ensuring appropriate priority and quality of continuing professional development to equip all of the workforce. There is a broad consensus of agreement on these proposals and yet little progress has been made since 2004. This is not acceptable. (Paragraph 317)
83. The Government should make training and equipping its workforce a top priority and re-start its talks with the TDA on far more ambitious grounds. (Paragraph 318)

### Special educational needs co-ordinators

84. Special educational needs co-ordinators (SENCOs) should in all cases be qualified teachers and in a senior management position in the school as recommended in the SEN Code of Practice. Firmer guidelines are required rather than the Government asking schools to “have regard to” the SEN Code of practice. The role and position of a SENCO must reflect the central priority that SEN should hold within schools. (Paragraph 322)
85. Special educational needs co-ordinators (SENCOs) should be given ongoing training opportunities to enable them to keep their knowledge up to date as well as sufficient non-teaching time to reflect the number of children with SEN in their school. These baseline standards for SENCOs to be given training both on and off the job should apply to all schools, including academies and trust schools. Schools should set out in their SEN policy action to ensure that all SENCOs are adequately monitored and supported in their vital roles. (Paragraph 323)

### Specialist support services

86. We recommend that SEN regional partnerships are given increased and guaranteed funding for their role in planning provision for low-incidence SEN. (Paragraph 325)
87. Local authorities should take action towards achieving the standards set out in the National Service Framework for children, young people and maternity services in respect of disabled children and speech and language therapy. (Paragraph 326)

### Educational psychologists

88. The Government has recognised the particular, distinctive contribution of educational psychologists. They have a vital role to play in moving towards truly joined-up services for children. The Government should re-consider how the new training route for educational psychologists is funded to ensure that a sufficient number and calibre of professionals are being supported in their training. The Government urgently needs to take additional steps to ensure that the shortfall of

educational psychologists is not exacerbated in the two year transition period up to 2008. (Paragraph 330)

### Early intervention

89. The Government should follow through the proposals of *Every Child Matters* to their logical conclusion and fully implement an assessment for learning for every child. The workforce must be equipped and resourced to achieve this. (Paragraph 336)
90. To achieve real progress in terms of early intervention the Government needs to change the premise on which SEN is provided to one in which literally every child matters. This would mean a radically new approach to SEN provision where a system of assessment of learning and intervention takes place for every child on a spectrum of provision that can be geared up for children that require high levels of support. A swifter and more intelligent system of assessment is required. The Government should deliver on their promise to put SEN at the heart of the personalisation agenda. (Paragraph 336)

### Key transition phases—including post-16

91. In terms of both availability and quality, post-16 provision is currently failing to meet the needs of young people with SEN and disabilities. (Paragraph 344)
92. Many children with SEN and disabilities are being let down in transition phases across the education system from early years to post-16 and into adulthood. There needs to be much greater collaboration between schools, special schools and children's service providers working with parents and children to reduce the negative impact of transition between key stages such as the transition between primary and secondary education. (Paragraph 348)
93. For young people with a statement, transition planning for post-16 provision should start when the child reaches year 9 (aged 14 years) and should involve inputs from a range of agencies. Young people without a statement should also be offered guidance and support with post-16 transition. (Paragraph 349)
94. There needs to be an urgent examination of how to boost practical links over SEN between schools and post-16 colleges, drawing on some of the successful examples such as the Darlington experience. The emphasis by Government in developing 14–19 vocational qualifications make this particularly urgent if children with SEN and disabilities are not to be discriminated against in this process. (Paragraph 350)

### Partnership working and *Every Child Matters*

95. Collaborative working is required across schools and across agencies to achieve the sharing of provision, facilities, expertise, and support for the benefit of children with SEN. Communities or clusters of schools should be working together where all children feel they belong. These should include special schools, which have a great deal to offer to such collaborations with regard to specialist facilities and expertise. (Paragraph 351)

### Collaboration between mainstream and special schools

96. The focus in the Education and Inspection Bill on creating autonomous, independent schools seems to contradict the aim of creating clusters and communities of schools. (Paragraph 357)
97. The Government should resolve apparent contradictions in its strategy outlined in the Education and Inspection Bill between, on the one hand, giving greater autonomy to individual schools including a greater number of City Academies and, on the other hand, its SEN strategy that urges schools to be working in partnership to build collaboration to share resources and specialist knowledge. The Government should provide specific funding to local authorities to increase the extent to which they are able to facilitate and encourage collaborative arrangements where communities of schools work together, sharing facilities and professional expertise, to improve the outcomes for children with SEN. (Paragraph 360)

### SEN and the *Every Child Matters* agenda

98. The *Every Child Matters* agenda with its emphasis on five broad outcome measures (being healthy, staying safe, enjoying and achieving, making a positive contribution to society, and achieving economic well being), inter-agency working, establishing lead professionals, and using the extended services agenda to bring sectors together has the capacity to achieve a great deal for children with SEN. The potential benefits of implementing this key Government agenda for children with SEN should be fully realised. (Paragraph 364)
99. The Government should seek to resolve issues with regard to partnership working with health professionals. A national strategy should include minimum standards in terms of access to therapy provision and other health provision for those children that need it. The DfES should work with the Department for Health to achieve joint-service working and ensure that children's needs are being met. (Paragraph 368)

### Effective partnership with parents and communities

100. The Government need to re-think their approach to involving parents. The Government should set out clear expectations for parents in terms of minimum standards of provision and access to a broad and flexible range of appropriate provision. The Government should seek to actively involve parents as part of their early intervention strategy and keep them involved as much as possible at all stages. The Government should try to ensure that local councils and schools do their utmost to co-operate in this process. It is essential that mechanisms are in place to ensure that parents are well informed throughout the whole process. (Paragraph 373)



# Formal Minutes

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**Wednesday 21 June 2006**

Members present:

Mr Barry Sheerman, in the Chair

Dr Roberta Blackman- Woods  
Mr Douglas Carswell  
Mr David Chaytor  
Mrs Nadine Dorries  
Jeff Ennis

Paul Holmes  
Mr Gordon Marsden  
Stephen Williams  
Mr Rob Wilson

The Committee deliberated.

Draft Report, proposed by the Chairman, brought up and read.

