

SEN Policy Options Group

**Special Educational Needs
has outlived its
usefulness:
a debate**

Policy Paper 4

6th Series

March 2009

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(completed Feb 2009)

Chapter 1:

Introduction to Policy Paper

Background to the policy paper

This paper is based on a debate held at the National Children's Bureau, 8 Wakley St, London on 4 November 2008, which focussed on the future of the term 'special educational needs'.

The reason for the debate was to explore issues and doubts about the future place of the concept of 'SEN' in a system where there is a stronger focus on 'disability', with Disability legislation and a broader concept of 'vulnerability' within the new Children's Services culture. 'Additional need' as used in Scotland, (versus 'special need') is seen to include a broader range of young people (beyond those with learning difficulties and disabilities) e.g. children in care, ethnic minorities, travellers etc. There is also the issue of how far identifying 'additional need' (as 'additional educational need' or 'additional support need') is consistent with the development of an education system which is personalised / individualised. It is often assumed that the system should start from the recognition of the 'diversity of learning needs' of all children. This has the implication that the system should have corresponding flexibility within its concept of progression and in terms of outcomes (e.g. the breadth of the 5 Every Child Matters outcomes). The debate addressed key issues about how we think about provision for children with special educational needs and how these issues have considerable bearing on policy and practice in this field.

The proposition that was debated was:

'Special educational needs has outlived its usefulness'

For the proposition were Dr Tom Williams, East Ayrshire Scotland (first proposer) and Professor Brahm Norwich, University of Exeter (second proposer). Against the proposition were Brian Lamb, Chair Special Educational Consortium/Director of Advocacy and Policy RNID and Chair of Lamb Inquiry (first opposer) and Lorraine Peterson Chief Executive of NASEN (second opposer).

Following the debates the participants went into small groups to discuss and debate further. The afternoon came to an end with a plenary, at which group discussions were reported to the whole group. These are summarised in the final chapter, along with the outcome of the vote by participants.

SEN Policy Options Steering Group

This policy paper was the fourth in the 6th series of seminars and conferences to be organised by the SEN Policy Options Steering Group. This group organised the initial ESRC - Cadbury Trust series on policy options for special educational needs in the early 1990s. The success of the first series led to the second series which was supported financially by NASEN. (See the list of these 23 policy papers at the end of this section). The Steering Group has representatives from LEA administrators, head teachers, voluntary organisations, professional associations, universities and research. The further success of the second and third series of policy seminars and papers led to a fourth and fifth round of seminars which has also been organised with further funding from NASEN. These events are intended to consider current and future policy issues in the field in a pro-active way. They are planned to interest all those concerned with policy matters in special educational needs.

Aims of the 6th series over a 3 year period from 2006-2009:

1. To continue to provide a forum where education policy relevant to the interests of children and young people with SEN/disabilities can be appraised critically and pro-actively in the context of the development of children's services.
2. To inform and influence policy formulation and implementation, to encourage and support an active and ongoing dialogue on SEN policy and practice between key stakeholders such as NASEN and other professional associations; schools, local authorities, parents and other agencies.
3. To examine and evaluate policy options in terms of current and possible developments and research in order to inform and influence policy formulation and implementation in the field.
4. To organise events where policy-makers, professionals, parents, voluntary associations and academics/researchers analyse and debate significant issues in the field drawing on policy and practice in the countries of the UK, and:
5. To arrange the dissemination of the proceedings and outcomes through publication and summary briefing papers.

Steering group membership

The current membership of the SEN Policy Options Steering Group is:

Professor Julie Dockrell, Institute of Education; Peter Gray, SEN Policy Consultant; Dr Seamus Hegarty, Claire Lazarus, DfES; Professor Geoff Lindsay, Warwick University; Professor Ingrid Lunt, University of Oxford; Professor Brahm Norwich, School of Education, Exeter University; Linda Redford, Policy Consultant; Penny Richardson, Educational Consultant; Philippa Russell, Disability Rights Commission and Adviser DfES; Tom Kelly, Rotherham LA; Philippa Stobbs, Council for Disabled Children / DCSF; Janet Thompson, Ofsted; Professor Klaus Wedell, Institute of Education, London University; Dr Tom Williams EPS, East Ayrshire.

Current series

The current series aims to organise four full or half-day events on special education policy and provision over the two years 2006-2009 which are relevant to the context of considerable changes in the education system.

If you have any ideas about possible topics or would like to know more about the events, please do contact a member of the Group or Brahm Norwich, Co-ordinator of Steering Group, at the School of Education, University of Exeter, Heavitree Road, Exeter EX1 2LU (01392 264805; email: b.norwich@exeter.ac.uk)

i. Policy Options Papers from first seminar series

1. Bucking the market: Peter Housden, Chief Education Officer, Nottinghamshire LEA

2. Towards effective schools for all: Mel Ainscow, Cambridge University Institute of Education

3. Teacher education for special educational needs: Professor Peter Mittler, Manchester University

4. Resourcing for SEN: Jennifer Evans and Ingrid Lunt, Institute of Education, London University

5. Special schools and their alternatives: Max Hunt, Director of Education, Stockport LEA

6. Meeting SEN: options for partnership between health, education and social services: Tony Dessent, Senior Assistant Director, Nottinghamshire LEA

7. SEN in the 1990s: users' perspectives: Micheline Mason, Robina Mallet, Colin Low and Philippa Russell

ii. Policy Options Papers from second seminar series

8. Independence and dependence? Responsibilities for SEN in the Unitary and County Authorities: Roy Atkinson, Michael Peters, Derek Jones, Simon Gardner and Phillipa Russell

9. Inclusion or exclusion: Educational Policy and Practice for Children and Young People with Emotional and Behavioural Difficulties: John Bangs, Peter Gray and Greg Richardson

9. Baseline Assessment and SEN: Geoff Lindsay, Max Hunt, Sheila Wolfendale, Peter Tymms

10. Future policy for SEN: Response to the Green Paper: Brahm Norwich, Ann Lewis, John Moore, Harry Daniels

iii. Policy Options Papers from third seminar series

11. Rethinking support for more inclusive education: Peter Gray, Clive Danks, Rik Boxer, Barbara Burke, Geoff Frank, Ruth Newbury and Joan Baxter

12. Developments in additional resource allocation to promote greater inclusion: John Moore, Cor Meijer, Klaus Wedell, Paul Croll and Diane Moses.

13. Early years and SEN: Professor Sheila Wolfendale and Philippa Russell

14. Specialist Teaching for SEN and inclusion: Annie Grant, Ann Lewis and Brahm Norwich

iv. Policy Options Papers from fourth seminar series

15. The equity dilemma: allocating resources for special educational needs: Richard Humphries, Sonia Sharpe, David Ruebain, Philippa Russell and Mike Ellis

16. Standards and effectiveness in special educational needs: questioning conceptual orthodoxy: Richard Byers, Seamus Hegarty and Carol Fitz Gibbon

17. Disability, disadvantage, inclusion and social inclusion: Professor Alan Dyson and Sandra Morrison

18. Rethinking the 14-19 curriculum: SEN perspectives and implications: Dr Lesley Dee, Christopher Robertson, Professor Geoff Lindsay, Ann Gross, and Keith Bovair

v. Policy Options Papers from fifth seminar series

19. Examining key issues underlying the Audit Commission Reports on SEN: Chris Beek, Penny Richardson and Peter Gray

20. Future schooling that includes children with SEN / disability: Klaus Wedell, Ingrid Lunt and Brahm Norwich

vi. Policy Options Papers from sixth seminar series

21. Taking Stock: integrated Children's Services, Improvement and Inclusion: Margaret Doran, Tony Dessent and Professor Chris Husbands

22. Special schools in the new era: how do we go beyond generalities? Chris Wells, Philippa Russell, Peter Gray and Brahm Norwich

23. Individual budgets and direct payments: issues, challenges and future implications for the strategic management of SEN
Christine Lenehan, Glenys Jones Elaine Hack and Sheila Riddell

Copies of most of these papers can now be downloaded from the NASEN website look for SEN Policy Options public pages for downloading these past copies.

Chapter 2: First proposer

Dr Tom Williams

A label whose time has gone:

By taking an evolutionary approach to the topic of special educational needs, this paper will argue that the label itself (special educational needs or SEN) has outlived its utility and should be allowed to pass into history as a milestone on the road to providing appropriate and adequate support for any child or young person whose needs go beyond what would normally be catered for within the context of mainstream education. The arguments promoted will be based on the work of Clare Graves as articulated operationally by Don Beck and Christopher Cowan, Beck & Cowan (1996).

