

STATEMENTS OR SOMETHING BETTER?

PRELIMINARY CONSULTATION ON OPTIONS FOR
CHANGE TO THE FRAMEWORK FOR STATUTORY
ASSESSMENT AND STATEMENTS OF SEN

SUMMARY OF PROFESSIONAL VIEWS

Additional Needs and Inclusion Division
January 2008

D R A F T
23.01.2008

Background

Following recommendations made in reports by ESTYN, the Audit commission and Cambridge Education Associates,* the Welsh Assembly Committee for Education, Lifelong Learning and Skills (ELLS) conducted a policy review relating to the framework for statutory assessment and statements of special educational needs (SEN), (part 2 of a 3 stage review of SEN). The review report* made 28 recommendations for change.

A Welsh Assembly task group contributed to the policy review and produced seven options for change. Following key stakeholder discussions these were reduced to three. The first recommendation of the ELLS Committee policy review is to:

".....carry out a wide-ranging consultation with parents and other key stakeholders to build consensus and confidence before any fundamental changes are made to the statutory assessment framework."

Accordingly, a preliminary consultation on these potential options for change was conducted with parents in June and July 2007 (see report September 2007) and this has now been followed by a second phase of consultations with relevant professionals.

This report summarises the outcomes of this second phase of the preliminary consultation process.

Consultation Process

Regional Meetings

As with the Parental consultation, regional meetings were organised in each of the 4 local authority consortia areas, with 2 separate meetings being held in north Wales, (north-east and north-west Wales).

Each LEA was asked to nominate 6 delegates with a recommendation to include the following:

- A primary and secondary headteacher
- A primary and secondary SEN co-ordinator (SENCO)
- An LEA SEN/Inclusion officer
- An education psychologist

Invitations to send representatives were also sent to:

- Social Services
- Children's and Young People Plan (CYPP) co-ordinators
- Local Health Boards
- Health Trusts
- Teachers' professional associations
- Careers Wales
- The Commission for Racial Equality
- Initial Teacher Training (ITT) providers
- The General Teaching Council for Wales (GTCW)
- Fforwm (An organisation representing FE colleges and institutions in Wales).
- The National Association of Principal Educational Psychologists (NAPEP)

Prior to the meetings, the following documents were circulated to ensure that each participant had the opportunity to prepare appropriately:

- Statements or Something Better? (summary of the 3 options for change)
- The summary of Parental Views (report from the first phase of consultation)
- A timetable for the day.

Welsh Assembly Government (WAG) and SNAP Cymru officers jointly facilitated the regional meetings and detailed records were made of the discussions. The large storyboards illustrating each of the three options used for the consultation with parents were displayed and printed copies were issued at the meetings to aid understanding. An open invitation was also extended to those attending the meeting to submit additional written responses.

Each meeting started with a plenary presentation that:

- summarised the background and context for the preliminary consultation,
- outlined the 3 options for change,
- summarised the results from the consultation with parents and carers,
- explained the process beyond this preliminary consultation.

This was followed with smaller workshops where:

- clarification was provided relating to the 3 options for change,
- views were invited on:
 - the three options
 - the current system
 - the views of parents/carers
- views were also sought on the “essential features” needed for an effective statutory assessment and statementing system in Wales.

Other consultation meetings

A specific consultation event was organised for professionals working for voluntary organisations that support children with SEN or disabilities. These organisations had been invited to nominate parents and carers to the afternoon meetings of the regional events in the first phase of the consultation. However, several organisations had requested the opportunity for their staff to have an opportunity to contribute to the consultation process.

Separate consultation meetings were also organised in response to requests from specific national bodies, networks etc. These included:

- The SEN Tribunal in Wales (SENTW)
- ESTYN*
- The School Workforce Advisory Panel (SWAP)
- The network of SEN advisers in Wales
- NAPEP*
- The SEN and disabilities sub-group of the ministerial advisory panel for additional learning needs and inclusion.

* These meetings did not eventually take place but both organisations submitted written responses.

Written Responses

Written responses have been received from the following organisations:

- The Royal National Institute for the Deaf (RNID)
- ESTYN (not yet)
- NAPEP
- The National Deaf Children's Society (NDCS)
- NCH
- Wales Council for Deaf People
- Wales Council for the Blind
- Children in Wales
- SENTW

Summary of Views

OPTION 1 – MINOR CHANGES

Positive responses were received in relation to:

- o The provision of a *school improvement adviser* and the focus on capacity building within mainstream schools. The view was also expressed that this model would help to ensure that school effectiveness/improvement services within LEAs worked more closely with SEN/Inclusion sections.
- o The composition of the *multi-agency panel*. Specific aspects thought to be positive were:
 - An effective parental role.
 - Health representatives involved.
 - That it would lead to earlier intervention of therapists.
 - It would be seen as fairer than at present.
- o The shift of focus to the school.
- o The *individual development plan*. In particular, the emphasis being placed upon outcomes, ie the progress the child is making and what the school is doing to support.