Draft Report, proposed by Mrs Nadine Dorries, brought up and read, as follows:

“Report Summary

- I. **Since the introduction of SENDA 2001 the position of special educational needs children, a vulnerable group, has become considerably worse. What has made this situation so shocking is that it has been done with intent via the pursuit of a policy driven by political dogma and duplicity. Throughout this period, the level of government expenditure has increased, making it even more regrettable that the needs and interests of some of the most vulnerable children in our society have been compromised. The increasing number of children who are being left behind are the innocent victims of an ideologically driven and dogmatic view with regard to ‘inclusion.’ There is much evidence to show that inclusion into mainstream school can meet the needs of many children for whom mainstream education is appropriate and desirable. However, an indiscriminate approach in implementing a policy of inclusion—irrespective of a child’s needs—fails those vulnerable children who need support the most. Improving parental choice and rights is vital if a more balanced and reasonable approach is to be adopted in the provision of SEN for children.**
- II. **The government has a responsibility to ensure that its educational policies are based upon a co-ordinated and cohesive approach to meet the educational needs of all children. The government’s continued obsession with its ideological approach to include children with special educational needs into mainstream schools—whether it is appropriate or not—is demonstrated by its refusal to consider the need to review its own inclusion agenda in the first place. Conflict arises between the policy of inclusion and the terms of the legislation as set out in the Education and Inspections Bill; as a result the government must accept full responsibility and resolve the apparent conflict, as highlighted by this Inquiry.**
- III. **The Department for Education & Skills fails to act as responsively as it should in response to concerns brought to its attention by parents and parent support groups.**

As IPSEA stated, one of the main difficulties faced by parents is a systemic failure of the DfES to take appropriate action against those local authorities who fail to fulfil their statutory obligations.

- IV. The right of parents to choose school placements for their children has been severely undermined and should be strengthened. School placements should not be determined by a local authority's inclusion policy, but upon a guaranteed minimum national standard of provision and the individual needs of the child concerned. Many local authorities have pursued inclusion by the use of blanket policies and the evasion of statutory duties under Schedule 27 of the Education Act 1996.
- V. The government needs to give greater priority to SEN and take full account of its central position in education and appreciate that vulnerable children are individuals, requiring different learning experiences and learning environments to fulfil their potential. It should ensure local authorities adopt the view that children require an education that responds to the individual needs of the child and the rights of parents to make the best choices for their children. It should be acknowledged by the government that both mainstream and special schools play a very important role in meeting the needs of children with SEN; whilst this provision may be very different, they are of equal value and worthy of equal acceptance.
- VI. Parental backlash and frustration is motivated by the strategic direction the government has decided to adopt with regard to SEN. It is evident that the government's policy is denying parental choice, which breaches the criteria laid down in Schedule 27 of Education Act 1996. Parents are presented with a confused message and the government must give a clear unequivocal message to local authorities and Parliament, to ensure parents are better empowered in determining the future of their children's education.
- VII. Parents of children with special educational needs are increasingly turning to the independent and charitable sector to ensure their children receive an appropriate education for their needs.
- VIII. The less favourable treatment experienced by pupils, who have been denied the same right of appeal to SENDIST regarding the naming of a city academy, is discriminatory and could be in breach of the Disability Discrimination Act 1995 (DDA).

## Introduction

- 1) Baroness Warnock<sup>1</sup> advised the Committee that an over emphasis on the policy of inclusion was not working and a review of current government policy was needed—a point she emphasised in her most recent pamphlet on this matter—'Special Educational Needs—A New Look.' Inclusion has benefited children, but equally has failed many others. **The importance of the Warnock Report 1978 and its findings should not be overlooked, as it led to children with special educational needs having their rights enshrined in law for the first time. Warnock never suggested all children should be included in mainstream, as confirmed in her oral evidence.** Despite this the government has pursued a policy of inclusion for the past nine years. Baroness Warnock accepted at the time of her original report that understanding of what constituted special educational needs was very limited, predominantly reflecting children with physical disabilities. Baroness Warnock further concurred that the nature of recognised special educational needs today has significantly changed since 1978.

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1 Oral Evidence, Wednesday 26<sup>th</sup> October 2006.

- 2) It could be argued that at one point there were too many special schools in the UK. Many children, particularly those in residential units, were denied the opportunity to fully integrate into their local communities. As a consequence some children were based in units many, many miles from their own homes and families. In more recent years however, governments of both complexions have gone too far in the opposite direction, with the closure of too many special schools. A consequence of these closures is that many more children are educated outside of their own local education authority, resulting in long journeys and as well as some residential placements. In this respect government policy has travelled full circle, to where we were in the 1970s.
- 3) Since the introduction of SENDA 2001, which assumes children should be educated in mainstream, there has according to DfES<sup>2</sup> statistics been a decrease in the number of children with statements, which are at a five-year low. The reduction appears to coincide with Lord Adonis' evidence that the DfES had appointed seven special educational needs advisors and created regional special educational needs partnerships under its SEN policy document *Removal of Barriers to Achievement*<sup>3</sup>—the aim of which is to reduce the dependency of statements and increase inclusive practice.
- 4) The number of children attending special schools has declined steadily under successive governments, but there are still some regional differences. Some local authorities are more proactive in pursuing inclusion than others, as noted by the Minister of State for Lifelong Learning, Further and Higher Education—Bill Rammell MP<sup>4</sup>—who described his own local authority 'as representing the extreme end of the ideology of inclusion.'
- 5) The National Autistic Society<sup>5</sup> and Scope<sup>6</sup> both report that over 50% of parents are unhappy with their child's current school placement—figures also reveal that 27% of autistic children are excluded from school at any one time, with 23% of those excluded on more than one occasion; as a consequence many parents have lost trust in the government's policy and its ability to deliver on special educational needs.
- 6) The Minister accepted all was not well with the current system and confirmed that senior civil servant, Mr Iain Coates, had issued a strong steer in the form of a letter on the 15<sup>th</sup> November 2005, to all local authorities regarding their statutory duties and warning against the implementation of 'blanket policies.' The letter was issued as a result of a threat of legal action being taken against a number of those authorities who were operating at the very extreme edge of inclusion.
- 7) **Parents' right of choice regarding school placement has been eroded and needs to be restored. It should not be dependent upon their local authority's inclusion policy, but based upon a guaranteed minimum national standard of provision and the individual needs of the child. Authorities have pursued inclusion by the use of blanket policies and the evasion of statutory duties under Schedule 27 of the Education Act 1996.**

2 Special Educational Needs in England 2005, DfES (1997 – 2004 Assessment & Placement of children with new statements of SEN, England)

3 Published February 2004.

4 Oral Evidence to the Committee, 24<sup>th</sup> April 2006.

5 Sky News Report 29<sup>th</sup> May 2006 stated that the National Autistic Society reported that over half of parents with autistic children surveyed stated they were unhappy with their child's current school and it was not appropriate to meet their needs. Case Study Ms Julie Maynard & Mrs Jane Willey.

6 TES, 16<sup>th</sup> June 2006, reported SCOPE found that nearly 60% of parents surveyed had not been offered a choice of school for their child and nearly 50% that they were dissatisfied with the school chosen for them by the LEA. Ref: Case study Ms M Chambers.