The Spiral Dynamics model proposed by Beck and Cowan (op.cit.) proposes an evolutionary model of human culture. It is clear that human nature is not static and changes as the conditions of existence change, thus forging new and more adaptive systems. As these new systems are activated we change our psychology and perceptions to accommodate the emerging context. The spiral evolutionary nature of this process builds upon the existing culture, not replacing it, but allowing the centre of gravity of the culture to evolve into a more complex, yet stable system. Just as our genes represent the blueprint and history of our physical evolution as a species, so too we can postulate their psychosocial equivalents – Memes. Memes can be considered units of cultural information as represented by ideologies; language; belief systems; value laden symbols; social movements; moral statements and above all, behavioural instructions that link and cohere social groups. Beck (op.cit) proposes the existence of what he calls vMemes which can be seen as attractor fields drawing together content rich Memes in order to inform social contexts and the human mindsets that operate within them. vMemes generate decision making systems that are intrinsically dynamic and on the move, and in so doing they become the 'glue' that holds social structures together and define (at least for a time) the way humans interpret, communicate about and understand their social world.

Beck and Cowan (op.cit.) take an evolutionary view of how these vMemes define the centre of gravity of human society and culture over millennia. They identify these vMeme stages and colour-code them for easy identification. Although this paper will be broadly discussing educational attitudes with regard to the memetic structures from the mid 19th century onwards, for the sake of completeness the full spiral hierarchy of the model will be briefly described.

The most primitive stage of human evolution is that barely above instinctual animal level and is identified as the Beige Meme. Human behaviour would be determined by survival instincts that were automatic and instinctual. Education would not exist, other than as the manifestation of internal instinctual drivers. The next stage of evolution is characterised by humans coalescing into tribal units where safety and security are ensured by the coherence of the tribal group. This Purple vMeme stage would be characterised by a process whereby the young would be inculcated into the ritualistic tribal norms and mores designed to provide safety and security from a mysterious and frightening world. The Tribal structures of the Purple vMeme evolve into the exploitative structures of the Red vMeme when dominant groups emerge through power and exploitation in order to control people and resources for the benefit of the few (e.g. kings; emperors etc.). Education would be only for the selected few and broadly designed to seek to maintain the status quo and the power of the ruling hegemony. The next evolutionary stage, the Blue vMeme, can be characterised by the human structures being underpinned by belief

structures in an all powerful God figure. Society becomes structured through religious systems giving stability and purpose to life and stability is ensured by all, including the absolutist leaders, being subservient to the 'will of God'. In this structure, education is seen as important in building discipline, character and moral fibre. It is during this Blue vMeme stage that we see the beginning of a compulsory education system, but at this evolutionary stage young people and adults with special needs would not be found in education. At best they will be cared for, often in institutional settings that lack any real ethos of human dignity. Terminology such as 'moron', 'imbecile' and 'idiot' would be readily and unquestioningly applied to this population. The Blue vMeme would be the dominant structural model in western industrialised society through the latter part of the 19th century and into the 20th century. However, by the mid 20th century there is the emergence of the Orange vMeme. The dominant feature of this stage is the emergence of a society based on enterprise and materialistic achievement. Anyone can reach the top providing they work hard and achieve. Education becomes broadly about equipping young people to succeed in this competitive achievement based world. Clearly, young people and adults with special educational needs were seen as an economic 'drag' on the competitive system and that they should be educated to the extent that they were able to contribute – even in a limited way – to the productive ethos of society. Educational provision, inasmuch as it was put in place, emphasised care and the carrying out of simple repetitive tasks which may lead to a level of productive output in institutions such as adult training centres. Terminology now shifted to reflect more objective characteristics such as 'mongol'; 'spastic'; 'mentally handicapped/retarded' and 'ineducable'. The latter part of the 20th century saw the evolution of what was seen as a more communitarian structure to society – the Green vMeme. This represented a socio-centric and relativistic view of society where everyone was in principle equal and a part of the shared habitat of humanity. Education becomes focussed on bringing out the best in all children and young people and this applied equally to the population of children with special educational needs. The Warnock revolution brought the development of highly developed special schools and units with highly trained staff. The terminology shifted to reflect this with the generic term 'special educational needs' was used for the first time. Although this still represented a deficit model in many regards, it also represented a recognition that children with special needs were individuals with individual profiles of need that required planning for. The terminology belonging to the Blue and Orange vMememes were no longer acceptable and indeed were at times were actively avoided.

This brings the discussion up to date at the beginning of the 21st century. The Green vMeme is morphing into what Beck and Cowan (op.cit.) describe as the post-modern Yellow vMeme. This is the integrative vMeme where society seeks to value all as equal and education emphasises differences being integrated into interdependent, natural hierarchical flows. This represents the stage of evolution where there should be a celebration of the diversity and value of all and as such the population of children and young people with special educational needs will be subsumed into the general population and not considered as separate. This change offers a serious challenge to terminology. On the one hand, children with special educational needs require to be seen as no different from any other child while at the same time there is a recognition that they have needs that go beyond the norm. Provision will be in special schools and special units attached to mainstream schools and integrated support within mainstream classes. An attempt has been made to square this circle in Scotland with the Education (Additional Support for Learning) (Scotland) Act 2005. The definition of what constitutes additional help is expanded to include a wider population that hitherto fore would not have been considered to have special educational needs. The terminology 'additional support needs', now commonly abbreviated to 'additional support' is an attempt to even out the playing field by suggesting that everyone needs additional help from time to time.

As has been demonstrated, as human society evolves over time the centre of gravity of attitudes and behaviours shifts and with the shifts, language changes as well. The Spiral that Beck and Cowan (op.cit.) articulate is accelerating as well. It took millennia for the Purple vMeme to emerge from the Beige vMeme, thousands of years for that to shift into the Red vMeme and hundreds of years to see the emergence of the Blue vMeme. As society moved towards through the latter part of the 19th century, through the 20th century and into the early part of the 21st century, the rate of evolutionary change has accelerated at a dramatic rate. A mere one hundred and fifty years has seen the move from Blue vMeme through Orange vMeme, Green vMeme into the integral age of the Yellow vMeme with a consequent dizzying change in the way in which the equation as a whole is seen and in the way in which special education in particular is seen. Practice and provision has changed out of all recognition, public perceptions are changing and the emphasis is now much more on a 'can do' rather than a 'can't do' culture. The emergence of disabled athletes at events such as the Para Olympics shows how these attitudes have changed in the real world. With these changes, new memetic language structures will evolve and not only has the terminology characteristic of the Blue vMeme and the Orange vMeme become redundant, it generates active repulsion and discomfort.

So, the question must be asked – why should the term 'special educational needs' be any different when seen in such an evolutionary context? The answer is – it shouldn't and indeed it cannot. The experience in Scotland where the term has been changed to 'additional support needs', has already seen that shortened to 'additional needs' and in some instances the term 'additional' is being dropped altogether, thus suggesting that the child has 'needs' – as we all do!

So, what does the future hold in terms of the Spiral Dynamics model? Beck and Cowan (op.cit.) suggest that we are already seeing the emergence of the next vMeme – the Turquoise vMeme. This vMeme emphasises a global, holistic world view. In this vMeme, education will see all children and young people as both distinct and a blended part of a compassionate whole. Collaboration and cooperation will be the norm and be expected. Diversity, including that represented in the special educational needs population, would be seen as not only valuable, but essential to the healthy development of society as a whole. The logical conclusion will be that there will not be the need for any discrete labelling or terminology at any level – children will be children, people will be people, end of story!

So, it has to be asked - is this model merely naive optimism? The evidence suggests that it is not naive, nor is it overly optimistic. Change is speeding up and these memetic changes will be with us much quicker than we think. Holding onto historical terminology such as 'special educational needs' runs the risk of actively sabotaging the natural spiralling evolutionary process. The term 'Special Educational Needs' has been helpful as part of the evolutionary process, but it has had its day. It should be allowed to die with dignity and allow the new emergence to occur.

References:

- Beck and Cowan (1996) 'Spiral Dynamics', mastering values, leadership and change. Blackwell, Oxford, 1996 (re-printed 2003)
- Education (Additional Support For Learning) (Scotland Act (2005), (<http://www.opsi.gov.uk/legislation/scotland/acts2004/2004004.htm>)

Chapter 3: First opposer

Brian Lamb

The SEN Framework is no longer fit for purpose?

I am currently leading a review into parental confidence in the current SEN system. So in the context of this debate I need to emphasise that the arguments that I am putting forward are based on evidence from the early stages of the Inquiry and any conclusions are therefore from a personal perspective. As the Inquiry makes progress it may well be that these conclusions could change.

