

Policy Options for Special Educational Needs in the 1990s

BUCKING THE MARKET: LEAs and Special Needs

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Introduction - The role of LEAs

This booklet considers the role of Local Education Authorities in ensuring provision for those with special educational needs (SEN) in ordinary and special schools. The pamphlet consists of a paper presented by Peter Housden, Director of Education, Nottinghamshire LEA, at the first policy seminar held in October 1992. Peter Housden's paper is followed by a contribution from John Moore, Senior Inspector, Kent LEA and from Paul Ververs, Senior Manager at the Audit Commission. The pamphlet also includes a summary of the main points raised in an open discussion at the seminar and a concluding section based on the seminar discussion by Professor Klaus Wedell, of the London University, Institute of Education.

BUCKING THE MARKET

LEAs and Special Educational Needs

Foreword

I want to address some fundamental questions about provision for those children our educational system so often places 'at risk' of failure, blighting both the lives of these vulnerable children and the society that allows it to happen.

This is a personal account and I do not write from a position of neutrality or distance. As an official of a local education authority, I am happily subjected to almost total immersion in the world of here-and-now. As someone who has been nurtured in the culture of LEAs, I am no doubt more alert to their strengths than their weaknesses. That said, I want to address three key issues:

- The dynamics of the current crisis in special needs.
- The role of LEAs in bringing us to this point.
- The prospects for the future, particularly as envisaged by the Government White Paper *Choice and Diversity: A New Framework for Schools*¹ and the subsequent Education Bill.

Introduction

Everyone approaches the issue of special educational needs differently. My personal construction starts from the fact that 95% of the population are dependent on the free public service for the education of their children. The quality of that public education service is, accordingly, vitally important for the future economic success, social cohesion and democratic health of our society. My second point of departure is to note that international comparisons about the achievement of our children in the years of compulsory schooling leave no room for complacency. I connect this seemingly chronic underachievement across the system with our peculiar national construction of 'quality' in education. The dominant view focuses on the needs of an academic minority. This view not only leaves large-scale failure in its wake, but somehow regards such failure as a positive performance indicator. The expectations of failure thus generated have important implications for the overall environment in which our thinking about special educational needs takes place.

The needs of children obviously differ and resist categorisation in any absolute sense. In thinking about these issues I find a three-fold division useful.

- It seems that a minority of children effectively educate themselves. They are armed with significant intellectual advantages and, usually, with supportive homes. They appear immune to the impact of any poor teaching or under-resourcing they encounter.
- A larger number of children make progress that satisfies their teachers and parents. These children progress, without undue alarms, on the basis of the general level of support and attention typically available.
- For me, the concept of special educational needs revolves around a third group - that

significant minority of children who need a larger degree of support and resources to reach standards appropriate to their starting points.

Intuitively, this group of vulnerable children corresponds to Mary Warnock's 20%. Three characteristics of the group stand out:

- they are children drawn overwhelmingly from socially-disadvantaged backgrounds;
- they are not a race apart: for better or worse, their education and life chances are inextricably linked to the main currents of British education, both in terms of its traditions and the provision commonly available today;
- a small percentage of these children will have needs that are manifest, complex and life-long. Their needs properly merit protection and safeguards such as those provided by a statement or other equivalent nonstatutory devices. Amongst these children, social disadvantage is less apparent and there is ample evidence of skilled advocacy and organisation on their behalf. In addressing the issue of special needs, it is important that the complex and well-articulated needs of this minority should not obscure the size and social circumstances of the wider group of vulnerable children.

To complete this rough-and-ready approach, experience tells me that, subject to certain safeguards, the needs of vulnerable children are most likely to be met by maximising their inclusion in the mainstream of the education service. First of all, I accept the commonplace reasoning around this - that adult life is comprehensive and inclusive, and that the awareness and acceptance by the whole community of the needs of its more vulnerable members is enhanced by supportive contact and diminished by segregation.

More powerfully, I am persuaded by a fundamentally educational argument about expectations and achievement. Young people learn together and from each other. The higher the range of achievement and expectation within an educational community, the higher standards all children will reach. This is the essence of comprehensive education and its success has been proven over the past twenty years. Its progressive extension would benefit vulnerable children.

Finally, I am convinced that greater social pressure toward integration would benefit the service as a whole and, therefore, all children. This conviction derives from the commonplace that power is unequally distributed in our society and that real progress in public education would be much aided by genuine commitment from powerful social groups. Thus, if private education were not available, the public sector would, overnight, acquire the most powerful friends and advocates. As many congenital disabilities are no respecters of social class, there is already a substantial body of powerful parents and voluntary associations whose influence in the system is potentially very great, if presently diffuse. It would be immense if focused on quality, inclusive, mainstream provision for all children.

This reasoning does not amount to an unqualified commitment to integration. There are two strands to my caution. The first concerns the key concept of differentiation - understanding that children have different needs and that learning objectives and support have to be tailored to these differences. For me, integration implies differentiation *within* schools; segregation rests on the notion of differentiation *between* schools. Any mainstream school which is seeking to provide for a wider range of children must be resourced to provide effectively for this differentiation. For children with complex needs, this will involve essential aids to learning, mobility and human dignity, provided in liaison with health and social services authorities where appropriate. It also involves an acceptance of the need for greater precision in establishing learning objectives and for a learning environment in which these can be realised. All this requires confident staff with

appropriate training and resources.

My caution on inclusion does not amount to blocking. Overstating the needs of young people is a common resting place for many who actually feel more comfortable with segregated provision. A sensible balance has to be struck, but there can be no compromise with the principle that effective differentiation is critical to effective integration.

The second caution is rooted in practical concerns. We are dealing with deeply-held traditions of segregation and the vested interests that have grown up around them, and with parents whose valid and natural protective instincts have to be recognised. We are also dealing with an education system that has been subjected to enormous innovation and resource pressure for more than a decade. Teachers and schools are generally hard pressed, under-resourced and undervalued. The recession and social pressures are generating increasing difficulties for pupils which influence behaviour and attitudes at school. Teachers' scope for major challenge and development is accordingly finite.

It is, therefore, unreasonable to have expected rapid and radical progress in inclusion in the past, or to do so for the future. Special schools and related provision will continue to have an important part to play in our service in meeting the needs of pupils who cannot, for whatever reason, be offered inclusive environments with sufficient differentiation. Many will receive an excellent and appropriate education in special schools. Undoubtedly, however, such segregation will, on occasion, be against the best interests of the young person concerned. We should face this squarely and only countenance this price being paid, by the individual and by society, in the context of a general and determined long march toward inclusive provision.

Crisis? Which Crisis?

Nothing could speak more loudly about today's conditions than the fact that no-one argues about *whether* there is a crisis in special needs: the only debate concerns *which* particular crisis is being referred to. I can think of at least five.

The first concerns young people with complex needs and their access to specialist assessment and placement under the Education Act, 1981. The excellent Audit Commission/HMI report published this year threw a penetrative spotlight on the difficulties associated with uncertain criteria for undertaking formal assessment and unacceptable delays in its completion.² The Government shares these concerns and has promised legislation to clarify and speed up the process. They also intend to strengthen parents' right to express a preference for the school they wish their child to attend, and to establish appeal mechanisms that are independent of the LEA. In these latter provisions, the Government are in part responding to pressure from parents and pressure groups who feel that their wishes should impose absolute conditions on LEAs. At the far end of this spectrum, lie applications for international special placements at very high cost at the Peto Institute in Hungary, in America, and beyond.

A second crisis is perceived in mainstream schooling as a result of LMS and the impact of continued restraint on local authority expenditure. This has dimensions both between schools and within individual schools in an LEA.

In LEA terms, national criteria governing schemes of local management have forced choices on LEAs which have in some cases transferred resources away from schools serving disadvantaged areas and delivered them to schools serving more advantaged communities. The requirement that 75% (subsequently raised to 80%) of the total spending on schools' formula budgets should be allocated by pupil numbers has lowered the degree of positive discrimination that many LEAs

had historically undertaken. It is true that many LEAs do not use their full scope in this regard, as to do so would distort other priorities across the service. Schools in the City of Nottingham, for example, will have lost £3m in this way between 1990-91 and 1993-94. These losses have been mitigated by schemes of transitional protection and other devices within Authorities' overall LMS schemes, but exacerbated by general reductions in the level of funding due to overall spending restrictions. Thus in schools serving disadvantaged areas and with relatively high populations of vulnerable children as a result, reductions in inputs to special provision have occurred.