- o The *lead professional / key worker*.
- o The more interactive approach involved.
- o A common approach across Wales.
- o The system for reviewing the statements.
- o The recognition of the pivotal role of the SENCO.
- o It involving no change to the current legal status.
- o School resources being delegated.

Some positive comments were made with certain **provisos**.

These included:

- o The selective involvement of health service personnel in the multi-agency panel would be the only way of achieving regular involvement.
- o Effective training and support would need to be provided to mainstream schools.
- o Roles and responsibilities of involved professionals need to be defined within the IDP.
- o Effective communication systems and joined up working would be needed between different professionals in this model and with parents.

Negative responses were received in relation to:

- o The requirement of an Advocacy Service.
- o The need for major structural change.
- o Concern over the level of commitment required by other agencies and their capacity to deliver.
- o The model not extending entitlement to those not currently in receipt of a statement, ie. those on *School Action Plus*.
- o A concern over possible increased pressure on budgets.
- o A likely increase in workloads.
- o A likely increase in workloads on LEA panels.
- o The 4-stage process for dealing with complaints would take too long.
- o School improvement advisers being involved in individual cases.
- o Most school improvement services not having the relevant expertise.

- o It possibly being more bureaucratic and more expensive. Particular concern was expressed in relation to the new school improvement adviser role.
- o There being a lack of capacity to ensure consistent approaches across Wales.
- o Increased numbers of pupils with statements being difficult to manage.
- o Smaller schools not having the capacity to provide for pupils with SEN; school clusters are essential.
- o No mention being made of Children's Services
- o Child's view being absent from the model.
- o Panels are currently very bureaucratic.
- o Children with SEN without a statement are not provided for. This is a particular problem post-16.
- o Early intervention strategies not being highlighted in this model.

OPTION 2 RESHAPING OUR APPROACH

Positive Responses were received in relation to:

- o The *wrap around care* planning and provision. This model would allow for family support for the most needy.
- o Provision for pupils at *School Action Plus* can be effective and could be extended without the need for a statement.
- o The potential for provision to be extended beyond 19, to age 25.
- o The provision of advocacy support.
- o It enabling smooth transitions between stages in the education system.
- o LEA panels being far more workable.
- o Reduced caseloads enabling more effective co-ordination and more manageable workloads. Statements should be more easily kept up to date.
- o The release of funds should enable earlier and more flexible interventions without the need for a statement.
- o The recognition of pre-school provision.
- o The key worker potentially helping break down barriers.

- o The model being child-centred and holistic.
- o It enabling a focus on the highest priority cases.
- o The continuous cycle of assessment, planning, implementation and review.
- o The in-depth multi-agency assessment over time.

Negative comments were received in relation to:

- o Legal protection and the right to appeal not extending to *School Action Plus*. There would be no guarantee that these pupils would receive the support they need.
- o Many of the pupils who fall into *School Action Plus* having needs that are difficult to identify and requiring other agencies' input. (eg many pupils with ASD or specific learning and language difficulties)
- o Parents of pupils on *School Action Plus* needing access to advocacy support.
- o 0.5% of pupils receiving a statement is too small a proportion. Some degree of flexibility is needed to ensure all those with more complex needs are included.
- o The child or young person also being able to identify themselves as having a need.
- o Huge need for re-educating everyone into such a different system.
- o Consistent release of staff from all sectors for the Panel being difficult to achieve.
- o Considerable doubt that savings being realised from this model and, if so, will be effectively ring-fenced.
- o Parents of pupils, who no longer are subject to a statement, being no longer entitled to Disability Living Allowance, which could pull more families into poverty.
- o Schools being disempowered by the increased power of LEA panels.

OPTION 3 PASSPORT APPROACH

Positive Comments were received in relation to:

- o It being the most exciting and challenging option. Its a more inclusive system.
- o The continuous, flexible cycle for planning, implementing and review being good. "Regular sharing and updating information is good practice."
- o Clusters of schools ensuring better collaboration between schools, particularly primary and secondary schools. It would facilitate local responses to local needs.
- o It being a much more open and transparent system. Anyone being able to identify a need at any time. "It would help parents to accept and trust the system better."
- o The system lending itself better to the planning of primary to secondary school transition.
- o The Passport moving with the child wherever they were educated in Wales.
- o Potentially the Passport being used beyond school to help access other services.
- o The involvement of the child or young person.
- o The electronic file being maintained already by Health Trusts and the potential of this use to build an inter-agency system.
- o The potential for linking into the *Orange Book system*.
- o The Fostering of partnership working.
- o It facilitating a school improvement approach well.
- o The SENCO being the best person to provide the pivotal link role.
- o It leading to a reduction in paperwork and unnecessary meetings.

