

# Special Educational Needs



Reforming provision in English schools

Ralph Hartley



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# Executive Summary

Currently 21% of children in English schools are identified as having Special Educational Needs (SEN). Less than 20% of these children achieve five good GCSEs, which is under half the national average and children with SEN are eight times more likely to be excluded than their peers who are not identified with SEN. As much as £5.2 billion a year is spent directly on education and services for children with SEN and they are more likely, in later life, to access services such as adult social care. They are also over-represented in the prison population. Furthermore, the particularly low attainment of this group contributes significantly to wider under achievement in education, low basic skills and other skills shortages which the CBI estimates cost the economy £2.04 billion each year.

Much debate on education policy focuses on reducing the attainment gap between the rich and the poor. There is a very significant link between SEN and other lower performing groups, in particular children from lower socio-economic backgrounds. Pupils with SEN in mainstream education are disproportionately eligible for Free School Meals (FSM): pupils with a statement of SEN are twice as likely to be eligible for FSM compared to pupils with no SEN, whilst almost a third of pupils categorised as School Action Plus are eligible for FSM. This does not mean that SEN explains all low performance but it does suggest that a better approach to SEN should be seen as a vital concern in reforming the education system. SEN fits within and plays a part in many educational debates, including the role of academies and Free Schools; the pupil premium; and how to improve accountability. The way in which SEN fits into these wider debates must be acknowledged, and this report considers potential reforms to the approach to SEN in England in the context of broader educational issues and policy changes. Having said this, there are also specific problems with the way SEN is currently approached which this report also seeks to address.

How to boost the attainment of this group should be an urgent priority for the new government and the forthcoming Green Paper is a welcome sign that this will be at the heart of wider reforms. This report seeks to offer recommendations to this effect.

## Chapter 1 – What is SEN?

It is often argued that one of the most significant problems with the approach to SEN in England is that we identify too high a proportion of children as having SEN in the first place. The recent Ofsted review of SEN bolstered this view by arguing that in many instances SEN was being used as a label to mask under achievement.

One of the key drivers of this perceived over-identification is said to be the definition of SEN, which is seen as too loose and broad, thereby allowing schools to identify fairly routine barriers to learning as SEN. Particularly striking is the

apparently circular definition of what amounts to a learning difficulty. Children have a learning difficulty if they: “have a significantly greater difficulty in learning than the majority of children of the same age”. At the same time, some schools may choose to identify higher proportions of children as having SEN in order that they are judged more fairly on the basis of the accountability measure ‘Contextual Value Added’ (CVA). They may also be tempted to over-identify SEN because, in some

“In deciding where to draw the line, and how much to put in to the high-cost pot, government will need to make decisions about what it can afford and what it is willing to fund”

local funding formulas, a higher proportion of identified SEN may lead directly to more funding.

This leads some to argue that SEN should be far more tightly defined, with a more objective or diagnostic definition that would see numbers limited. However, looking at levels of

identification in other countries suggests that the UK does not necessarily ‘over-identify’ by comparison. The US for example identifies nearly 35% of all children as having some sort of need requiring additional resources, and the Netherlands nearly 25%. This is a result of the fact that all countries find it difficult to create and maintain a definition of SEN which is constant, objective and applicable only to a relatively small group. Instead, it becomes used to describe a wide range of issues which require increased or additional investment (whether in terms of time or financial resources) in a child’s education.

Nonetheless, there are two groups within the broad church of those currently identified as having SEN. The line between these groups is blurred and contested and cannot be drawn using medical or psychological diagnoses, or by categorising pupils according to the cause of their particular need.

The first category of children are made up of those who have ‘High Incidence’ but less severe needs and constitute the majority of children currently identified as SEN. There are very strong links between this group and indicators of deprivation. We recommend that in the interests of greater clarity, this group should be referred to as having Additional Educational Needs (AEN). The education of this group should be the sole responsibility of schools and schools should be expected to provide for them from within their normal resources. Schools with higher levels of AEN will continue to receive additional resources through the pupil premium. However, there will not be a direct link between the identification of SEN, and the receipt of extra money. By removing this link, schools will be incentivised to identify the real issues, and deal with them effectively. At the same time, not all AEN has a strong link with deprivation, so all schools should receive a certain amount of money to provide core services. The government should conduct a review of the accountability measure CVA to ensure that it performs its core function effectively. It should ensure that it does not disincentivise aspiration and instead, encourages schools to have high expectations for all of their pupils. CVA should also reflect the additional resources schools receive through the pupil premium.

The second category of children is made up of those with ‘Low Incidence’, but more severe SEN. They should be identified by the severity and complexity of their needs which means that they require significant extra resources in order to achieve, or even to access the curriculum. Importantly, because of the

combination of low incidence, and high severity, there is a need to adopt a special approach to commissioning services for these children. This is the group which we should speak of as having SEN.

Because there needs to be a special approach to commissioning education and other services for this group, they should be funded separately. At a national level, this should mean that the amount of funding available should be clearly delineated, in a separate ‘high-cost pot’.

The challenge is where to draw a line between these two groups of children. This is neither an easy nor an uncontroversial task. The government should conduct a review of how much money should be dedicated to the high-cost pot. This is vital so as to create far more transparency about the available funding, and what it should be paying for. Importantly, this process cannot be removed from government considerations of affordability. In deciding where to draw the line, and how much to put in to the high-cost pot, government will need to make decisions about what it can afford and what it is willing to fund. Although there may be strong arguments for increasing investment in high-cost SEN, the current financial constraints on government will prohibit this for the foreseeable future.

The following chapters focus on the SEN group, those children with low incidence and high severity needs. They concern how the additional funding from the separate ‘high-cost pot’ should be distributed.

## Chapter 2 – Inclusion

Questions of where children should be educated (special or mainstream) are highly controversial and often prominent in the media debates. The Warnock Report of 1978 is often seen as the genesis of the inclusion policy. However, initially Warnock spoke not of inclusion but ‘integration’. It was the 1990s which witnessed a shift in language with regards to SEN. Inclusion was defined as being distinct from integration. Whereas integration sought merely to place children in a mainstream setting without necessarily having regard to their particular needs, inclusion placed a greater emphasis on ensuring that the mainstream environment was far better adapted and suited to the needs of individual children.

This was an important distinction to make, shifting the emphasis from where a child is educated, to more important questions of how a child is educated. However, the change in language from integration to inclusion was in part influenced by a particular stance on inclusion – sometimes termed ‘full inclusion’. Full inclusionists believe that all segregated provision is wrong, and that over time, we should move towards a situation where all children are educated in the mainstream regardless of need. The development of inclusion under the last Labour government was influenced by the full inclusionist position. 2001 saw a revision of the SEN Code of Practice which continued the incremental promotion of inclusion by bolstering the rights of children to a place in a mainstream school and the government also appeared to signal that its plans for the long term were to move further towards a full inclusion model. In guidance to local authorities it stated that “the proportion of children educated in special schools should fall over time”. Despite these developments, in evidence to the Education and Skills Select Committee in 2006, the government claimed it did not have a stance on the proportion of children to be educated in special schools.

The Select Committee was clear in its diagnosis of the problem. It argued that there was significant confusion about what inclusion meant and why it was worthwhile and that the government needed to provide a stronger and more consistent steer in order to provide a national framework in which there was room for local flexibility. This strong and consistent position was never successfully created, therefore it is vital that the Coalition government works towards this and that the upcoming Green Paper on SEN articulates the government line on inclusion clearly.

We support the government's rejection of the full inclusionist position. However, we recommend that the government should not reject inclusion as a concept. It should modify, but retain the language of inclusion. Government must recognise that inclusion itself has not failed, but that in the past it has been interpreted in an unhelpful and damaging way.

Despite the intellectual debates which ensue at a policy level, it is important to bear in mind that there is a deep commitment to inclusion amongst teachers and practitioners on the ground. For those on the ground, inclusion reflects the idea that the education system as a whole should accommodate and provide for the needs of all children.

The government should announce a national strategy for inclusion which should confirm a commitment to the tacit consensus amongst the majority of teachers, parents and other practitioners. This consensus accepts that inclusion is not about place but about the quality of education children have access to and the outcomes they achieve.

The government should amend the Code of Practice to reflect this notion of inclusion and remove the presumption towards a mainstream option. The already existing emphasis in the Code of Practice on parental choice should be strengthened. The national strategy on inclusion should have two parts. The first part should clarify what the government means by inclusion (and what it does not mean). The second should be an articulation of a plan for the future direction of SEN policy. This plan should not include quantitative targets such as a reduction or increase in statements or in special school places and the current moratorium on special school closure should end. However, no special school should be closed without proof that specialist provision of an equal or improved quality has been resourced locally. Decisions on special school closure should be taken in conjunction with Parent Partnership Groups (see Chapter 5) and reviewed by the Secretary of State.

The national strategy on inclusion should contain a commitment to ensuring that a flexible range of provision is developed at a local level and the government should be required to prove that progress is being made towards this goal by local and regional bodies. There should also be an annual national audit of achievement for children with SEN – comprising local and regional audits. Less regularly than these annual audits, there should also be comprehensive audits of provision (developing local maps of provision) and of teacher expertise.

### Chapter 3 – Assessment

A national strategy on inclusion should include a commitment to ensuring that a flexible range of provision is in place for high-cost pupils. The next challenge is to develop a system of assessment which fairly decides which individual children are within this category. There have been serious questions raised in recent years

about the process by which children are currently assessed, and their educational provision funded and planned. This report focuses on statutory assessment because faults in the way that the process currently works have created great cause for concern in recent years. In particular, it focuses on the role that statutory assessment has in deciding on the allocation of extra resources. However, it must be remembered that assessment also has a very important role in providing information on how best a child should be provided for. As such (beyond the reforms proposed) the government should continue to pursue the recommendations made by Brian Lamb in terms of how assessment leads to the development of an effective and flexible Individual Educational Plan (IEP), with a real and sustained focus on outcomes and aspiration.

Chapter 1 argued that the government needs to be honest and transparent about how much funding is available for high-cost pupils. This funding will necessarily be limited, but there must be a commitment to ensure that the impact of this is fair and consistent at a local level. At the moment, statutory assessments vary widely according to where a child lives. The government should develop national assessment criteria for statutory assessments, to be applied consistently at a local level by independent assessment panels. These criteria should be devised by an independent national body and revised at appropriate intervals. However, these criteria should not be devised without regard to concerns about cost. As there is only a limited amount of money to spend, the government will need to design assessment criteria with the efficient expenditure of these limited funds in mind. It is far fairer for the national government to do this (as opposed to individual local authorities), because this means decisions will be more consistent throughout the country.

The government should fund local independent assessment panels but should await the full outcome of ongoing pilot programmes which will inform best practice as to the organisation of these panels. These panels should be inspected by Ofsted, and monitored within a system of peer review by other panels, to ensure compliance with national guidelines. Educational Psychologists should continue to play a role in statutory assessments but their wider role in providing services to children and schools should be split. They could provide wider services in one local area whilst assessing children in a neighbouring area. These wider services should include the delivery of a light touch assessment service to all local schools, free at the point of delivery in order to improve early intervention and help schools develop their provision for children with AEN.

Many children who have high-cost needs require services beyond education such as health and social care. Currently, these services also need to perform their own assessments. It is a stated priority of the government to streamline these assessments in order to make decision making and commissioning more effective as well as improve the experience of children and parents, reducing the amount of contact points and making it easier to understand the services available to their children. Independent Assessment Panels should ensure that they use the Common Assessment Framework, building on the evidence of good practice put forward by the recent Ofsted report. Independent assessment panels could provide an opportunity to create an assessment 'hub' where different local authority services would come together to assess a child's needs. This would build on a wealth of research which shows that parents value a coordinated approach, and that practitioners and ultimately children benefit from it.

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## Chapter 4 – Funding

National assessment criteria for statutory assessment should mean that there is greater consistency at a local level as to which children's needs necessitate a special approach to commissioning education and other services. Currently, just as assessments vary according to where a child lives, so does the level of funding available. Local authorities will prioritise their expenditure in different ways. This element of local flexibility over how high-cost funding is spent is vital. It would not be right for central government to dictate this. However, central government can be clearer about how much money should be available to spend on certain children (based on consistent assessments) whilst allowing local flexibility as to how it is spent.

There have already been some suggestions as to how this might be done. One of the most developed suggestions came from the Conservative Commission on Special Needs in Education which recommended Special Needs Profiles (SNPs). SNPs would be split into different support categories – each of which would have a specific level of funding attached. Parents would be able to take their SNP to a placement of their choice. The idea behind them was to drive and increase parental choice, as well as to create more clarity over what was available for children with SEN. However, the detailed nature of SNPs could potentially work against the desire for school autonomy in how to spend funds. In order to decide how much money should go into detailed profiles, there would need to be complex assumptions about the manner of provision. This would inevitably guide practice. Moreover, there would be further difficulties in creating such finely grained profiles anyway – largely because more children with SEN have increasingly complex and overlapping conditions, not definable as one specific impairment.

Therefore we recommend that national assessment criteria should be linked with broad 'bands' of funding, rather than finely grained profiles. This follows best practice in many local authorities where statements are 'banded' according to severity or the types and levels of services a child requires. These bands are organised 'across' types of impairment, rather than according to the type of impairment.

SNPs had another characteristic; the fact that parents could take them to a placement of their choice. This is sometimes described as a 'pupil bound' budget. Other countries, including the US and the Netherlands have experience with pupil bound budgeting for SEN. It is certainly an attractive idea, in that it empowers parents who are all too often left disenfranchised by the current system. However, the experience in these countries would recommend a more circumspect approach. The Netherlands abandoned its pupil bound budgeting scheme after it found that it could not control costs. In the US, the McKay scholarship programme in Florida has been more successful. However, it does not necessarily serve as a model for the UK to follow. It allows parents more freedom to take their children to private, specialist provision but by shifting the issue into the private sector it has failed to deal with wider problems with regards to SEN in Florida public schools. Moreover, whilst seeking to promote choice, it arguably curtails it by creating little incentive for public schools to develop their SEN provision. As argued in Chapter 2, in England the government should be charged with ensuring that there is a flexible range of provision open to parents. This may include independent schools, but it also requires a strategy for appropriately resourcing maintained schools (mainstream and special).

Basing all SEN funding on pupil bound budgets would make it more difficult to ensure that a flexible range of provision existed at a local level. However, it does not have to be an all or nothing game. A study of 17 international financing systems for SEN concluded that effective funding systems should be a compromise between pupil bound approaches and approaches which fund local areas or schools with grants to build infrastructure, maintain levels of services and strategically plan. This is an approach currently being adopted in the Canadian province of Ontario where they abandoned a more pupil bound approach (which also resulted in escalating costs) in favour of five separate grants given to school boards. Two of these grants, the Special Equipment Amount and the Special Incidence Portion, can be allocated to individual children according to assessed need.

We recommend that the government should allocate local bodies a grant with which to commission SEN services in the area. This is likely to be roughly in line with historic allowances for these functions, but the amount available would be far more transparent (as recommended in Chapter 1). A portion of this funding, but not all of it, should be allocated according to the national assessment criteria described in Chapter 3. Other countries have struggled to control costs when they have introduced a more independent system of assessment, therefore it needs to be clear that the funding from which local bodies can draw is limited. They would not be able to draw down extra funding for SEN beyond an in year flexibility. However, because not all SEN funding would be linked to assessed need, local bodies would still be able to develop general capacity in their system to provide for any excess demand. They would also have significant autonomy over how they used their funding to create a flexible range of provision and work alongside other services. At the same time, schools and services providing for children with statements of SEN would also be guaranteed a certain level of funding for each pupil (according to the national assessment criteria and the particular ‘band’) which would allow them to plan more effectively, as well as giving them operational autonomy.

Schools and local bodies should learn from some of the work currently being undertaken by schools to harness third sector investment. Some schools have developed innovative partnerships with charities whereby the funding they receive from the local authority is supplemented by the charity. Schools and bodies with responsibility for funding and commissioning high-cost provision should actively seek to engage extra funding for the services and provision they offer. The government should collect and disseminate best practice on relationships between schools and third sector bodies.

“Some schools have developed innovative partnerships with charities whereby the funding they receive from the local authority is supplemented by the charity”

## Chapter 5 – A flexible range of provision

At the moment it is local authorities who essentially commission specialist provision for high-cost pupils at a local level. However, as the recent Ofsted report has documented, few local authorities have demonstrated an ability to do this

coherently. Instead the pattern of services has developed in an ad hoc way, based on historic decisions not on a strategic overview of need. There are two steps which should be taken in order to improve upon this:

- The introduction of a formal regional tier of organisation which could commission for very low incidence needs, monitor local provision and develop and spread expertise; and
- The introduction of contestability at a local level for who should run high-cost commissioning and create and maintain the flexible range of provision.

### A Regional Tier

Resources for low incidence needs must be allocated in a strategic manner, used to develop services to aid children in mainstream settings and to support capacity in specialist settings. This can be done to a large extent at a local level. However, local authorities have had difficulty providing for all children, in particular children with the most profound and complex difficulties. This has led to them using expensive ‘out of authority’ placements in some cases, sending children to non-maintained or independent special schools in neighbouring authorities. This incurs huge expense and is one of the key drivers of the unsatisfactory, adversarial approach taken by some local authorities to the statementing process.

An analysis of international approaches to funding found that models which combined a regional and local element were often successful at allocating resources fairly and efficiently. The government should recreate SEN Regional Partnerships and give them a clear role in commissioning for very low incidence needs, as well as monitoring performance at a local level. Regional Partnerships were successful at driving up attainment and at driving innovation but were replaced by Regional ‘Hubs’ which are more focused on delivering the priorities of central government, such as the National Strategies.

### Local contestability

Local authorities may remain in the best position to commission local provision, utilising their expertise, experience and existing infrastructure. However, making contracts to run local services contestable may serve to drive up performance as well as introducing a further mechanism of accountability for parents. Other potential providers could bid to run high-cost services in their local area. These providers may well be private companies, charities or even schools, clusters/federations of schools or academy chains.