Aside from the losses between schools under LMS, it is clear that within many individual schools, a migration of resources away from special provision has taken place. Under resource pressure, most schools in my experience tend to give priority to preserving generic class sizes and the width of the curriculum in examination years. Beyond this, those areas with the strongest internal or external advocacy gain the strongest protection. Special provision all too often loses out.

Decisions on grouping pupils are critical. Within limits, it is by no means clear that the interests of pupils with special needs are best met through preserving generic class size at a specific level. Nor is it clear that minor variations in class size make a material difference in the opportunities for all pupils, or in the work load of their teacher. The economics of these decisions are, however, substantial. A comprehensive school choosing to organise a year group of 240 pupils for most of the week in classes of 25 rather than 28, expends one full time-equivalent teacher in the process. Faced with this choice or reducing the level of support teaching available across the year group, it is often support teachers that are withdrawn in order to protect overall class size.

In targeting other reductions, protection is usually given to areas of the curriculum which are deemed to be significant in recruitment terms, such as examination classes, music and languages. Formula funding driven by pupil numbers, backed in many areas by the increasing reality of open enrolment, has given real impetus to these market pressures.

This combination of budget cuts, the migration of resources away from special needs provision and the pressure of the market are important factors in the third special needs crisis - that concerning emotional and behavioural difficulties. Much of the anxiety and pressure that schools currently experience comes not from managing learning difficulties, but from the increasing incidence of children presenting unruly and difficult behaviour in and out of the classroom. This concern was once the overwhelming preserve of secondary schools, but is now increasingly reported in the primary sector. It has contributed to a major rise in the number of exclusions in most LEAs at secondary level and an increase in demands for statements as a route to segregated provision.

It seems probable that the recession, the continued pressure on families and a general tendency in society toward less directive and attentive parenting have all contributed to a harder job for teachers and schools in this regard. In addition, some of the children now in mainstream schools as a result of the progressive movement away from segregated educational provision and from residential care have complex needs whose impact can be out of all proportion to their relatively small numbers.

The reported rates of increase in demands for statutory assessment and in exclusions, however, suggest that other factors are at work beyond any real uplift in the number of children presenting such difficulties. Beyond schools' natural wish to exploit all sources of additional finance, there can be no doubt that pressure from innovation and resource cut-backs, together

with the schools' need to keep a weather eye on the market place for pupil recruitment, have lowered the tolerance threshold of even the most caring institutions.

Most interesting, perhaps, is the emerging evidence from the Nottinghamshire service that it is the *distribution* of these pupils with very challenging behaviour that has changed to some degree. This occurs partly as a consequence of open enrolment as parents living in disadvantaged areas seek spare places for their children in suburban schools. Many of these children are from supportive homes, but others may have a history of exclusion from other schools and their admission may result from LEAs' insisting upon a strict interpretation of schools' obligations to meet parental preferences under the Education Act, 1980. In this way schools, which in the past served relatively homogenous pupil groups, have become more 'comprehensive' in intake, requiring the containment of, and rapid adjustment to, some very challenging behaviour.

A fourth crisis is perceived from another direction. The Centre of Studies on Integration in Education (CSIE) and related groups skilfully lament the slow progress being made on the implementation of the Education Act, 1981. They show the large variations in segregation rates between LEAs which seem to go far beyond any objective differences in their communities. Evidence is cited to show how in the absence of commitment and effective strategies toward inclusion in many LEAs, their systems can be bureaucratic, slow and unresponsive in meeting the needs of parents seeking inclusive placements for their children.

The last example projects current crises forward. It sees a future in which the public education system fulfils the Government's wish and provides more diversity and specialisation, and where the LEA has withered to a shadow of its former self. The landscape is populated by largely-autonomous schools of differing statutory character (GMS, CTC, Aided, LEA), competing for pupils with some offering differing 'specialisms' in technology, the arts, science and other fields of endeavour. Without creating a single new grammar school, selection becomes rife as some schools take advantage of historical kudos and/or funding incentives to corner the market in desirable pupils, leaving the many to fend for themselves in under-resourced alternatives. In this climate, children with special needs are very much at risk with only an enfeebled LEA to assist in charting their course through the market place of public education.

The Role of the LEA

To understand the contribution that LEAs have made to the overall situation and the prospects for the future, it is necessary to dig deep into our cultural history. There lies an understanding of the dominant construction of education as a social force. This, I shall argue, rests on concepts of segregation and aptitude that hang like an invisible debilitating mist over our educational history, gathering with a particular density around the 'bottom 40%' in our schools and enveloping all our vulnerable children.

We have to start with an education service which had its roots in provision for an elite. This later spread through the churches to a slightly wider population but, in these days before industrialisation, education was subject to close rationing. As mass schooling was developed to skill and socialise an increasingly urban and disoriented population, the role of local councils came more into prominence. Kept short of resources and with no tradition of universal schooling, provision for the congenitally disabled, the disaffected and the severely disadvantaged was very limited. Already, at the dawn of mass education, many vulnerable children were on the outside.

Alongside the burgeoning public sector of education, the traditions of elite schooling were developing separately, based on the essential principle of disparity of esteem. Thus the major public schools and universities developed apace in the 19th century, providing that excellence

and quality of resourcing that today remains available for privileged young people. There was an increasingly defensive segregation. As education became increasingly available for all, it became necessary to protect and preserve the opportunities of the privileged in discrete institutions.

We should not neglect the cultural impact of this history. The elite schools embodied the cultural stereotype of education as a scarce good to be carefully rationed as though it were an exhaustible commodity rather than a universal entitlement. To this day, there is a tendency to see education as something that really matters, in its highest embodiment, only to a very few. It then becomes somehow excusable to short-change some children.

Moreover, the classical academic curriculum and pedagogy developed in the privileged sector became indelibly associated with quality and prestige. Other forms of education came to mimic this approach and so much public education throughout much of this century has been trapped in this constricting web.

Thus arose the philosophical basis of the tripartite system that underpinned the Education Act, 1944. Pupils were constructed as being of three broad types and it was deemed possible through testing at the age of 11 to determine which path best suited their aptitudes. Although the technical schools failed to gain any ground, the basic distinction between grammar-school sheep and secondary modern goats came to disfigure the educational landscape for more than a generation.

The comprehensive movement that sought to end the selective system was halting and hesitant in its ideology, ceding much important ground to segregatory concepts. Thus even Tony Crosland, the architect of the new Labourism, stated that:

'Both common sense and the American experience suggest that unstreaming (in the new comprehensive schools) would lead to a really serious levelling down of standards and a quite excessive handicap to the clever child.'³

There is a legitimate debate about the organisation of learning in comprehensive schools that is not aided by the adoption of dogmatic positions on banding, streaming and setting. What Crosland's words show is the preoccupation with 'the clever child': it is their needs that naturally (through 'common sense') take priority. Many early comprehensives were criticised for paying mere lip service to a universalist concept and being, in reality, a selective system within one institution. The position has, of course, considerably broadened today but these original conceptions do illustrate how even in radical minds, the concepts of defensive segregation in the interests of the clever child were uppermost.