I want to deal first with some aspects of our thinking about inclusion and special educational needs. Then I want to turn to the SEN framework. I am going to argue that the question should not be, 'Is the framework fit for purpose?' but rather, 'What elements do we need in any system to address special needs and disability?' and then, 'How far do the current interlocking elements of legislation, that we describe as the framework, remain fit for purpose?' To the extent that there are problems with the current system I will argue that evidence points to the operation of the SEN framework being at fault, not necessarily its scope and purpose. Though this does not preclude radical change to the system, it does question how we might go about this.

Concepts of inclusion and special educational needs

It is a mistake to try and claim that changes in how special educational needs have been conceptualised, and policy implemented, over the last century means that we are on an evolutionary path towards doing away with the concept of SEN and moving towards an uncontested notion of inclusion.

The idea that legislating around a concept of special needs is in itself anachronistic has been argued by Tom Williams. Using vMememes as an overarching theory¹ of how to conceptualise changes in values, ideas and concepts he characterises the last hundred years as moving from the state dealing with children with special educational needs assuming that they were uneducable to one where the concept of special provision relating to a category of special educational need has outlived its usefulness. This is portrayed as being an inevitable result of the development of new values linked to developing codification of these in educational practice. This is a Social Darwinism of ideas based on a super category or organising principle and is used to posit a historical inevitability of moving away from any categorisation of special need in the name of inclusion. I have at least two major problems with this theory.

While it is unanswerable that there has been a general move away from a negative conceptualisation of children with different needs as uneducable, the idea that the next evolution is to one of inclusive practice, however defined, ignores the lack of consensus about what really inclusive practice would be in this context. I am not just thinking of how far "inclusion" should go when conceived of as a debate between mainstream and special

¹ See for example the founding text for this approach *Spiral Dynamics: Mastering Values, Leadership, and Change*, Don Beck and Christopher Cowan, 1996, which represents a form of Social Darwinism. vMeme refers to a core value system, acting as an organising principle, which expresses itself through memes (self-propagating ideas, habits, or cultural practices). The letter v indicates these are not basic memes but value systems which include them.

provision, though this in itself is contestable enough² but also that the concept of inclusion, as it is usually deployed in such debates, is also contestable. What the debate often fails to acknowledge is that it is not just how much inclusion, but what sort of inclusion or end point we are really aiming for.³ As a concept that is liberating for the individual and family, the current educational definition of inclusion has been postulated as an end point that the system is working towards. However there remain radically different views about what inclusion is or should entail both philosophically and how that is worked out in practice. However if there is no consensus as to what that end point looks like, then this should make us wary of making changes to a framework on the grounds that it is progress towards an ideal which is claimed to be historically inevitable. To postulate an inevitable move from one set of values and policy prescriptions related these to another is simply to beg the question of what we are really moving towards and in doing so commits a type of historicism questioned from Karl Popper onwards.

I am far more sympathetic to Brahm Norwich's starting point, that definitions of special educational needs are important, even if I retain concerns about changes to the definitions of SEN as a solution to existing problems. I believe the problems are caused less by the clash between different legal definitions of SEN and disability and more by the way the system is followed in practice. Furthermore I recognise that there are legitimate concerns about the way in which SEN has been applied in a way that can lead to unwelcome labelling, though the impact of this is often overstated. I also accept that there are also problems in the disconnect between using the SEN framework to assess individual needs related to education provision and the more general additional support needs which the new Scottish definition of additional needs tries to address. Lastly it is clear that to some extent the current statementing system and the way it relates to these definitions rests on an uncomfortable fit between identified individual needs and what is provided locally and therefore available without disproportionate additional cost.

However the current system of entitlements and definitions is not merely a set of administrative constructs but represents a political accommodation between competing forces within the system. Different definitions of SEN, assessment mechanisms and criteria will align resources differently to the advantage of some and detriment of others. Changing this may be a good thing but requires consensus about the basis for change and evidence of what works. Changing the concept of special educational needs or the way in which provision is organised may well shift the fault lines of resource allocation without improving the overall system, if we do not get this right. There is no simple alignment of interests around inclusive practice that can do away with concepts or definitions of additional needs or with mechanisms to allocate scarce resources between competing needs. Simply abolishing the category does not abolish the need or any competing notions of what need is and how to address it.

² See for example *Beyond Bricks and Mortar*, Demos Published by RNID 2008. Also Brahm Norwich *Dilemmas of difference, inclusion and disability: international perspectives*. BERA Paper August 2006. and *Inclusion: does it matter where pupils are taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities*. (OFSTED, 2006)

³ For example Maarten Simons and Jan Masschelein *Inclusive Education for Exclusive Pupils: A Critical Analysis of the Government of the Exceptional* in Foucault and the Government of Disability. Edited by Shelley Treman Foreword by Ladelle McWhorter 2005. February 2005. Or from a different perspective *Beyond the Dilemma of Difference: The Capability Approach to Disability and Special Educational Needs* Lorella Terzi *Journal of Philosophy of Education* Volume 39 Issue 3, Pages 443 – 459. Published Online: 21 Sep 2005

The issue of moving towards a catch all definition of additional needs or functional difficulty is that it does not obviate the need both to assess and make provision for those within the category and those without. It may be a worthwhile exercise to do this if it leads to a more rational allocation of resources, but let us not fool ourselves that we are off the hook of either labelling or resource allocation, for which we need a process. Secondly what proponents of moving away from the current system do not address is what protections will exist in any new system of allocation. Faulty though it may be, the virtue of the current system is that for some parents there is clear mechanism of appeal against decisions with some prospect of redress. These tensions will not simply wither away but have to be addressed in any new or revised system.

In short we have to recognise that the SEN framework is a system of resource allocation and therefore “political” to its core and that it is not easy to remove the politics involved by definitional fiat, when the net result may lead to groups of children who currently rely on the existing framework without protection or support on the grounds that we have an administratively clearer definition.

The SEN framework

The SEN framework has developed in a piecemeal fashion and implementation of SEN policy since before Warnock has often been less than rigorous even before the delegation of SEN funding really took hold.³ Therefore rather than viewing the framework as a coherent whole it is better conceived of as a number of legislative requirements and funding policies. Requirements and policies sometimes interlock, but sometimes there are overlapping requirements built over the last 40 years with some attempt at synthesis, most notably in the Government’s strategy Removing Barriers to Achievement. The significant level of delegation of funding to schools ensures that local delivery of national objectives will be one of the major themes in any examination of the system. The overriding challenge therefore is not a new definition of inclusion but that, despite the massive focus and investment in SEN provision over recent years and a number of very specific initiatives, there is still not enough clarity at any level about what we expect to be delivered.

What is clear is that:

- 1) the SEN framework embodies the key principles needed in any system; and that
- 2) the framework is significantly abused.

If we look at what would be needed in any system of educational provision to ensure that specific learning needs are addressed, I would argue that the following would form the core:

- Identification of specific needs or impairments or functional difficulty;
- An assessment of the nature and degree of that need, a plan to support that pupil to achieve their potential, and some notion of what resources might be required;
- A statement of what should be achieved, not a specific set of inputs but, as Section 3 of a statement currently requires, an exposition of the desired outcomes of the interventions;
- Parental participation in the decision-making at each stage; and

³ I have argued this in more detail in *Conflict and Progress in SEN Policy-A review of recent government policy initiatives in special educational needs provision*. In Education, Public Law & the Individual. Vol. 12. Issue 1, Autumn 2008.

- A parental right of appeal against any decision made about their child.

While I think it is perfectly legitimate to question what triggers should operate, what interventions should be used and at what stage, nearly all systems of special or additional provision follow a similar path towards defining an intervention in support of a child. The level, scope and triggers as well as the site of that intervention may vary. The fact is that current SEN framework covers all these elements and, however much we change the wording and the definition of SEN, we are essentially redistributing resources and activity between groups of pupils and how their needs are met, rather than fundamentally changing the whole system. In which case there is a powerful case for looking at what is currently being delivered and how before deciding on any structural change.

Having said this, there is no doubt that the current framework is not working well for enough parents and children. In my view it is:

Over-relied upon;
Under complied with;
Inappropriately focused; and
Inadequately taken into account in a range of other areas of educational endeavour.

If we address these problems the framework will work better. Furthermore I think it is possible to argue that no other framework will work either, unless we make the necessary changes that arise from my analysis of the failures in the current system. To take each of these in turn:

1. The framework is over-relied upon. Perhaps Warnock really was wrong in her focus as well as her prescriptions about the SEN system. Not only was her focus wrong in claiming that the system needed more small special schools (of about 400 pupils), but also in posing the question as one of what do to with the most demanding and high need pupils. We need to start at the other end of the issue and ask why do we have 12% of our pupil population identified as having SEN and placed at School Action? Do all these children really have SEN or have they fallen behind in their learning? Does it help pupils who have fallen behind in their learning to be labelled as having SEN? To what extent can quality first teaching and personalisation address their learning needs? Work on personalisation suggests that many of these pupils can learn and progress if we adopt approaches that are more forensic in identifying where learning has become frustrated; supplement normal teaching and learning with 1:1 tuition with a qualified teacher; provide a more personalised approach; and adopt a more consistent approach to checking on progress. Keeping more pupils within 'mainstream' provision would enable a clearer focus on those children with more enduring needs, for whom additional and different approaches may be needed.