Introducing contestability would challenge the local authority to innovate and improve its approach. It would also allow third sector and private organisations to utilise their expertise more directly if they won a bid to run local services. Importantly, a further layer of parental choice could be introduced by allowing parents to exercise influence over who runs local provision through Parent Partnership Groups. These groups would be a representative body for parents of children with SEN and would need to be consulted during the bid process for running local services. They could also have the power to call for a local provider to be inspected if they were deemed to be ineffective, failing to deliver choice or failing to respond to parental demand. Parent Partnership Groups could be funded out of the existing funding allocated to local authorities to pay for Parent

Partnership Services (from which the new groups could be built). This would be around £13 million and would not be at extra cost to the department. Parent Partnership Groups could provide a key layer of accountability on a more regular basis than the system of audits described in Chapter 2.

### The Parental Experience

The government should not lose sight of the valuable elements in the Code of Practice with regards to the experience of parents of children with SEN, in particular the approach it describes of a partnership between the parents and the local authority. This should be complemented by good quality information and support as Brian Lamb argued in his report on parental confidence in the SEN system. The aim should be that for every child with a statement issued by the independent assessment body, the parents should be presented with a range of choices. This would constitute the beginning of an ongoing and structured conversation with the child's parents as to what is best for that child's needs.

Although there should not be rigid rules for what choices should consist of, it would not be fair to argue that parents would be presented with a real range of choice if this range did not include at least one variation on a mainstream placement: for example a dual special/mainstream placement or a place in a resourced mainstream unit. Therefore choices should include at least one of these variations. Each choice would be accompanied by clear, easy to understand information on the past performance of the school or type of provision for children with similar characteristics, with reference to a number of different indicators.

The independent assessment panels recommended in Chapter 3 could play a key role in this process, especially if they also acted as a 'hub' for other services to work together to develop a team around the child, as suggested. In performing this role they would be well positioned to provide a core point of contact for parents, using a key worker approach. The independent assessment panel could guide parents through the decision making process and would be well suited to explaining the value of certain placements to parents. Parents would be likely to appreciate and value their independence. The assessment panels would also be well placed to act as a further advocate for parents' and childrens' needs by maintaining a dialogue with the local commissioning body, advising it on how best to design its provision to meet local needs.

## Chapter 6 – Special Schools

### Co-location

One person we spoke to during the research for this project described the co-location of special schools and mainstream schools on the same site as “the most exciting national educational initiative that I have been involved in for a long time.” This is a sentiment shared by many of the heads of special schools and mainstream schools who have been involved in co-location projects.

Many, though not all, of the co-located schools which are currently open were funded through the governments school capital programme Building Schools for the Future (BSF). However, fewer special schools benefited from BSF funds than ought to have, partly because special schools were seen as more challenging and

were put to the bottom of the pile. Given the large cuts to the BSF programme as a result of the Coalition's drive to cut the budget deficit, it would appear special schools may have missed out on an era of plenty in capital grants to schools.

Nonetheless, a lack of abundant capital grants should not stop schools seeking to improve their buildings and there are other potential routes to financing projects such as co-location. For example, one of the schools to be co-located could sell off its building in order to pay for a new building on the site of a partner school. The government should consider funding a pilot scheme with a view to disseminating best practice in innovative ways of financing capital programmes. The £15.8 billion to be spent on schools capital projects over the next five years will be prioritised on 600 projects already planned, the Free Schools programme and essential maintenance and refurbishment. We recommend that there should be a dedicated fund for projects which co-locate special and mainstream schools. It is understandable that beyond existing commitments, it will be difficult to find money from within the capital budget to pay for this, but any money which does remain once existing commitments and new schools are funded should be prioritised to fund these projects, given the fact that special schools have not only done relatively badly out of BSF, but that their buildings have been historically neglected.

#### Academies and Free Schools

The government has pledged to allow special schools to become academies as part of its programme to expand the academies programme. However, the initial decision to postpone special schools' access to academy status is a direct recognition that there are complex issues to resolve before this aim can be achieved. Special schools will now be able to convert in January 2011. Nonetheless, there are still challenges to overcome.

Whilst in the case of mainstream schools there can effectively be a parallel system of funding, for those schools which become academies, this is not possible for special schools. Currently, special schools must have a link with the local authority which effectively commissions school places and other services for children with high-cost SEN. Under the proposals set out for reform in this report, special schools retain this local link (albeit not necessarily with the local authority).

However, it is still possible to give special schools significant freedom over how they spend their money once they receive it. Furthermore, the most important freedoms for academies have been with regards to the curriculum, as schools have been free to innovate and develop new and effective approaches to learning which suit their pupils needs. There is no reason why special schools could not be afforded the same freedoms in this area as mainstream academies.

There needs to be an acceptance that special schools are different kinds of schools. This does not mean they cannot be afforded important freedoms, it merely means these freedoms will not look exactly the same as those for mainstream academies. The requirement to work in partnership with a local body in providing a flexible range of provision should not be considered an obstacle to significant freedoms over the curriculum, finance and admissions. Importantly, the government ought not to forget that there is an excellent model in existence already for special schools with important freedoms. Non Maintained Special Schools have been operating with these sorts of freedoms for decades. Lord Adonis was partly inspired by the case of Non Maintained Special Schools when drawing up New Labour's initial academy plans.

The Academies Bill was also designed to make it easier for new schools (which would also be academies) to be set up and to compete for public funding. New schools or Free Schools are a highly promising opportunity for schools reform, introducing new providers and contestability in the system can drive up standards, whilst also giving parents and teachers the opportunity to directly influence education.

In this case, it is important to recognise that although special schools cannot yet attain academy status, new special schools being set up (for instance to meet a perceived gap in local demand) is already a facet of the special sector. TreeHouse, a special school in north London for children with ASD, is perhaps the most famous of these.

The priority should be to improve the system of support so that parents or others who feel that there is a gap in provision locally can have the confidence to do something about it. In the recent Academies Bill, the government has already made progress towards improving the process whereby new schools are approved so as to allow schools to be set up quicker and react more flexibly to demand. The New Schools Network (NSN) has been designated by the government as the body with responsibility for giving advice and support to new schools. The NSN should help nurture groups such as the ABA schools forum, run by TreeHouse to help parents setting up and running schools which use Applied Behavioural Analysis (ABA), a way of teaching children with Autistic Spectrum Disorder.

Because special academies would remain funded via a local body, the approval process for special Free Schools would need to remain local. Under a system which is firmly focused on outcomes, if a prospective Free School makes a strong enough case that it can serve the local community, there is no reason to expect that the body which commissions high-cost provision would act in any way other than to work with it and incorporate it into its flexible range of local provision. Parent Partnership groups, described in Chapter 5, should have a key role in putting forward the case for new special schools where these schools have significant support amongst parents.

## Chapter 7 – Teacher Training

It is vital to remember that whilst these broad structures should create the environment in which children can best be enabled to achieve, the most important factor will always remain the teachers and other professionals on the ground who work with children and parents on a daily basis.

In a previous report, *Teacher Expertise for Special Educational Needs: Filling in the gaps*, Policy Exchange focused on the issues of teacher training and teacher expertise in relation to SEN. It found that, although the problem has been recognized time and time again, no government has got to grips with the fact that teachers are often woefully underprepared to teach children with SEN.

### Teaching expertise in special schools and other specialist settings

The original report focused on special schools, but the issues here are applicable to any specialist setting, including units in the mainstream or other resourced provision. An assumption that teacher training should prepare teachers for the mainstream and the disappearance of specialist courses for teachers wishing to

teach in special schools has been a factor in the decline in teaching expertise in special schools. Steps must be taken to ensure that special schools can recruit teachers with specialist knowledge relevant to the particular needs of the children they teach so that some of the most vulnerable children with the most complex and severe needs can be adequately provided for. We recommend that all proposals put forward in the recent Salt Review of Teacher Supply for Pupils with Severe, Profound and Multiple Learning Difficulties (SLD/PMLD) which do not relate solely to SLD/PMLD should be expanded to cover the remaining major areas of impairment dealt with by special schools. A CPD cash entitlement should be introduced (as recommended in the Policy Exchange report *More Good Teachers*) and boosted for all teachers in special schools. The need for special schools to build and maintain training capacity should be recognized financially. One mechanism by which this could be done would be to extend training school status to all outstanding and/or specialist special schools with a view to extending the programme to all special schools in due course. Schools with training school status should be enabled to seek accrediting powers for specialist qualifications in their field, in partnership with voluntary bodies or trusts. Finally, as part of its efforts to increase the supply of leaders for special schools the National College should pilot a programme of Head Teacher ‘internships’ for special schools.

#### Core skills for all teachers

SEN is not represented strongly enough in Initial Teacher Training (ITT) courses. This has been a problem for decades, and has yet to be remedied. The result is that teachers are not prepared when they enter the profession to provide for children with SEN. There need to be measures which improve the teaching of SEN in ITT, and a commitment to providing Continuing Professional Development (CPD) to those teachers who missed out when they undertook ITT. The government should strengthen the requirements for the achievement of QTS in relation to SEN, including a section dedicated to SEN alone rather than subsuming it within a wider category. The ‘What Works Clearinghouse’ – a resource containing well evidenced intervention programmes for literacy and numeracy difficulties, which teachers could choose from (recommended in a previous Policy Exchange Report, *Rising Marks, Falling Standards*) should be expanded to encompass research into interventions for children with SEN.

#### Advanced and specialist skills for the mainstream

Mainstream schools will continue to provide for children with SEN (who make up the vast majority of children currently described as SEN). Whilst these children should be provided for from within the schools normal financial resources, they will still sometimes require specialist knowledge on behalf of teachers in order to achieve their potential. Furthermore, mainstream schools will also form an important part of the flexible range of provision at a local level. Therefore they must be equipped with differing levels of expertise across a range of ‘types’ of SEN. At the moment, although there is a policy commitment to this in theory, it can be difficult to ensure in practice.

There should be a clarification of what amounts to advanced or specialist skills in an SEN context and how advanced and specialist SEN teachers would fit within a broader framework of career development which included the Excellent and

Advanced Skills Teacher schemes. Teachers taking on advanced and specialist roles should be required to acquire or be in the process of working towards the achievement of an accredited qualification in their relevant field. Voluntary bodies or trusts could certify the qualifications and the training which could be delivered by HEI's, private providers or special schools or a combination of these bodies. Data should be collected nationally and locally regarding specialisms in SEN in the same manner as it is for subject specialisms, across all major areas of impairment. There should be a major review of the SEN allowance which should consider: how effectively it currently operates as an incentive to teachers to specialize in SEN; how it interacts with other pay awards for the development of teaching expertise; alternative models of financial incentives such as those pursued abroad and for subject specialisms in this country.

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# Introduction

According to the Special Educational Needs (SEN) Code of Practice, a child is defined as having SEN when “he or she has a learning difficulty which calls for special educational provision to be made for him or her.”<sup>1</sup> A child is considered to have a learning difficulty if they have a significantly greater difficulty in learning than the majority of children of the same age, or if they have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age. The definition of special educational provision is provision which is additional to, or otherwise different from, that made generally available for children of their age in schools – (other than special schools) – in the area.

This broad definition means a significant proportion of pupils are identified as having SEN at any one time. There are currently around 1,690,000 pupils in England identified as having SEN.<sup>2</sup> This is equal to 20.5% of children in our schools, a significantly higher proportion than many other comparator countries. The issue of how we define and identify SEN is a problematic one and will be discussed in this report, but first it is worth explaining how the education system is currently set up to provide for children with SEN.

When combined with the need to personalise responses to individual children, the range of needs children have mean it is difficult to generalise regarding the approaches taken to educating children with SEN. However, there are broad stages set out in the Code of Practice to guide the approach of schools and, especially at the more severe and complex end of the range, there are formal structures and processes to be followed by the parties involved.

There are three levels of provision for children with SEN: School Action, School Action Plus and a Statement of SEN. School Action requires schools to provide additional help and/or interventions for an individual child from within their own resources, drawing on expertise and specialisms within their school. If this fails to work, the child can be put on School Action Plus, at which point the school accesses external help from the local authority or other agencies. For some children, this will still not be enough support and the school or parents can then request a statutory assessment of needs on the part of the local authority. If the local authority decides that the child’s needs are of a magnitude or severity that the school cannot reasonably be expected to provide adequate support for him or her through the usual means available through School Action or School Action Plus, the child will receive a statement of SEN. This statement will specify the provision to which that child is now entitled and the requirements which the local authority has a duty to meet. Included in this statement will be a decision as to which school the child will attend.<sup>3</sup>

<sup>1</sup> DFES, *Special Educational Needs Code of Practice*, 2001, p. 6.

<sup>2</sup> DfE, *Children with special educational needs 2010: an analysis*, October 2010, p. 6.

<sup>3</sup> DFES, *Special Educational Needs Code of Practice*, 2001

### What difficulties do children with SEN face?

Because of the wide definition, there is an equally broad range of needs represented by the SEN cohort both in terms of the 'type' and the 'severity' of need. This is important to remember, because it means that the expertise required by teacher, and the methods they use to aid children in accessing learning are equally varied. Although SEN is not defined according to medical or psychological categories, there are 11 official categories of impairment which fall within four broader, general categories (see below). These are not used for the purpose of identifying where a child should be taught or in what way (as may have been the case in the past). They are used for the purpose of collecting information on the incidence and trends in incidence of certain SEN as well as information on the attainment of children with certain needs. In theory, they should be a way of allowing teachers and other professionals to know where to start in terms of drawing on research and other expertise.

#### ● Cognition and Learning Needs

- Specific Learning Disability
- Moderate Learning Difficulty
- Severe Learning Difficulty
- Profound and Multiple Learning Difficulty

#### ● Behavioural, Emotional and Social Needs

- Behavioural, Emotional and Social Difficulty

#### ● Communication and Interaction Needs

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

#### ● Sensory and/or Physical Impairments

- Visual Impairment
- Hearing Impairment
- Multi-sensory impairment
- Physical Disability

Within each category of impairment there will be a range of severity, but also often a variety of ways in which the impairment specifically affects an individual child. The Autistic Spectrum is a well known example of how a certain impairment may range according to severity, but it is also the case that the needs and difficulties faced by children with ASD will manifest themselves in different ways. Not only can impairments differ in severity, and their specific nature, but many children with SEN will have overlapping or co-existing needs. Indeed, this is something which many teachers and other specialists are reporting more and more often. This trend is recognized by the category of Profound and Multiple Learning Difficulties (PMLD). Some children with PMLD will have cognition and learning needs; behavioural difficulties; communication and interaction needs; and severe physical disability. Children with less severe behavioural difficulties will often also have cognition and learning needs of some sort (most commonly, Moderate Learning Difficulties) and may well also have communication and interaction needs of some sort.

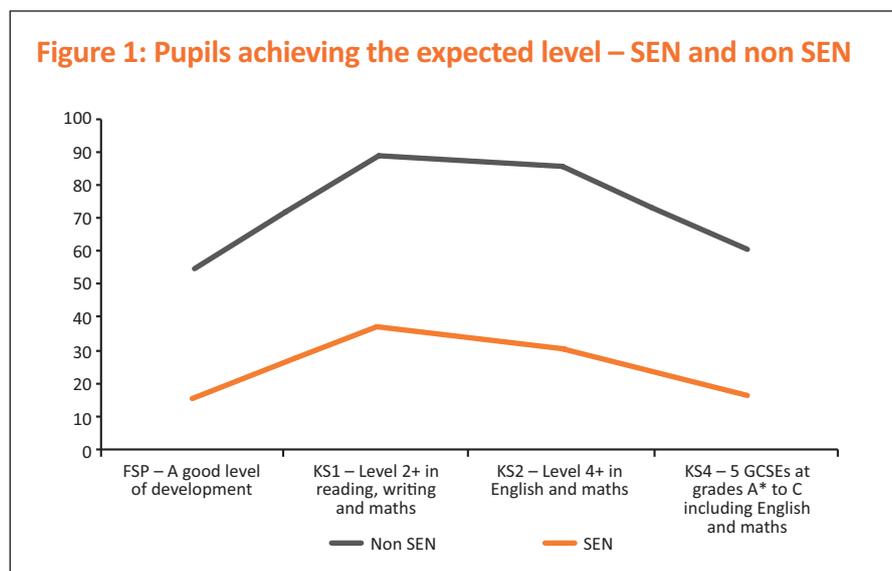
The majority of children identified as having SEN are supported through either School Action or School Action Plus. Statemented pupils represent 2.7% of the entire school population, and 13% of children currently identified as SEN (220,890 pupils hold a statement, out of a total of 1,690,000 with SEN).<sup>4</sup> The vast majority of pupils involved with School Action and School Action Plus are educated in the mainstream. In addition around 55% of children with statements also currently attend mainstream schools.<sup>5</sup>

Children with SEN represent a significant 21% of the school population and the provision of a high quality education to this group should, obviously, be considered as of equal importance to the remaining 79%. Moreover, there are various reasons why the issue of SEN should be considered as one of the most pressing and important ones facing English education at this point in time.

### What is the problem and why is SEN important?

#### Attainment

At the moment, children with SEN perform worse at school than their peers. While it is certainly true that some children will always provide challenges to the educational system and to individual schools and teachers, which will be very difficult to meet, there are a number of reasons why currently children with SEN in England do not always receive the quality of education they deserve. Too often, children with SEN are underachieving in comparison to their peers.<sup>6</sup> Figure 1 shows the significant gap in achievement between children with and without SEN at different stages.