This perspective also helps us to understand why the position of children of special educational needs was seemingly disconnected from the mainstream of the comprehensive debate. No-one seemed to make the connection between the liberating concept of the universal neighbourhood school and the scope for minimising the exclusion of vulnerable children. This perspective was absent even from radical friends of the comprehensive movement. The sociologist Dennis Marsden laid out some criteria for the assessment of genuine comprehensive schools in his Fabian Society pamphlet of 1970. There was no mention whatsoever of special needs, nor of inclusive strategies.⁴

In this historical context lie the roots of what Eric Bolton calls 'The English sickness' in education. In his speech to the Council of Local Education Authorities in July, 1992, he regretted the present 're-emergence of the search for a workable form of selection and segregation' and argued that 'The English education system's greatest success throughout its history has been to fail children.' He condemned as 'not only irrelevant but downright

unproductive' attempts 'to segregate pupils into academic and non-academic, vocational and non-vocational, practical and theoretical, sheep and goats.'⁵

He might well have added to the litany 'mainstream and special school'. Special education grew up in this soil of categories and segregation, not as an aberration but an expression of a deep cultural hegemony. Separation was the natural order of things. Thus, in the first half of this century when 'special education' developed as a concept, the medical and curative models of special provision quickly gained ground as they provided a scientific basis for segregation. As the public education service expanded dramatically after the second world war, so too did the segregated special education sector. Vested interests inevitably followed as institutions, reputations and careers were based on the ideology of 'specialness'. Many vulnerable and inarticulate parents took what they were given and the traditions were redoubled.

All this sounds too black and white. When we speak of educational segregation as an expression of a deep cultural hegemony, it is important to recognise that the concept of hegemony is not absolute. This is important in two senses. The concept embodies the notion that, over time, the force of ideas rests in their connection with social forces, and that the conflict of ideas reflect and articulate wider social conflicts, though not in a simple or linear fashion. Thus, we are not here dealing with an idealised debate about the intellectual basis of British education. Rather, we are examining a constellation of ideas within which there has been a long-running a struggle for dominance. The dominance or subordination of particular sets of these ideas at any one moment will be relative in the sense that subordinate ideas are not extinguished or impotent their eclipse is neither total nor permanent. The outcome at any given moment, or in relation to any major settlement, such as the Education Acts of 1944 or 1988, will be integrally connected with the overall balance of forces within society at the time in question.

Translating these understandings into the specific context of this debate, we see that against the tide of segregatory and exclusive educational thinking, has run a set of ideas we can best label as 'egalitarian'. These have found expression in concern for the education of disadvantaged children, the extension of education to disenfranchised groups and in the comprehensive movement. In times of their eclipse in the educational arena, we can see that they have drawn sustenance both from their wider social movement and, perhaps more controversially, from the pedagogic process itself. It seems to me that the teacher's experience encompasses irregular but important instances where individual pupils transcend social barriers to achievement and progress. The teacher, whether intuitively or in a more formulated way, comes to see both that individuals can 'buck the system' and, as importantly, that there is a system to buck - that is, there are structural barriers in the way of some children's educational progress that do not exist, or exist in lesser forms, for others.

The dominance of ideas associated with segregation and categorisation by aptitude has, however, been markedly powerful over a long period. It has infected even the natural allies of egalitarian educational thinking in the Labour movement. Thus we have already noted Crosland's conservatism over comprehensives, later to be echoed by Harold Wilson who saw grammar schools being abolished 'over his dead body'. We have also suggested that the lack of connection between these broad, egalitarian notions and the concerns of special education has been a further dimension of the extent of the dominance of rival constructs. These ideas have, however, come into prominence when they have been able to connect with powerful social forces. Importantly in the modern period, these have often come at local level in the face of a neutral or even hostile national climate. The movement to comprehensive schools shows how in given localities, where the balance of forces was appropriate, egalitarian ideals could prevail.

Critical in many of these situations was a strong social force involving the alienation of middle class interests for whom private education was unattainable and who were getting a poor or inconsistent deal from the selective system.

Having established something of the cultural terrain relevant to these questions, the performance and potential of LEAs to further the interests of vulnerable children can most usefully be considered in three phases:

- the past - 1944-89;
- the present - the climate established from 1989 onwards by the Education Reform Act;
- issues for the future as envisaged by the White Paper *Choice and Diversity*.

In each period, we come across material factors important to understanding the role of the LEA in the area of special needs. These messages are then gathered together in a penultimate section.

The Past: 1944-89

Before 1989, LEAs operated on a markedly different terrain. They were regarded as a significant partner in the overall national governance of education and had an uncontested leading role within their own localities. Education was offered to the public as a relatively undifferentiated social product: the local ideology stressed parental involvement and a school's links with its community rather than 'consumer choice'. Aside from the constraints of public examinations, individual schools had very substantial freedom to determine their curriculum and ethos. Although in resource terms they had very little scope to back their judgement, a lack of control from central or local authorities allowed our highly variegated system to develop.

If they cared to use it, Local Education Authorities had significant power to effect change and development in the service. They determined the level of overall spending on education, the resourcing of each sector and of each school, and the range and strength of quality assurance and development functions. They controlled appointments to headship and exercised patronage in a myriad of interacting ways. For good or ill, policy development rested on this firm material foundation.

Although LEAs generally did not make full use of their powers, they were heavily and successfully interventionist in questions concerning the structure of schooling and its physical environment. LEAs supervised the rebuilding of the war-shattered service and then managed the raising of the school leaving age.

In this theatre of operations, one of the most striking examples of the progressive power of LEAs was the extension of educational opportunity from 1971 onwards to children with severe learning difficulties who were previously tagged with the label 'ineducable'. Junior Training Centres were incorporated into LEA provision, major training opportunities made available for their staff and their premises dramatically upgraded or replaced. New generations of qualified staff came on stream and, seemingly freed from the academic undertow that bedevils so much of the school system in this country, developed some outstanding educational practice. The best schools in this field show considerable precision in teaching and learning objectives, a tremendous sense of learning and progression - despite the complex and time-consuming physical needs of many of their pupils - and a pervading sense of joy and fulfilment, commanding deserved loyalty from their parents and admiration from their communities. Little wonder that it is these schools that have led the way in establishing community links, humanising residential care and in the implementation of the National Curriculum. In many

cases today, they are an inspiration to the educational establishments around them.

The whole structure of in-service training and professional development that has grown up in the best LEAs has been of enormous service to the interests of pupils with special needs, enabling sharing of techniques, information and confidence on a wide scale. The establishment of peripatetic services to support sensory and physical handicaps, to provide in-school and off-site support in the management of behavioural difficulties, support for welfare and attendance, and the contribution of skilled educational psychologists have all counted for a lot in the successful management of special needs.

But perhaps the major gift of LEAs to those of us who would further integration is the comprehensive school. Education officers never tire of reminding others that schools do not open or close spontaneously. The nationwide battle to move from selection at 11+ resulted in a major victory, won by LEAs with the support of teachers and parents. 85% of our secondary pupils came to be educated in comprehensive schools and our primary schools were freed, (it seems temporarily), of the shackles of teaching to tests. However flawed the concept may originally have been, and may in places remain, the comprehensive structure has created the conditions for the further development of inclusive strategies that could never have been otherwise contemplated. For this reason, the defence of the comprehensive school against the reintroduction of selection and spurious notions of 'specialisation' is the key battleground for integrationists in the 1990s: the territory was initially secured through LEAs.

CSIE and their friends might concede this point, but then query how much the fruits of victory went to vulnerable children. Did not the new comprehensives find much of their pleasure in aping grammar schools and do little to widen their approach to include more children, especially those with moderate learning difficulties, even during that period in the 1980s when their rolls were falling and their staffing was protected?

For those who consider any achievements patchy and modest in this way, it is as well to consider the range of forces lined up *against* integration strategies. Success in this context starts to appear miraculous. The traditions of English education were such that curriculum matters were left to the professionals. The nature of the comprehensive school was, accordingly, very much left to the headteacher and senior staff to determine. In these circumstances, the strong undertow of categorisation and segregation we have traced above continued to flow in many schools. To have reversed this on any general scale would have required all the powers of the LEA to be harnessed in a way quite foreign to the period. Until they became required by law in 1985, the concept of an LEA curriculum policy was rare. Rarer still was the notion of an active curriculum policy that expressed a distinctive view of education and backed it up with resources and training. In the absence of a concerted force from the LEA or elsewhere, the comprehensive momentum did not generally extinguish the strong cultural affiliation in England toward categorisation and separation, nor did it become connected with these issues in relation to children with special educational needs.

Despite all this, between 1982-90 there was, in Will Swann's words, 'a national swing to integration' of 8%.⁶ More LEAs became less segregated than those where segregation rose. More LEAs made less use of out-county placements than those who saw an increase. Something was going on somewhere.