Negative comments were received in relation to:

- o It being too bureaucratic for schools. There would be huge pressure created on schools to make the system work and the extra work involved would not lead to improvements.
- o The need for SENCOs to be given more time for co-ordinating provision. It's a management role and would take them away from teaching children. This could lead to difficulties in recruitment.

- o Many SENCOs and headteachers not having the expertise needed.
- o The headteacher cluster panel not being able to respond quickly enough. It is also unlikely that they would have sufficient expertise or be impartial. Where clusters exist they have not always worked well together.
- o The creation of power struggles between headteachers. More vocal or dominant heads would command an unfair proportion of the funding.
- o Its being similar to the *Orange Book system*, which is not working.
- o Confidentiality being an issue with the cluster panel.
- o Recycling or rotating support from one pupil to another being not workable.
- o Achieving equity across schools and LEAs would be very difficult
- o Additional resources being delegated would be insufficient to enable the clusters to function effectively. Potentially huge cost implications involved.
- o The lack of legal protection making it very unpopular with parents.
- o The model not facilitating inter-agency working.
- o The need for a lot of planning, commissioning and monitoring from the centre, which would be costly.
- o The need for very robust assessment tools.
- o The difficulties it would present for pupils moving outside Wales.
- o The massive training implication.
- o The likely increase in referrals to special schools etc., particularly where considerable costs are entailed in meeting a pupil's needs.
- o Post-16 students not being provided for under this model.
- o The insufficient focus on the child's perspective.
- o The term *passport* being patronising, over-used and unsuitable.

General comments made about the three options

- o A combination of all three options was favoured by quite a few respondents, eg. the use of an IDP with both of option 2 & 3.
- o Home educated pupils need to be provided for in any future option.
- o The SEN Tribunal needs to be retained.
- o An advocacy service is needed, which is independent and can support both parents and, where necessary, the child or young person. However, role clarification is needed between essential mediation services and an advocacy service.
- o There was general support for the concept of *lead professional / key worker*. However, clarification is needed on their role and who would be best fit to fulfil it within the current system. Some felt that the role would overlap with that of the SENCO and a few felt that this person should be independent.
- o Emphasis on school improvement is essential.
- o The voice of the child or young person needs to be recognised.

CURRENT SYSTEM

Positive Comments were received in relation to:

- o The requirement for detailed, specific outlines of need and provision.
- o Legal protection and the right of appeal afforded by a *Statement*.
- o The current assessment process.
- o The staged approach of *School Action* and *School Action Plus*.
- o The clear processes outlined in the SEN Code of Practice.
- o The good partnerships established by some LEAs with schools and parents.
- o The guidance and support provided to schools by LEAs.

- o Where multi-agency involvement is used to deliver support. This is seen as being at its best where there are service level agreements defining roles and resources.
- o The arrangements for transition plans.
- o The Annual Review process.
- o Parents having become more knowledgeable about the current system over time.

Negative Comments were received in relation to:

- o Timescales for the assessment process being too long.
- o Timescales being difficult to meet.
- o The inadequate training for all staff in all contexts.
- o The SEN Tribunal process causing long-term damage to relationships.
- o The annual review process often not being implemented properly.
- o Amendments to statements taking too long.
- o The system being overly bureaucratic.
- o The wording of statements often being too rigid, greater flexibility being needed. Once issued, it being difficult to change.
- o Statements often not being understood outside Education.
- o The SEN Code of practice and the SENCO system are often not working as they should.
- o The lack of proper complaints systems for those at *School Action* and *School Action Plus*.
- o The content of the SEN Code of Practice being only guidelines. The need for them to be statutory.
- o Complaints procedures for those with statements needing to be streamlined. Too much time and resources being spent dealing with and trying to avoid litigation.
- o The system for disagreement resolution not working effectively.
- o The inconsistency of criteria, systems and approaches throughout the system.
- o The current system being very bureaucratic.

- o Insufficient resources being allocated to SEN. Services and schools often lacking the capacity to provide.
- o Many statements only being issued so that funding can be made available, which is seen as a misuse of the system and very wasteful.
- o The *transition planning* system (14+) not working.
- o The lack of advocacy service for young people with SEN.
- o Advocacy support for parents often being inaccessible.
- o The implementation of statements not being effectively monitored.
- o Working practices in all areas needing to be improved.
- o The terminology used in statements not reflecting a holistic view of a child.
- o There being insufficient inter-agency working.