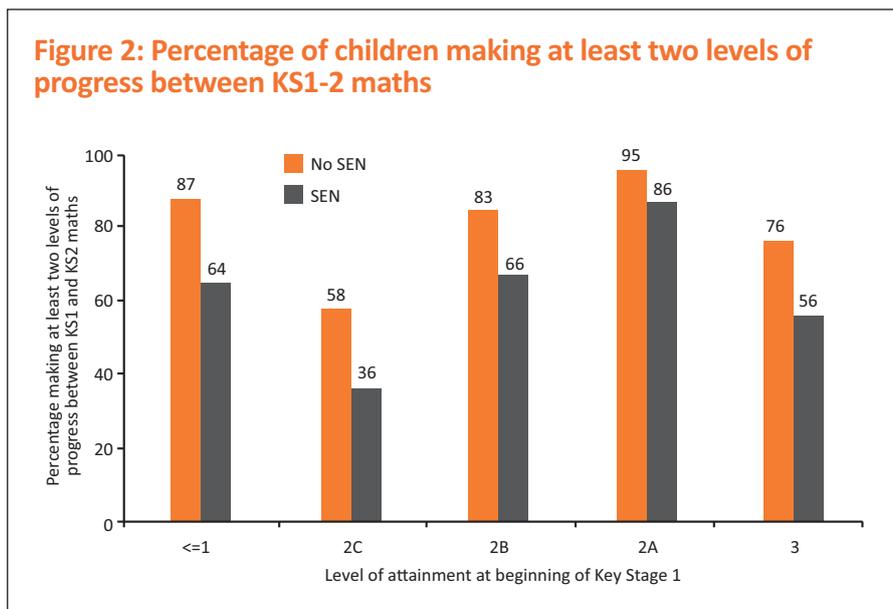
#### Progress

Whilst a raw measure of attainment such as that in Figure 1 provides us with a stark picture of the gap between children with and without SEN, a more useful and important measure is actually that of progress made. This takes into account the ‘starting’ point of children, which allows us to look at how well children are served once they are identified as having SEN, and to measure their achievement in the context of their individual needs. Figure 2 uses the example of attainment in Maths to show that, although better than the attainment gap, there is still a significant gap in progress between SEN and non SEN pupils.

<sup>4</sup> DfE, *Children with special educational needs 2010: an analysis*, October 2010, p. 6

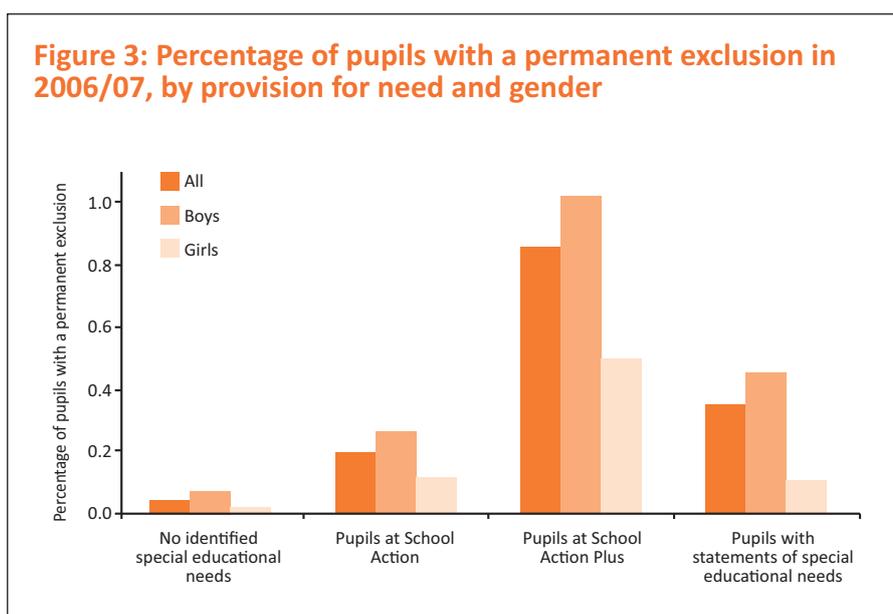
<sup>5</sup> *Ibid*, p. 8

<sup>6</sup> DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, pp. 20-21.



### Discipline and exclusions

A further measure of the success of the educational system in engaging effectively with children is that of exclusions. Children who have been excluded from school perform far worse than their peers and often become completely disengaged from education which in turn makes them more likely to be out of work or involved with crime and anti-social behavior later in life.<sup>7</sup> On all measures in relation to discipline, children with SEN perform worse than their non SEN peers: fixed term exclusions, permanent exclusions and persistent absenteeism. Figure 3 below compares permanent exclusion rates and shows that boys at School Action Plus are particularly at risk of permanent exclusion. Overall, children with SEN are eight times more likely to be excluded from school.<sup>8</sup>



<sup>7</sup> Steer, A, *Learning Behaviour: Lessons Learned - A review of behavior standards and practice in our schools*, April 2009, p. 32.

<sup>8</sup> DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 3

### The cost of SEN

Money spent on children with SEN includes not only the standard per-pupil funding associated with every child's education, but further significant resources which are allocated directly and indirectly. Resources flow indirectly because of the strong link between SEN and low attainment, and SEN and income deprivation, as the funding system attempts to target extra money at deprived areas and low achieving children.

There are also often higher levels of expenditure to pay for additional and specialist support at School Action Plus and above. In the case of pupils with statements, and in particular pupils at special schools, this expenditure can be very high indeed. Although costs vary to a large extent, a placement in a special school can cost the local authority as much as £40,000 a year, by comparison to typical per-pupil funding at a secondary school level of around £5,000.<sup>9</sup> There is not a ring fenced SEN budget and so it is not entirely clear how much is spent every year on this group over and above normal schools expenditure, but estimates suggest the figure is around £5.2 billion.<sup>10</sup>

Importantly, the direct cost of educational provision to these children is not the only issue. There is a great deal of evidence regarding the long term cost to the state and society which can arise as a result of difficulties faced by children in school, including those relating to unemployment and criminal activity.<sup>11</sup> SEN is over-represented in both the population of young people who are not in employment, education or training (NEET), and adults in prison as well as amongst sufferers of poor mental health. 52% of prisoners have poor literacy skills and 20% have a Specific Learning Disability (SPLD) diagnosed, such as dyslexia.<sup>12</sup> Given the strong link between SEN and poor academic achievement, it is also fair to assume an over-representation for SEN amongst the 35% of students who fail to achieve an A\* – C in English GCSE, and the 41% who fail to achieve the same benchmark in Maths.<sup>13</sup> The CBI has estimated that low basic skills in the wider workforce costs the economy as much as £2.04 billion every year.<sup>14</sup>

Moreover, for those children with the most severe needs there are high-costs in later life owing to the need for ongoing care. One study estimated the cost of autism to the UK economy at £27.5 billion annually. Amongst children at School Action Plus or with statements only 7.5% have autism and there are likely to be comparable, if not higher costs to the economy for other types of impairment.<sup>15</sup>

### Why SEN needs reform – Wider educational concerns

Page twenty looked at the gap in attainment between children with SEN and their non SEN peers. At the same time, politicians and commentators have identified the attainment gap between the rich and poor as the key challenge facing the English education system.<sup>16</sup>

The two issues should not be seen as separate challenges in the eyes of policy makers. There is a very significant link between SEN and other low performing groups, in particular children from low socio economic backgrounds, measured by the receipt of Free School Meals (FSM). Pupils with SEN in mainstream education are disproportionately eligible for FSM: pupils with a statement of SEN are twice as likely to be eligible for FSM compared to pupils with no SEN, whilst almost a third of pupils categorised as School Action Plus are eligible for FSM.<sup>17</sup>

<sup>9</sup> Knapp et al, *The Economic cost of autism in the UK*, 2009

<sup>10</sup> See Teachernet, Funding FAQ's, available at <http://www.teachernet.gov.uk/wholeschool/sen/faq/funding/fundingfaq7/>

<sup>11</sup> Knapp et al, *The Economic cost of autism in the UK*, 2009

<sup>12</sup> Sodha, S and Margo, J, *Ex Curricula*, 2010, p.108

<sup>13</sup> Joint Council for Qualifications, *News Release, Tuesday 24th August 2010*, available at <http://www.jcq.org.uk/attachments/published/1322/GCSE%20News%20Release.pdf>

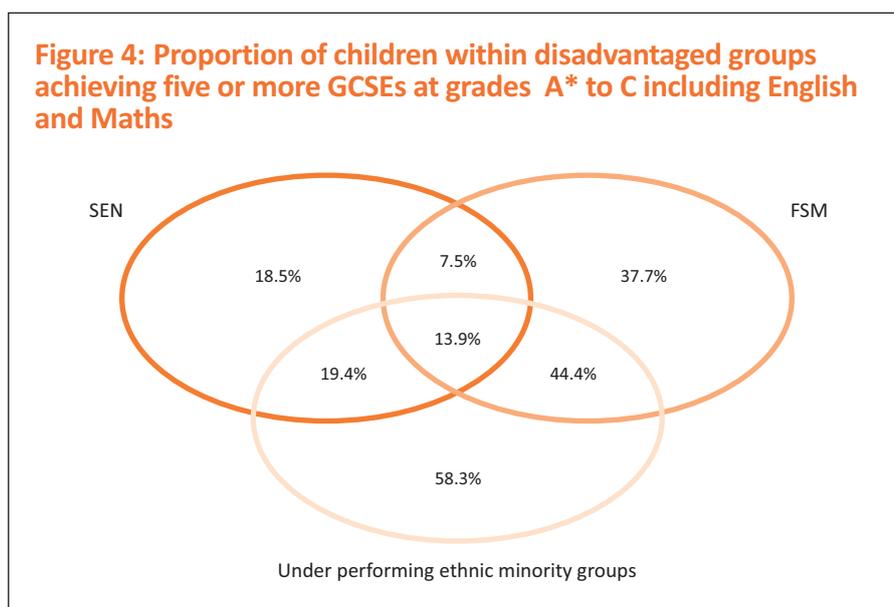
<sup>14</sup> CBI / Nord Anglia, *Emerging stronger: the value of education and skills in turbulent times – Education and skills survey 2009*,

<sup>15</sup> DCSF, *Children with special educational needs 2010: an analysis*, October 2010, p. 10

<sup>16</sup> See, for example Michael Gove on FSM pupils access to Oxbridge: <http://www.tes.co.uk/article.aspx?storycode=6036316>

<sup>17</sup> DCSF, *Deprivation and Education: The evidence on pupils in England, Foundation Stage to Key Stage 4*, March 2009, p. 10

Figure 4, below, illustrates the complexity of the situation by showing the interaction effects between three disadvantaged groups (children with SEN; children eligible for FSM; and children from an under performing ethnic minority group). It shows the percentage of children in each of these groups (and combinations of these groups) achieving five or more GCSEs at A\* to C, including English and Maths. The percentage of all children that achieved this in 2009/10 was 53.1%.<sup>18</sup>



The diagram paints a very complex picture of some of the factors which contribute to underachievement. Children from underperforming ethnic minority groups who are neither eligible for FSM, nor have SEN, actually do better than the national average. Those children from under performing ethnic minority groups eligible for FSM, without SEN, also do better than the average child on FSM. The lowest performing group are those with SEN and eligible for FSM who are not members of an under performing ethnic minority group, only 7.5% of whom achieve the expected level at GCSE. This suggests that the attainment gap between rich and poor, and the attainment gap between under performing ethnic minority groups and other children could be narrowed if policy were to focus on driving up performance for all children with SEN.

This does not mean that SEN explains all low performance (or that any other factor does) but it does suggest that a better approach to SEN should be seen, in the most part, as an intrinsic part of the broader issues in mainstream education. As such, all of the other problems, tensions and questions faced by the education system in this country contribute to the problem of SEN, and in many cases make it even more difficult to solve.

The way in which SEN fits into these wider debates must be acknowledged, and this report will consider potential reforms to the approach to SEN in England in the context of wider educational debates and policy changes, including the expansion of the academy programme, Free Schools and the pupil premium. Having said this, there are also specific problems with the way SEN is currently approached.

<sup>18</sup> DfE, *Statistical First Release: GCSE and equivalent results in England 2009/10 (Provisional)*, October 2010

## Why SEN needs reform – SEN specific issues

It should be noted here that this report does not cover the full range of problems with SEN in England. For example Policy Exchange will be pursuing further work into the role and nature of discipline in England's schools, which will need to touch on the relationship between behaviour, exclusions and SEN. There are further issues, which the forthcoming Green Paper is rightly looking into, which this report is not able to cover in detail.

### What is SEN?

A fundamental problem with SEN is the confusion and disagreement surrounding what constitutes it, and who has it. Currently the term encompasses a very wide variety of needs, a fact reflected in the high proportion of children identified as having SEN. There is much suspicion around the terms, and evidence to suggest that much of what we currently call SEN would be better understood as low achievement, often the result of poor teaching or other environmental factors such as socio-economic deprivation.<sup>19</sup>

However, SEN does not just concern this group of children. There are of course, a significant number of children who have a level of need that requires specialist and often sustained support. This support will inevitably be more expensive than providing for most children. Understandably there is often high demand from parents for the extra resources. However, there is huge variation locally as to which children are permitted access (usually through the statutory assessment and statementing procedures) to these resources. This causes immense frustration, anger and a sense that the system is unfair.

### Inclusion

The issue of inclusion primarily concerns those children with the most severe SEN, mostly children with statements. As noted above, there are issues regarding which children should receive statements. However, the problem does not stop here – there are further issues regarding how these children are provided for once these needs are recognised. One debate surrounds the notion of inclusion. Inclusion is a controversial concept and discussion about it is often concerned with what sort of setting a child is educated in, for example, a special school or a mainstream school.

Inclusion was meant to be the driver of national and local SEN policy under the previous Labour government and yet, no one is quite sure what it means, and importantly, how a commitment to inclusion should guide decision making processes. At the moment, there is a concern that confusion and misunderstanding surrounding inclusion leads to negative outcomes for individual children, and negative experiences for their parents and teachers. This is because inclusion is too often interpreted as being about where a child is educated and not the quality of the education they receive. This is partly a result of the gradual evolution of SEN policy and partly the result of the inherent trickiness in defining and pinning down 'inclusion'. It is also the result of some actions in the early years of the last Labour government which served to send confusing and contradictory messages to local authorities and schools, and a subsequent failure to completely rectify the matter (see Chapter 2). It is also the case that in schools themselves there is often no clear notion of what a

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<sup>19</sup> Ofsted, *The special educational needs and disability review: A statement is not enough*, 2010, p. 7.

commitment to inclusion means, or why it should be maintained. As a result, teachers are often hostile to ‘inclusion’, partly because they misunderstand its nature, and partly because they are aware of the mistakes which have been made in its pursuit.

### Assessing, funding and providing

Even if the group of children who require significant extra support and resources is more clearly and consistently defined, and the national policy on inclusion is more clearly and consistently presented, there are still serious challenges to overcome in how to provide good outcomes for this group of children. These challenges largely relate to the way in which this group is currently assessed and funded. The system as it is designed is simply not delivering well enough.

Currently, local authorities administer the funding for statemented or ‘high-cost’ pupils. Although some money for high-cost pupils is delegated to schools on the basis of predicted need, on the whole this is done through a process of statutory assessment. Children assessed and deemed in need of high-cost provision are given a statement of SEN and given a placement which is resourced appropriately by the local authority so as to cater for their needs. However, there are significant problems with the performance of the local authority in this regard. Some of these problems may stem from the fact that whilst ‘inclusion’ is meant to guide decision making, there is confusion about what this actually means. Therefore, improving clarity over inclusion should also improve provision on a local level.

However, there are other issues which stem from the fact that local authorities must engage in a form of rationing when it comes to high-cost provision. This is understandable as they have limited resources to work with, but (as noted above) the lack of consistency between local authorities is perceived as unfair. One key indicator of these problems is the level of parental satisfaction with the SEN system and the statementing process in particular. Numerous sources show that parental satisfaction is worryingly low, not least in Brian Lamb’s 2009 report.<sup>20</sup> Many commentators have noted that, although rationing for high-cost pupils is unavoidable, it could be done more fairly if the local authority did not act as ‘gate keepers’ to the money, responsible for funding, providing for and – importantly – assessing, children with SEN.<sup>21</sup> This means that assessments are seen as not independent, but controlled by the local authority, who in turn are seeking to control costs.

### Special schools

There is a need to clarify how special schools fit into some of the wider reforms to English education, especially the move towards greater school autonomy. Because special schools are funded in different ways from mainstream schools and have many different characteristics, it is not possible to simply apply the standard academy model to them. It is important to ensure that special schools have access to the freedoms which drive up attainment in the mainstream, whilst also recognising that they operate in different ways, and may require different things.

Moreover, because of the approaches taken to inclusion, some special schools have felt undermined and undervalued by national and local policies. This means that some excellent developments, especially in terms of how special schools

<sup>20</sup> DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 3

<sup>21</sup> House of Commons Education and Skills Select Committee, *Special Educational Needs*, 2006

interact with and complement their local community of schools – for instance, innovations such as the co-location of special and mainstream schools on one site – have not been built upon as effectively as possible in all areas.

There are also ongoing concerns that special schools are not measured in the most effective way. Accountability for special schools and other specialist provision needs to ensure that they never lose sight of the potential of the children they educate, whilst also supporting and recognising some of the less understood work that they do.

### Training

One key reason for the underachievement of children with SEN, and the inadequate functioning of the SEN system as a whole, is the lack of core or basic understanding of SEN amongst the teaching workforce. A second, and related reason, is the lack of teaching expertise and specialism in SEN. No education system can be better than the quality of the teachers who operate within it, and this holds true if we look at SEN provision in particular. Despite the fact that the issues around teacher training and SEN are hardly new, governments have proven unable or unwilling to get to grips with the scale of the problem. According to one academic, “successive governments had done nothing to enhance the nature of training in respect to SEN issues.” Many in the sector subscribe to the view that the situation amounts to “groundhog day”, with the government perpetually recognising the need for action, without ever taking it.

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# 1

## What is SEN?

This chapter will attempt to provide a clearer framework than currently exists for discussions around SEN policy. At the moment, when we talk about SEN we are referring to a very broad group of children. This means that it is difficult to be clear and consistent when developing policy. There is deep confusion about the value gained by labelling someone as SEN, and whether or not this is the best term to use for the difficulties faced by children.

This chapter will seek to split the broad church of SEN into two categories of children. This will not be done using medical or psychological diagnoses for instance, or by categorising pupils according to the cause of their particular need. Rather, the first category of children are made up of those who have 'High Incidence' but less severe needs and may perhaps constitute the majority of children currently identified as SEN. The education of this group should be the sole responsibility of schools that should be expected to provide for them from within their normal resources. This chapter will explore how a well designed pupil premium, using a national funding formula, should enable schools to boost outcomes for this group. It will then be argued that those with high incidence SEN might actually be better termed in a different manner: without the use of the term SEN at all.