- 8) **Lord Adonis' evidence that the government does not have a policy of inclusion, but was 'the will of Parliament' is unhelpful. Parliament is governed by the majority party of the day and therefore the will of Parliament reflects the will of the incumbent government of which he is a Minister. Therefore, the Minister should take responsibility for his government's policy.**
- 9) The Conservative Party is currently conducting its own Inquiry into special educational needs under the chair of Sir Robert Balchin. In its interim findings, it called for a change to the 'statementing' process and a review of the policy of inclusion. It noted the tension in the current system has arisen because under the Education Act 1996 local authorities undertake the dual role as both the funder and commissioner of needs as identified during the statementing process. This disincentive effect for LEAs to identify a level of support that best meets the needs of a child with SEN, encourages a process that aims to minimise the extent of a child's needs by adopting what could be regarded as the most economical, mainstream option.
- 10) **The government should conduct a review of Schedule 27 of the Education Act 1996 to ensure effective improvements are made to the current SEN framework and to re-examine the policy of inclusion and how authorities are interpreting it.**
- 11) Lord Adonis advised that SEN policy is kept under review and there is an intention to improve the outcome for vulnerable children. But, if the discussion does not reflect upon the growing unhappiness of parents with current policy and the system, then the outcome will be flawed. There have been numerous calls on the government to conduct a full review of its SEN policy, and Lord Adonis has acknowledged that in conjunction with the DfES innovations unit, he is holding private ministerial seminars on 'next practice' in SEN. It is regrettable that the government have refused to conduct a more open and transparent review, to give those in the education sector and parents a greater say in determining the future of government policy in this area.

In his evidence to the Committee, Lord Adonis claimed that as and when the DfES is aware that local authorities may not be fulfilling their obligations, they will intervene in an attempt to ensure this is not the case. The volume of circulars and guidance issued by the DfES to authorities in response to those who are operating at the 'extreme end of the ideology of inclusion' makes it difficult for LEAs to keep pace with the latest government thinking on many areas of policy and LEAs are as a result confused. However, in written submissions as evidence to the Inquiry, IPSEA and Mr David Ruebain<sup>7</sup> stated that in reality the DfES rarely intervenes in challenging allegations regarding the failure of LEAs to fulfil their statutory obligations. This is supported by the recent high profile SENDIST decision, *W vs Hertfordshire Local Authority* regarding disability discrimination upheld because of poorly drafted legislation. The Tribunal has called on the government to change the law. The Department has been aware of this legal loophole since 2003, but has failed to act to prevent this injustice and continued to acquiesce with local authorities.

- 12) It is concerning that in her evidence on behalf of Ofsted, Ms Visser states there were no major problems with the SEN system. A contradiction with much of the evidence submitted to this Inquiry and previous criticisms by Ofsted about the provision and delivery of SEN. A more robust and independent approach on the part of Ofsted—particularly in light of their previous statements on this issue and the increase in parental dissatisfaction—would have been more helpful to the conduct of this Inquiry.

- 1) *Why SEN Matters*
- 13) There is sufficient evidence regarding the Tribunal process that if the child does not have an appropriate level of diagnosis, then local authorities refuse to statutory assess or place a child in an appropriate learning environment. There is evidence that local authorities evade their statutory duties towards children unless the child has a diagnosis of a disability in other words a 'label'. If children are inadequately assessed, they are denied the appropriate education their learning needs require, and denied access to specialist practitioners, therapists and teachers.
- 14) **SENDA 2001 and the DDA 1995 has provided parents of disabled children with a stronger rights based approach, to compliment Schedule 27 of the Education Act 1996. The Disability Rights Commission under its Code of Practice identifies the category of children who are considered disabled under the terms of the DDA Act 1995, which excludes children with BESD (Behavioural Emotional and Social Disorder), which should be examined.**
- 15) Poverty and social opportunity cannot be redressed through SEN education legislation, as it should solely relate to the special educational needs of the child, not socio-economic circumstances. There is a strong correlation and at times a social overlapping between social deprivation and SEN. But delegated funding for SEN to schools is dictated by how many children are in receipt of free school meals, so the link between poverty and special education needs has already been established in principle in any case.

Schedule 27 of the Education Act 1996 is about the special educational needs of the child, not their socio-economic circumstances. As uncomfortable as it may be, the development of educational law on SEN must reflect that realisation.

Many children, who have SEN, also come from families who have special needs themselves; as such, they have a higher propensity to be from an economically deprived background.

According to the government's statistics, 65% of disabled children, are raised by lone parents, and it is this core group of children who the government have failed to elevate out of poverty. Accordingly, the issues and reasons of socio-economic need and poverty have to be separated clearly from educational needs.

We must consider the possibility that the current method of delegated funding has effectively meant disproportionate amounts of children with SEN being placed by their local authority into one school. In effect this funding system for non-statemented children has perhaps failed to ensure the equality of opportunity to access good local schools. LEAs have successfully manipulated the current system to place statemented children into local schools that receive high delegated resources for SEN, due to the amount of children in receipt of free school meals, as it can in real terms reduce the amount of cost the LEA has to contribute to the provision of the child's statement. As a result they have instead been able to rely upon the school's delegated resources meant for non-statemented children with special needs to subsidise its own cost.

- 16) The causes of BESD are complex and the link to social poverty as a single cause on the limited evidence available to the Inquiry is incorrect. In addition, many children with ASD experience secondary emotional behaviour difficulties and some 20% of children will experience severe mental health problems at adolescence.<sup>8</sup>
- 17) Historically special schools have existed alongside mainstream schools, with little integration or sharing of skills, but evidence shows that is now changing. But there is a need to maintain a SEN Framework that protects children with statements of special educational needs. Inclusion into

mainstream can be inappropriate for both the child concerned and for their peers; equally, it can be a rewarding experience. Ensuring access to a broad range of good local schools, including mainstream, special school and units attached to local mainstream schools, all working collectively together within the local community sharing their expertise is the natural development of future SEN strategy.

- 18) **The government needs to give greater priority to SEN and take full account of its central position in education and appreciate that children are individuals, requiring different learning experiences and learning environments to fulfil their potential. It should ensure authorities adopt the view that children require an education that responds to the individual needs of the child and parental choice and an acknowledgement that mainstream and special schools provision may be very different, but nonetheless are of equal value and equal worth**
- 19) There has been no evidence given to the Committee regarding any long term extensive research undertaken to compare a wide range of similarly situated groups of children, who present with similar special educational needs and cognitive ability, as to whether the children achieved better throughout their school careers in special schools, segregated or enhanced special unit, or mainstream provision. **Without evidence it appears a policy of inclusion has developed on the basis that it benefits all children.**
- 20) Research shows that a high percentage of people in youth offenders institutions have special educational needs.<sup>9</sup> Most did not benefit from a statement of special educational needs. One of the biggest risk factors to involvement in crime is non-school attendance, yet 87% of exclusions from primary schools and 60% from secondary schools are children with special education needs. The clear correlation between the fact that the majority of children excluded from school are those with special educational needs and the number of young offenders who have been identified with special educational needs, is concerning and needs to be dealt with as a matter of urgency. There is also evidence that many children educated in pupil referral units have been diagnosed with SEN; policy should be developed which has due regard to ensure that such children avoid the risk of becoming the 'ASBO' generation of tomorrow.
- 2) *Clarification of inclusion policy*
- 21) There is considerable confusion over the government policy regarding inclusion. On the one hand it wishes us to believe it has no such policy and yet on the other actively imposes its policy through guidance to education authorities. There exists a parallel of contradictions between what the DfES claims and then what it actually does. Whatever the government's claims to the contrary, it actively pursues via the DfES and its interaction with the LEAs, a pro-inclusion policy.
- 22) In evidence, the Minister, Lord Adonis refused to deny or accept under questioning that there was a government policy of inclusion but instead claimed it was the will of Parliament. Yet the government's own policy document '*Removal Barriers to Achievement*' clearly demonstrates this is not the case and that it wishes for a high propensity of children to be educated within mainstream provision. **The government's clear ideological stance to promote inclusion, is leading to a parental backlash based on fear, frustration and confusion. This duplicitous approach by the government undermines peoples confidence in its ability to deliver in the genuine interests of those children with SEN. It is evident that the policy is denying parental choice, which breaches the criteria laid down in Schedule 27 of Education Act 1996. Parents are presented with a confused message, and the government must give a clear unequivocal message to authorities, Parliament and parents who are anxious for their children's**