ESSENTIAL FEATURES of a REFORMED SYSTEM

1. Resolution of current problems in relation to the funding of SEN provision:

- o A widespread shortage of funding for needs-led provision.
- o School's SEN budgets not being separate from the main school budget. Funding needing to be ring-fenced and the need for far more transparency over school's and LEA's SEN budgets.
- o The lack of hypothecation for LEAs education budgets.
- o Panels tending to make decisions about needs-based provision partly linked to available resources.
- o Funding mechanisms needing to be clearly separated from the assessment of needs.
- o The need for LEA realistic contingency budgets.
- o Need for a greater degree of accountability about how resources are distributed and outcomes related to expenditure.

2. A fully developed **inter-agency model** is essential for those who require more than one agency to meet their needs. This model would need to:
 - o Ensure legally binding funded provision includes both Social Service and Health based service provision.
 - o Provide a single individual plan, based upon a common assessment framework.
 - o Develop single review mechanisms.
 - o Use common definitions and terms.
 - o Develop common databases and provide accessible information for all agencies.
 - o Work collaboratively on undertaking assessments and in providing support, both in school and with the families.
 - o Be developed within the context of the Children's and Young People's Plan (CYPP)
 - o Establish common performance and strategic targets relating to this client group.
 - o Ensure joint commissioning arrangements are made compulsory.

3. **Consistency** is essential in LEAs across Wales and between schools within LEAs. Greater direction from WAG is needed to develop common criteria and approaches.

4. Rigorous **monitoring** of LEAs and is needed schools to ensure:
 - o Equity.
 - o Consistency.
 - o Appropriate implementation of the SEN Code of Practice.
 - o Appropriate use of delegated resources.

It was generally thought that a system of monitoring needed to be driven by WAG. Where shortcomings were identified in the system, powers were needed to ensure compliance.

The current ESTYN inspection framework was seen as having little impact on serious shortcomings within the mainstream sector. There was a variety of views as to who should be

responsible for monitoring including: LEAs, multi-agency including voluntary sector teams, the SEN Tribunal, ESTYN, WAG.

Several respondents suggested the formation of independent panels to monitor effectiveness and the complaints procedure.

5. **Capacity building of mainstream schools** was universally seen as an essential element to the future framework. Several respondents made the point that schools which provided well for pupils with SEN were almost always "good schools." The involvement of LEAs School effectiveness / improvement services were seen as essential. Doubts were expressed, however, about the knowledge and expertise in relation to SEN issues within these LEA services.

The role of the proposed WAG Area Improvement Teams in relation to this should be considered.

The assessment, planning and review processes for a pupil with SEN should include school factors. (see option 1)

6. The need for a comprehensive long-term strategy for the **professional development and training** for all levels of school staff was emphasised in every consultation event. Many suggested that the need for common training programmes for staff from LEAs and other agencies.
7. The role of **SENCOs** was a universal area of concern. There was a high level of agreement that SENCOs are a critical factor in determining effective mainstream provision and that they should:
 - o Be teachers with management responsibility and involved in schools' management teams.
 - o Have a mandatory qualification.
 - o Be full-time or have substantial release time.
 - o Be shared between smaller schools.

There were several suggestions that some aspects of the SENCO's role could be usefully undertaken by administrative support or by teaching assistants.

8. There was a very high level of agreement that legally binding protection of resources and rights of appeal to the SEN Tribunal should be extended to pupils currently at *School Action* and *School Action Plus*. The point was also made that there was a need to guarantee the availability of the wide range of provision of specialist services needed to support schools in meeting the needs of individual pupils.

9. In whatever models are developed for the future framework of statutory services, the need for effective measures to ensure:

- o Good **early intervention** and **prevention** strategies.
- o Well developed **transition to adulthood** planning incorporating Person Centred Plans (PCPs).
- o Consistent entitlement to post-16 provision, where needed. Many argued that there is a good case for extending provision up to age 25 for those with more significant difficulties.
- o Effective **partnership with parents**, to build a climate of empathy and trust. This needing a cultural change.
- o **The involvement of children and young people** in the identification, assessment and appeals processes.
- o Universal service provision for **Advocacy support, mediation** and a system of **key workers / lead professionals**.
- o An appropriate range of **Welsh Medium SEN provision**.
- o Shorter **timescales** for assessments and additional timescales for dealing with concerns and complaints.
- o Flexible and accessible planning and review systems (option 3).

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23.01.2008