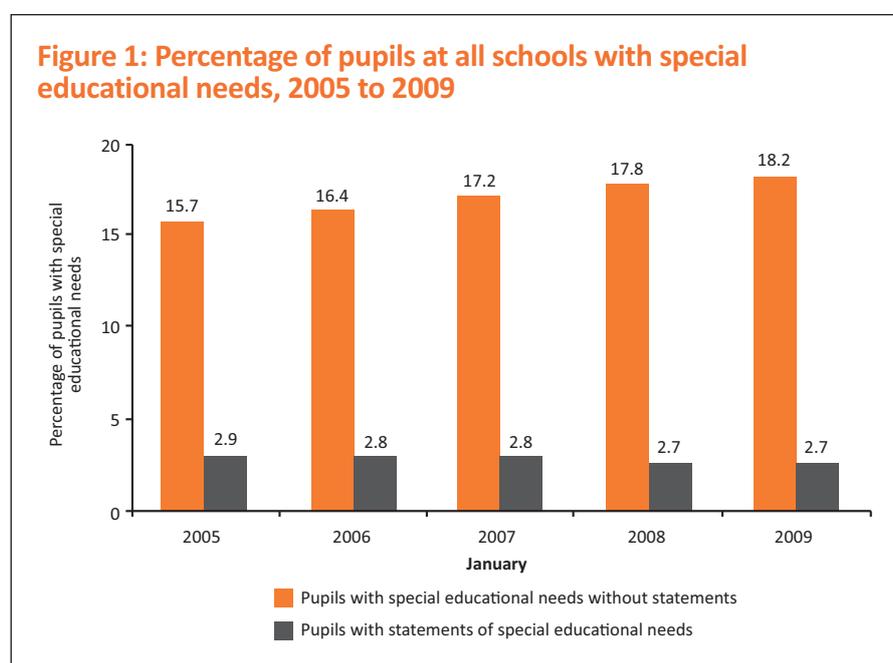
The second category of children is made up of those with 'Low Incidence', but more severe SEN. They should be identified by the severity and complexity of their needs which means that they require significant extra resources in order to achieve, or even to access the curriculum. This is the group which we should speak of as having SEN.

The challenge is where to draw a line between these categories. This is neither an easy nor an uncontroversial task. The implications of the creation of a national funding formula (to deliver the pupil premium) mean that children with lower incidence, more severe, SEN will be funded from a separate source from the majority of pupils. It is therefore vital to develop an appropriate way of identifying who should be funded from this pot, so as to decide how much should go into it.

### How SEN is Defined

It is often argued that one of the most significant problems with the approach to SEN in England is that we identify too high a proportion of children as having SEN in the first place. The media in particular expresses shock at the notion that one in five children in English schools are identified as having SEN and disbelief

at the idea that this could accurately represent incidence. Some suggest for instance that “naughtiness by over-exuberant little boys may be being misinterpreted as a syndrome such as Attention Deficit Hyperactivity Disorder.”<sup>22</sup> Attention Deficit Hyperactivity Disorder (ADHD) has come in for particular criticism in recent years, with many seeing it as a fashion or fad, a new label for the historically consistent misbehaviour of children and teenagers. Media reports such as these have contributed to a growing sense that SEN as a label, and educational psychology more broadly, are suspicious, if not pernicious.<sup>23</sup> Others point the finger at schools who, they say, identify more children as having SEN so as to get more money or be more favorably judged in league tables. The fact that recent years have seen a growth in the numbers of children identified as having SEN is often used as evidence that we are ‘over-identifying’. Figure 1 shows this upward trend since 2005.



It is fairly obvious that if children are being wrongly thought of as having SEN then their particular needs are not as likely to be met as when the problems or difficulties they experience are correctly identified and understood. A key claim made by those who believe we identify too many children as having SEN is that under the current system there is a conflation of low or under achievement with having SEN. This position has recently been bolstered by the wide ranging Ofsted report – *The special educational needs and disability review: A statement is not enough*, which suggested that many pupils were being labelled as having SEN, merely because they were underachieving.

Arguably, this phenomenon has a number of negative consequences, for the children identified as SEN, their peers and the education system as a whole:

- It obscures a focus on the ‘real’ problems: the standard of teaching; the approach to literacy; discipline;
- It provides an excuse for teachers and schools to explain away poor performance;

<sup>22</sup> See for example, [http://www.telegraph.co.uk/education/educationnews/7904999/Sharp-rise-in-number-of-special-needs-pupils.html?utm\\_source=twitterfeed&utm\\_medium=twitter](http://www.telegraph.co.uk/education/educationnews/7904999/Sharp-rise-in-number-of-special-needs-pupils.html?utm_source=twitterfeed&utm_medium=twitter)

<sup>23</sup> See for example, Marks, J, *What are special educational needs: an analysis of a new growth industry*, 2000

- The attempt to fairly evaluate schools based on the characteristics of their pupils through measures such as Contextual Value Added (CVA) introduces potential perverse incentives not to deal directly with the problems which lead to children being labelled as SEN; and
- It obscures or dilutes the focus on 'real' SEN – children with statements and recognised medical disabilities.

The evidence put forward in the introduction in this report, showing that rates of progress for children with SEN are lower than they are for children without SEN adds weight to this type of analysis. As a recent DCSF document put it: if the process of identification of SEN, followed by targeted intervention were working as well as it ought, identification would be “leading to rates of progress as high as the cohort average, even if final attainment remained lower.”<sup>24</sup>

One of the key drivers of this perceived over-identification is said to be the definition of SEN, which is seen as too loose and broad, thereby allowing schools to identify fairly routine barriers to learning as SEN. Particularly striking is the apparently circular definition of what amounts to a learning difficulty.

### Special Educational Needs – Code of Practice Definition<sup>25</sup>

*Children have special educational needs if they have a learning difficulty which calls for special educational provision to be made for them.*

*Children have a learning difficulty if they:*

- (a) have a significantly greater difficulty in learning than the majority of children of the same age; or*
- (b) have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local education authority*
- (c) are under compulsory school age and fall within the definition at (a) or (b) above or would so do if special educational provision was not made for them.*

*Children must not be regarded as having a learning difficulty solely because the language or form of language of their home is different from the language in which they will be taught.*

*Special educational provision means:*

- (a) for children of two or over, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of their age in schools maintained by the LEA, other than special schools, in the area*
- (b) for children under two, educational provision of any kind. See Section 312, Education Act 1996*

The official definition set out in the SEN Code of Practice (above) has been criticised by some as being at the root of the supposed over-identification. The key argument is that the definition is circular or self-referential, and therefore enables an unhelpfully broad interpretation of what amounts to Special Educational Needs. If the purpose of defining SEN is to decide how to differentiate educational

<sup>24</sup> DCSF, *Breaking the link between special educational needs and low attainment: Everybody's business*, 2010, p. 14

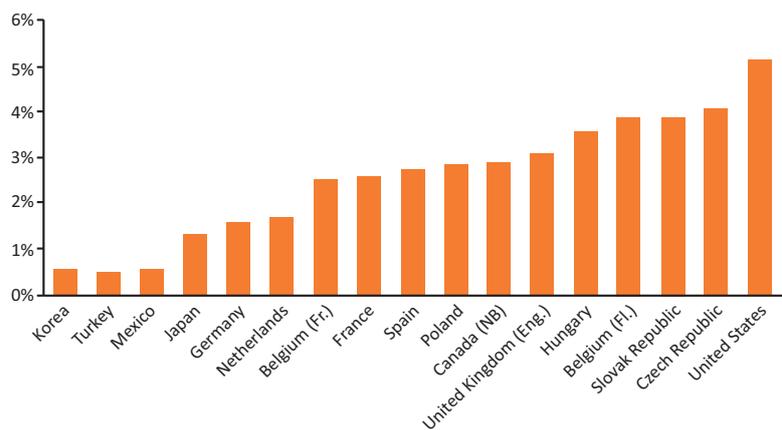
<sup>25</sup> *Special Educational Needs Code of Practice*, p. 6. Available at, [http://www.teachernet.gov.uk/do\\_cbank/index.cfm?id=3724](http://www.teachernet.gov.uk/do_cbank/index.cfm?id=3724)

provision and/or how to allocate extra resources, then the assertion that children have Special Educational Needs because they require special educational provision might not be a particularly helpful one. It is tempting therefore to try and be more specific and ‘objective’ in the definition of SEN.

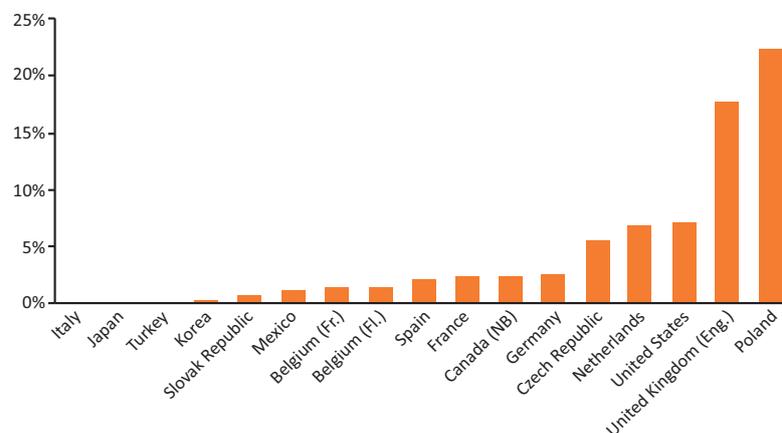
### The limitations of international comparisons

A key claim made by those who believe that we over-identify children as having SEN, is that we have far more children labelled as SEN than any other country.<sup>26</sup> Figures 2 and 3, seem to illustrate this point starkly. The severest SEN, which in England would result in a statement (Figure 2), is relatively stable across countries – at between 2% and 6%. Whereas in the case of less severe SEN (shown in Figure 3) only Poland identifies more than England and the next closest country (the US) identifies around half the amount.

**Figure 2: Numbers of students receiving additional resources over the period of compulsory education in cross-national category A, as a percentage of all students in compulsory education, 2001**



**Figure 3: Numbers of students receiving additional resources over the period of compulsory education in cross-national category B, as a percentage of all students in compulsory education, 2001**



26 Conservative Commission on Special Needs in Education: The Second Report, 2007; Sodha, S and Margo, J, Ex Curricula, 2010, p.117

The case set out above appears to be a compelling argument for introducing a far more consistently applicable definition of SEN, with a set of objective criteria. With this in mind, it would seem apposite to look to those countries who identify less children as having SEN, and study their systems of assessment and identification.

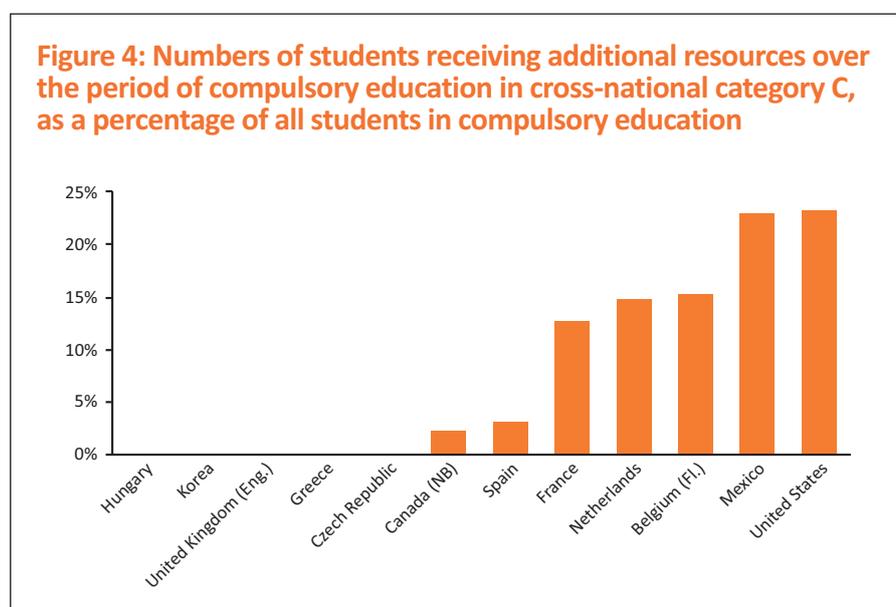
However, a closer inspection of the evidence casts doubt on the notion that England ‘over-identifies’ children as having SEN by comparison to other countries.

Figures 2 and 3, presented above seem to show that England identifies more than other countries as having less severe SEN. However, the OECD report from which these statistics are taken presents a third graph, Figure 4 below, which shows England identifying significantly less (in fact it identifies zero) on a third measure or category of SEN.

Figure 2, which is used to compare the level of severe needs (which equates to stated SEN in this country) shows the data for what the OECD call ‘Cross National Category A’, which covers children who “have a clear organic bases for their difficulties”. The second graph shows England ‘over-identifying’ children in Cross National Category B in which children “have learning and behaviour difficulties which do not appear to be due to either a clear organic basis or social disadvantage”. What seems to be missed by many is the third category, shown in Figure 4.

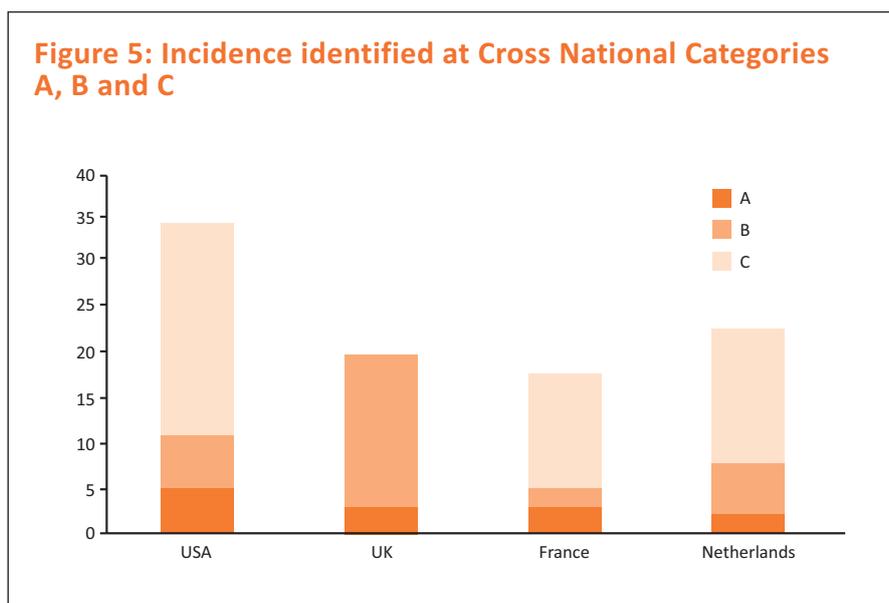
Cross National Category C covers children who “receive additional educational resources due to aspects of their social and/or language background.”<sup>27</sup>

“The difficulty in presenting comparable international data reveals the complexities of the issues, in particular the relationship between definition and incidence”



England identifies no children in Category C. By contrast, the US, who also identified the third highest amount in Category B, identifies over 20% of children in this category. Combining these three categories, the US identifies as many as 35% of its pupils as having SEN and France identifies around 20%.

<sup>27</sup> OECD, *Equity in Education Students with Disabilities, Learning Difficulties and Disadvantages*, 2004, available at [http://www.oecd.org/document/45/0,3343,en\\_2649\\_39263294\\_35669869\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/45/0,3343,en_2649_39263294_35669869_1_1_1_1,00.html)



### A better basis on which to re-define SEN

So, what can be gleaned from the international evidence? Importantly, the difficulty in presenting comparable international data reveals the complexities of the issues, in particular the relationship between definition and incidence. Others who have studied international approaches have commented on the difficulty of comparisons, noting that the wider policy context and in particular the different approaches to funding SEN make each country idiosyncratic in their approach.<sup>28</sup> This was an experience shared by many who were spoken to in the course of this research as well as in the academic literature. Attention should of course be paid to what we might learn from specific pedagogical developments abroad or from general policy approaches (as we will see in later chapters in relation to broad approaches to funding) but it is difficult to look at issues such as definitions or identification without becoming mired in the particular context of each country.

However, we can learn something from the very fact that such great variation exists across countries, and indeed sometimes within them.<sup>29</sup> It reveals the inherent difficulty of achieving a standardised, objective set of criteria for what 'qualifies' as SEN.

The definition given in the Code of Practice is criticised for being circular (as discussed on page 29) but other countries actually subscribe to a similar fundamental approach. From a policy point of view, the identified SEN which makes up the data compiled by the OECD is conceived of in terms of the need to allocate additional or different resources from that usually received by the majority of children. Although what is additional or different depends on what is conceived as normal, or 'standard' (and this will differ from country to country) England is not alone in approaching SEN in this relative way.

On page 15 it was noted that the current, seemingly circular, definition of SEN makes it appear tempting to try and come up with a tighter, more objective and clear understanding of what amounts to SEN. However, whilst there will no doubt be useful, tighter diagnostic methods for identifying needs

<sup>28</sup> Riddell, S *Literature Review of Pupils with Additional Support Needs*, Centre for Research in Education Inclusion and Diversity, University of Edinburgh, p. 2

<sup>29</sup> *Ibid*, p. 3.

for some areas of impairment, from a policy and a funding point of view, it would not be advisable to attempt to do this for SEN as a broad category. This would risk creating a tick box approach, too inflexible to recognise the diversity in types and causes of needs. Whilst any system will result in some dissatisfaction, trying to define SEN in terms of specific characteristics is particularly likely to cause inconsistency as needs manifest themselves in such a variety of ways.

However, the international evidence does show a broad split between two types of SEN; the low incidence SEN identified in Cross National Category A and the relatively high incidence SEN identified in Cross National Categories B and C.

Despite the lack of a definitive distinction, using these two categories provide a useful way of thinking about SEN, especially in the UK system. It is particularly helpful because this is actually the way that the UK system currently differentiates between pupils when it comes to funding.