We need a much clearer view of what is happening at School Action and School Action Plus to ensure that only those children who really have SEN as the underlying cause of the learning problem are being put into the system. Even if SEN is the underlying cause, personalisation and early intervention may provide a much better route than automatically moving pupils to the formal parts of the framework. Ironically this may return the focus to the core concern of Warnock which is those children with high levels of need.

2. The Framework is under complied with. There is growing evidence from parents and from local studies that:

- schools do not provide the information they are required to provide;

- local authorities do not publish the information they are required to publish, in particular the information about what provision they delegate to schools and what they retain centrally.⁴
- schools and local authorities do not pursue their policies in the spirit of partnership set out in the SEN Code of practice;
- schools and local authorities are not consistently making reasonable adjustments, meeting the requirements of the planning duties for disabled pupils, publishing their disability equality schemes, and developing these with the involvement of disabled people as they are required to do.

There is a strong sense that there is no consequence and no penalty for a failure to comply. Not that this should be of any great surprise as it was anticipated at its introduction that the legal route under SENDIST might be underutilised by parents who are reluctant to pursue claims of discrimination against schools. It is interesting that the largest single group of claims of discrimination last year were about fixed-term exclusions. By the time this point is reached, it is likely that the relationship between schools and parents is in a parlous state. It is also worth remembering that the failure to meet statutory requirements in this area does not tip a school into special measures.

Further the rights framework is less well known and understood than the SEN framework. As the Select Committee found while parents had a high awareness of the implications of the DDA they were confused about the relationship between the SEN provisions and the DDA implications.⁶ We should therefore expect to see more rigour in implementing the DDA and following the guidance in the SEN Code of Practice. There is an issue of the overlap between the different requirements but I have yet to be approached by a parent saying 'if only we harmonised the definition of SEN and disability, life would be better'. However I accept that this does not mean that overlapping definitions do not have the effect of introducing uncertainty of expectation for parents and lack of compliance amongst professionals. Whether we draw the conclusion that this means the interface between the two systems is fatally flawed or just that we need more clarity about compliance is an open question.

What is surprising in this context is the relatively high levels of parental satisfaction in local surveys of provision. However, this has to be tempered by the caveats that parents are often unaware of what they are entitled to. If parents knew what was supposed to happen, the system might be more responsive to both pupils and parents, and contrary to some popular opinion, parents' relatively modest expectations would be more readily met. We currently turn too many of our parents into 'warriors' for their children when early and appropriate intervention would meet many of their children's needs.

⁴ "The delegation of funding for support services had a negative effect on the provision for some pupils with SEN. It diminished the capacity of many LEAs to monitor the progress of pupils with SEN and reduced the range and quantity of specialist staff available to provide advice and support." Ofsted (2005) Inclusion: the impact of LEA support and outreach services.

⁶ "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." Select Committee 1st report. Par 109.

Parents' modest expectations include: timely information, a welcome for their child, engagement in the purpose of what schools are setting out to achieve, a priority given to countering bullying and building positive peer relationships. All of which would make for the more collaborative approach that the Code of Practice envisages.

3. Inappropriately focused.

In addition, there is too much focus on identifying resources, both at the earlier stages and within a statement. There is a real opportunity to focus intervention earlier in the process when we have the initial indications of a learning difficulty that may or may be SEN related. Furthermore we need to be much more focused on the purpose of provision.

It is undoubtedly true that most heat in the debate has been generated around the role and usefulness of the statement within the SEN framework. Since the first Audit Commission Report in 2000 to the conclusions of both Select Committee Reports the role and effectiveness of statements has been questioned. The major dilemma in a reliance on statements was summed up well by OFSTED when they noted that:

“In the survey it was clear that statements of special educational need dictated the type of provision for a pupil, but they did not ensure the quality of the provision. Statements were usually effective in identifying the educational needs of pupils and this, with subsequent documentation, provided useful information when pupils moved between settings. However, it was an overly cumbersome and bureaucratic procedure in order to ascertain where a pupil should be taught or what resources should be allocated.”

An over-reliance on the statement as the main means of resource allocation has been at the root of many concerns of both professionals and parents. Most crucially it does not guarantee the quality of provision nor focus enough on outcomes. What has been forgotten is that at the heart of the statement lie 'the objectives of the provision to be made'. Furthermore, the SEN Code repeatedly refers to children's progress, not hours of support. We at least have to ask the question 'Are we clear enough about our objectives before we start to think about the provision we need to make to achieve those objectives?'

This is not just an issue for professionals. When challenged, parents we have consulted with, as part of the Lamb Inquiry, have been very clear that the provision they are arguing over is not necessarily what their child needs:

'what he needs is to be able travel independently when he leaves school';
 'what she needs actually is not the support assistant in the classroom – she can cope OK there - but she needs it in the playground and at lunchtimes when everything goes wrong';
 'what he needs is more time from a teacher in on his maths – that's where he really needs help.'⁷

What pupils say is that they need more time working with their peers – discussion with their peers is seen as one of the most helpful ways of promoting their learning. Why are we applying endless hours of unqualified support assistant time and divorcing pupils from the very support

⁷ Thanks to Philippa Stobbs for providing these examples and others that relate to the Inquiry where she is the lead official in her capacity as SEN special advisor to the DCSF and for commenting on this paper.

that they most value?⁸ Why aren't we discussing with parents and with pupils themselves to ascertain what it is we most need to do to promote their learning? The framework encourages this. We are not doing it adequately. The key question therefore becomes, 'To what extent can we bring a greater focus on outcomes, both within the statement and more widely?'

4. *Under-applied.*

There are too many areas of legislation, policy and practice where disabled pupils and pupils with SEN are ignored in the design stages of new developments. When the National Curriculum was developed, the then DES omitted many of the children we are talking about; when a major national IT framework for analysing children's progress was developed, they omitted many of the children we are talking about. What is worse is that some of those omissions have made it very difficult to make the necessary changes to the structures that were created: RAISEonline is structured in a way that is going to take some time to incorporate children working on the P-Scales. The P-scales themselves only became part of the National Curriculum last September. Furthermore when the child measurement programme was launched, as part of the government's strategy for combating obesity, special schools were omitted. These are just the tip of the iceberg.

Only recently have the changes in the professional standards for teachers required the inclusion of SEN and disability in initial teacher training. How could it have been omitted, or remained voluntary, for so long, when we are talking about a fifth of the school population? Any revised framework is going to have to learn these lessons and secure a wider commitment to build in SEN and disability from the start in new developments.

As OFTSED has noted "The SEN framework, being based on educational issues, did not help pupils to access sufficient support from other agencies, despite the recent changes to Children's Services."⁹ Apart from the successful Early Support Programme there has been little evidence of more holistic approach based on the common assessment framework to improve cross agency working. This is not just an educational issue: there is still little evidence of SEN and disability being incorporated into training for professionals working with other agencies. Where is the training for health visitors and for the police? As part of the Inquiry we came across a parent who was blamed by the health visitor for the 'bad behaviour' of her autistic child; the Mum whose autistic teenage daughter was put in the police cells because she went berserk when she was touched.

We need a much clearer view of how a 'team around the child' approach could augment or change the current assessment process to ensure that the wider aspects of a child's needs are integrated into provision. But we need a commitment across all Government departments and all local agencies to take SEN and disability into account in all policies, all developments, all new initiatives. We cannot leave SEN and disability considerations to be bolted on later.

Conclusion.

⁸ Special Educational Needs and Disability. Towards Inclusive Schools. OFSTED 2004. "The teaching seen of pupils with SEN was of varying quality, with a high proportion of lessons having shortcomings. Support by teaching assistants can be vital, but the organisation of it can mean that pupils have insufficient opportunity to develop their skills, understanding and independence."

⁹ Inclusion: does it matter where pupils are taught? OFSTED 2006 par 65.

I have not said that the SEN framework is working well. For too many parents it is clearly not. I am saying that the things that are not working well do not necessarily require a change in the legal framework until we have at least satisfied ourselves that a more rigorous focus on compliance will not have the same effect. Some of the elements in the framework would have to feature in any system we might devise whatever definitions we use. Furthermore, to simply change the framework without recognising this is a change in entitlement is dangerous. Only by addressing these issues will we be in a position to evaluate what systematic changes are needed.