The Education Reform Act

The implementation of the Education Reform Act from 1989 onwards marked a watershed in English education as the Government laid aside the historic settlement of the 1944 Education Act and sought to establish the foundations of a new education system. The Government took unto itself an explicit leading role in the service, establishing a National Curriculum framework and taking sweeping powers over LEAs' funding and management of education at local level. Within these strong national frameworks, individual schools and colleges were to be given substantial autonomy and to be encouraged to compete for parental custom through funding mechanisms geared to recruitment. Parents were seen as sovereign consumers. Their preferences, boosted by formula funding, open enrolment and the ability to create Grant Maintained Schools outside the LEA system, were to become the key engines of quality in the new system.

The challenge to LEAs in this period was manifest. Their scope for proactivity was restricted by a torrent of new statutory requirements as the Government pressed ahead with its reforms. Their powers were reduced in the squeeze between central government and the newly empowered schools. Their own self-belief was damaged and, to some degree, their legitimacy in schools was diminished. Independently of their feelings, the scope of schools to respond to clarion calls from the LEA was massively lowered by the same innovatory pressures.

The messages in the Reform Act for special needs were mixed. Special schools themselves largely breathed a sigh of relief. They had been spared the horrors of formula funding and the National Curriculum gave an identity and status to their own curriculum work that it hitherto lacked in many eyes.

In mainstream the picture was less rosy. LEAs had to develop explicit arrangements within their LMS schemes to provide for differential funding for special needs. At the same time, they were under pressure to review support services for special needs and to increase the size of the delegated quantum for schools. These innovatory and complex policy issues required attention at a time of massive concurrent change across the whole service, and in many cases, the requirement to reduce budgets to meet Poll Tax capping criteria.

It would thus have been harder to have found a less propitious time to launch a major initiative on special educational needs than 1989. This course was, however, adopted by my own Authority, Nottinghamshire, in part as a necessary response to the new conditions imposed by the Reform Act. It struck us that in order to stand any chance of 'getting it right' on the big questions posed for special needs by the Act, we had to clarify our own thinking, consult across the service and move ahead purposefully.

We did not start from a strong base. Although the Authority was politically stable, energetic and well-resourced, it had no distinct policy on special needs. As a policy it formed something of a backwater and left to its own devices, the system had tended toward segregation. The Nottinghamshire was one of a number of LEAs singled out by CSIE in 1989 as having had a rising rate of segregation from 1982-88. This was despite favourable resourcing, particularly in the secondary sector where schools had been significantly protected from the impact of falling rolls. These paradoxes of a well-resourced LEA with a high segregation rate, and of an innovatory and successful LEA with no distinct policy in this area, were brought out for the Education Committee in the Summer of 1989. They agreed to set out ten principles that should govern a new approach to special educational needs in the County, under the label of 'Children First'. These principles were unexceptional but suggested that the Committee was intending

use its resources and authority to support a wider range of inclusion in Nottinghamshire schools.

A major consultative exercise was undertaken over a three month period which brought universal assent to the principles and almost-equally unanimous scepticism about the resourcing of the change. The Education Committee considered the outcomes of the consultation and determined that the initial focus of the work should be 'to increase the capacity of mainstream schools to meet the needs of children with moderate learning difficulties.' There were a range of important strands to this policy, fully detailed in reports to the Education Committee, which brought together the whole resourcing structure of the LEA, both through the LMS formula, special school and special unit provision, support services and additional resource support for individual pupils. Particularly important components of the overall strategy were:

- to reduce reliance and expenditure on out-county special schools;
- to use staffing capacity freed in our own special schools to support pupils in mainstream;
- to provide additional resources (£3m to date) but use mechanisms other than statementing to distribute resources to schools and pupils for special needs support;
- to involve mainstream and special school headteachers in the holistic management of the overall additional resources available in the locality.

In evaluating outcomes to date, the most striking concern pupil placement. There has been a 23.9% decline in enrolments in MLD schools between June 1990 and June 1992. Over the same period, there has been a 40% drop in the use of outcounty special schools.

The profile of special needs as an educational issue has certainly been lifted. There is a vigorous, well-informed and ongoing debate across the service. It is perhaps inevitable that in current conditions, there is by no means universal assent to the effects of the policy but for all these difficulties, substantial achievements remain. They show how, even at a time of intense pressure, an LEA acting as an instrument of social change, can harness its resources and achieve positive outcomes for vulnerable children.

The White Paper and Beyond

Some of the messages in the White Paper are welcome and positive. Following the Government's 'fundamental' review, which I must have missed, there is a reaffirmation of commitment to the integrative, mainstream principles of the 1981 Education Act. Parents of statemented pupils are to be given rights to express preferences on school placement and to facilitate admission of their children to GM schools. Additionally, there are welcome proposals to clarify the scope of assessment and statementing, to speed up the process and to strengthen the appeals mechanism.

It is not all sweetness and light. With statementing rates rising nationally, it is clear that Government shares the anxiety of many LEAs at the resource implications of statementing escalating beyond the 2% indicative level. In common with other aspects of state welfare provision, Government is clearly seeking ways to cap this expenditure, in this case by defining more closely the criteria that should trigger assessment and, it seems, by giving more robust decisions on appeal cases where moderate and specific learning difficulties are at stake.

The White Paper reflects this more restrictive concept of special educational needs. It draws a careful distinction, for example, between such pupils and those who simply 'behave badly'. Here, there is no affirmation of mainstream opportunities. In fact, a duty is to be placed on LEAs to make 'alternative provision' for these young people.

More broadly, the fate of the remainder of our vulnerable children is to be bound up with the Government's recipe of Choice and Diversity for the system as a whole. Although the White Paper scarcely mentions the word, the essence of the approach is, of course, to strengthen market mechanisms.

This is nothing new. The unifying logic of Government policy toward education since 1979 has been to strengthen market factors in the service. The focus of their policy has been very much on the supply side, controlling the activities of LEAs and schools, rather than on demand side. Thus, in all of the mountain of education legislation since 1979, we have not seen a wholesale drive to provide all parents with genuine choice. Such choice as is available in the public sector is heavily conditioned by legal caveats and the practical constraints of school accommodation and transport.

A more radical approach would have seen the introduction of a voucher system redeemable at any recognised school. This has been repeatedly discounted on grounds of practicality and expense, an implicit acceptance that the concept of parental choice in education is, at bottom, more useful on the hustings than in office.

The principle focus of attack has not, then, been to arm the consumer, but to disarm the provider - the LEA. Government has worked hard to end LEAs' monopoly on the provision of public sector education through the Assisted Places Scheme, CTCs and Grant Maintained Status. The ability of the LEAs to plan and manage the system overall has been progressively restricted. At every turn, Government has emphasised and strengthened its own national role in setting regulatory frameworks for education within which an increasing diverse pattern of publicly-provided schools would compete for parental custom, free of the bureaucratic control of the LEA.

This market-driven approach has major implication for vulnerable children. It is a simple issue, rooted in a basic tension between the logic of market forces and the requirement to provide a common educational entitlement for all.

The White Paper's argument is based on a fallacy about supply and demand in education. Although incentives are offered for schools to compete for pupils, and measures such as open enrolment, capital incentives and GMS are designed to enable certain schools to expand, these popular schools cannot expand beyond fixed physical limits. Often they have no wish to expand at all, seeing size as an important component of their appeal. In these circumstances of restricted supply, schools are in a position to choose their parents, rather than vice versa.

Alongside this, the White Paper's concept of diversity gives a green light and promises financial inducements for 'specialisation'. Students of the debate around the 1944 Education Act can be excused an acute sense of déjà-vu at this point. It is all too easy to see, however, that some schools will quickly come to 'specialise' in offering more academic and traditional approaches. They will seek admission criteria which allows them to give priority to pupils for whom such an approach is 'best suited'. As David Miliband said in his excellent paper on *Markets, Politics and Education*, this 'differentiation of schooling supply is a prelude to the differentiation of school populations.'⁷ In other words, for 'specialisation', read selection.