The broad characteristics which tend to define these two groups are:

### 1. High Incidence needs

- Require targeted intervention, and associated extra costs;
- Relatively common difficulties in learning – approaching 20% of all pupils;
- Many difficulties experienced can be short term with appropriate interventions;
- Strong link with socio-economic deprivation and other factors in low educational attainment; and
- Almost exclusively catered for in mainstream schools

### 2. Low Incidence needs

- Require significant and sustained extra resources in order to access the curriculum – resulting in ‘high cost’;
- Relatively low incidence – require a strategic approach to commissioning;
- Probably long term issues – potentially requiring services in adult life;
- Require access other services, such as health; and
- Tend to be debates around the nature of educational placement – special/mainstream/unit in the mainstream etc

Of course there is at times an overlap between these two categories, and the two are linked. For example, a literacy difficulty which may be experienced early in a child’s school career may contribute to the development of a more serious behavioural disorder if not remedied. If early difficulties are not dealt with, a pattern of educational disengagement may well develop with all the concomitant effects.<sup>30</sup>

Importantly, the broad split we have described is already built into the funding structures of English education. In the previous government’s last major consultation on schools funding (*Consultation on the future distribution of school funding*) this was described as the split between Special Educational Needs and Additional Educational Needs (AEN), where AEN equates to the ‘High Incidence’ group described above and SEN equates to the ‘Low Incidence’ group.<sup>31</sup>

30 KPMG Foundation, *The long term cost of literacy difficulties*, 2006, p.10.

31 PWC, *Review of the distribution formula for DSG: Strand 1 – Additional Educational Needs (AEN)*, Final Report, 2009; PWC, *Review of the distribution formula for DSG: Strand 2 – High Cost Pupils*, Final Report, 2009

In some ways all that is needed is a last step to recognise the two categories more explicitly in order to reduce confusion and clarify where responsibilities lie for a large percentage of school children. Importantly then, the definition of SEN should be those children whose needs are sufficiently low incidence and high enough cost for there to be a requirement for their needs to be met through a special approach to funding and commissioning. Vitaly, this definition of SEN is intended to clarify the approach for policy makers, and in particular for decisions about how education and other services are provided for this group. For individual children there will still be a requirement to conduct assessments which will help those on the ground to decide how best to provide for that child. This may involve for instance making a decision that a child has a certain category of impairment – such as Speech, Language and Communication Needs.

In terms of the definition given in the Code of Practice, this would need clarifying. Currently the definition is circular. As we have seen, this is because an objective definition of SEN is difficult to attain and instead, it is right to define SEN according to which children require significant additional resources. This should be far more explicit in the Code of Practice. It should explain, that the definition of SEN is used by the government to decide which children's education (and other services) ought to be commissioned on a special basis, because of the low incidence and high cost of their particular needs.<sup>32</sup> Therefore, a child may have genuine needs (such as noted above – in the area of Speech, Language and Communication) but not be deemed to have SEN. Again, this does not mean that their needs do not require attention and additional support.

### **The high-cost pot**

We have argued for the need to distinguish between two different groups of children. Both require extra resources in order to achieve. However, one group requires far more significant extra resources and is of a lower incidence than the 'High Incidence' (or AEN) group focused on in this chapter.

There is no clear dividing line between these two groups in reality, but some distinction must be made, for the purposes of deciding in what way a child's education will be funded – through the normal funding of normal schools (adjusted by the pupil premium) or through a separate, high-cost pot. It will always be the case that this separate system of additional funding will prove attractive for parents who naturally wish to get the best for their children. This means that, in general, demand for the high-cost pot will exceed whatever level supply is set at. The system must be designed in general so as to dampen the incentive for parents to gain access to this pot and improve the provision for children who may be on the margins of it. Later chapters will address these issues.

Different children may have very similar needs, with very different causes. The difference between children who should be provided for using the high-cost pot, and children who should be provided for through the pupil premium is a combination of the severity of their needs (meaning it costs more to provide for them) and the low incidence of their needs (meaning a special approach to commissioning provision is needed).

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<sup>32</sup> Gray, P, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, 2006, p. 93.

At the moment, the system operates in roughly this way already. There is a calculation at national level of the incidence of 'high-cost' pupils according to a complicated formula, which is then rolled into general schools funding in the DSG. The latest review of this approach found that there was a point at which incidence of pupils dropped off whilst the cost of providing for them began to rise.<sup>33</sup> As a result it concluded that:

*"a financially based boundary is the most appropriate way of distinguishing high-cost pupils from the broader category of additional educational needs, and we suggest that it is defined as being those pupils for whom the cost of supporting exceeds £6,218".<sup>34</sup>*

On this basis, the national incidence of high-cost pupils in both mainstream settings is estimated to be 2.89%. The average cost of supporting these pupils is £11,268 – making the total estimated cost of providing for them £4.268 billion.<sup>35</sup>

These figures may appear surprisingly specific, and as noted they do belie the fact that in reality, there is no clear boundary between the two groups. This means that the system must be flexible, but at the same time it must be transparent about funding. The Coalition government should conduct a new review of how much money should be allocated to the high-cost pot and on what basis. This should be done in light of the wider aims for SEN provision to be announced in the forthcoming Green Paper. The figure of £4.268 billion was calculated using a range of assumptions, in particular regarding the costs of providing for certain children. The new government may want to review these assumptions. In some cases it may be found that there is a strong case for increasing funding if possible and in other instances there may be clear opportunities for achieving efficiencies (for instance as a result of regional commissioning, see Chapter 4). Vitally, the Department for Education should work with the Department of Health in order to pool budgets at a national level for children with complex and multiple needs.

This should have the aim of making the process of deciding how much is in the high-cost pot far more transparent than it currently is. Importantly, this process cannot be removed from government considerations of affordability. In deciding where to draw the line, and how much to put in to the high-cost pot, government will need to make decisions about what it can afford and what it is willing to fund. This will not just require calculations of the direct cost of providing for individual children, but more consideration given to the costs incurred in developing capacity and infrastructure in specialist services. However, it should be clear that although there may be strong arguments for increasing investment in high-cost SEN, the current financial constraints on government will prohibit this for the foreseeable future. Schools funding will receive a 0.1% increase each year for five years, but there will not be room within this or the wider education budget to fund any overall increases for high-cost provision.<sup>36</sup>

Later chapters will look at assessment and funding processes and discuss how the money from the high-cost pot should be distributed on the ground.

33 PWC, *Review of the distribution formula for DSG: Strand 1 – Additional Educational Needs (AEN)*, Final Report, 2009, p. 6.

34 PWC, *Review of the distribution formula for DSG: Strand 2 – High Cost Pupils*, Final Report, 2009, p. 28

35 *Ibid.*, p. 28.

36 HM Treasury, *Spending Review 2010*, 2010, p. 41.

How to provide for the the Low Incidence (or SEN) group will be discussed in the following chapters. The remainder of this chapter will look at how the funding system currently addresses the needs of the less severe 'High Incidence' (or AEN) group, and proposals for reform.

## How to provide for Additional Educational Needs

Currently, the costs of meeting the needs of students who have AEN, are included in the national funding formula which is used to calculate the size of the Delegated Schools Budget (DSB), the main source of funding for schools and local authorities. AEN includes but is not limited to high incidence SEN. AEN also includes difficulties faced in accessing education as a result of speaking English as Another Language (EAL) and as a result of the Home Environment (HE), which might include the direct impact of being in foster care. The indicators originally used to reflect the incidence of AEN for funding purposes included Income Support combined with Working Families Tax Credit and Disability Persons Tax Credit; and ethnicity (low achieving groups) and the proportion of EAL children. These were combined to create a single AEN index used to estimate the proportion of pupils with AEN in each local authority. Local authorities were then funded according to where they ranked by the proportion of pupils with AEN. Any local authority with more than 12% of pupils with AEN would receive a certain unit cost for all the pupils above this threshold. Below the threshold all local authorities received the same amount. Funding was allocated on this basis until 2005/06 when the system changed to a historically informed 'spend-plus' basis. This means that local authorities currently receive funding based on what they received in the previous year, plus a basic percentage increase per pupil of 2%. Any remaining funding is distributed according to ministerial priorities, some of which may go towards AEN by way of being targeted at deprivation.<sup>37</sup>

### The pupil premium

The pupil premium is a policy held by both Coalition partners and hailed by them as a vital and radical reform to school funding. Given the strength of the link between the incidence of AEN and deprivation, AEN can be seen as the primary concern of the pupil premium.

Prior to the Comprehensive Spending Review (CSR), the Deputy Prime Minister, Nick Clegg announced that the government will allocate extra funding (from outside of the existing schools budget) rising to £2.5 billion a year by the end of the spending review period (five years) to the pupil premium. The announcement also included the suggestion that the pupil premium would be allocated to children on Free School Meals (FSM).

A 2008 Policy Exchange report entitled *School Funding and Social Justice: A guide to the Pupil Premium*, explained clearly why a pupil premium, designed correctly, would work better than current approaches to targeting money at deprivation. This model uses a different approach to relying on FSM. More than this, it suggests radical changes to the role which local authorities play in the funding system. At the moment they act as a middleman, distributing schools funding from central government, to local schools. The Policy Exchange model of the pupil premium would fund all mainstream schools directly from central government, whilst providing local authorities with a budget to provide other services and keeping funding for high-cost SEN distinct. This report will maintain that this is the right direction for schools funding and that this would allow both AEN and SEN to be better served, but recognises that in the immediate future, local authorities may continue to receive money and pass it on to schools.

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<sup>37</sup> PWC, *Review of the distribution formula for DSG: Strand 2 – High Cost Pupils, Final Report, 2009*, p. 9.

### The Policy Exchange model

The current system of targeting funding at deprivation is incredibly complex and opaque. There is no consistency between schools because of the two tiered nature of school funding, whereby the DSG is allocated to local authorities on one formula, and local authorities reallocate it based on their own formulas. At the same time, stability mechanisms imposed by central government mean that there is a weak relationship between changes in the characteristics of a schools intake and the funding it receives. As described above, deprivation funding is largely historically informed.<sup>38</sup>

With schools funding based on a pupil premium, as recommended by Policy Exchange, the two tiered funding model would be replaced by a single national funding formula. Schools funding would not be directed through local authorities but funded centrally, as is currently the case with academies. Importantly, as will be discussed later, this move to all schools being funded nationally and not via local authorities would have implications for the role of local authorities in providing for children with SEN.

Each school would be allocated a single base sum for every pupil they provide for, and this would be different for primary and secondary schools. On top of this, schools would receive an Area Cost Adjustment (ACA) to reflect the cost of hiring staff in different areas and, where applicable, the pupil premium.<sup>39</sup>

One advantage of the current system, and one consistently espoused by the last government, is that local authorities are in a better position to understand local needs and context than an abstract national funding formula. However, Policy Exchange's research found that a sufficiently nuanced national funding formula was actually far better at ensuring that extra funding followed deprived pupils to their schools than a locally determined one. Specifically, the pupil premium would not use the crude proxy for deprivation which currently dominated national and local formulas: namely the number of children receiving Free School Meals. Instead, it would use a "geodemographic" classification such as ACORN or MOSAIC. These systems analyse individual postcodes using 400 variables derived from the census and other sources, as a result the MOSAIC classification is a better predictor of student performance than FSM.<sup>40</sup>

The Policy Exchange model of the pupil premium involved grouping the 61 'classifications' used by MOSAIC into six types based on average GCSE performance. The three lowest performing types would have extra pupil premium money attached to them.<sup>41</sup>

Under this model, 46% of all students would receive some premium compared to only 14% using a FSM measure. The figure of 46% is far more closely aligned to the number of pupils who currently fail to get five good GCSEs. School by school analysis of the impact of the premium on funding indicated a much stronger correlation with actual performance than either existing funding formulas, or a hypothetical national formula based on FSM.<sup>42</sup>

### Schools taking responsibility

All provision for pupils with AEN should be provided for by individual schools using their normal school budget, however those with more such pupils will have higher budgets as a result of the pupil premium. This will not necessarily negate the need that many schools will have to take on outside help to ensure that all

38 Freedman and Horner, *School Funding and Social Justice*, 2008, p. 6.

39 *Ibid*, p. 6

40 *Ibid*, p. 22

41 *Ibid*, p. 25

42 *Ibid*, p. 28

children have the best opportunity to reach their full potential but schools should take full responsibility for this group of children. This responsibility fits within the context of the general trends towards school autonomy which the current government espouses. Importantly though, it is also a natural consequence of a move to a national funding formula which does away with the involvement of the local authority in the funding process.

“Vitality, by breaking the link between assessed and reported need – the incentive for schools to identify children as having SEN so as to draw down extra funding is removed”

It is also consistent with academic evidence regarding best practice which shows that schools perform best when they have greater responsibility for their own performance.<sup>43</sup> The last government’s pilot programme ‘Achievement for All’ which seeks to promote

a so-called ‘whole school’ approach to SEN/AEN appears to subscribe to such an approach. Whilst ‘Achievement for All’ also emphasises the importance of sharing best practice and cooperation between schools, it is based on the assumption that standards in individual schools can be driven up dramatically if the school focuses on the issue of SEN/AEN at all levels. Emphasising that the responsibility for this group of children lies within the school and providing the extra funding to equip schools to rise to the challenge is consistent with this ambition. Having full responsibility, as well as the funding, will allow schools to build their own capacity in terms of expertise and will encourage leaders to plan for the longer term, especially in relation to Continuing Professional Development (CPD).

Vitality, by breaking the link between assessed and reported need (on the basis of School Action and School Action plus, which currently influence funding allocations for schools) – the incentive for schools to identify children as having SEN so as to draw down extra funding is removed. As the previous government recognised – “a focus on how to overcome barriers to learning rather than ‘labels’ is more likely to enable children with SEN to fulfil their potential.”<sup>44</sup> An understanding of the importance of high expectations, the use of accurate data and early intervention are vital to school success in securing good progress.<sup>45</sup> Schools are more likely to systematically develop and maintain these approaches if they have full responsibility for children who are struggling (whilst being able to buy in external help on their own terms).

## Potential problems with redefining SEN

### The potential limits of deprivation indicators

One argument against this approach is that deprivation indicators may not, in fact, be good enough at predicting all difficulties faced by children. In a recent wide ranging report on education provision, the think tank, Demos argued:

“while deprivation and low-level SEN needs are linked, deprivation is not a failsafe indicator...A pupil premium would also need to be, in part, dependent on the learning needs of the intake of a new school cohort either as measured by prior attainment, or by light touch assessments.”<sup>46</sup>

However, although the geo demographic models of deprivation such as MOSAIC do not take into account prior attainment, they are still very good at predicting attainment at GCSE and therefore covering the vast majority of AEN.

43 Davies C, Lim C, *Helping Schools Succeed: A Framework for English Education*, 2008

44 DCSF, *Breaking the link between special educational needs and low attainment: Everybody’s business*, 2010, p. 17

45 *Ibid*, p. 17

46 Sodha, S and Margo, J, *Ex Curricula*, 2010, p.165

Nonetheless, the Demos authors do have a point in regard to some forms of AEN. The link between deprivation and reported SEN at School Action and School Action Plus, as described earlier, may be stronger for some types of impairment than others.<sup>47</sup> For example, it may be the case that Moderate Learning Difficulties (MLD) and Behavioural Emotional and Social Difficulties (BESD) are more likely than other impairments (such as Sensory Impairments) to be low achievement mis-identified as SEN. Because MLD and BESD represent nearly 50% of all pupils identified at School Action Plus, this may skew the picture that deprivation can predict these sorts of difficulties.<sup>48</sup> However, although the proportions of children on FSM are lower in other SEN types it should be noted that these proportions are all still higher than the proportion of pupils with FSM who have no identified SEN.<sup>49</sup>

A system which directs funding on the basis of light touch assessments, as recommended by Demos, would be open to the same flaws as the current system whereby (to a certain extent) schools funding is based on the level of reported SEN, in the case of School Action and School Action Plus. Even if light touch assessments were conducted externally (independent of the school itself) it is likely that there would remain an incentive to overidentify levels of low severity SEN so as to boost schools funding levels. Chapters 3 and 4 will explore the relationship between assessment and funding in relation to high-cost pupils. In relation to AEN, international evidence suggests that splitting the link between assessed need and funding reduces the incentive to over-identify and increases the incentive for schools to take responsibility for and provide for the challenges which children on their roll face. Importantly, it also removes the incentive for schools to wait for a child to fail or fall behind in order to be assessed 'favourably' and draw down extra funding. Conversely, it encourages early intervention and concentrating resources on real needs.<sup>50</sup>

Having said this, although the pupil premium is designed to encourage schools to diversify their intake, some schools in predominantly affluent areas may continue to receive little deprivation linked funding. As Demos note, not all AEN is linked to deprivation is important that every schools recognises its responsibility to respond to the needs that children present with, and be equipped to do so. Many local authorities already recognise this by funding schools with a base amount to provide a core infrastructure. This is usually funding for a Special Educational Needs Coordinators (SENCOs), which is a statutory requirement. This should continue, with money ring fenced to provide this core service. SENCOs should also be allocated a core budget to drive awareness and understanding of SEN/AEN within the school, building on the outcomes from the Achievement for All pilots.

### Measuring Schools – Contextual Value Added

The test and examination results attained by pupils provide important information about the effectiveness of a school. However it is rightly recognized that pupils will have different starting points and that the proportions of pupils at each starting point will vary from school to school. Measures of absolute attainment therefore need to be complemented by measures of the progress made by pupils – the value added (VA) - from one key stage to another. 'Simple' VA measures, which have been in use for some years now, are based on pupils' prior attainment.<sup>51</sup>

47 DCSF, *Deprivation and Education: The evidence on pupils in England, Foundation Stage to Key Stage 4*, March 2009, p. 21

48 DCSF, *Children with special educational needs 2010: an analysis*, October 2010

49 DCSF, *Deprivation and Education: The evidence on pupils in England, Foundation Stage to Key Stage 4*, March 2009, p. 21

50 The experience in England is instructive, but international evidence also gives weight to this, see for example the US, removing the link between funding a school receives and the identification of SEN reduced identification: Winters, M and Greene, J, *How Special Ed Vouchers keep kids from being mislabelled as disabled*, 2009

51 *CVA Explained*, available at <http://www.standards.dcsf.gov.uk/performance/1316367/CVAinPAT2005/?version=1>

However, as shown above, other external influences will affect the progress made by pupils e.g. levels of deprivation. Valued Added calculations can in theory be adjusted to eliminate those factors which are outside the control of a school. One such approach – Contextual Value Added (CVA) is one of the key measures used by government to judge school performance.