I have also argued that the SEN "System" is less one coherent whole than a series of interlocking requirements. This in itself could be an argument for a rationalisation of the framework, but only if we can show that it is likely to lead to more people benefiting without significant disadvantages to those who are currently being supported. That, however, is different from saying that we need wholesale change to all the elements that underpin the framework. If the problems I've identified can be addressed and the framework works better, then that's fine; if it doesn't, then the case for more fundamental reform is stronger.

Chapter 4: Second proposer

Brahm Norwich

Has special educational needs outlived its usefulness?

In addressing this question I will examine various background questions about the concept of special educational needs. The first question relates to what has been the assumed value of the term. It is worth restating that the term special educational needs was introduced to move away from deficit categories – what the child or young person could not do - to what was required to provide learning opportunities and support learning. The assumption has been that the significant difficulties that give rise to special educational needs lie along a continuum. Difficulties are a matter of degree; with the difference being one of degree not of kind. The term is specifically an educational one that relates directly to teaching and learning. It contrasts with the related term 'special needs' which has tended to be used as a general cross-sector term. 'Special needs' like the term 'disability' applies across different areas of life activities; but 'special needs' has also been used to refer to needs beyond learning difficulties and disabilities, e.g. English as an additional language needs.

Another valued aspect of the special educational needs term that has been associated with the SEN framework in England has been the focus on individual needs. Identifying educational needs has in principle been done by assessing individual functioning by reference to the person's particular context and circumstances. This has involved using an analysis of within-person causes (strengths and difficulties) interacting with contextual causes (supports and obstacles). This interactionist conceptualization recognised the combined role of individual and social factors and is consistent with the more elaborate and recent versions of a bio-psycho-social model of disability, as found in the International Classification of Functioning applied to children and young people (WHO, 2007). This kind of interactionist model is a useful way of going beyond the unnecessary polarisation between medical (individual) and social models, sometimes promoted by advocates of inclusion.

Though the special educational needs term was associated with these positive aspects, it did have some initial problems. Introducing special educational needs was not an abandoning of categories, but a replacing of categories. Terms like 'educational sub-normality' were replaced by more positive terms like 'moderate learning difficulties', which has still been used as a category. The generic term special educational needs came to operate as a super-ordinate category – or a super-category- covering needs arising from the range of more specific areas of learning difficulties and disabilities. The coverage of the term special educational needs involved an expansion from the 2% then in special schools to 20%, the majority of whom had always been in ordinary schools. This expanded term might still attract negative connotations as did terms like 'handicap', as some commentators noted in the 1980s (Barton and Tomlinson, 1984). This expanded use of the term 'special' with its focus on individual needs also drew the criticism that all children could be said to be 'special' in the sense that everyone had unique individual needs. This criticism highlighted the ambiguity in the special educational needs term; was SEN about difference from the norm or about unique and individual needs (Norwich, 1993)?

When we consider how the term has been and is currently used since its legislative introduction, some of its weaknesses become evident. Though special educational needs was supposed to be about additional or different provision to meet individual needs, the term has come in its official usage to be synonymous with a child or young person's 'difficulty'. This can

be seen in the way 'need' and 'difficulty' are used in the current SEN Code of Practice (DfE, 2004) and in the 2003 classification of SEN. Various categories or areas of general 'difficulties' are organised in terms of four broad dimensions called 'needs' (DfES, 2003). They are:

A. Cognition and Learning Needs

Specific Learning Difficulty (SpLD); Moderate Learning Difficulty (MLD); Severe Learning Difficulty (SLD); Profound and Multiple Learning Difficulty (PMLD)

B. Behaviour, Emotional and Social Development Needs

Behaviour, Emotional and Social Difficulty (BESD)

C. Communication and Interaction Needs

Speech, Language and Communication Needs (SLCN); Autistic Spectrum Disorder (ASD)

D. Sensory and/or Physical Needs

Visual Impairment (VI); Hearing Impairment (HI); Multi-Sensory Impairment (MSI); Physical Disability (PD)

Despite the principles of the SEN framework with its focus on needed provision (not difficulties) and on individual needs within an interactionist causal framework, we have here in official use a hierarchy of general pupil difficulty categories, with little reference to the child in context or individual needs or requirements.

Criticisms of SEN:

With this background I will now outline some of the contemporary criticisms of special educational needs as a useful term. These criticisms may be related but for the purposes of this account will be organized under 5 headings:

i. Perpetuating negative labelling:

This criticism is about SEN as a super-category with its continued focus on children's 'difficulties'. As a super-category the use of the SEN term continues to label children negatively and its use is devaluing of them.

ii. As poorly defined super-category:

In this related criticism SEN is seen as poorly defined and vague. This can lead to uncertainty about the identification of special educational needs and results in a 'post code lottery' about needs identification and therefore provision availability. This criticism specifically points to problems in the coverage of the SEN term. If we compare the above English classification with the OECD definition of SEN, we can see where the weaknesses lie. The OECD definition goes:

"beyond those who may be included in handicapped categories to cover those who are failing in school for a wide variety of reasons that are known to impede the child's optimal progress."(OECD, 2000, page 8)

'Special educational needs' for the OECD includes:

Category A: educational needs where there is substantial normative agreement, e.g. blind or deaf, organic disorders attributable to organic pathologies;

Category B: difficulties in learning – not attributable to factors which would lead to categories A or C.

Category C: educational needs arising from socio-economic, cultural and/or linguistic factors... some form of disadvantaged/atypical background that education seeks to compensate.

Comparing categories A, B and C with the DfES (2003) system (as above) shows that the 4 English dimensions of SEN relate to categories A and B; and that there is a silence about socially based needs seen to require compensatory education.

iii. Separatist industry

This criticism focuses on the expansion of the SEN field by providers with a professional interest in a separatist field. This expansion can be seen as costly and inefficient, when what is seen to be required is improved teaching and learning in the general system.

iv. Inconsistent with Common Assessment Framework (CAF):

The Common Assessment Framework (CAF) has become a key part of Children's Services that are integrated and focused around the needs of children and young people in line with the Every Child Matters (ECM) framework (DfES, 2006). The CAF is a standardised approach for practitioners in Children's Services (that have incorporated Local Education Authorities) to conduct an assessment of a child's additional needs and decide how those needs should be met. The CAF distinguishes between children with:

- i. no 'additional needs',
- ii. with 'additional needs' and
- iii. with 'complex needs' who are part of the broader group of those with additional needs.

Those in the second group, with 'additional needs', are said to include those showing disruptive or anti-social behaviour; overt parental conflict or lack of parental support/boundaries; involvement in or at risk of offending; poor attendance or exclusion from school; experiencing bullying; special educational needs; disabilities; disengagement from education, training or employment post-16; poor nutrition; ill-health; substance misuse; anxiety or depression; housing issues; pregnancy and parenthood. Children with 'complex needs' in the third group are those with 'additional needs' who meet the threshold for statutory involvement: children who are the subject of a child protection plan; looked after children/children in care; care leavers; children for whom adoption is the plan; children with severe and complex special educational needs; children with complex disabilities or complex health needs; children diagnosed with significant mental health problems; and young offenders involved with youth justice services (community and custodial).

It is clear that the CAF incorporates special educational needs as one amongst other statutory systems concerned with child protection, social care, mental health and youth offending. Though the CAF distinguishes between a wider group and one with more significant needs involving statutory procedures, how planning and services using the CAF will be integrated with SEN and the other systems is unclear. This is an issue that the House of Commons Select Committee second report identified as requiring Government clarification (House of Commons, 2007).

v. Fit with disability legislation

The extension of the disability discrimination provision through the 2001 SEN and Disability legislation also does not fit easily with the SEN framework. This is evident in the differing approaches to definition. In disability discrimination legislation a *disabled* person is defined as:

'someone who has a physical or mental *impairment which has an effect on his or her ability to carry out normal day-to-day activities*. The effect must be substantial (that is more than minor or trivial); and long-term (that is, has lasted or is likely to last for at least a year or for the rest of the life of the person affected); and adverse' (my italics).

In the SEN legislation a child has 'special educational needs':

'if he has a learning difficulty which calls for special educational provision to be made for him'...

A child has a “*learning difficulty*” if:

‘he has a significantly greater difficulty in learning than the majority of children of his age’, or

‘he has a *disability* which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local education authority’

And, ‘special educational provision’ means:

‘educational provision which is additional to, or otherwise different from, the educational provision made generally for children of his age in schools maintained by the local education authority (other than special schools) or grant-maintained schools in their area’.

Disability in the one framework is about impairment having significant and adverse impact on every day activities. This is a cross-sector definition that goes beyond education which relates to the second and rarely used part of the SEN framework in terms of a disability preventing the child using educational facilities. The primary definition and use of SEN is in terms of ‘learning difficulties’ that call for ‘special education provision’; terms which were given open and relative definitions leading to some of the problems discussed above.