**educational future, that the government is moving away from its policy of inclusion to a position of respecting parental right of choice.**

23) The government would do well to follow the example of Baroness Warnock and recant a large part of its ideological stance, with regard to the policy of inclusion. This could be best achieved by issuing alternative guidance and circulars, and statements to the House of Commons, to enable LEAs to be more flexible in determining the type of provision for those children with SEN, in accordance with the Education Act 1996. If LEAs are to be more responsive to the needs of SEN children, they need to be more independent from the central government straitjacket. The DfES should enable LEAs to become decentralised, locally responsive and be locally accountable with regard to the provision of SEN in their areas. The current central government policy of inclusion, in effect excludes many children from receiving the provision of support they actually need. A genuinely inclusive approach to SEN would be flexible enough to allow for those children that need it, a provision of education that does not exclude them from certain educational opportunities, that are outside of the mainstream option.

3) *SEN: Overview*

24) It is evident that the tension in the current system is found within the law itself, which has a conflict of interest, namely the local authority is both the funder and commissioner of the statement of special educational needs. Successive governments from both parties have given the authorities every opportunity to meet the special needs of children, yet it has consistently been shown authorities do, and more so since the introduction of SENDA 2001, evade their statutory duties. **The tension created in the Education Act 1996 – in its role as the Commissioner, funder and the provider – is to the disadvantage of children with a statement of special educational needs and must be resolved.**

25) **Parents of children with special educational needs are increasingly turning to the independent and charitable sectors, to ensure their children receive the appropriate level of education their needs call for.** 65% of parental appeals to SENDIST regarding part IV of the statement of special educational needs, namely school placement, now result in parents successfully winning an independent school to be named in their child's statements. The policy of inclusion leading to the closure of special schools has in their effect only served to further remove children from their local communities and exclude children from their local communities. Ironically the government's policy of inclusion has been wholly exclusive for many children.

4) *Failings within the SEN system*

26) The major frustrations parents have complained of are:

- a) Local authorities refusal to undertake a statutory assessment to ascertain if the child requires a statement of special educational needs.
- b) The statutory assessment process lacks independence
- c) Statements of special educational needs do not fulfil the legal requirements to identify need, specify and quantify support, or properly provide sufficient funds.
- d) Parents can only express a preference for a school, but the local authority determines placement.
- e) There is no right of appeal to SENDIST concerning the outcome of an annual review, if new educational needs, additional provision or alternative school placement is identified.
- f) The monitoring of statements of special educational needs and the child's progress is based upon self-reporting of teaching staff rather than formal assessments to show attainment.

27) The Parent Partnership Schemes are funded and operated by local authorities and despite in many cases their best intentions are insufficiently empowering parents to ensure the interests of their children are being met. Parent Partnerships need the powers to call LEAs to account. They

need to be more independent of LEAs and receive greater levels of funding to ensure they can do their jobs more effectively.

- 28) City academies are independent schools and cannot be named without consent and it is clear that if the academy does not consent, the authority cannot name the school in the statement, as in the case for all non-maintained independent schools. Several legal challenges have been lodged in the High Court. **The less favourable treatment experienced by pupils, who have been denied the same right of appeal to SENDIST regarding the naming of a city academy is discriminatory and is probably in breach of the DDA 1995.**
- 29) The SENDIST tribunal is a court of law. Although the appeals process in itself may appear to be 'free', the need to secure reports for legal case statements, are expensive and so the process excludes too many parents, particularly those from deprived social economic groups or those who may not fully understand complex SEN law. The Tribunal was set up on the understanding there would be no legal costs to the tax-payer, as such most parents are excluded from legal aid to pursue an appeal. Frequently, when parents decide to exercise their right for a Tribunal, the LEA will respond by appointing external legal advice such as a barrister to defend its case. At the same time parents are obliged to provide necessary reports and assessments, as well as appointing their own legal advice if necessary, in an attempt to counter those claims made by the LEA. LEAs also have the inbuilt advantage of having access to substantial resources and personnel, that parents do not. During his evidence to the Committee Mr Simon Oliver estimated that a Tribunal could cost parents from between £2,000 up to £10,000+. Clearly only those parents with access to such resources have a credible and realistic chance of reaching the Tribunal stage in the first place, without any guarantee of success. This current process denies most vulnerable and needy parents in society of the opportunity to ensure the cases of their children can be heard at a Tribunal.
- 30) **The Government should consider ensuring that all parents of children with special educational needs are given access to free legal advice and support for appeals to SENDIST through the establishment of an advisory service, similar to that available under immigration appeals. The current system to access legal help is dependent upon the parents' resources, when the appeal is not to benefit them, but relates to their child's individual special educational needs.**
- 31) Parents of children with special educational needs are concerned that the SEN audit conducted by the government, disregarded the needs of most children with SEN and it would seem sensible along with a review of special educational needs, that a proper audit is conducted to ascertain provision for all children with special educational needs.
- 32) The essence of the problem is that LEAs take their lead from central government, following the silent political ideology imposed on them by the centre. If LEAs looked to their local areas and turned away from central government they would be free to innovate and create solutions to meet the needs of vulnerable children as opposed to satisfying the ideological whim of their political masters."

Motion made, and Question proposed, That the Chairman's draft report be read a second time, paragraph by paragraph.-(*The Chairman.*)

Amendment proposed, to leave out the words "Chairman's draft report" and insert the words "draft report proposed by Mrs Nadine Dorries".-(*Mrs Nadine Dorries.*)

Question put, that the Amendment be made.

The Committee divided.

Ayes, 1

Mrs Nadine Dorries

Noes, 5

Mr David Chaytor  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 152 read and agreed to.

Paragraph 153 read.

Question put, That the paragraph stand part of the report.

The Committee divided.

Ayes, 5

Mr David Chaytor  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Noes, 2

Mr Douglas Carswell  
Mrs Nadine Dorries

Paragraphs 154 to 169 read and agreed to.

Paragraph 170 read.