Under a pupil premium system where schools are being more fairly funded on the basis of context, the expectation is that this funding should go some way towards eliminating the impact of contextual factors. Therefore, there is a possibility that funding schools more fairly through the pupil premium whilst continuing with precisely the same CVA measures may effectively let some schools ‘off the hook’ for their performance. There is also an argument to suggest that CVA is good at recognising good performance, but not good at incentivising improvement or aspiration.

CVA should not be based on the reported need of schools in the case of AEN. At the moment, reported need at School Action and School Action Plus plays a part in calculating a school’s CVA score. As with funding for AEN, this should not be based on reported need but on deprivation indicators which are not subject to the same incentives to over or misidentify.

The government should conduct a review of CVA as part of its general movements towards reforming the way in which schools are measured. As part of this the government should seek ways to redesign CVA so that it takes more account of pupil progress. A further key aim should be to ensure that CVA or similar measures are designed so as to incentivise aspiration and not to justify poor or mediocre performance. Finally, CVA is not a good way of articulating information regarding school performance to parents because it is so complicated.<sup>52</sup> The government needs to develop a way of presenting the same sorts of information in a more user-friendly fashion. It should also be easier for parents to compare the performance of schools with other schools with similar intakes.

### The local authority and school improvement

A further objection to giving responsibility for AEN to schools is that schools can’t or shouldn’t ‘go it alone’ and that by by-passing the local authority schools will be deprived of the services they provide to the AEN group. Most compellingly, some contend that the local authority provides a vital role in co-ordinating provision for some children with AEN and facilitating co-operation between different schools. In theory, they are in a strong position to aid school improvement – they can monitor data and react quickly if they see something going wrong. They can also act as a steady resource for schools to access, providing advice and expertise.

These are certainly strong points. However, it serves to remember that many existing academies have driven up attainment in their schools without maintaining the type of relationship which persists between maintained schools and the local authority. Academies continue to seek to cooperate with other local schools where their headteacher sees value in such relationships and it is the case that academies often continue to access local authority resources, ‘buying them back’ using their own funds again where they see value in such a relationship.

52 Davies C, Lim C, *Helping Schools Succeed: A Framework for English Education*, 2008, p. 60

By firmly placing AEN in the hands of schools they will be made more empowered consumers. As such, they can continue to seek the support that can be gained from cooperation with other schools as well as seek expert opinion and specialist expertise. The funding provided in the pupil premium should provide a sound financial basis from which to pursue these sorts of activities. They may well seek to purchase such services from the local authority, if they believe the local authority provides a service which is of a high quality and provides value for money. Removing the two tier funding system merely means that the local authority is no longer the monopoly service provider when it comes to services schools may wish to buy in to help with their AEN provision. It does not mean that children will no longer be able to benefit from the types of services the local authority has historically provided.

Having said this, the local authority does not just provide ‘services’ in this narrow sense. It also performs an important accountability role. It holds schools to account for their performance and is in turn held to account by parents at local elections. Although it is desirable to open up services to market forces, it would not be acceptable to open up the function of independent accountability in the same way. Schools should not be in a position to choose who measures them and holds them to account, all schools should be measured under the same regime.

Maintaining this important role, whilst granting schools freedoms, is a challenge for the education system as a whole. The drive towards school autonomy, not least in the form of the national funding formula, asks serious questions about who should perform these sorts of functions and how they should be paid for. These questions cannot be fully answered in this report.

The challenge is to make a distinction between the services local authorities provide to schools, such as specialist teachers in certain areas of impairment, and the broader role which local authorities play in coordinating provision and holding schools to account. However, it is not straightforward to separate out the two functions – ‘services’ and accountability – because of the way in which the role local authorities play in the process of ‘school improvement’ straddles the two. In the case of school improvement, local authorities intervene when they see that a school is performing poorly. In this case they will of course deliver many services.

Under a national funding formula, which removes the two tier system of schools funding currently in operation, the government should continue to fund a core local service of accountability and school improvement provided by the local authority. This core service would need to have the capacity to step in when a school is deemed to be performing significantly worse than expected. The role of the local authority in this regard should be a priority for the Coalition government to develop. The Secretary of State for Education, Michael Gove, has asked the Local Government Association, the Association of Directors of Children’s Services and the Society of Local Authority Chief Executives to join a new ministerial advisory group on the role of local authorities in education.<sup>53</sup> He has also been clear that he believes that local authorities should “*continue to play a strong strategic role.*”<sup>54</sup> We believe the ministerial advisory group should be asked to consider the specific implications for the role of local authorities in education. The priority for this group must be to establish very clearly the responsibility and remit of local authorities with regards to education, in the context of greater school autonomy, and fund, empower and make them accountable for this job.

53 See speech by Michael Gove to the Local Government Association, available at [http://www.education.gov.uk/int\\_henews/speeches/a0061806/michael-gove-to-the-local-government-association](http://www.education.gov.uk/int_henews/speeches/a0061806/michael-gove-to-the-local-government-association)

54 See Hansard, 7th June 2010, available at <http://www.parliament.uk/pa/cm201011/cmhansrd/cm100607/debtext/100607-0001.htm#100607900014>

## Recommendations

- The government should not attempt to seek a tighter, more clearly diagnostic definition of SEN.
- The government should be clear that it understands there to be two groups of children who make up the larger group of children who require additional support in education. This understanding should be reflected clearly in the approach to funding:
  - One group is high incidence and low severity. This group should be referred to as having Additional Educational Needs
  - The second group is low incidence and higher severity. This group should be referred to as having Special Educational Needs
- Children with AEN should be funded through normal school funding, and in particular the pupil premium.
  - Policy Exchange proposes its preferred model of the pupil premium, but other approaches would also address AEN effectively
  - Policy Exchange recommends a national funding formula which would be adjusted according to geo-demographic measures to ensure that additional funding reached the right children
- It must be clear that responsibility for students with AEN would lie with the individual school and schools would be judged on the basis of these childrens' performance
  - Schools should be afforded significant autonomy with how they provide for these children
  - Schools should however be encouraged to learn from the outcomes of the Achievement for All pilots which show that a sustained focus on the performance of this group drives achievement up
- As deprivation indicators are not failsafe in predicting certain needs, schools should also be funded at a flat per pupil rate to offer certain minimum services. This funding should be ring fenced to pay for SENCOs, amongst other services.
- CVA should be reviewed to ensure that it performs its core function effectively
  - There should be a focus on ensuring that CVA does not disincentivise aspiration
  - CVA should also reflect extra funding received through the pupil premium
  - It should not be on the basis of schools' self reporting need (as this incentivises over-identification of need) but on the same basis of predicted need which underpins the pupil premium
  - The government should consider ways in which the information that CVA shows can be more clearly articulated to parents
- Local authorities should be funded to provide a core service in regards to education. This service would include a local accountability mechanism. It should be an immediate priority for the government to clarify the remit and responsibility of local authorities and to fund them accordingly.
- The government should conduct a review of how much money should be dedicated to the high-cost pot, which will be used to fund children with low incidence and higher severity needs.
  - This process should be transparent, with the aim of making the funding of education for this group far clearer.

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# 2

## Inclusion

The remaining chapters of this report will be primarily concerned with how funds from the high-cost pot should be distributed so as to best provide for children with low incidence and high-cost SEN. Although the exact characteristics of the children in the high-cost pot should be carefully considered, they are likely to correlate strongly with children who currently have statements or access significant extra resources through School Action Plus. These are the children concerned in one of the most fractious educational issues of recent years – inclusion.

### The History of Inclusion

Since the Forster Education Act in 1870, which established school boards with a duty to provide elementary education where there were insufficient places in voluntary schools, the history of educating children with SEN could be described as one of gradual integration. The changing status of these children in society can be plotted alongside that of many other groups who were previously and to differing degrees, excluded and segregated. As prejudices and ill-founded practices began to be replaced by clearer notions of the problems faced by those with physical, psychological or learning disabilities there has been an increasing acceptance and understanding that all children are able to benefit from and have a right to an education.

Despite this, it was still the case in the late 1960s that some children, labelled as ‘Mentally Handicapped’, were officially considered ‘uneducable’. 1970 brought the Education (Handicapped Children) Act which removed the power of health authorities to provide ‘training’ for these children and required Local Education Authorities (LEAs) to assume responsibility instead. At least 32,000 children became entitled to education almost overnight. However, although they were now officially part of the education system, children deemed to be severely handicapped were legally required to be educated separately in special schools.<sup>55</sup>

Despite this, the notion that children should ideally be educated alongside their peers in the ‘mainstream’ was one which had support at the highest levels of the educational establishment and government far earlier than sometimes assumed. Some of the early welfare pioneers heavily criticised segregation in the earliest years of the twentieth century.<sup>56</sup> Later, in a debate on the Education Bill of 1944, the Parliamentary Secretary Chuter Ede argued:

“I do not want to insert in the Bill any words which make it appear that the normal way to deal with a child who suffers from any of these disabilities is to be put into a special school

55 Report of the Committee of Enquiry into the Education of Handicapped Children and Young People, 1978, p. 29, available at <http://sen.trb.ac.uk/viewarticle2.aspx?contentId=13852>

56 Hodkinson, A, *Inclusive and Special Education within the English Education System: historical perspectives, recent developments and future challenges*, British Journal of Special Education. 38 . 2010

*where he will be segregated. Whilst we desire to see adequate provision of special schools we also desire to see as many children retained in the normal stream of school life.”<sup>57</sup>*

These intentions were not fulfilled as the provision of special educational treatment in ordinary schools failed to develop significantly for a number of reasons, not least the difficulties faced by public services in the aftermath of the war.<sup>58</sup> Once some of the post-war difficulties were overcome there was a revival in the push towards special educational provision in ordinary schools, and special classes and units were established. Support for integration found more legislative expression in the Chronically Sick and Disabled Persons Act (1970) which required LEAs to provide for the education of deaf, blind, autistic and acutely dyslexic children in maintained or assisted schools. Although this description included special schools the intention was clearly that, except for good reason, provision would be made in ordinary schools. This was then slightly modified in Section 10 of the Education Act 1976, which stipulated that LEAs would be required to:

*“arrange for the special education of all handicapped pupils to be given in county and voluntary schools, except where this was impracticable, incompatible with the efficient instruction in the schools or involved unreasonable public expenditure, in which case it would be given in special schools.”<sup>59</sup>*

This provision was to come into force on a day chosen by the then Secretary of State for Education, Margaret Thatcher. Thatcher decided that, before enacting it, there should be a wide ranging consultation on its implementation. This was to be the seminal Warnock Report, often seen as the key driver in a move towards ‘integration’ and later, ‘inclusion’.

However, Warnock was not the driver of this policy. Section 10 of the Education Act 1976 had already shifted the emphasis of special educational provision significantly in the direction of greater integration. The Warnock Report was largely designed to ensure the quality of all special education, but perhaps the reason that it has come to be seen as so important is that it began to form the broad formal structures which still characterise the approach taken to SEN to this day. The Warnock Report was followed by the Education Act 1981 which built on Section 10 of the 1976 legislation by bringing a duty on LEAs to educate disabled children in mainstream schools as long as certain conditions were met. Furthermore, on the recommendations of Warnock, the 1981 Act introduced the assessment and statementing procedure which survives to this day, albeit in an amended form.

Since 1981, policy has tended to be guided by attempts to enforce these duties on LEAs and schools. The fundamental tenets or structures of the system have been broadly uncontested. Nonetheless, the 1988 Education Reform Act which introduced the National Curriculum did have as much of a significant impact on SEN provision as it did on the entire education system. The introduction of league tables in which schools competed according to academic attainment meant that the attainment of children with SEN was at risk of neglect in many schools.<sup>60</sup>

Moreover, there were numerous reports which have criticized practice on the ground both by schools and LEAs. As a result of concerns the Independent SEN

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<sup>57</sup> *Report of the Committee of Enquiry into the Education of Handicapped Children and Young People*, 1978, p. 33, available at <http://sen.ttrb.ac.uk/viewarticle2.aspx?contentId=13852>

<sup>58</sup> *Ibid*, p. 33

<sup>59</sup> *Ibid*, p. 34

<sup>60</sup> Hodkinson, A, *Pre-service teacher training and special educational needs in England 1970-2008: is government learning the lessons of the past or is it experiencing a groundhog day?*, 2008, p. 278

Tribunal was introduced in 1994 to give parents the ability to contest LEA decisions. 1994 also saw the introduction of the Code of Practice which described the roles and responsibilities of schools, LEAs and other parties.<sup>61</sup>

The 1990s also witnessed a shift in language with regards to SEN. Whereas Warnock and others had spoken of integration, the word which now came to dominate discourse was inclusion. Inclusion was defined as being distinct from integration. Whereas integration sought merely to place children in a mainstream setting without necessarily having regard to their particular needs, inclusion placed a greater emphasis on ensuring that the mainstream environment was far better adapted and suited to the needs of individual children. Rather than children having to adapt themselves to the mainstream, often unsuccessfully, the mainstream should adapt itself to the needs of the child.

This was an important distinction to make, shifting the emphasis which integration had on where a child is educated, to more important questions of how a child is educated. However, the change in language from integration to inclusion was in part influenced by a particular stance on inclusion – sometimes termed ‘full inclusion’.

Full inclusionists believe that all segregated provision is wrong, and that over time, we should move towards a situation where all children are educated in the mainstream regardless of need. They are critical of the path or course that inclusion has taken in this country, whereby the role of the special school is still recognised.<sup>62</sup>

## Inclusion, New Labour and recent critiques

The development of inclusion under the last Labour government was influenced by the full inclusionist position, but they did not commit wholeheartedly to it, and as a result, their policies were often characterised by ambiguity, indecision and confusion. Although this is by no means the only reason that provision for children with SEN is not always of a high enough standard, recent years have seen many singling out the notion of ‘inclusion’ as being at the heart of problems with SEN. The actual case is far more complicated.

### New Labour

In 1997, the Labour government established the Social Exclusion Unit which aimed to combat poverty and social exclusion through preventative measures. The government was determined to make educational inclusion work better as part of its general approach to education policy.<sup>63</sup> It attempted a strategy of actively supporting schools in developing inclusive practice and made a number of changes to the SEN framework which had the effect of increasing pressure on schools and local authorities to pursue inclusive policies.<sup>64</sup>

These measures included the extension of the Disability Discrimination Act to schools in 2001, meaning that schools were now required to make ‘reasonable adjustments’ in order to accommodate disabled children. As a result schools were effectively no longer able to refuse access to placements based upon the argument that they could not meet the needs of individual children. 2001 also saw a revision of the SEN Code of Practice which continued the incremental promotion of inclusion by bolstering the rights of children to a place in a mainstream school.

61 Hodkinson, A, *Inclusive and Special Education within the English Education System: historical perspectives, recent developments and future challenges*, British Journal of Special Education. 38 . 2010

62 Macbeath et al, *The Costs of Inclusion*, 2008, p. 18

63 Ibid, p. 4

64 Hodkinson, A, *Inclusive and Special Education within the English Education System: historical perspectives, recent developments and future challenges*, British Journal of Special Education. 38 . 2010

The government also appeared to be signalling that its plans for the long term, were to move further towards a full inclusion model. In guidance to local authorities it stated that “the proportion of children educated in special schools should fall over time”.<sup>65</sup>

### Recent critiques

Recent years have seen significant criticism emerge amongst commentators. Indeed, for some, general criticisms of SEN policy, including problems with the statementing procedure and the actual quality of education received can be traced back to the faulty foundations of the inclusion ‘ideology’.

Since at least 2004 questions have been raised about the more fundamental tenets of the broad approach taken since 1976. Whilst no-one has advocated turning back the clock entirely, critics have argued that ‘inclusion’ had been taken too far and that the education of children, with and without SEN, is being damaged.

One of these critics was Mary Warnock herself who, in 2005, wrote a pamphlet entitled *Special Educational Needs: A New Look*. In it she argued that the policy of inclusion had left a disastrous legacy, and described statementing as “not a very bright idea”.<sup>66</sup> She argued that if statements could not be abolished they should be used only as passports to small, maintained special schools. SEN should be met within mainstream schools but only to the extent that this was possible “within the normal resources of the schools and for the most part in the normal classroom.”<sup>67</sup> For Warnock, the experience of inclusion for many children was a sham in which they were placed in mainstream schools so as to be ‘included’ and found themselves effectively more excluded as teachers, other staff and fellow pupils who could not cope with their needs.

The Warnock pamphlet was followed by the Conservative Party’s Commission on Special Educational Needs, led by Sir Robert Balchin which also offered a wide ranging critique of SEN policy, highlighting a number of important issues, but identifying inclusion as a fundamental problem. It described it as a ‘failed ideology’ which had caused ‘grievous damage’ to children with SEN, their peers in mainstream education, their teachers, and their parents.<sup>68</sup> The most important and regrettable result of the inclusion policy was, according to the Commission, the closure of special schools and consequential loss of places.<sup>69</sup> It called for an active exploration of how to regain the lost special school places.

A further source of criticism came from the Education and Skills Select Committee which reported on SEN in 2006. It drew on Warnock’s intervention to offer a critique with a slightly different focus. Rather than focusing directly on the merits or otherwise of inclusion in itself, the Select Committee described the approach under the Labour government as ‘confused’. Like Balchin, it was particularly concerned that the effect of Labour’s approach to inclusion was causing the rash closure of special schools. It argued that the government needed to provide a stronger and more consistent steer, in order to provide a national framework in which there was room for local flexibility. It also argued that the government strategy of persevering within the current framework was not the correct one and that Warnock was right to suggest that the system was outdated. It proposed a new focus on early intervention and suggested that there needed to be a radical upsurge in investment in training in relation to SEN.