In this market model, parents will implicitly be seen as potential 'shareholders' in the company of the school; their children being their capital. They invest their children's attributes, whilst the school recognises it will have to pay a dividend by providing resources to meet their needs.

As we have seen, it is not a free market. Popular schools take care to choose their investors. Parents of pupils with special needs present a doubly unattractive proposition. They both have

less to invest and require a higher dividend. Therein lies the tension. Left to market forces, these weaker players will find it harder to place their investment. Truancy, exclusion and segregation rates begin to rise. The reality of education as a universal public service is shaken.

Pragmatically, Government recognises that this tension between an universal entitlement and the selective instincts of the market has to be contained. There is a temptation to stick with narrow economic models. Thus the weaker players should be provided with more resources to boost their power as investors. The LEA is then seen as the underwriter, guaranteeing to place their shares if the market declines to play.

This solution does not avoid the critical questions that are at the heart of special needs provision, particularly who should be defined as the weaker players and how much additional resources should be provided for them. We have seen the Government's answer to this - to seek to tighten access to assessment and statementing - a restrictive notion of special educational needs.

Beyond this restrictive notion, the broad mass of vulnerable children are to take their chances in the market place. Someone once said 'You cannot buck the market'. As the guardians of vulnerable children, LEAs will have to try.

Important funding questions were left untouched by the White Paper and there are two key issues that should remain prominent as we assess subsequent Government proposals in this area. The first concerns the distribution of resources between schools. The global funding of schools must recognise predictable differences in levels of special educational need associated with social disadvantage. There is some controversy and dissatisfaction about appropriate measures here. Most LEAs have settled for proxy indicators, others are seeking more direct educational indicators of differential need. The principle should, however, be secure. Without these differential levels of resourcing, vulnerable children will suffer a clear diminution in resourcing levels. Such differentiation is enshrined in local authorities' LMS schemes: any arrangements for the direct funding of GMS schools must carry forward this principle.

The second key issue concerns accountability. There has been much discussion following the White Paper on the role of the LEA as a 'consumer watchdog' in education. If this role is to mean anything for vulnerable children, then the dog has to have some teeth. Since the introduction of LMS the general trend of resourcing for schools has been to maximise the generic grant to schools and to move progressively to a situation where the school is accountable for the use of these resources not in terms of mere financial probity, but also in terms of educational outputs. Unsurprisingly, greater progress has been made in the area of devolution than in accountability where the issues and measures are so complex.

There are clearly loose/tight dimensions to such accountability in the field of special needs. Statements are an example of tight accountability where resources can be earmarked against specific provision for an individual. Beyond that, the spirit of the times resists earmarking, and the larger and more diffuse the client groups defined as having 'special educational needs', the more complex the problem of securing appropriate accountability becomes. It would, however, be obviously unwise in an increasingly market-oriented system to rely solely on loose forms of accountability. Two dimensions of a tighter approach will be important. first, the statutory inspection criteria for schools need to give a firm steer on expectations in the field of special needs. Second, the provision of financial incentives for integration/retention and disincentives for exclusion are required.

Messages for the LEA

In exercising their continuing statutory responsibilities in the special needs arena, LEAs will need more than moral goodness and general exhortation on their side. They will need to understand fully the terrain on which they are fighting and to marshal carefully all their available forces. The stakes are considerable. The White Paper seeks to establish in the public mind a new vision of the management of education. It sees the key axis resting on schools (of various types) and their relationship with national government, (with its quangos) operating as a distant regulator of the educational market. Under this vision, schools would be very much left to their own managerial devices but operate under firm national policy frameworks. Although the White Paper concedes a transitional necessity to maintain LEA frameworks to underpin the new system in its emergent period, it raises the possibility of an education system without the local focal point that LEAs have historically provided.

Does this matter for special needs? Can arrangements not be left primarily to the schools and the quangos to resolve, with the LEA standing meekly in the background as goalkeeper and provider of the last resort? The foregoing sections of this paper lead to an answer firmly in the negative. The following factors make, definitively for me, the case for the LEA as managing agent in the field of special educational needs.

It is crystal clear that left to its own devices, the system will tend toward segregation and fracture. This tendency arises from deeply-rooted cultural factors and new emphases on market factors in education. To argue for a 'hands off' approach is to condone such fragmentation. The social and economic costs of this will be immense.

At the minimum statutory level, structures are required to make appropriate provision, to develop policies for the general regulation of the education system and for intervention in the cases of pupils whose needs are manifestly not being met.

In addition, structures beyond the individual school enable the effective provision for low-incidence special educational needs, for example, those associated with sensory impairments.

At a deeper level, it is clear that value questions are at the heart of any debate about special needs provision within public education. In a democracy, the providers and consumers of education need a social forum to argue out collectively these value questions and to monitor their articulation in policy terms. If they are to engender constructive debate such arrangements can only sensibly be established at local level. This proximity is essential to provide responsiveness and involvement in any meaningful way, particularly for parents who are most vulnerable in distant, legal and bureaucratic structures.

The debate thus engendered will raise big questions which go beyond the narrow confines of special needs and concern the management of education as a whole. Relations with other public service functions such as health and social services will also arise, particularly in terms of a coordinated response to the Children Act in developing a practical understanding of the interaction between the concepts of 'children in need' and those with 'special educational needs'. Thus special education is inextricably entwined with overall social policy and too important to be left to the professionals. Big issues, large-scale resources and vested interests are involved. In this environment, vulnerable children need some big dogs in their kennel. This all suggests that the discharge of the statutory functions and discretionary powers relevant to special needs provision is best located within a democratically-accountable tier of local *government* rather than a merely administrative structure, distantly accountable to central government. This makes

possible a creative synergy in policy terms where social purpose can be commonly expressed through a variety of related agencies.

To make the case for a pivotal role for LEAs in special needs is not enough. We need to understand whether the general provisions of the White Paper make its realisation possible. Do they leave the LEA with sufficient leverage on the education system as a whole to make progress in this one area feasible? This is critical as, just as synergy is potentially very powerful at the macro, inter-agency level, so too is it clear that successful policies require special needs to come out of the closet and capture the resources and imagination of the whole education service. We have, therefore, to ask whether the LEA can survive as other than a broken reed and play a strategic role in relation to special needs.

The White Paper makes it clear, albeit grudgingly, that LEAs have the potential for a continuing strategic role, if they wish to seize the opportunity. They are not only to be providers of the last resort with duties in a narrowly defined area of special needs, but will also have wide generic roles in planning school provision, in resourcing schools, in curriculum, assessment and training, and in advice to Heads and Governors. The present reluctance of parents to move more than a handful of schools to GM status makes it essential that these LEA functions remain, although the White Paper understandably doesn't make too much of a song and dance about it.

This provides LEAs with a wide range of opportunities to promote the interests of vulnerable children. There are three principal dimensions to this:

- to promote commitment to a wide and inclusive concept of comprehensive education through:
 - monitoring and publicising information and key indicators on the effectiveness of inclusive strategies;
 - taking every opportunity to praise successes and to build teachers' confidence;
 - looking at every turn to generalise thinking and provision, rather than to categorise and segment.
- to develop understandings of effective special needs education as a dimension of effective schooling in general; this involves:
 - building on the impressive research base on school effectiveness;
 - recognising the importance in school development of external sources of stimulus and support in which the LEA can play a pivotal role.
- to develop schemes of local management of mainstream and special schools which are:
 - based on, and reward, inclusion;
 - include appropriate accountability to supplement that offered in the new inspection arrangements through OFSTED.

In seeking to work this passage, it is important that LEAs 'go with the flow'. They must respond to the deep currents of society which, beyond the confines of any individual piece of legislation, are now providing greater delegation, autonomy and responsibility for a variety of social institutions, including schools. Because it never existed, there can be no reconstruction of a monolithic LEA with widespread and intrusive powers to intervene and direct in special needs or elsewhere. We have to endorse delegation and to encourage the ownership and responsibility that goes with it. This points toward strong working relations with those GM schools that emerge, discouraging fracture and staking out the strong moral ground of mutual responsibility for all our

children, including the most vulnerable.