Amendment proposed, in line 2, to leave out from 'greatly' to the end of the paragraph and to insert the words 'The good practice that is the norm in some local authorities ought to be adopted and replicated in those local authorities where there are higher levels of parental dissatisfaction. Rather than seeking to do this by imposing a National Framework, we believe that the most effective way of ensuring that good practice is followed more widely is to ensure that within each local authority there is more direct parental accountability. Direct downward accountability to parents – rather than yet more upward accountability (or worst of all a vague and convoluted "multi-agency responsibility"), would provide the incentive to ensure that good practice and innovations applied in one local authority area were quickly replicated elsewhere. Far from being merely kept well-informed, parents should normally be instrumental in the decision-making process regarding their own child. We recognise that this is not always possible, but it should be the "default setting" within the SEN system' – (*Mr Douglas Carswell.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 2

Mr Douglas Carswell  
Mr Rob Wilson

Noes, 6

Mr David Chaytor  
Mrs Nadine Dorries  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Paragraph agreed to.

Paragraphs 171 to 177 read and agreed to.

Paragraph 178 read.

Question put, That the paragraph stand part of the report.

The Committee divided.

Ayes, 7

Mr David Chaytor  
Mrs Nadine Dorries  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams  
Mr Rob Wilson

Noes, 1

Mr Douglas Carswell

Paragraphs 179 to 185 read and agreed to.

Paragraph 186 read.

Amendment proposed, in line 1, to leave out from ‘education’ to the end of the paragraph and to insert the words ‘funded, albeit not necessarily provided by, the state. The Institutions of civil society, not merely state agencies, should have a role in providing a high standard of education for all regardless of ability or background. Every parent should have a choice between various state-funded education settings. Key to making this aspiration a reality should be a legal right of parents, enshrined in primary legislation, to request and receive control over their child’s share of local authority education funding. This right should specifically be extended to parents of children with SEN as a priority.’—(*Mr Douglas Carswell.*)

Question put, That the amendment be made.

The Committee divided.

Ayes, 3

Mr Douglas Carswell  
Mrs Nadine Dorries  
Mr Rob Wilson

Noes, 5

Mr David Chaytor  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Paragraph agreed to.

Paragraphs 187 to 195 read and agreed to.

Paragraphs 196 to 208 read.

Motion made, and Question put, to leave out paragraphs 196 to 208.–(*Mr Douglas Carswell.*)

The Committee divided.

Ayes, 2

Mr Douglas Carswell  
Mr Rob Wilson

Noes, 6

Mr David Chaytor  
Mrs Nadine Dorries  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Paragraphs 196 to 206 agreed to.

Question put, That paragraphs 207 and 208 stand part of the report.

The Committee divided.

Ayes, 6

Mr David Chaytor  
Mrs Nadine Dorries  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Noes, 2

Mr Douglas Carswell  
Mr Rob Wilson

Paragraphs 209 to 248 read and agreed to.

Paragraph 249 read.

Amendment proposed, in line 5, at the end to add the words '**Once a child's needs have been determined in a statement, a monetary value should be arrived at regarding the support of that child's needs, and parents should be able to chose the best school for their child. This would give real power and choice to parents built into a more independent system**'.–(*Mr Rob Wilson.*)

Question put, That the Amendment be made.

The Committee divided.

Ayes, 3

Mr Douglas Carswell  
Mrs Nadine Dorries  
Mr Rob Wilson

Noes, 5

Mr David Chaytor  
Jeff Ennis  
Paul Holmes  
Mr Gordon Marsden  
Stephen Williams

Paragraph agreed to.

Motion made, to leave out paragraphs 250 to 374 and insert the following new paragraphs:

‘250. In this final section we look at proposals for future strategy on special educational needs and, based on the evidence we have received, make recommendations for an approach which puts the needs of pupils at the centre of provision.

***More centralism is not the answer***

251. There is a wide variation in the standard of provision of SEN between different local education authorities. In some LEAs, the system of assessing and providing SEN appears to be working well. In other LEAs, there appear to be significant shortcomings (see Chapter 4). This has led some to speak of there being a “postcode lottery” of SEN provision.

252. Before making our recommendations, our committee has asked how might public policy be reformed in order to ensure that the good practice found within certain LEAs is replicated across the board?

**253. One strategy to achieve this might be to use create a National Framework of standards and best practice so as to try to ensure that what successful delivered in one LEA was delivered within every LEA. We have considered this approach and we reject it.**

254. To merely recommend a National Framework and a further set of centrally determined standards and guidelines would be to repeat the post-war pattern of thinking followed by policy makers under governments of both major parties and automatically seek centralist solutions without giving due regard to the alternatives.<sup>10</sup> Creating a statutory requirement for local authorities to maintain, or have access to, a wide range of provision, including a range of special schools, specialist units, and services for low incidence special educational needs, is the wrong, and ultimately counterproductive, means of achieving a desirable outcome.

255. Top down decree is not the best mechanism for ensuring that SEN are better met throughout the country. In fact, we fear that were a National Framework established, it would create the mechanism by which “one-size-fits-all” policies could be imposed in the future, in much the same way that the policy of inclusion became the orthodoxy despite the opposition of parents.

256. We note that Baroness Warnock has called for a new commission to be convened, in much the same way that her original commission was established all those years ago, in order to determine policy towards SEN post-inclusion. We believe that it would be wrong to do so since it would mean yet again imposing a common policy from the top down.

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10 We particularly lament the recent SEN Audit’s knee-jerk recommendation that the Government introduce a ‘clearly articulated national framework, linked to quality standards.’ It said that ‘Strategic planning is needed at regional, sub-regional, and local levels.. however, it should take place within a clearly articulated national framework linked to quality standards.’

257. We are suspicious of any suggestion that there be national level guidance. Whatever might be said about the need to preserve local flexibility, this so-called ‘provision mapping’ is likely to be even more prescriptive, and allow even less local accountability, than there currently is,<sup>11</sup> and to become a national SEN policy in all but name.

**258. The fundamental lesson to learn from the failure of the policy of inclusion is that there should be no such thing as a national policy on SEN.** Regardless as to what it might say about “inclusion”, a National Framework would create a more uniform national approach to SEN. With a National Framework there would be both less pluralism between different LEAs and less downwardly accountable. Yet, it is pluralism combined with direct local accountability that ought to be the engines for innovation and improvement in meeting SEN.

*Passing power away from town halls down to parents*

259. Instead of making town halls more upwardly accountable through a National Framework, we recommend that LEAs be made more downwardly accountable by giving parents new legal rights. In place of uniformity, we advocate greater pluralism and choice. It is via pluralism, choice and parental choice that we will get the level of SEN provision that SEN children deserve.

260. In order that those good standards and practices within certain LEAs become the norm across all LEAs, we recommend that LEAs be made less upwardly accountable for the provision of SEN.

261. We recognise that the failings within the SEN sector have arisen as a consequence of there being too much upward accountability as there is (see Chapter 2 for details of the central statutory and non-statutory guidelines). Indeed, the driving force behind the inclusion agenda that was imposed under successive governments over a period of two decades, was central government, rather than local LEAs.

262. In place of yet more upward accountability, we recommend direct downward accountability in order to ensure that LEAs become more responsive to local parents, as opposed to the remote authors of future, as yet unwritten, SEN strategy documents.