Alternatives to SEN:

Having set out some of the criticisms of the term, some alternatives to ‘special educational needs’ will be considered briefly in these 2 options:

i. ‘Additional support needs’ or ‘additional needs’:

The Scottish system of ‘special educational needs’ and ‘Records’ of SEN has recently been replaced by a system of ‘additional support needs’ (Education (Additional Support for Learning) (Scotland) Act, 2004). ‘Additional support needs’ goes beyond the SEN concept found in the 2003 English classification of learning difficulties and disabilities to include:

‘...any factor which causes a barrier to learning, whether that factor relates to social, emotional, cognitive, linguistic, disability, or family and care circumstances. For instance, additional support may be required for a child or young person who is being bullied; has behavioural difficulties; has learning difficulties; is a parent; has a sensory or mobility impairment; is at risk; or is bereaved....’ (Scottish Executive, 2004)

‘Additional support needs’ is more like the OECD (2000) definition of SEN and the CAF one of additional needs. In introducing a broader concept of ‘additional support need’, the Scottish system has also reduced the scope of the previous statutory system of Records, similar to Statements in the rest of the UK. The threshold for local authority determined statutory planning – ‘coordinated support plan’ (CSP) - is to be confined to children and young people with enduring ‘complex or multiple barriers to learning’ who require a range of additional support from different services and not just in school. Co-ordination of the services is required where the authority requires help from others both within the authority itself, such as social work, or from outside agencies, such as health. The effect is that not all children and young people with additional support needs will have a CSP and many will have their needs addressed without one through school level individual educational planning.

‘Additional needs’ in the CAF resembles the Scottish one in its distinction between the wider group of those with ‘additional needs’ and the smaller group subject to statutory procedures with ‘complex needs’. However, though this system broadens the coverage for additional provision and promises to have integrated support and specialist services, it does not address some of the issues about the criteria for statutory assessment and issuing of ‘statements’ or

'plans', as the Scottish model does. However, it is too early to know whether the recent Scottish or the English CAF systems will result in similar issues to those experienced with the SEN term, as regards lack of specificity of coverage and the risk of it becoming difficulties and not provision focused.

ii. Abandon individual model for the social model

This option rejects the above option which is seen to reflect an individual model (often called a 'medical model') in which provision is available for those whose educational functioning is significantly different from the norm. In a social model, disability or special educational needs is seen to be defined mainly by social barriers and prejudice. Though some people are recognized as having physical or psychological differences from a statistical mean and that these might be impairments, it is not these differences that are seen to lead to disability. It is society that fails to accommodate and include them in the way it would those who are 'normal'. So in this option, the focus is on ordinary schools making adaptations to accommodate all children and young people; categories of exceptional individual functioning will disappear as schools become more flexible and accepting of the diversity of learners.

However, the main and critical weakness of this option is that it provides no detail of how adaptations will be achieved. The denial of the impact of impairment – within-person factors - on learning is contrary to most concepts of disability, such as the one in disability discrimination in the UK and abroad. This option also avoids difficult and important questions about how decisions are made; about when and for whom unusual and expensive accommodations are required; and on what basis the required additional resource allocations can be justified for some learners.

These two options can be seen to represent two stances to responding to learner differences:

- a. a differentiation stance: that marks significant differences as 'difficulties' to focus on and ensure appropriate teaching adaptations;
- b. a commonality stance: that responds to significant differences as requiring appropriate ordinary school and teaching adaptations.

Both stances can have risks; the differentiation stance can lead to separation, devaluation and stigma and the commonality one can lead to overlooking individual needs and inadequate provision. This sets up a tension that can give rise to a dilemma about identification that relates to what has been called dilemmas of difference, a term used initially by Martha Minow (Minow, 1990). As she asks:

'When does treating people differently emphasize their differences and stigmatise or hinder them on that basis? And when does treating people the same become insensitive to their difference and likely to stigmatise or hinder them on that basis?'
(Minow, 1990: p. 20)

In a recent international study of policy makers', managers' and teachers' perspectives in the USA, UK and Netherlands about dilemmas of difference, I found that the majority of those interviewed recognised to some extent a dilemma about identifying children with special educational needs/disabilities (Norwich, 2008). Most of the participants across the 3 countries recognised tensions over identification between ensuring additional resources and avoiding devaluation and stigma. It is notable that their recognition of tensions was despite believing that there had been recent progress in promoting positive images of disability, that stigma had been reduced and that many parents wanted labels (Norwich, 2008: page 75). Participants in this study also suggested resolutions to the identification dilemma across the 3 countries which can be summarised as involving a combination of the commonality and differentiations stances

being required, on one hand, while some residual tensions persist despite these resolutions, on the other hand.

The general pattern of suggested resolutions was for commonality strategies, such as national and local developments that promoted an improved general school system that was more 'inclusive', with better training and improved school ethos. Connected to these commonality strategies would be ones that changed negative attitudes to SEN and disabilities through promoting positive images of disability and encouraging more social mixing and peer acceptance of children with disabilities. However, some residual identification of individuals was seen as necessary, but at a reduced level, some said for those with 'complex needs' using a 'minimal labelling' approach. When labels were recognised as necessary, the suggested resolutions involved strategies that went beyond negative labels or terms, by focussing on individual and needed provision and showing sensitivity about labelling. Positive and open communications with parents and children were also seen as a way of reducing the negativity of labelling. Yet some participants across the 3 countries recognised that identification tensions persisted despite these suggested resolutions.

Commonality and differentiation stances reflect particular value positions; commonality represents egalitarian and solidarity values while differentiation represents individual respect values. These values constitute a **plural values framework** which can justify a limited use of 'difficulty' categories. So, this framework will assume common or shared general requirements or needs for *all* children and young people. An example of such a commonality of needs in current policy would be the Every Child Matters 5 outcomes (healthy, safe, enjoying/achieving, positive contribution and economic well-being)⁵. The values framework will also imply different requirements or needs relevant to the individuality of all children and young people, respecting each person's unique history and their balance of dispositions. I propose that designing specific categories or labels of difference be informed by this kind of values framework, and that there is less risk of negativity if difference categories are used in this values context.

Within this value framework it is possible to derive a conceptual model to inform decisions about categories. The identification of children who experience difficulties in learning that come under a particular title or label (such as, having a disability, special educational needs or additional support needs) can be conceptualised as identifying additional needs or requirements that are specific to a *sub-group* of learners. However, it can be argued that the particular needs of children in this sub-group go beyond the general needs of this sub-group. They also share needs or requirements with *all other children*, on one hand, and they have *unique individual* needs or requirements distinct from others in the sub-group, on the other. So, the identification of needs can be seen from this perspective to involve 3 dimensions (Lewis and Norwich, 2004):

- i. needs common to all,
- ii. needs specific to sub-groups and
- iii. needs unique to individuals

Whether an 'additional need' category is required depends in this model on whether a particular child's needs can be identified and provided for by common systems that are also geared to unique individual needs. If it can, then meeting the child's needs will involve adequate levels of resourcing and teaching flexibility. But, if there are limits to resourcing and flexibility, then an

⁵ This ECM formulation of common to all outcomes, however, does not give prominence to social belonging and participation in its outcomes.

'additional' system for identifying and providing for a sub-group will be required. So, the need for categories of 'additional needs' and systems to provide for them can be reduced by improving common systems geared to individual needs; but limitations to the flexibility and resourcing of the common system will give rise to the need for such sub-group categories and systems. Categories and systems for 'additional needs' therefore depend on the nature of the common system and the learners' dispositions and capabilities.

Conclusions about usefulness of 'SEN term

So, given the above position about some continuing but reduced role for a concept of significant 'functional difficulty', why would it be helpful to move away from the current concept of 'special educational needs'?

The first reason is that a review and change would provide an opportunity to recapture some of the positive aspects of the original concept with its focus on needed provision and not just on difficulties. New terms could be introduced within a clear formulation of a values framework, like the one discussed above, and with a more explicit recognition of an interactive causal model. Using this causal model would imply being more specific about whether quality additional provision had already been tried and so discount contextual factors that might contribute to the difficulties in learning.

A second reason would be that a new formulation of 'functional difficulty' in educational terms would enable a more explicit use of a 'response to teaching' model of assessment. This assesses learning and its difficulties in a teaching context and could draw on some of the UK and international developments in curriculum based assessment of difficulties in learning. This assessment model is based on the general school provision being designed to be more responsive to all learner differences, not just those of children with 'learning difficulties'. However, there would still be some place for supplementary direct child assessment, often associated with health and some psychological assessments.

A third reason for moving away from the current concept of SEN is that there could be greater clarity about the range of coverage of the terms, as we find in more recent developments, such as in CAF, OECD and Scots approaches, discussed above. These are reasons why I am arguing for the proposition that SEN has outlived its usefulness.