Thus conceived, the whole apparatus comes to be more than the sum of the parts. It provides a genuine bulwark against tendencies within the system towards segregation and fracture. It relies, however, on the LEA getting beyond 'administration' which so often amounts to little more than passive supervision of the status quo. It requires the LEA to enable and sustain a genuine debate within the service and with parents, and to use these understandings to test the boundaries of legislation, resource difficulties and cultural barriers.

Conclusion

The arguments in this paper have set out a daunting canvas for those who believe that the interests of vulnerable children are best served by an education system which celebrates universal and inclusive character. We have seen how firmly rooted segregation is in our educational culture and how recent Government proposals for increased competition and differentiation between schools is likely to lead to the emergence of a more selective school system. In this market place, the Government would only wish to protect a small minority of pupils through the medium of a statement of special educational need.

We have to recognise also that those LEAs who wish to reaffirm and develop their commitment to special needs will have to do so in a difficult climate. The LEA role in the planning and provision of local education is brought into question by the White Paper. It provides a slippery slope for Authorities to descend into impotence at their own pace. This destabilisation undermines the moral authority of the LEA to act, particularly in any manner which runs counter to accepted wisdom amongst the system's front-line producers - the schools. The schools themselves have to counter the absurd pressure they face from multiple innovation and from society itself which thrusts an ever-greater proportion of surrogate parenting and social remediation roles upon schools.

All this may seem hopeless. It is not. Just as LEAs do occasionally, Governments fall into the trap of assuming that there is neither gap nor struggle between their rhetoric and actual reality. In fact, neither the Education Reform Act nor the legislation that will follow the White Paper will eradicate the local traditions, values and relationships that are strongly embedded in our schools and LEAs. The experience of the years since 1988 give clear evidence of the strength and resilience of local education in the face of these challenges.

There are some key battlegrounds to be fought in the next few years. The following considerations will be important:

- measures to preserve the local integrity of the education system: resisting movement to GMS and minimising the fracture where it does occur;
- ensuring that funding processes and policy expectations for mainstream schools in relation to special needs are clear and equitable between LEA and GM schools and include appropriate accountability;
- establishing clear and consistent evaluation criteria for special needs issues in the statutory inspection of schools;
- managing local management of special schools and the rationalisation of surplus places in these schools as a positive force for integration;
- maintaining relations on special needs issues with schools and teachers that are collegiate, involving and supportive rather than confrontational: this requires a recognition of their multiple pressures and the celebration of their successes.

The common theme is that the special needs of vulnerable children will need to form an important focus for all LEAs, one on which they bring to bear all their moral authority, the synergy of multi-function local government and their important remaining statutory functions for education. Above all, they will have to extend and develop alliances across the service and with parent bodies and voluntary associations. In these ways, they can 'buck the market' at each and every stage where its emergence or its operation threatens the interests of vulnerable children.

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Bucking the Market: LEAs and Special Needs

A response by John Moore

Introduction

Peter Housden has, in his own words, set out a daunting canvas. He has necessarily used a broad brush to paint a large picture. In response, therefore, I will confine myself to what I believe to be the missing elements of this picture, elements that will play a vital role in determining the future direction of SEN provision.

It is perhaps important to state at the outset that my observations are drawn from experience of five LEAs of quite different political complexion, and though much of what I have to say reflects current deliberations in Kent, this is a personal response and is not therefore a statement of policy.

Whilst there is much to agree with, I find the paper somewhat too confident, both in what it asserts LEAs to have achieved in the field of SEN and in what it assumes to be its future role. In concentrating his argument on the history and influence of social and political forces, Peter has, I think, either neglected or insufficiently stressed some important agents of change which lie outside the direct control of government, both national and local. I would like to focus on three of these:

- First, the current debate on the efficiency of public services in the form of the purchaser/provider split;
- Second, the 'voice of schools' in the further development of self-managing schools, and where this will take us;
- Third, the growing argument in favour of the devolution of *all* SEN resources to schools as a means of achieving real accountability, and therefore integration.

In so doing, however, I would wish to affirm my deep agreement with some seemingly simple yet powerful assertions which Peter has made early in his paper. Namely, that ultimately integration is contingent on inclusive schooling, that young people learn from each other and that differentiation is critical to effective integration.

Re-modelling SEN into purchaser and provider functions

The Audit Commission (1992)¹ has recommended that there should be a clear client/contractor split between LEA and schools as a way of increasing accountability for pupils with statements. I would go further than this and say that whatever one thinks about the current move towards the purchaser/provider split in other public sectors such as health and social services, there is every good reason to develop such a split in most, if not all, aspects of special education. Currently there are serious weaknesses in the system. Weaknesses that not only allow some LEAs to formulate needs with one eye on available provision but also allow providers, in the form of support services and special schools, too much free reign of self-interest. In the jargon of purchaser/provider this is 'contamination'. Simply stated, it does not allow the customer the best deal.

The influence of special provision is particularly important. In Kent, for example, there has been much debate over the composition of the Local Advisory Team, the group that will receive assessments and make provision at a local level, as described in Kent's SEN strategy. This is a

critical debate because purchasing power in the form of individual pupil requirements will eventually be devolved to this level of decision-making, and I for one, believe that no provider should be part of this forum.

Indeed, I would contend that one of the most effective ways of ensuring integration in the current climate is to specify it, commission it and make it available for purchase. Otherwise, those with an interest in maintaining segregated provision will continue to influence assessments and placement choices.

It would be a mistake to think that the provider/purchaser split unnecessarily introduces competition between providers where there could be cooperation. Commissioning based on a careful analysis of need, such as that derived from the assessment evidence presented to the purchasing body (the Local Advisory Team in Kent's Strategy) would allow forward planning through the issue of Service Level Agreements. In this way resources could be moved more quickly from special schools to mainstream schools, particularly if incentives were built into the Service Level Agreement in mainstream provision. Fragmentation and waste could be avoided by bringing together the providers to discuss the best and most efficient options for meeting overall need. In Kent we have coined this the 'service provider network'. This particular view of purchaser/provider is predicated on the notion of a community response to providing a genuine continuum of choice, hammered out between the providers themselves.

What then are the main purchaser and provider functions? The purchaser would be responsible for a specification of minimal service standards, commissioning provision through Service Level Agreements, maintaining a strategic overview of match of need to provision and maintaining quality through monitoring. The provider functions, on the other hand, might well be those concerned with assessment (perhaps invested in local groups of professionals who are directly accountable to clusters of schools and parents), and ensuring a continuum of self-managing providers from full integration to specialist resources. Current obligations apart, none of these functions necessarily requires an LEA, though good argument could be made for developing the purchaser role within the current LEA structure. This, of course, would require a fundamentally different role for the LEA than that suggested by Peter Housden, or indeed is currently possible under the Education Act 1981.

Local Management

It is extremely important that the principle of local management be drawn away from the more global view of a market place for education. I endorse much of what Peter has to say regarding the effects of a market philosophy on special education.

Local management, however, is not the same issue. It is, I think, a political fact of life that local management has caught the imagination of councillors of all persuasions and that governors and head teachers welcome the opportunity to exercise fiscal power over the running of their schools. Even where opting-out is less of an immediate issue than it is in Kent, LEAs will find it increasingly difficult to resist the ever growing demands of schools for greater devolution of LEA controlled budgets. The role of the LEA beyond statutory duties, will I believe, depend to some considerable extent on the services its schools wish it to deliver.

Further, in planning services LEAs will have become increasingly aware of the frailty of those services which operate outside of the structure of local management. Where the majority of schools are locally managed within an authority, for example, special schools have been quick to realise just how exposed their budgets are to last minute cuts compared with mainstream.

Uncertainty has swung from locally managed providers to LEA managed providers. This has made special educational needs an extremely vulnerable business, one least likely to survive outside of the framework of local management.

I would contend, therefore, that all SEN facilities should be self-managing. The key to success, however, is the introduction of clear purchaser and provider functions. Without this mechanism there will indeed be a tendency toward segregation and fracture as described by Peter.