263. That some LEAs are not managing to effectively assess and deliver SEN is not in itself reason to in effect nationalise SEN policy even further. Instead it is a good reason for devolving accountability downward not merely from Whitehall to the town halls, but from the town halls to parents.

264. Clearly LEAs have some discretion as to how they provide SEN and some are not doing so as effectively as they might. Their failings suggest that mechanisms for downward accountability need to be put in place, rather than yet more mechanisms for upward accountability.

265. The National Autistic Society recently recommended that ‘the Government [...] should enshrine in law a duty upon local authorities to ensure that every child with autism has local access to a diverse range of mainstream and specialist educational provision, including autism-specific resource bases attached to mainstream schools, special schools and specialist outreach support.’<sup>12</sup>

266 While we feel strongly that local authorities should ensure that every child with autism—and indeed with any other SEN—must have local access a diverse range of mainstream and specialist educational provision. However, we not believe that this is best achieved by a law that specifies outcomes. Rather, we believe it can best be achieved by a law that empowers parents to determine that outcome.

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11 ‘Provision mapping’ would describe the additional strategies, interventions, resources and staffing which a school should have in place for those pupils identified as having SEN.As such, it would see priorities and policy set centrally and imposed nationally whatever lip service its advocates paid to local flexibility.

12 ‘Autism and education: the reality for families today’, National Autistic Society, 2006.

*Enshrining parents rights in law*

267 The Minister assured us that ‘we (the Government) would look very carefully at anything you recommended to us in this area’.<sup>13</sup> Taking the Minister at his word, **we recommend that the government introduce primary legislation to ensure that the parents and guardians of every child with SEN be given a legal right to request and receive control over their child’s share of LEA funding.**

268. Not all children with SEN have statements, but often those that have been statemented are the more vulnerable. We believe that a fundamentally different statementing process is needed to ensure the effective assessment of need, efficient and equitable allocation of resources, and appropriate placement to high quality provision for children with SEN and disabilities.

269. In chapter 4 we looked at some the shortcomings in the existing statementing process. The shortcomings in statementing mean that SEN are not being met, parents are being deterred from ensuring that their children’s needs are met, and that responsibility for the failure to meet SEN is being evaded.

270. In place of the existing statementing system, which has too much room for ambiguity, we recommend that statementing be reformed so as to specify in details what degree of SEN a child ought to receive, and quantify how much of the LEA budget that same child might expect to receive in order to get that standard of education. We are open-minded as to whether it should be the LEA that makes the assessment of needs, or some other body.

271. Once a child has received a statement, the child’s parents or guardians should be able to use the statement as a means of ensuring that their child’s share of LEA funding followed the child through the system to ensure that those SEN were met—regardless as to the setting in which the parents or guardian determined the child’s needs be met (i.e. special school, mainstream school or other).

272. Through this financial entitlement, parents should become instrumental in the decision-making process regarding their own child. We recognise that this is not always possible, but it should be the “default setting” within the SEN system.

*Let a thousand flowers bloom*

273. One reason put forward in favour of a National Framework is that it would iron out differences between the standard of SEN provision between different LEAs; it would remove the so-called “postcode lottery”. We disagree.

274. Though it may seem counterintuitive to some, the further standardisation of SEN policy at a national level would further exacerbate the “postcode lottery”. The apparently arbitrary variation in the standard of provision that parents can expect for their children between different LEAs has been caused by the upward system of LEA accountability. Because LEAs are not answerable downwards to parents of local children with SEN, the SEN policies that they pursue tend to be determined not by what local parents want, but by such arbitrary factors as what SEN experts they happen to employ and what role child psychologists, as opposed to other SEN assessors, play within that particular LEA.

275. Further standardisation between LEAs would, in creating even less downward accountability and even more upward accountability, paradoxically create even greater scope of arbitrary differences. Allowing for more policy pluralism between LEAs than that currently allowed (see chapter 2), coupled with downward accountability through effective parental empowerment, would remove the “postcode lottery”.

276. Firstly, with many parents across each LEA likely to make similar choices, the good practice followed in some LEAs today, is likely to be followed swiftly across all LEAs. Parental choice, rather than statutory guidelines, is the more effective means of ratcheting up standards of LEA provision across all LEAs. More downward accountability would drive up standards and outcomes in those areas where parents were dissatisfied.

277. Most important of all, however, with parents having a legal right to request and receive control over their child's share of LEA funds, there would no longer be a lottery at all. Instead of taking their children's chances in a system of arbitrary SEN provision as currently happens, parents would for the first time be able to do something about it. How their child's SEN were met would no longer be a matter of pot luck. Parents would no longer have to put up with the outcomes and results their LEA chose for them. Pluralism and parental choice, rather than the nationalisation of SEN policy and provision between LEAs, would end the existing "postcode lottery" in SEN provision.'—(*Mr Douglas Carswell.*)

Motion made, and Question put, that the paragraphs be read a second time.

The Committee divided.

Ayes, 1

Mr Douglas Carswell

Noes, 5

Mr David Chaytor  
 Jeff Ennis  
 Paul Holmes  
 Mr Gordon Marsden  
 Stephen Williams

Paragraphs 250 to 374 agreed to.

Summary agreed to.

Annex agreed to.

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

*Ordered*, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Monday 3 July at 3.30 pm

# Witnesses (Volume II)

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## Monday 31 October 2005

Page

**Baroness Warnock**, A Member of the House of Lords

Ev 1

## Monday 14 November 2005

**Ms Althea Efunshile**, Director, Safeguarding Children Group, **Mr Andrew McCully**, Delivery Director for School Standards Group, and **Mr Ian Coates**, Divisional Manager, Special Educational Needs and Disability, Department for Education and Skills (DfES)

Ev 52

## Wednesday 11 January 2006

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

Ev 79

**Mr Brian Lamb**, Chair, Special Education Needs Consortium, **Mr John Hayward**, Focus Learning Trust, and **Ms Claire Dorer**, NASS

Ev 106

## Wednesday 18 January 2006

**Mr Steve Haines**, Policy Manager for Education and Employment, **Ms Cathy Casserley**, Senior Legislative Advisor and **Ms Phillippa Russell**, Commissioner, Disability Rights Commission

Ev 126

**Mr John Wright**, Chief Executive, Independent Panel for Special Education Advice, **Ms Julia Thomas**, Solicitor, Children's Legal Centre, **Ms Chris Gravell**, Policy Officer, Advisory Centre for Education, and **Mr David Ruebain**, Solicitor, Law Society

Ev 173

## Wednesday 1 February 2006

**Mr Mark Rogers**, Assistant Director, Children and Young People's Directorate, Stockport City Council, **Mr Tim Warin**, Senior School Improvement Advisor, SEN, and Coordinator of SEN Services, Newcastle City Council and **Ms Janet Sparrow**, Acting Head of Special Education Services, Buckinghamshire County Council

Ev 193

## Monday 13 February 2006

**Professor Alan Dyson**, University of Manchester, **Professor Julie Dockrell**, Institute of Education, University of London, and **Professor Brahm Norwich**, University of Exeter