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Chapter 5: Second opposer

Lorraine Peterson

Special Educational Needs has outlived its usefulness

I will begin my presentation by looking at the origins of the term special educational needs and then outline three key reasons why I do not believe this terminology has outlived its usefulness.

By the end of the 1970s the education system had significantly changed from that outlined in the 1944 Education Act in which 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, institutions or hospitals.

A complex special education system of schools, classes and services were developed in the years from 1944 to the early 1970s. The Warnock Committee, set up in 1974, produced their report in 1978 from which grew the most significant legislation for special education. The 1981 Education Act redefined the population of pupils with disabilities as those with special educational needs. The term not only included those young people with a disability but also those whose progress in learning was slower than their peers.

Schools had to begin to make decisions about which children needed something extra or different from what was normally provided. Many teachers began to understand that it was their responsibility to educate these young people within their mainstream classrooms; many Local Education Authorities began to develop integration policies and remedial departments began to spring up in schools. *My first teaching post in 1978 was in the remedial department of a large junior school.*

By the introduction of The Code of Practice in 1994 a new breed of professional, the SENCO had become fully established, this role being supported by the SENCO standards from TTA in 1998. Ten years later this very important post is once again in the spotlight due to the release of the draft SENCO regulations earlier this year. It was from the Code of Practice that we acquired the current legal definition of special educational need: A child has "special educational needs" if he/she has a learning difficulty which calls for special educational provision to be made for him. The definition continues to explain that a child has a "learning difficulty" (a) if he/she has a significantly greater difficulty in learning than the majority of children of his age, and (b) he/she has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local education authority, or (c) he/she is under the age of five and is, or would be if special educational provision were not made for him, likely to fall within paragraph (a) or (b) when of or over that age.

In 1997 the International Standard Classification of Education replaced the term special education with special needs education in order to differentiate it from the earlier international definitions of special education as that which took place in special schools or institutions. This change in terminology distinguished the provision of special education, meaning intervention, from placement in special education schools and classrooms.

The concept of special educational needs has slowly begun to broaden in the last few years, especially in the light of the Inclusion agenda extending beyond categories of disability to include all those children in need of additional support, however, the terminology special

educational needs has remained to describe a very specific group of young people and rightly so.

A child who has been identified as having a special educational need should by the legal definition receive additional or different support to his or her peers. This should be a continuum of provision that may alter as the young person travels through the education system. For the majority the outcome of the assessment process will ensure that adequate and appropriate provision is available to meet their individual needs at any given time. For some there will be issues in regard to being labelled SEN, but any terminology that indicates difference will have similar consequences. If young people are being “labelled” and then not receiving the necessary support and provision – this is not about the label but the system we are working within.

I have followed with interest the changes in legislation in Scotland – it has caused NASEN quite a few problems, given the title of our organisation, and I have no argument with the terminology Additional Support Needs (a term used to encompass all those who need additional support for learning at some time in their school careers). However, whilst recently in Scotland I talked to many Scottish teachers and NASEN members, who still referred to special educational needs to describe a specific group of young people with Additional Support Needs.

Inclusion and personalisation have moved this whole debate forward. The need to ensure that every child, no matter what their need, has access to high quality educational provision is paramount to a child’s development. Every child has the right to a first class education system that meets their needs and every parent has the right to access their chosen provision to support their child’s learning.

For those young people with special educational needs it is even more crucial that they have their needs met within a system that is inclusive, well resourced and managed by highly qualified professionals who can match teaching strategies, learning styles and high expectations to ensure progress for all pupils. The increase in pupil participation and motivation through personalised learning is in its early stages, but for many young people this will offer opportunities that were not open to them a few years ago.

The days of a SENCO and/or a class teacher producing folders full of Individual Education Plans for young people with special educational needs are gradually diminishing. Target setting for all pupils is now an integral part of Assessment for Learning. Listening to pupils and supporting their personal needs. Schools with good assessment systems for all pupils will be able to easily identify those pupils who need additional support to meet their individual needs. Provision mapping for whole school intervention ensures that every child is able to access the support they need at that particular point in their education. It is more important that schools be able to identify what the barriers to learning are for these individual young people and provide the appropriate strategies to overcome them. Where this is not happening it is not about the terminology of special educational needs, it is about the system that is in place to manage the process.

Ofsted in their report ‘Inclusion-Does it matter where pupils are taught?’, published in 2006 used the terminology learning difficulties and disabilities to replace special educational needs– their explanation being that:

‘LDD is used to cross the professional boundaries between education, health and social services and to incorporate a common language for 0 – 19 years’. (page 21)

Special Educational Needs refers to that very specific group of young people who do have additional support needs, but their needs specifically refer to a learning difficulty or disability whether that be moderate, severe or profound but that which requires aspects of provision that is different to their peers.

Reasons to continue with special educational needs:

There are three key reasons why I believe special educational needs is still useful today.

Firstly it is enshrined in all the current legislation. To change the legislation to incorporate new definitions, there would have to be a root and branches overhaul of the education system. (This was the recommendation of the House of Commons, Education and Skills Select Committee Report in 2006).

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 of children categorised as having some sort of special educational need.

As well as *Removing Barriers to Achievement* we have had *Every Child Matters*, Disability Equality Duty Scheme, The Children's Act, the Bercow Review, The Children's Plan, The Lamb Inquiry and SENCO Regulations to name just a few of the major educational initiatives in the last four years, all with some focus on the education of the most vulnerable young people with major references to special educational needs.

It would appear to me that we need to ensure that we have a very clear vision for what the future holds for the education of these young people before we embark on very strategic, legal change. Changes in classification, terminology, policy and provision need to be grounded in national policy that is embraced and supported by all. Ad hoc changes for example the DCFS and Ofsted's use of LDD, LA's changing titles to Access and Inclusion or Learning Support Managers and schools appointing Inclusion coordinators (INCOs) or Inclusion Managers makes the system appear disjointed and leads to a disparity of provision from local authority to local authority and from school to school.

Whilst the current legislation exists we need to be very clear about the group of young people we are supporting – in my argument it is those with special educational needs. Secondly the issue of funding, as stated earlier, this government has invested heavily in SEN provision in the last four years, yet there are some key anomalies across local authorities in the current funding system. Local authorities delegate their additional SEN funding to schools via their locally agreed formula, usually through free school meal figures or from PLASC return data. Currently very little of this funding is ring-fenced and although schools are accountable for the proper use of all these funds, many schools can and do spend this money on many things other than the pupils it has been designated for. However, it currently can be monitored and audited. If we were to lose the categories of special educational need and the three stage identification process as introduced by the Code of Practice, the funding that is aligned to this system would be removed or reduced and the small amount of transparency that currently exists would be lost completely.

NASEN is very aware of many schools where the SENCOs do not know how much their school receives in terms of the SEN component of their school budget, and neither does the SEN Governor (if there is one). However, it is easy to find out. This means that a number of schools, which is higher than you may think, do not use their SEN allocations for SEN provision. Some local authorities are also now delegating statement funding to schools and once again there are issues about the use of this money in terms of support for the individual. If funding was to be based on more generic additional support needs, I would argue that we would see even less funding used to support those young people that it was meant to provide for.

Finally, there is the very important issue of parental confidence in the system. The changes in legislation in the last ten years have given a much stronger voice to parents in deciding where their child should be educated. However, for those with children who have been identified with special educational needs, that choice can be perceived to be reduced or restricted. These parents will want to ensure that the school is able to provide the relevant teaching and learning opportunities, enhanced resources, additional support and a rigorous assessment process that celebrates the progress a child makes irrespective of national norms.

For many the identification and subsequent support and additional resources give parents the security that their child is receiving an education that is appropriate for their needs. If the concept of special educational needs was removed and replaced with something more generic I feel that parents would feel that they might have to 'fight' even harder than they do now to ensure quality provision for their child.

Conclusion:

In conclusion, the terminology we use to describe these vulnerable young people is irrelevant. What we need to ensure is that we have a first class education system that is responsive to all learners, and that the educational provision provided will enable each individual to optimise their abilities and overcome or minimise their learning difficulty or disability. This will demand a holistic, national review of the current system – provision of quality CPD for the whole education workforce, funding mechanisms that meet the needs of all pupils, an inclusive education system not based on place, but the provision that supports individual needs at any given time and an integrated approach to support children from birth to adulthood which brings them success and a desire to learn.

More importantly any change is dependent on those affected by it accepting the need for it. They then need to believe in it and be prepared to move it forward – some of the change we have seen within our education system has not taken on board this philosophy. This debate is not just about the change in terminology, it is about provision, resources, policy and practice. Until we get to the point of national review, I believe that special educational needs is still needed to ensure support and provision for that significant group of children in our schools.