Full devolution of resources to schools

The fundamental importance of locally-controlled resources in meeting special educational needs within the mainstream has been well explored by Gary Thomas² of Oxford Polytechnic in Journal articles and more recently in the Times Educational Supplement. Gary Thomas dismisses a role for the LEA, which he sees as still essentially centralist and bureaucratic, arguing instead for direct funding of all pupil needs, and therefore direct responsibility and accountability to schools. Thomas's basic assumption is that LEAs perpetuate the notion of services, which in turn de-skill by generating a culture of dependency. In essence this is much the same argument which my colleague Neil Morrison and I made in 1988^{3,4} that meeting special educational needs will remain 'someone else's problem' if schools are not allowed to develop the necessary resources within their own management structures. Whereas Thomas concludes that LEA services should be devolved almost immediately to schools we have argued for an 'interim' period of service, where the focus of LEA support services is the development of self-managing services within schools.

I view this as an extremely important argument. For years the SEN community, if I can call it that, has talked about the 'school for all' and the need for mainstream education to accept responsibility. Now that the 1988 Education Act, through the National Curriculum and the devolution of powers to schools, has made this possible, should we not 'put our money where our mouth is?'

Peter Housden makes some play of the 8% achievement in integration, cited by the Centre for Studies on Integration in Education (CSIE). Even allowing for the forces which are lined up against integration, I do not see this as much of an achievement. My experience tells me that it is only in more recent times that SEN has become a serious issue for some, if not most, LEAs and the reasons are clearly financial. Integration is, however, a vision bigger than the LEA, than the Education Act 1981, or Warnock. For this reason we need a fundamental review of how special educational needs are met in this country.

The archaic procedures required by the Education Act 1981 conspire against the successful devolution of responsibility for SEN. Centralised control of assessment and resource allocation is a legacy of the Warnock Committee's view that special educational needs require resources which are additional or supplementary to provision normally made by schools. This concept does not hold good for self-management. Such a view perpetuates a division between those pupils with a Statement and those without, thus encouraging segregation. If the concept of a self-managing school is to mean anything for special educational needs then it must assist in the destruction of this demarcation.

A model more consistent with local management would ensure that decisions are made close to the neighbourhood of the child and in a way that involves a wide group of professionals in partnership with parents and pupils. This would require a sophisticated mechanism, one which links an in-school review of pupil needs to a community based assessment, where the community based assessment replaces the 1981 Act procedures.

This would require a re-working of current SEN designations into levels of support, and the construction and maintenance of such a mechanism is, I would argue, the short-term role of the LEA. It would prevent the decline into a freemarket oriented response, which inevitably, if left unchecked, will create an inconsistent and incoherent response to needs. The medium term strategic function of the LEA, therefore, should be the construction and servicing of a mechanism which enables locally managed schools to meet needs within a community.

I note with interest that Peter Housden views the notion of trigger points for statements as one presenting a 'restrictive' concept of SEN, i.e., confining it to the 2%. In my opinion there is no more logic in the 2% than there is in his 'intuitive' 20% group of vulnerable children. New ways of describing support needs are required and the Kent SEN audit, with its six levels of descriptors, is one such example.

In many ways, the audit is the cornerstone of Kent's strategy. It is only possible to devolve responsibility in full if there is a common understanding of what constitutes needs and response and the relative nature of special educational needs has consistently bedevilled local authority attempts to distribute resources equitably. Many authorities will testify to the lack of consistent assessment across both the same designation of need and different institutions providing for the same group of pupils. When Kent first ran its audit it found very wide discrepancies, both across geographical areas and across schools as to what constituted such traditional designations as learning difficulties, behavioural difficulties, severe difficulties and profound and multiple learning difficulties.

The question must now be asked, however, 'should there be any group of pupils for whom the self-managing school is unable to manage resources?' For those opposed in principle to local management of schools there is a very real danger schools will not want to take this level of responsibility; but is partial acceptance acceptable? Having embraced so enthusiastically the rights which go with local management ought not schools, and in particular their governors, also embrace the responsibilities inherent in this new found community role? Whether this will happen appears to depend on two factors. Firstly, the attitude of governors towards the notion of service to the community. Secondly, the removal of the option of an LEA mechanism which absorbs other people's problems. The essential point is the need to find ways and means of helping governors and teachers re-construct their view of special educational needs. Ultimately, governing bodies could be responsible for the commissioning of assessment and support and the monitoring of its effectiveness.

Where an authority has no strategy to move it in this direction, local management may well intensify rejection as described by Peter Housden. The Kent strategy is deliberately predicated on the notion that the LEA will have an interim role in developing such systems. That once its local advisory teams are place and serviced by self-managing providers, whether they be mainstream integrated units, special schools or peripatetic services, the onus will be placed on all schools to respond positively and responsibly through the medium of the authority's audit of needs.

I began by saying that I found Peter Housden's paper somewhat too confident on the issue of where LEAs stand in all of this, perhaps I am too confident about the kinds of genuine professional response I have noted in schools, despite all that they have to endure.

Conclusion

My conclusion is that special educational needs will not be well served by LEAs continuing to promote traditional functions, no matter how successful they are at staving off the evils of the day. Greater devolution towards the self-managing school and a consequent re-definition of the LEAs role along the lines of the purchaser function will, I believe, offer a better deal to all children with SEN.

Yes, to some extent, you can buck the market. You cannot, however, buck the more clearly defined movement towards self-management, the challenge of the purchaser/provider split or the evolution of a vision of integration served by systems outside the direct control of the LEA or at least the LEA as we know it.

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Paul Vevers

The other discussant was Mr. Paul Vevers, Senior Manager, the Audit Commission. Mr. Vevers is a co-author of the two reports *Getting in on the Act* and *Getting the Act Together*, issued jointly by the Audit Commission and Her Majesty's Inspectorate of Schools (HMI). Mr. Vevers discussed Mr. Housden's paper in the light of the two reports. The detailed points made by the Audit Commission and the HMI are set out in the two reports. In brief, Mr. Vevers referred to the proposals in the reports that LEAs should become the client in a client/contractor relationship with schools as the contractor, having the main responsibility for providing support. Although LEAs no longer held responsibility for inspecting schools, they retained the responsibility to monitor schools' use of the funding they received through the funding formulae. LEAs needed to devise mechanisms to monitor schools' effectiveness in using funds to meet their pupils' special needs. The first report provided evidence that LEAs had, with some exceptions, not achieved this monitoring to a satisfactory degree. The reports make suggestions about ways of constructing performance indicators and also how these could be applied. Mr. Vevers felt that although in general special needs funds should be delegated to schools, LEAs should retain sufficient funds to enable them to exercise the role of client in the client/contractor relationship. He also referred to the recommendations in the reports for overcoming the inefficiency which frequently occurred in issuing statements.

Discussion

Following the presentation of papers at the seminar there was an open discussion among all participants. The following is a synthesis of the points emerging in the discussion, based on recorded notes.

The main thread of the points raised in the discussion session concerned responsibility for ensuring the principles for meeting SENs as indicated in the 1981 Act. These responsibilities concern the quality of services and as far as possible, their availability in integrated settings. They also concern the rights of the individuals with SENs and their parents, to participate in decisions about the meeting of their needs.

There was general acceptance that these responsibilities had been carried out by LEAs at differing levels of adequacy, but in line with the findings of the Audit Commission, it was emphasised that there were plenty of instances of exemplary practice. It was not evident how the legislative proposals could actually assure better provision for those with SENs, particularly those for whom a statement would not be maintained. It was felt that the government's intention to alter the education system through exercise of choice by parents left the exercise of responsibility towards individuals with SENs in limbo. The proposed legislation left changes in the system of educational administration to the vagaries of opting out ballots of individual schools in individual LEA areas. Parents of pupils with SENs, while being given a right by the proposals to choose a school, were by the very nature of their minority position, left out from influencing their local system of education.