Ev 219

## Wednesday 1 March 2006

**Ms Elizabeth Clery**, RNIB, **Ms Carol Boys**, Down's Syndrome Association, **Ms Simone Aspis**, British Council of Disabled People, **Mr Richard Rieser**, Disability Equality in Education, and **Ms Micheline Mason**, Alliance for Inclusive Education

Ev 274

**Mr Mike Collins**, National Autistic Society, **Dr Susan Tresman** (Visiting Professor), British Dyslexia Association, **Ms Virginia Beardshaw**, I CAN, and **Mr David Congdon**, Mencap

Ev 309

### Wednesday 8 March 2006

**Ms Miriam Rosen**, Director of Education, **Ms Eileen Visser**, Area Divisional Manager, Ofsted, **Mr David Curtis**, Director of Education, Culture and Social Care, **Ms Joan Baxter**, London Regional Lead for User Focus and Educational Specialist, Audit Commission, and **Mr Ralph Tabberer**, Chief Executive, Training and Development Agency for Schools Ev 332

**Mr John Bangs**, Assistant Secretary, Education and Equal Opportunities, NUT, **Dr Rona Tutt**, Immediate Past President, NAHT, **Mr Martin Johnson**, Head of Education, ATL, and **Mr Darren Northcott**, Assistant Secretary (Education), NASUWT Ev 371

### Wednesday 15 March 2006

**Mr Kevin Rowland**, Principal Educational Psychologist, Plymouth City Council, and Chair of the CPD Committee, Division of Child and Educational Psychology, British Psychological Society, **Ms Jean Salt**, President of NASEN, **Ms Shirley Cramer**, Chief Executive of Dyslexia Institute, and **Ms Kate Griggs**, Founder of Xtraordinary People Ev 404

### Wednesday 22 March 2006

**Lord Adonis**, A Member of the House of Lords, Parliamentary Under-Secretary of State for Schools, Department for Education and Skills (DfES) Ev 423

## List of written evidence in Volume II

---

1	Baroness Warnock (SEN 195)	Ev 9
2	Department for Education and Skills (DfES) (SEN 178) (SEN 223) (SEN 227)	Ev 11: Ev 417: Ev 444
3	Network 81 (SEN 64)	Ev 70
4	Kids First Group (SEN 36) (SEN 191) (SEN 205)	Ev 73: Ev 91: Ev 93
5	Wiltshire Dyslexia Association (WDA) (SEN 75)	Ev 74
6	SPINN (SEN 104)	Ev 78
7	Special Educational Consortium (SEN 136)	Ev 93
8	Focus Learning Trust (SEN 98) (SEN 222)	Ev 98: Ev 115
9	National Association of Independent Schools and Non-Maintained Special Schools (NASS) (SEN 156)	Ev 101
10	Disability Rights Commission (SEN 05)	Ev 116
11	Independent Panel for Special Education Advice (IPSEA) (SEN 66) (SEN 197)	Ev 137: Ev 183
12	Children's Legal Centre (SEN 89)	Ev 151
13	The Advisory Centre for Education (SEN 91)	Ev 154
14	The Law Society (SEN 105)	Ev 169
15	Newcastle City Council (SEN 44)	Ev 188
16	Newcastle upon Tyne LEA—SEN Division (SEN 135)	Ev 189
17	Buckinghamshire County Council (SEN 45) (SEN 201)	Ev 191: Ev 211
18	Visual Impairment Training Group (VITG) (SEN 24)	Ev 212
19	Professor Brahm Norwich, School of Education, University of Exeter (SEN 87) (SEN 202)	Ev 213: Ev 235
20	Alan Dyson, Mel Ainscow and Peter Farrell, Professors of Education, University of Manchester (SEN 200)	Ev 216
21	RNIB (SEN 138)	Ev 237
22	The Down's Syndrome Association (SEN 40)	Ev 247
23	British Council of Disabled People (SEN 114)	Ev 249
24	Disability Equality in Education (SEN 68)	Ev 252
25	Alliance for Inclusive Education (SEN 153)	Ev 269
26	National Autistic Society (SEN 128)	Ev 284
27	British Dyslexia Association (SEN 122)	Ev 297
28	I CAN (SEN 129) (SEN 219)	Ev 300: Ev 318
29	Mencap (SEN 47)	Ev 306
30	Ofsted (SEN 133) (SEN 221)	Ev 319: Ev 345
31	Audit Commission (SEN 173)	Ev 321
32	Training and Development Agency for Schools (TDA) (SEN 216) (SEN 234)	Ev 324: Ev 345
33	National Union of Teachers (NUT) (SEN 01)	Ev 346
34	National Association of Head Teachers (NAHT) (SEN 93)	Ev 354
35	Association of Teachers and Lecturers (ATL) (SEN 117)	Ev 360

36	National Association of Schoolmasters Union of Women Teachers (NASUWT) (SEN 140)	Ev 364
37	British Psychological Society (SEN 177)	Ev 381
38	NASEN (SEN 30) (SEN 218)	Ev 386: Ev 413
39	Dyslexia Institute (SEN 139)	Ev 394
40	Xtraordinary People (SEN 199) (SEN 215)	Ev 400: Ev 401
41	Institute of Education (SEN 235)	Ev 413
42	Plymouth Psychology Service, Plymouth City Council (SEN 226)	Ev 415

## List of written evidence in Volume III

---

43	Contact a Family (SEN 06)	Ev 450
44	GA Architects (SEN 07)	Ev 453
45	South East Region Special Educational Needs Partnership (SERSEN) (SEN 09)	Ev 454
46	Visual Dyslexia (SEN 11)	Ev 457
47	LOOK London (SEN 13)	Ev 458
48	Disability, Inclusion and Special Needs (DISN) Research Group, School of Education, University of Birmingham (SEN 22)	Ev 459
49	Pre-school Learning Alliance (SEN 25)	Ev 464
50	Save Thornchace Intervention Committee 2 (STIC2) (SEN 26)	Ev 466
51	Bristol Dyslexia Centre (SEN 27)	Ev 467
52	Centre for Studies on Inclusive Education (SEN 32)	Ev 472
53	Mobility and Independence Specialists in Education (MISE) (SEN 33)	Ev 475
54	South Gloucestershire Council (SEN 38)	Ev 476
55	National Deafblind and Rubella Association (SEN 39)	Ev 480
56	Graiseley Primary School (SEN 41)	Ev 484
57	National Autistic Society (SEN 49)	Ev 485
58	RESCARE (SEN 50)	Ev 487
59	Epilepsy Action (SEN 51)	Ev 487
60	Royal London Society for the Blind (SEN 54)	Ev 493
61	Afasic (SEN 55)	Ev 495
62	Clapham Park Project (SEN 58)	Ev 507
63	Autism-in-Mind (AIM) (SEN 59)	Ev 517
64	SEN Leadership Group, Raising Achievement Division, Children's Services Directorate, Somerset County Council (SEN 60)	Ev 521
65	SOS!SEN (SEN 65)	Ev 524
66	ISCG (SEN 78)	Ev 526
67	Education Walsall (SEN 86)	Ev 527
68	CASE (SEN 88)	Ev 529
69	Nuffield Hearing and Speech Centre, Free Royal Free Hospital NHS Trust (SEN 92)	Ev 530
70	National Governors' Council (SEN 97)	Ev 532
71	St Margaret's School, The Children's Trust, Tadworth, Surrey (SEN 99)	Ev 534