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65 Department for Education and Skills, *Removing Barriers to Achievement: The Government’s Strategy for SEN*, 2004,

66 Warnock, M, *Special Educational Needs: A New Look*, 2005

67 Ibid

68 *Conservative Commission on Special Needs in Education: The Second Report*, 2007, p. 12

69 Ibid, p. 13

The last years of the Labour government did see a softening of the approach to inclusion. In particular, there was no reiteration of the government's expectation that special school places would decline, although there were no explicit changes to legislation or policy. However, Ed Balls did commission an independent review of *Special Educational Needs and Parental Confidence*, undertaken by Brian Lamb in 2009. Although Lamb was not tasked specifically with examining government policy towards inclusion, he conducted a thorough review of many aspects of the SEN system, including the Code of Practice, which drives decision making in this regard. He argued that any changes to the system should reinforce a focus on parental engagement and most importantly of all, a sustained focus on the actual outcomes achieved for individual children.

“ There must be a clearly articulated vision, at a national level, for the direction of policy in this area ”

In particular, he looked at the statementing process amidst concerns that many parents were not getting their desired outcomes and were being forced to fight the local authority at SEN and Disability Tribunals. This was a phenomenon that had been cited by Warnock, the Select Committee and Balchin as evidence that there was a bias towards inclusion and against parental choice within the education system. However, Lamb decided not to recommend any fundamental restructuring of the system. In fact, he was keen to assert that the fundamentals of the Code of Practice were not the cause of inconsistency or poor provision on the ground, nor were they the cause of parental dissatisfaction. Lamb argued that problems had arisen because of the failure of schools and local authorities to adequately conform to its strictures. His recommendations focused on improving the experience of parents and children by ensuring that the Code of Practice is followed more efficiently and effectively.<sup>70</sup>

### Future directions for inclusion

We have seen the influence of the full inclusion position on Labour policy, in particular with regards to the amendments they made to the Code of Practice, and the criticism of this approach. It is therefore extremely important that the upcoming SEN Green Paper takes a clear line on inclusion. The Select Committee report of 2006 was emphatic that for provision to improve there must be a clearly articulated vision, at a national level, for the direction of policy in this area.<sup>71</sup> The different positions described above could represent some of the options open to the Coalition government.

1. Full inclusion: Wholeheartedly embrace the goal of full inclusion
2. Anti-inclusion: Reject inclusion as a failed ideology and set about reviving the special school estate
3. Brian Lamb: Accept that following the Code of Practice will lead to better outcomes
4. A different approach, which will be advocated in this report: pursuing a notion of inclusion which focuses on outcomes, not place, and the need to re-design policy structures to accommodate this.

<sup>70</sup> DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 61

<sup>71</sup> House of Commons Education and Skills Select Committee, *Special Educational Needs*, 2006

### Full inclusion

For full inclusionists the ultimately preferred option, given their tendency to place educational inclusion within a broader notion of social inclusion, is a mainstream placement. For them, this is a necessary condition of being included socially. They maintain that the very act of ‘segregating’ or educating children apart in a different setting ensures that they can never be properly included socially because they live their formative years apart from their peers.

However, there is little evidence which actually proves that an educational placement in the mainstream is a necessary condition for social inclusion. While there is a great wealth of evidence showing that in the past segregated provision has contributed to the severe social exclusion of children with SEN and disabilities, this was not simply a result of their school setting but rather also of the general attitudes in society in decades gone by. This is not to say that society has become fully accepting but attitudes and understanding have no doubt improved. Full inclusionists are right to question the extent to which provision in special schools in the past enabled children to be and feel socially included. Many did not and this was unacceptable. However, this does not mean that special schools caused or maintained social exclusion by their very nature. Nor does it mean that special schools are incapable of providing an education in a socially inclusive manner.

Many special schools strive to ensure that their pupils are socially included and it is important not to ignore the positive experiences and the value that some children derive from being educated in a specialist setting. Recent years have seen a far greater recognition that special schools and mainstream schools should work together to ensure that pupils (in both schools) have a chance to engage with one another and, particularly, that prejudices are broken down.<sup>72</sup>

Full inclusion is also underpinned by a particular theoretical understanding of the nature of disability, called the social model. Whilst the social model remedied important defects in the so-called medical model (which was used to justify a great deal of segregation), it has been taken too far by some.

This model asserts that disability is found not within the child but with the inability or unwillingness of society to accommodate the individual. Therefore as society is responsible for disability then it is thought, changing society so that disabling ‘barriers’ are removed would reduce disability.<sup>73</sup> This is in direct opposition to the ‘medical’ model which assumes that the ‘problem’ is with the child and can ultimately only be tolerated and accommodated rather than normalised.

The effective denial of any ‘within child’ factors neglects common sense. It would be more sensible to regard disability as a relationship between ‘within child’ and social influences, “a complex interaction of biological, psychological, cultural and socio-political factors”.<sup>74</sup>

It is important to accept that whilst all children are different and will experience difficulties engaging socially and educationally at different points, some children’s difficulties will be more acute than others. Although society can and must change and strive to allow everyone to fulfil their potential, it is simply not possible to design society in such a way that everyone can engage with it in precisely the same manner.<sup>75</sup>

Furthermore, the social model of disability also leads full inclusionists to focus on ‘place’, when defining inclusion: because any form of segregation puts too

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<sup>72</sup> For example, see DfE, *Report of the Special Schools Working Group*, 2003

<sup>73</sup> Campbell, J and Oliver, M, *Disability Politics: Understanding Our Past, Changing Our Future*, 1996

<sup>74</sup> Farrel, M, *Educating Special Children*, p. 7

<sup>75</sup> Fuchs, D and Fuchs, L, *Competing visions for Educating Students with Disabilities: Inclusion Versus Full Inclusion*, 1998

much emphasis on ‘within child’ factors, and not enough on transforming the social environment so as to seamlessly accommodate all individuals, it should therefore be rejected. As a result, the inclusion can be achieved in just one ‘place’: the mainstream school.

There are important dangers in the focus on place which the social model leads to. Whilst full inclusionists do not claim that a mainstream placement is a sufficient condition for inclusion, they fail to recognise that by emphasising the importance of place, it can be forgotten that some children can feel equally excluded in mainstream schools as in special schools. For some children a mainstream placement is meaningless without an adequate system of support from specialist staff.

Mary Warnock was heavily criticised by many for the way she articulated this position in her 2005 piece questioning inclusion, but her point contained an element of truth.<sup>76</sup> Whilst maintaining that schools and other institutions should always strive to foster a culture which is accepting of diversity and allows all individuals to engage in their community to the fullest degree, it must also be accepted that everyone will engage with their communities and other individuals in a different way.

Children can be excluded in any number of settings. It is not ‘place’ that matters, but the accommodations made for a child’s individual needs, and a continual, active focus on ensuring that children are constantly engaged in the best way possible. Some may argue that to be educationally included you must be placed in a traditional mainstream setting. However, evidence shows that this is simply not the case, and that children can benefit from a range of different settings.<sup>77</sup>

The Ofsted report released in 2006, ‘Does it matter where pupils are taught?’ addressed this issue square on, showing that excellent provision can be delivered in a range of schools. The conclusion of the Ofsted report was that, at its best, provision in resourced units in the mainstream delivered the highest quality, although it did not disaggregate its observations according to type or severity of need. The key message from the report was that an excellent and inclusive education can be provided for children in a number of different settings. The Ofsted report published in 2010, *The SEN and Disability Review*, agreed with this assessment stating that:

“no one model – such as special schools, full inclusion in mainstream settings, or specialist units co-located with mainstream settings – worked better than any other.”<sup>78</sup>

### The anti-inclusion argument

The anti inclusion position might best be represented by the approach taken by the Conservative Commission on Special Needs in Education which recognised the influence of the full inclusionist position on the approach of New Labour to SEN and blamed it for the failures of the SEN system as a whole. This position contends, the ‘bias’ towards inclusion should be ended and the government should set about reviving the special school places which were lost as a result of New Labour policies.<sup>79</sup>

However, despite the strength of the analysis which this provides, the solutions suggested are also flawed, being similarly focused on ‘place’. The Ofsted report was cited above as evidence against the full inclusionist position, but it is just as strong evidence against the merits of pursuing the course recommended by Balchin.

While Ofsted evidence does not provide a strong case for arguing that too many children are educated in special schools, nor does it suggest that too many children are educated in the mainstream. Rather, the evidence shows that for too

<sup>76</sup> Warnock, M, *Special Educational Needs: A New Look*, 2005

<sup>77</sup> OFSTED, *Inclusion: Does it matter where pupils are taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities*, July 2006.

<sup>78</sup> Ofsted, *SEN and Disability Review: A statement is not enough*, 2010, p. 7

<sup>79</sup> Conservative Commission on Special Needs in Education: *The Second Report*, 2007, p. 12

long there has been too little focus on the quality of education received by children with SEN, regardless of setting.

Whilst Balchin was right to criticise the loss of special school places where they have not been replaced with quality provision, the correct response is not so simple as to re-supply these places.

### Brian Lamb

Although Brian Lamb's report did not specifically set out a position on inclusion, he implicitly offered a moderate view of what an inclusive education system should look like by clearly attempting to shift the focus of the debate around SEN towards the importance of outcomes: the attainment of pupils and on the quality of provision. Lamb was damning in his account of local authority practice which focussed on the type and amount of provision to be delivered to children rather than on the outcomes they should be expected to achieve.

However, as noted above Lamb decided not to recommend any fundamental restructuring of the system. In fact, he was keen to assert that the fundamentals of the Code of Practice were not the cause of inconsistency or poor provision on the ground, nor were they the cause of parental dissatisfaction. Lamb argued that problems had arisen because of the failure of schools and local authorities to adequately conform to its strictures:

*“Some of the parents who are most angry about their experiences are also those who are ardent in their support of the statutory framework and the guidance in the SEN Code of Practice. They wanted schools and local authorities to abide both by the letter and the spirit of the legislation. Parents value the security of a statement. It gives them confidence and, in particular, confidence to challenge where a school is not making the provision that has been agreed in the statement. Parents who have discovered the Code of Practice value the approach it maps out and the principles that underpin it: a partnership approach with good information and support. Provided early on, this approach can make all the difference to parents' experiences of the statutory stages of the SEN system.”<sup>80</sup>*

Lamb was right to emphasise the positive aspects of the Code of Practice and to argue that these should be built upon – in particular the idea of a partnership approach which necessitates regular and productive engagement with parents. However, by retaining the Code of Practice in its current form, the system remains underpinned by a focus on 'place'. This focus takes the form of the presumption towards a mainstream placement which guides the approach of local authorities.

### A better vision for inclusion

In light of these three interpretations, it is useful at this juncture to return to the aim of the Select Committee which this chapter has set about trying to fulfil:

*“What is urgently needed is for the Government to clarify its position on SEN— specifically on inclusion—and to provide national strategic direction for the future. The Government needs to provide a clear over-arching strategy for SEN and disability policy. It needs to provide a vision for the future that everyone involved in SEN can purposefully work towards.”<sup>81</sup>*

Despite the intellectual debates which ensue at a policy level, it is important to bear in mind that there is a deep commitment to inclusion amongst the majority

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<sup>80</sup> DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 61

<sup>81</sup> House of Commons Education and Skills Select Committee, *Special Educational Needs*, 2006, p. 27

of teachers and practitioners on the ground. Despite confusion over its precise definition, there is a strong support for inclusion in the education sector.<sup>82</sup>

For those on the ground, inclusion reflects the idea that the education system as a whole should accommodate and provide for the needs of all children.<sup>83</sup> Despite not pursuing policies to achieve it, the Labour government did manage to describe this position in their SEN strategy, *Removing Barriers to Achievement*:

“inclusion is about much more than the type of school that children attend: it is about the quality of their experience; how they are helped to learn, achieve, and participate fully in the life of the school.”<sup>84</sup>

The difficulty with this is that it defines inclusion in qualitative terms, which is difficult and complex to measure. For the same reasons, it is difficult to provide hard and fast criteria for what is inclusive and what is not.<sup>85</sup> Nonetheless, in our research we spoke to very few people who did not attest to the notion of inclusion described above. In fact, almost unanimously they were keen to argue exactly this point, that an understanding of inclusion in terms of place has damaged the SEN system. The words of Miriam Rosen, then Director of Education at Ofsted, in evidence to the 2006 Select Committee are particularly instructive here:

“the debate over provision has for too long focused on an unhelpful interpretation of inclusion as a place (that is, special or mainstream) rather than on what the pupils achieve.”<sup>86</sup>

Perhaps then, it would be a good idea to make a clean break from the language of inclusion, if it has been irrevocably contaminated? This would seem to be a compelling argument at first. However, there is a strong consensus in education circles in favour of a definition of inclusion which focuses on the quality and outcomes of education. This consensus should not be ignored. This notion of inclusion has strong support and removing it from debates about SEN policy would risk implying that a commitment to important ideals had been removed.

In light of this, the Coalition government must modify, but retain the language of inclusion. Government must recognise that inclusion itself has not failed, but that the evident and serious failures in the current system are at least in part owing to a faulty interpretation of inclusion as place.

## A national strategy for inclusion

The core aim of the new government should be to fulfil the ambition set out by the Select Committee in 2006.<sup>87</sup> A clear national policy statement on inclusion is required, setting out the way forward and seeking to make a clean break from the confusion which has characterised the sector in the past. The upcoming Green Paper provides an excellent chance to signal this intention.

A national statement on inclusion should have two parts. The first should be a clarification of what inclusion is and what a commitment to it means and doesn't mean. Inclusion is about acting in a positive way so that all children can access an excellent education appropriate to their needs. Inclusion is not about where a child is educated, or how they are educated. The focus must be on the educational

82 See for example, NASUWT, *Special Educational Needs and Inclusion: Reflection and Renewal*, 2008, p. 53

83 Macbeath et al, *The Costs of Inclusion*, 2008, p. 11

84 Department for Education and Skills, *Removing Barriers to Achievement: The Government's Strategy for SEN*, 2004, p. 25

85 Hodkinson, A, *Inclusive and Special Education within the English Education System: historical perspectives, recent developments and future challenges*, British Journal of Special Education. 38 . 2010

86 House of Commons Education and Skills Select Committee, *Special Educational Needs*, 2006, p. 22

87 Ibid, page 27

outcomes for all children. The statement should be clear in its contention that children have a right to an inclusive education.

The second part should be the articulation of a plan for future direction – what will be done to ensure an inclusive education system. This plan for the future should not involve a commitment to reducing or increasing statements, or opening or closing special schools for instance. Commitments such as these would presuppose an unhelpful focus on place. The focus in the strategy should be firmly and squarely on outcomes and holding people to account for achieving these.

As argued and reiterated above, inclusion should be about the quality of education received. A good education can be achieved in a range of settings. Therefore, informed parental choice in what kind of placement a child is educated is vital. It should also be harnessed to drive up attainment as parents move towards provision of a higher quality. Therefore, the strategy for SEN should be clearly aimed at developing a flexible range of provision at a local level. This means a variety of types of placement which will include full time special school placements (including residential placements), as well as full time supported placements in the mainstream and placements in specialist mainstream units. In between there should be a number of flexible options such as dual placements in special and mainstream schools.

There should be a binding requirement on government, and the bodies it tasks with commissioning provision, to provide and maintain this flexible range of provision. The government must be able to prove that there is a variety of provision available and that wherever possible parents have meaningful choices. It cannot be expected that such a situation will be created overnight, but the government must be able to demonstrate that this is being worked towards and, where it is not, to outline what it plans to do to rectify the situation. The SEN

Information Act (2008) should be amended to recognise this requirement.

The government can put pressure on those it tasks with planning and commissioning provision by placing a contractual obligation on them to develop flexible ranges in their particular area. This could be measured

by a combination of means including Ofsted inspection, self-reporting and extensive parental satisfaction surveys. As will be described in Chapter 5, contestability with regards to who fulfils these contracts will provide central government and parents with an important mechanism to hold local decision makers to account.

In order to monitor progress in developing provision there should be an annual national audit of achievement for children with SEN. The SEN Information Act (2008) took important steps to improving the collection of information on children with SEN. However, amending the act to include specific requirements on the Secretary of State to undertake an audit of achievement would provide an additional focus on the importance of information for accountability purposes. As such the audit would be part of the range of information gathered and published for accountability purposes, including Ofsted reports and school league tables.

“ The government must be able to prove that there is a variety of provision available and that wherever possible parents have meaningful choices ”

This audit would need to take into account prior performance and the performance of children without SEN, locally, regionally and nationally. The current information required (as a result of the 2009 Act) is focused on the incidence and performance of children with SEN, but there has not been a similar drive to improve our understanding of what type of provision exists and where. The audit would also include a map of provision as recommended in the Select Committee report of 2006:

*“provision maps’ [...] which [...] set out then for some local determination our expectations of the range of strategies and interventions, staffing arrangements, etc [...] that schools should have in place to meet the needs of children with [...] SEN”<sup>88</sup>*

The audit should also include a map of expertise. The Labour government did commission an audit of provision for low incidence, high-cost, needs in 2006.<sup>89</sup> This was a highly useful piece of work but it has not been built upon. The audit concluded that it would be prohibitive to carry out a similar exercise regularly but that the government should review the situation every five years. We agree that an audit of the sort provided in 2006 would not be needed annually, but that it would be possible to monitor the development of provision each year using sensibly designed criteria. This is a vital requirement if national government and regional and local service providers are to be held to account for their efforts in fulfilling a commitment to inclusion.