Participants generally agreed that overall responsibility for meeting individuals' SENs could, within the realistic requirements of cost-effectiveness, never be exercised at the level of the individual school. While there was strong support for the view that any system should encourage individual schools to take responsibility for the education of any pupil with SEN whose parents wished them to attend the school, the varying prevalence of SENs made it necessary to locate

responsibility at corresponding tiered levels of administration. These are currently represented at the level of the school, of clusters of schools, at LEA and at the level of consortia of LEAs, each with their appropriate accountability systems. It was these accountability systems which participants felt were now in jeopardy through the uncertainties of the proposed successive stages of change in responsibility, and through the nature of the proposed systems.

It was mentioned that Circular 7/91 required the LEA to submit a comprehensive plan for meeting the SENs of all pupils in its area to the Secretary of State. However, participants had noted that the proposed legislation did not indicate whether the LEA would be responsible for meeting the needs of pupils with - as well as without - statements once the Funding Agency for Schools (FAS) took over responsibility for education within its area. The Circular's requirement conformed to the Warnock Report, which had maintained that the continuum of SEN should be met with a continuum of provision. It was concluded that leaving the LEA with the responsibility only for pupils with statements clearly did not match this principle. The present pattern of responsibility implied that the education of pupils with SENs was a part of the education provided for all pupils. Such a view of educational provision was regarded as totally at variance with the suggestion mooted in some areas, that in future an LEA might discharge its responsibility for pupils with SENs as part of a joint service with the local authority Social Services department. Although concern was expressed that the legislative proposals failed to indicate where the responsibility for collaboration with Social Services departments - as well as Health Authorities, would lie in meeting pupils' SENs, separating out administrative responsibility for pupils with SENs was claimed to be entirely contrary to the principle of inclusive education for those pupils.

The concept of 'purchasers and providers' in meeting pupils' SENs was discussed. It was pointed out that, under real-life circumstances, being in the position of a purchaser did not necessarily go with having the wherewithal to purchase. This certainly applied to the person who was most logically in the position, namely the individual with SENs or the parent. It was recognized that parents of pupils with SENs who did not have statements were in such a position, but so were parents of pupils with statements, even under the proposed changes in the appeals procedure. In education as in other areas of service delivery, provision for pupils with SENs could never be made on an open-ended basis, and it was maintained that this point was, of course, central to the issue of the rights of those with SENs.

Participants considered the suggestion that schools might be the purchasers of services on behalf of pupils with SENs. Again, it was felt that the current and prospective funding constraints limited the scope for regarding this as an effective way of meeting pupils' SENs. There was sufficient evidence that the competitive basis on which schools were funded made it difficult, even for those governors who had genuine concern for pupils with SENs, to allocate funding to them with the priority which they might wish. Concern was expressed, that the funding constraints might also limit the selection of the necessary quality of service which was required.

Participants were concerned about the threat to the continuity of quality service provision in those LEAs, where special needs services for ordinary schools were now to be funded entirely through finance delegated to schools. It was recognised that schools had not always felt that the centrally-provided services offered the standard of support that was needed, however, there were also already plenty of instances where necessary support for pupils had been withdrawn. Circular 7/91 had, in fact, cautioned about this danger.

There was also discussion of the Audit Commission's proposal that the LEA should put itself in the position of the purchaser of services on behalf of pupils with SENs, with schools being the providers. Clearly this proposal was subject to the uncertainty in the Bill about the scope of the proposed responsibilities of the LEA. However, it was felt that even if LEAs were allocated sufficient funds to go with such a purchaser role - and participants were sceptical of this - the change in the inspection responsibilities left the LEA with no means of ensuring that schools met the needs of pupils without statements. LEAs could only exert influence through auditing the use of funds which they provided to schools. Although, under the current constraints on funding, schools would no doubt be keen to accept finance under any circumstances, 'dire straights' principles were not judged to be ones on which legislation to meet pupils' SENs should be based.

It was recognised that the final recourse for responsibility that pupils' SEN should be met rested with the Office for Standards in Education (OFSTED). In terms of timescale, this was clearly considered a recourse of last resort, since schools would only be inspected every four years. However, other concerns were also expressed. Although there was little doubt that OFSTED intended that schools' inspection teams should include members with expertise in how pupils' SEN could be met, there was in reality little likelihood that this intention would be achieved. Some doubt was even expressed whether the necessary expertise would be offered in the teams inspecting special schools. Discussion also indicated that OFSTED itself would not be in a position adequately to monitor the special needs dimension of the work of inspection teams. In the light of the points mentioned above about the threat to the continuity of support services, participants raised the further concern about how schools would be able to obtain the necessary support to act on recommendations to improve their special needs provision, if the inspectors' reports indicated this requirement.

The general tone of the discussion was clearly not one of optimism that the legislative proposals would bring about an improvement of the circumstances for pupils with SENs. Participants certainly did not claim that the current level and nature of provision for pupils with SEN had attained the quality which one would wish. All indicated an awareness of the need for improvement, while registering that there was much current good practice. The expectation of new legislation, however, was that it should be based on evidence indicating its potential benefit, but the discussion failed to reveal such evidence.

Conclusion

Klaus Wedell

The aim of these seminars is to point up policy options in the field of special educational needs and their relative advantages and disadvantages. Peter Housden and the two discussants have offered three different policy options. In the general discussion these were considered in the light of the government's proposals in the Bill currently under debate in Parliament. The discussion pointed to the problems which were inherent in the Bill's proposals, and in the previous recent legislation. Participants recognised that the principle of local management furthered by the previous legislation had generally been well received by schools. Similarly, accountability as a means of ensuring quality and appropriateness of provision was obviously a principle which was unlikely to evoke disagreement. These principles had to be taken into account in considering special needs policy options. The problems were not with the principles, since they themselves obviously had validity. The difficulties arose from very obvious dilemmas in meeting children's special educational needs (SENs) which have been illustrated in the contributions of speakers at the seminar and in the points raised in the discussion.

- Furthering the principle of integration supports the notion of giving responsibility to each ordinary school to meet the needs of children who wish to attend. When funds are short, and schools' budgets are dependent on competition for places, a school's feeling of responsibility towards 'expensive' and potentially 'popularity reducing' pupils is at least put under strain, and may be paralysed.
- Efficient management of resources requires the application of economy of scale. The range of incidence of forms of children's SENs implies that the types of expertise and resources required to meet the least prevalent needs have to be planned for children who are widely dispersed geographically. Individual schools in a locality may not be faced with the demand to admit pupils with a particular form of SEN at all and may not even be aware of the existence of their needs. For them, provision has to be managed and co-ordinated above the level of the school, or even of schools in a locality or region. Provision may require co-ordination with non-educational services at correspondingly higher levels. Economy of scale in a proportion of instances therefore runs counter to the principle of placing resource decisions at a school or even at a local level.
- Ensuring quality and appropriateness of services is best achieved through the accountability of a purchaser-provider relationship based on market forces. Quality services are expensive to set up and maintain. High prevalence SENs may support and maintain a sufficient pool of services with which they can be met, but services for low prevalence SENs become very vulnerable. Risking the loss of such services, and the consequent damage to children who depend on them is not acceptable in a society which regards itself as responsible and civilised.
- Decision-making about education should be left to democratic processes among parents of children at each school. Parents of children with SENs are by definition in a minority. With pupil-led funding in times of constrained finances, schools wishing to preserve their funding have to favour policies which will support the interests of the majority of parents, thus jeopardising the scope for meeting the interests of the few.

These dilemmas show that effective planning cannot be determined by the simple application of single principles. The complexity of the potential interactions within the circumstances in which change occurs go well beyond the planners' scope for predicting outcomes. Governments which have successfully legislated for change such as, for example, the Spanish government in its current reform of education including special needs education, know that following a more gradual consensual path reduces the need to make predictions over large gaps between present and future scenarios. The same could apply in this country.

Paradoxically, the presenters at this seminar have offered instances of staged development which can occur within the overall responsibility of LEAs. They provide examples of how the principles of devolved funding, of enhancing the autonomy of schools and of accountability can be fostered with the LEA acting as a facilitator rather than the caricatured inhibitor. Moreover, the system allows for just the tiered responsibility for provision necessary to meet the varying prevalences of SENs. It seems that there is plenty of scope for developing provision for pupils with SENs within the application of some of the principles underlying the present legislation, if only an awareness of the nature of policy dilemmas can be put to positive use.

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