72	Early Childhood Forum (SEN 109)	Ev 536
73	Autism Bedfordshire (SEN 110)	Ev 538
74	Parents for Inclusion (SEN 111) (SEN 207)	Ev 540: Ev 697
75	Dyspraxia Foundation (SEN 112)	Ev 543
76	The Five Minute Box (SEN 115)	Ev 544
77	Association of Colleges (AoC) (SEN 118)	Ev 548
78	The Bridge for Social Communication (SEN 119)	Ev 550
79	Scope (SEN 121)	Ev 552
80	Northern Council of Education Authorities (SEN 123)	Ev 554
81	Society for Mucopolysaccharide Diseases (SEN 125)	Ev 556
82	TreeHouse (SEN 127)	Ev 559
83	Trade Union Disability Alliance (TUDA) (SEN 130)	Ev 564
84	Valuing People Support Team, Department of Health (SEN 134)	Ev 565
85	John McKeown Associates (SEN 137)	Ev 566
86	Rathbone (SEN 141)	Ev 567
87	SCOPE and the National Union of Teachers (NUT) (SEN 144)	Ev 569
88	The Children's Society (SEN 146)	Ev 570
89	Royal College of Speech and Language Therapists (SEN 147)	Ev 573
90	The Young ME Sufferers Trust (SEN 149)	Ev 579
91	Autism Consultancy Services (SEN 157)	Ev 581
92	South and West Association of Leaders in Special Schools (SWALSS) (SEN 163)	Ev 604
93	Priory Educational Services (SEN 180)	Ev 605
94	RADAR (SEN 181)	Ev 608
95	National Association of Paediatric Occupational Therapists (NAPOT) (SEN 182)	Ev 612
96	Cerebral Palsy Care (SEN 186)	Ev 615
97	Belfairs High School, Southend, Essex (SEN 194)	Ev 616
98	William Evans (SEN 02)	Ev 617
99	Allan Willis and Julie Maynard (SEN 08)	Ev 620
100	Maryla Carter (SEN 17)	Ev 630
101	Dr Sonali Shah (SEN 21)	Ev 637
102	Astrid Hansen (SEN 34)	Ev 646
103	R Wilkinson and J Rashleigh (SEN 56)	Ev 660
104	Sara Truman (SEN 84)	Ev 662
105	Dr Angela Ayios, Brunel Business School, Brunel University (SEN 103)	Ev 670
106	Association of Educational Psychologists (SEN 213)	Ev 676
107	Christine Davies, Borough of Telford and Wrekin (SEN 217)	Ev 677
108	The Fathers' Club (SEN 37)	Ev 680
109	Confederation of Children's Service Managers (ConfEd) (SEN 107)	Ev 681
110	Essex County Council (SEN 188)	Ev 686
111	Peter Gordon, Headteacher, Hazel Court School (SEN 209)	Ev 686
112	Blackpool Council (SEN 203)	Ev 687
113	Special Educational Needs and Disability Tribunal (SEN 229) (SEN 230)	Ev 689: Ev 690
114	BBC Radio 4: You and Yours (SEN 232)	Ev 692
115	David Ruebain and John Wright (SEN 196)	Ev 698

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1. (Tel 020 7219 3074) hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Mrs Annabel Tall

Ms Sarah Burnage

Ms Gill Dixon

Mr David Pearce

Ms Karen Betony

Mr Terry Saunders

P Moya and L Rashid

Mr Gordon and Mrs Julie Hedge

Stephen and Timothy Serpell

Daniel Janes

Philippa Gunner

Paula Jewes

Ms Sarah Bradshaw

Miss Claire Jackson

Mr David Gibbons

Ms Julie Maidens

Mr Kevin O'Byrne

Michelle Mould

Mrs Deirdre Holland

Sara Dekker

Simon Burdis

Gillian Clayton

Mark and Helen Harrison

Mrs Carol Gamble

Mrs Julie Hall

Sharon Tringham

Karen Crowley

Carol Dixon

Alistair Smith

Carolyn Deréky

Alison Martin-Clark

Trudi Mansfield

Mr and Mrs P Spence

Maree Ballard

Biff Crabbe

Frances Shawcross

Christopher Robertson, University of Birmingham

Emeritus Professor K Wedell CBE

Miranda Bury and James Cavanagh

Karen McNulty

Anne Coote

Karen Adams

Frances Wallace

Marie-Laurence Pace

Carmel Egan

Matthew and Martina Hatchwell

Elsbeth Wollen

Brendan King

Chris and Marina Jonas

Zelda McCollum

Wayland Ellis

Alyson Fisk

Jacqueline Heywood

Janice Wright

Mark and Deborah Morris

Mrs Allison Edwards

Melanie Duke

Hilary Doran

Jane Pulford

Andrew Sutton

Mrs Rosemary Lever

Suzanna and Walter Harris

Mr JN and Mrs JK Brookes

Mrs Elizabeth Hamer

Mrs Tania Bradshaw

Mr Ian Storer

Mr and Mrs Parker

Mr and Mrs S Philps

Lea Hurst

Mrs B Wilson

Adele Beeson

Jackie Cheeseman

Susan McAnulty

Allison Fackrell

Maria Hutchings

Anne Robinson

Alison Crumpler

Trevor Clarke

Caroline Vibert

Mrs Rosemary Lever

Alan Stinchcombe

Linda Donnellon

Les Sciafe, West Lancs Peer Support Group

John Ling

Mrs Wendy Lowe

St John's Catholic School for the Deaf

Professor Ian Mackintosh

Susan Tresman, British Dyslexia Association

Mr Ian Parkinson

Roding Primary School with Hearing-Impaired Provision, Essex

Alan Share

Corina Scott, schoolteacher, Merton

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

## Reports from the Education and Skills Committee, Session 2005–06

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First Special Report	Government's Response to the Committee's Second Report (Education Outside the Classroom), Sixth Report (National Skills Strategy: 14–19 Education) and Eighth Report (Teaching Children to Read) of Session 2004–05	HC 406
Second Special Report	Government's Response to the Committee's Third Report (UK eUniversity) of Session 2004–05	HC 489
Third Special Report	Government's Response to the Committee's Fifth Report (Secondary Education) of Session 2004–05	HC 725
First Report	The Schools White Paper: <i>Higher Standards, Better Schools for All</i>	HC 633-I and II
Second Report	Public Expenditure on Education and Skills	HC 479
Fourth Special Report	Public Expenditure on Education and Skills: Government Response to the Committee's Second Report of Session 2005–06	HC 1132