Reference:

House of Commons Education and Skills Committee (2006), Special Educational Needs. Third Report of Session 2005-06. London: Stationery Office.
Ofsted (2006), Inclusion: does it matter where pupils are taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities. HMI 2535.

Summary of discussion and vote

Brahm Norwich

The following is a summary of the report from each of the discussion groups.

Group 1:

This group identified that labelling at the moment affected the contextual value added in schools and recognised that this was probably a negative effect of labelling. They also talked about whether using the label of SEN encourages large numbers to be identified. They also talked about teacher training and whether teachers in training should be introduced to broad categories like dyslexia and SEN in general, or whether they should be helped to focus on teaching according to the needs that they saw in front of them. There was some debate about whether teachers in training should even consider the notion of SEN or whether they should understand the sorts of needs which young people would have.

Group 2:

This group reported a very broad and wide ranging discussion which could be summarised under four headings. First, they started out with the issue that there was really a tension between the current situation and what ought to be happening in the future, what might be an ideal scenario. Within even this understanding of this ideal scenario, there is a need for a framework of some kind to help in terms of supporting and empowering learners. One of the big issues that dominated the discussion was funding. One member of the group talked about special needs really being an industry; there was discussion about schools being able to meet the needs of many pupils who now have a label or a statement of special educational needs. This had implications for some kind of narrowing of the groups of children who are identified. This would have implications for education and support systems for teachers either in training or within the local authority. There was a feeling that at the moment there is disjointed service delivery. Another point that caused debate within the group was the issue about whether you could identify appropriate learning and support environments that met the needs of all the children in the classroom. Then there was a question about whether children with some additional learning needs had a negative impact on other learners within that context.

Group 3:

This group also had a very wide ranging debate. But they came to discuss the benefits of labelling as the current situation stands, and some of those are about SEN actually providing some understanding, both for the person themselves and an understanding that somebody will be able to give them additional support or additional interventions that will help them to overcome some of those barriers to learning. There was also the view that, although it is not where they necessarily want to be, they recognised that the benefit of the label currently was that it did give access to resources and to particular interventions and styles of provision. What they would like to happen, despite debate in the group, was to address some of the issues around using a label by actually defining what expectations there are for universal provision. This meant more focus on 'normal' provision; there was the view that there had been too much focus on what is additional and different. This meant moving towards not needing labels as much as we do currently. This implies being far clearer about the criteria for progress of young people and looking at the five Every Child Matters outcomes in a much more focused way, so that accountability relates to progress across those areas. The Government needs to get better at evaluating education by looking at better defined outcomes for children and young people.

Group 4:

This group discussed the language that we use; getting the word right is important, but the practical implication is equally as important. With the pressure for schools to reach attainment targets, the question arises of whether schools actually label children as SEN to make those figures add up? But the one thing the group agreed on was that the Every Child Matters agenda was actually a fantastic opportunity to move the debate forward; having a multi agency approach. There was also discussion of having different kinds of performance indicators. For example, schools can look at the progress made by the lowest thirty percent of the group, of particular groups by measures, parent surveys, student surveys and staff surveys on what they feel about the quality of the education that's being provided.

General discussion:

Klaus Wedell (chairperson) introduced the general discussion by making these points: It seemed to him that we are implicitly always talking about criteria and we are also very much talking about interaction. There has been no reference to schools that have special needs in the sense that they do not have much idea about how actually they can stop interfering with kids making progress. Some schools actually make it difficult for teachers to teach and kids to learn. By contrast, in one London school they have two learning sessions a day. They have got fantastic flexibility, but of course the teachers really have to think about how they are going to work together in larger or smaller groups, how they are going to meet individual needs. It gives scope for kids actually to complete some tasks that are of interest to them rather than have to rush off down the corridor for forty minutes. If we are taking the interactive view here, we ought also to be applying the special needs concept to the institutions that we are expecting something from.

Another contributor wondered whether schools have ever tried to do something radical enough in looking at the opportunities in terms of actually meeting the needs of the community in the widest possible sense. Do they also use models that are essentially available to them in special schools? Some special schools have been incredibly successful in having creative and flexible curricula. They have not, in this person's experience, been incorporated in ordinary schools. One example might be to have a secondary, primary, and special school on one campus. Inclusion was a central value and then other things followed; how people get to know each other and how special school expertise might permeate the rest of the system. This could be spread nationally. Another person commented that it was about encouraging secondary schools to be inclusive in the sense of having an SEN specialist unit.

At the conclusion, the 3 debaters (Tom Williams had to leave early) summarised their positions after the afternoon's deliberations. Lorraine Peterson said that she found the debate thoroughly enjoyable and that she had learnt a lot. Though it was nice to meet with other colleagues, she did not know whether she had changed her opinions. She felt that it still comes down to 'it's not particularly about the terminology, it's about the system'. We need to look at the system as a whole, not just the terminology.

Brahm Norwich said that he found it very interesting, because you prepare something in isolation and then you hear what others have to say. Though Tom and he had liaised a bit, it is still different to hear the presentations live. What he got from this afternoon was that there are two levels; there's the issue about compliance which is the focus of the Lamb Inquiry. But, the matter goes further in dealing with the future. It is not just a question of changing labels or words, but to do with concepts, values and frameworks. It is also about the clarity of models, such as causal models, for example. He felt that his position was closer to Brian Lamb's than to

Tom Williams, who had argued for the proposition with him. He said that he felt that we need a more coherent model than something that was basically constructed in the late seventies and early eighties. As many other things have moved on, so we need a re-conceptualisation. That is not to say that the principles should change, but there is a need for greater coherence. So, when it comes to the vote, he would definitely support the position that SEN has outlived its usefulness. That was not because the underlying principles needed changing, but because much has developed in the meantime. It all needs to be brought up to date.

Brian Lamb in his final comments said that he did not find himself too far away from Brahm's position. He thought that the distinction to make is about timescale. In the short term the debate is more about compliance than about reformulating the system. There never was a framework, there was a whole number of overlapping frameworks and he thought that there has always been a problem with the way the frameworks have overlapped. But, he believed that we are coming to a critical period where because of his Enquiry, because of the Ofsted review, because of the way the numbers are growing and the way that is impacting against this more generalist agenda, that there is probably a point where the Government has to step back and look at whether the definitions and whether the different parts of the framework really do mesh.

Then there is going to be a debate about an evolution versus a revolution. However, he said that he would come back to the point that there needs to be an allocation mechanism for a group of children that will not be properly catered for in the foreseeable future in the general system. Though a specific definition of SEN may be wrong and we may need a definition in terms of additional needs, he would go back to his key point that the system would include these core elements. So, if you look at all the different definitions that Brahm put up, whichever of those you go for, you are making decisions about how big or small that group is. He said that he was attracted to the idea of looking at the values that underlie that, but he felt that what you will still find behind the values is which groups of children are going to be more deserving than others for the foreseeable future. In fact, this is even more so, because we have been living in the land of plenty for the last ten years. He thought that it is very obvious to everyone that we are not going to be in the land of plenty in the next ten years. So, some of these debates will become more acute. His fear is that if we have a generalised definition of SEN, we may actually go backwards in terms of defining who that group contains.

SEN debate outcome:

There were 40 participants in the debate, though some had to leave before the vote, so there were fewer votes cast. The 24 participants voted by ticking one of 3 options, agree with the proposition, disagree with the proposition and abstain. The majority, 14 (58%) agreed that 'special educational needs had outlived its usefulness', 9 (38%) disagreed with proposition while only 1 (4%) participant actively abstained; however, there were some others present at the vote who abstained by not voting.

Of those who agreed with the proposition, some gave some comments and reasons, as follows:

- * I kept to my original decision – I value Every Child Matters agenda, personal centred planning, there is a need for new terms/words, not necessarily education focussed but multi-disciplinary ones,
- * it confirmed my view that we need a new approach
- * the systems, terms, definitions have outlived their usefulness, it needs a total overhaul of the system, a revolution as part of evolution,
- * need for a system overhaul, new approach, person centred planning, ECM,

The one person who abstained explained:

* ideologically I think the terminology of SEN has outlived its usefulness, however for practical reasons (funding and provision in the current framework) I think we need the term because children matter.

Of those who disagreed with proposition and felt that SEN had not outlived its usefulness:

* I thought I was going to agree but changed to disagree – make it work better, make accountability work,

* this is the wrong issue to debate –no need to look at the unit for accountability and not the School, the key thing for me is how we specify funding. The definition of SEN has probably become too wide, but it doesn't deny a need to focus finance,

* I think the language is important and in future will gain importance but right now we need to focus on the system and improving outcomes for all

* accountability, make it work, need to focus funding, improve system.