The second audit, of expertise, was recommended in our recent work on teacher expertise in SEN:

*“Local authorities and schools should be required to develop and contribute to audits of expertise, using nationally agreed, standardized criteria in order to build a clear picture of supply and demand in relation to SEN teacher expertise. We also recommend that data be collected nationally and locally regarding specialisms in SEN. This is already done for subject specialisms and it should be replicated across all major areas of impairment with a view to introducing appropriate financial incentive schemes if necessary.”<sup>90</sup>*

Currently, the Coalition is committed to a moratorium on special school closure, because of its concerns over the reduction in special school places in recent years. This moratorium should end, except for special schools rated outstanding by Ofsted. In addition, the closure of any special school or special resourced unit in a mainstream school should be approved by the Secretary of State, in conjunction with local Parent Partnership Groups (discussed in more detail on page 73). The decision of the Secretary of State should make reference to the detailed maps of provision and audits of expertise described above. It should only be possible to close a special school when the Secretary of State is satisfied that alternative provision has been prepared which is either of the same standard or higher and sufficiently matches demand.

### The Code of Practice

The Code of Practice drives and regulates decision making and process on the ground with regards to SEN. This function will continue to be required. However, as explained earlier, the Code of Practice has in recent years been amended to

<sup>88</sup> Ibid, p. 63

<sup>89</sup> Gray, P, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, 2006,

<sup>90</sup> Hartley R, *Teacher expertise for Special Educational Needs: Filling in the gaps*, 2010, p. 3.

reflect an interpretation of inclusion as place, by strengthening the rights of children to a placement in the mainstream. This aspect of the Code of Practice is unhelpful.

However, a commitment to a flexible range of provision should mean that parents have a mainstream school as part of a range of choices, although this will not necessarily be the specific mainstream school of the parents choosing. The Code of Practice should be rewritten to reflect a commitment to a right to an inclusive education, not a right to a mainstream placement. In practice, this is unlikely to result in a reduction of placements in the mainstream because of the retention of a focus on parental preference and a renewed focus on outcomes, which Ofsted argued are often better in resourced mainstream units.

## Recommendations

- **The government should take a clear and public line on the issue of inclusion in order to remove confusion about what it means and what the government's position is regarding it.**
- **This should be in the form of a national strategy for inclusion which should confirm a commitment to the tacit consensus on inclusion amongst the majority of teachers, parents and other practitioners.**
  - **This consensus accepts that inclusion is not about place but about the quality of education children have access to and the outcomes they achieve.**
- **The government should amend the Code of practice to reflect this notion of inclusion and remove the presumption towards a mainstream option. The already existing emphasis in the code of practice on parental choice should be strengthened.**
- **The national strategy on inclusion should have two parts:**
  - **The first part should clarify what the government means by inclusion (and what it doesn't mean)**
  - **The second should be an articulation of a plan for the future direction of SEN policy**
- **This plan should not include quantitative targets such as a reduction or increase in statements or in special school places:**
  - **However, no special school should be closed without proof that specialist provision of an equal or improved quality has been resourced locally. Decisions on special school closure should be taken in conjunction with Parent Partnership Groups (see Chapter 5) and reviewed by the Secretary of State**
- **A national strategy on inclusion should contain a commitment to ensuring that a flexible range of provision is developed at a local level.**
- **The government should be required to prove that progress is being made towards this goal and it should task local and regional bodies with achieving it.**
- **There should be an annual national audit of achievement for children with SEN – comprising local and regional audits.**
  - **Less regularly than these annual audits, there should also be comprehensive audits of provision (developing local maps of provision) and of teacher expertise.**

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# 3

## Assesment

The government should ensure that a flexible range of provision is in place for high-cost pupils. The challenge is to develop a system of assessment which fairly decides which individual children are within this category of high-cost pupils. There have been serious questions raised in recent years about the process by which these children are currently assessed, and their educational provision funded and planned.

This chapter focuses on statutory assessment because faults in the way that the process currently works have created great cause for concern in recent years. In particular, it focuses on the role that statutory assessment has in deciding on the allocation of extra resources. However, it must be remembered that assessment also has a very important role in providing information on how best a child should be provided for. As such (beyond the reforms proposed here and in the following chapter relating to the link between assessment and funding) the government should continue to pursue the recommendations made by Brian Lamb in terms of how assessment leads to the development of an effective and flexible Individual Educational Plan (IEP), with a real and sustained focus on outcomes and aspiration.<sup>91</sup>

### The current situation

At the moment, local authorities are funded for the high-cost pupils in their area through an element in the funding formula which decides the amount of funding they will receive from the Dedicated Schools Grant (DSG). Local authority practice varies as to how this money is distributed. In recent years, many have delegated funds to special schools and resourced units in the mainstream whilst holding some back for expensive out of authority placements, or individual resourcing arrangements for statemented pupils placed in the mainstream.<sup>92</sup>

In administering the funding for high-cost provision, local authorities have a clear role in developing that provision amongst maintained schools. In recent years they have been particularly active in this area, reforming or rationalising the SEN provision in their schools. In the best cases they have reinforced the ability of mainstream schools to provide effectively for a wide range of SEN, whilst recognising the role and value that good special schools have in providing for children and supporting other schools. In other cases, local authorities have reduced provision in specialist schools without replacing it with high quality provision in the mainstream.

91 DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 23

92 DfES, *The Management of SEN Expenditure*, 2004, available at <http://www.teachernet.gov.uk/wholeschool/sen/teacherlearningassistant/senexpenditure/>

Local authorities also have responsibility for deciding which children have access to the funds they have set aside for high-cost provision, what this provision should be and negotiating the process by which children are placed in a particular school.

In a relatively small number of cases (currently just under 221,000) resources at School Action Plus (which allows schools to draw down help from the local authority) may be deemed insufficient and a school, parent or outside agency may request that the local authority makes a statutory assessment of a child's needs.<sup>93</sup> Currently practice varies between local authorities as to precisely who undertakes these assessments, and the exact processes and procedures followed, although in all instances, a local authority employed educational psychologist will be heavily involved.

Assessments will not always lead to statements, but a statement will be deemed necessary if the assessment concludes that the provision necessary to meet the child's needs are not to be reasonably provided within the resources of the child's school. A statement will be drawn up which details the provision a child needs and which the local authority will have responsibility for ensuring is provided. Local authorities have a duty under section 324 of the Education Act 1996 to arrange this provision and may provide the facility in their funding to intervene where a pupil's needs are not being met and make the necessary arrangements, charging the costs to the schools budget.<sup>94</sup>

The section on the statement which concerns the specific placement of the child is left blank so as not to pre-empt the consideration of any preference for a maintained school which the parents may state, or any representations they may make in favour of a non-maintained or independent special school.

Local authorities:

*“must comply with a parental preference unless the school is unsuitable to a child's age, ability, aptitude or special educational need, or the placement would be incompatible with the efficient education of the other children....Unless a parent indicates that they do not want their child educated in a mainstream school...an LEA must ensure that a child is educated in a mainstream school unless that is incompatible with the efficient education of other children.”<sup>95</sup>*

Many, including the former Education and Skills Select Committee, have identified a key problem with the current arrangements: the fact that the funding, assessment and provision of education all fall under the responsibility of the local authority. It is argued that this creates a serious conflict of interest, as local authorities hold the funds and (understandably) have an incentive to limit expenditure, it is maintained that they block access to adequate provision for some children with SEN, by influencing the statutory assessment process. Although there have been claims that local authorities have directly influenced the recommendations made by educational psychologists detailing the provision a child needs, there is little evidence to substantiate this.<sup>96</sup> However, there is evidence which suggests that educational psychologists are indirectly influenced because they are aware of the limitations of local provision.<sup>97</sup> In other words, educational psychologists may be unlikely to recommend that a child has a very expensive or intensive provision of a sort which does not exist in the local authority, and will instead recommend the most appropriate provision which does exist.

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93 DfE, *Children with Special Educational Needs 2010: an analysis*, 2010, p. 5.

94 DFES, *Special Educational Needs Code of Practice*, 2001,

95 *Ibid*, p. 107.

96 DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 86

97 *Ibid*

The operation of the statementing system has also arguably been prejudiced by the issues which were described in the previous chapter: confusing messages about inclusion coming from central government and an interpretation of inclusion as place. The focus on place has been to the detriment of a focus on quality. Ultimately this leads to parental dissatisfaction with the placements that are made and the provision which is detailed in statements.

Severe parental dissatisfaction with the process has been evidenced in recent years by the 3,635 appeals to the SEN and Disability Tribunal (SENDIST) in 2007-08.<sup>98</sup> A further driver of complaints about current procedures is the local and regional variation in placement decisions and specific provisions made in statements. Parents, understandably, find it unacceptable that they must fight their local authority to get what they want for their child, whilst in the neighbouring authority what they want may be freely given. The recent Ofsted report stated that the parental perception of inconsistency is “well founded.”<sup>99</sup>

Moreover, the SENDIST tribunals themselves are a cause for concern, mainly with regards to unequal access for parents from lower socio-economic backgrounds. As in other areas, educated middle class parents find it easier to navigate the system to get what they want whereas parents with fewer resources often cannot access the tribunals at all.

There are also worries about the content of statements themselves which too often focus on quantitative measures rather than qualitative, or outcomes based requirements. Moreover, statements often fail to adequately detail the nature of any support which may be required from other local services such as Health, Mental Health and Social Services. This is partly the result of the difficulties faced by local authorities in arranging a highly complex package of provision for a child who may require access to these services and a number of different budget streams.

## Reforming the assessment process

It would appear that there is a very strong argument in favour of ensuring that statutory assessments of children with SEN are independent of concerns about cost even in the current difficult economic environment. There is also a clear argument for ensuring that assessments are consistent between local authorities, so as to reduce the perception of unfairness and inequity that results from local variation. At the moment, assessments are not independent, because they are in the hands of the local authority who must also fund provision. This creates a clear conflict of interest between accurate and fair assessment, and financial constraints. The conclusion reached by many, is that the responsibility for assessing children must be made completely independent of the local authority.

However, while splitting responsibility for funding and assessing might ensure a greater measure of independence, it would not necessarily solve the problems which it seeks to address. As we have seen, the inconsistent and sometimes unfair assessment decisions which local authorities make are as a result of the requirement on them to ration provision. They only have a certain amount of money available and, unfortunately, it is likely that when it comes to distributing additional resources for education, there will always be claims on this money which cannot be met. Rationing cannot be avoided, and the government must be

<sup>98</sup> Ibid. p. 80

<sup>99</sup> Ofsted, *SEN and Disability Review: A statement is not enough*, 2010, p. 7

honest about this especially in the current financial climate. As noted on page 35, whilst the schools budget has been relatively well protected from cuts (actually benefiting from a 0.1% a year increase in real terms), there is no room whatsoever for significant increases.<sup>100</sup> In the foreseeable future, high-cost SEN provision will also need to work roughly within historical funding levels.

The key is to be transparent about this element of rationing, and ensure that it is fair, consistent and clear. At the moment, this is not the case. The solution is to set assessment criteria at a national level, and then for it to be applied locally. There will inevitably be debate regarding the precise criteria, so the government should charge an independent group, utilising expertise at the Association of Educational Psychologists and other relevant groups such as representatives from the health profession, teachers and speech and language therapists to agree a working model. These groups should contribute to the development of national assessment criteria to be implemented and subsequently reviewed regularly. These criteria would be binding on local assessment services which would in turn be inspected by Ofsted to ensure compliance. As is currently the case the existing tribunal arrangements would provide a direct route for parents to appeal against decisions. It would be expected that with the application of nationally consistent criteria, appeals to the SENDIST would be significantly reduced.

The existence of national criteria would break the link between funding and assessing in the hands of local authorities. Therefore, in theory, assessment could remain within the hands of these authorities. However, having an independent assessment body may well be valuable in its own right, for the confidence and trust it would engender amongst parents, schools and specialist providers.

Pilots of arrangements which split funding and assessment are currently ongoing and the government should seek to learn from these pilots how best to organise and fund independent assessment panels.

### **The role of Educational Psychologists and the need for light touch assessment**

Educational Psychologists (EPs) must continue to play an important role in statutory assessments and in the general SEN services which local authorities currently provide. The EP is a unique element of the English system, not seen abroad.<sup>101</sup> In other countries individual schools may have their own psychologist but they tend not to be generalists in the way that English EPs are, involved in assessing and diagnosing, as well as research, developing pedagogy, training teachers and working with individual children. There is a worry that by making assessment independent, the role of the EP would be endangered, as they could not be employed by the local body providing high-cost services and the independent assessment panel owing to the potential conflict of interest.

One answer is for the role of EPs to be split. They could perform their official assessment role in one local area whilst being employed by another area to help deliver services which could include light touch assessment.

Whilst schools should have responsibility for the additional needs of their pupils, as argued in Chapter 1, there is nonetheless a danger that in some cases, schools may be unable to detect a developing problem. In other instances, schools may not adequately react to a problem, or may even wait until a problem worsens to a point

<sup>100</sup> HM Treasury, *Spending Review 2010*, 2010, p. 41.

<sup>101</sup> Farrell, P et al, *A review of the functions and contribution of Educational Psychologists in England and Wales in light of "Every Child Matters: Change for Children"*, 2006

where a child may be eligible for a statutory assessment and statement. Whilst the reformed system we have described should reduce incentives for this sort of behaviour, it is unlikely to be completely eliminated. Furthermore, overwhelming academic evidence points towards the importance of early intervention in dealing with problems faced by children. Whilst there is a significant incentive for schools to enact their own programmes of early intervention, it would be valuable for there to be a local service provided to schools which could deliver 'light touch' assessments at no cost to the school. This light touch service could be run as an arm of the independent assessment service which would allow them to monitor developing problems. For example, for as little as £1,400 per primary school there could be a programme of comprehensive literacy screening.<sup>102</sup> As well as this, the light touch assessment service would offer a 'holistic' assessment of pupils in every school including screening for health and mental health issues. The service would focus predominantly on early years and primary schools in order to identify problems in a timely fashion.

Independent assessment services could work with local providers at early intervention. For example, mainstream schools could be rewarded financially for referring fewer children to the assessment body, as long as the assessment body was satisfied that the school was still maintaining a high quality service for at risk pupils. Schemes such as this, based on funding 'outcomes', have been proven to be successful at times but there are risks that they produce perverse incentives.<sup>103</sup>

As noted in relation to the high-cost pot on page 35, many children who have high-cost needs require services beyond education such as health and social care. These services also need to perform their own assessments. It is a stated priority of the government to streamline these assessments in order to make decision making and commissioning more effective as well as improve the experience of children and parents, reducing the amount of contact points and making it easier to understand the services available to their children.

Ofsted was clear in its recent report that local authorities which were performing well in relation to children with statements were utilising the Common Assessment Framework (CAF).<sup>104</sup> The CAF is a standardised approach to conducting assessments. It means that practitioners are better placed to agree with children and parents about appropriate modes of support. It also aims to improve integrated working by promoting coordinated services.<sup>105</sup>

Independent Assessment Panels should ensure that they use the CAF, building on the evidence of good practice put forward by Ofsted. Independent assessment panels could provide an opportunity to create an assessment 'hub' where different local authority services would come together to assess a child's needs. This would build on previous research which found that parents value a coordinated approach including: initial home visits to discuss the process; assessments conducted in familiar places; the coordination of specialists; the sharing of information amongst specialists; a responsive framework for review; and the use of lead professionals or key workers.<sup>106</sup>

Chapter 5 will return to the independent assessment panels in relation to their role in the placement process and improving parental experience.

<sup>102</sup> Wilkins, R, *Learning the Hard Way: A strategy for Special Educational Needs*, 2008, p. 42

<sup>103</sup> European Agency for Development in Special Needs Education, *Financing of Special Needs Education: A seventeen-country Study of the Relationship between Financing of Special Needs Education and Inclusion*, 1999, p. 167.

<sup>104</sup> Ofsted, *SEN and Disability Review: A statement is not enough*, 2010, p. 6

<sup>105</sup> See, <http://www.dcsf.gov.uk/everychildmatters/strategy/delivering-services1/caf/cafframework/>

<sup>106</sup> Boddy, J, Potts, p, Statham, J, *Models of good practice in joined-up assessment: working for children with 'significant and complex needs'*, September 2006

## Recommendations

- The government needs to be honest and transparent about how much funding is available for high-cost pupils. This funding will necessarily be limited, but there must be a commitment to ensure that the impact of this is fair and consistent at a local level.
- The government should develop national assessment criteria for statutory assessments, to be applied consistently at a local level by independent assessment panels.
- These criteria should be devised by an independent national body and revised at appropriate intervals:
  - However, as described in relation to the high-cost pot in Chapter 1, these criteria would not be devised independently of concerns about cost.
- The government should fund local independent assessment panels. It should await the outcome of ongoing pilot programmes which will inform best practice as to organisation. These panels would be inspected by Ofsted, and monitored within a system of peer review by other panels, to ensure compliance with national guidelines.
- Educational Psychologists should continue to play a role in statutory assessments but their wider role should be split. They could provide wider services in one local area whilst assessing children in a neighbouring area.
- These wider services should include the delivery of a light touch assessment service to all local schools, free at the point of delivery in order to improve early intervention.

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# 4

## Funding

Problems in the past have arisen because of the need for local authorities to ration provision, and their inability or failure to do it fairly and consistently. Limitations in funding (and therefore provision) are inevitable, but rationing should be conducted at a national level so it is clear what level of funding is available for local schools and services. National assessment criteria should be independently devised but cannot be blind to financial concerns, and need to take into account the available funding. Assessments need to have a link with certain levels of additional funding and must also be nationally consistent and clear. There have already been some suggestions as to how this might be done. One of the most developed suggestions came from the Conservative Commission on Special Needs in Education.

### Special Needs Profiles

The Conservative Commission on Special Needs in Education, authored by Sir Robert Balchin, was deeply concerned that with regards to children with severe and complex needs, definitions or ‘categories’ of need were not specific enough and not related in a coherent manner to the nature of provision and the level of funding for individual children.

It argued that the needs of pupils in the high-cost group should be more clearly delineated and funding more finely gradated in correlation with this:

*“Separate categories would attract clearly defined funding and the pupil would carry these funds with him or her to a mainstream or special school and schools would have considerable professional autonomy over how these support funds were spent.”<sup>107</sup>*

It recommended that statements should be replaced with ‘Special Needs Profiles’ (SNPs), drawn up by Profile Assessors – educational psychologists operating independently from the local authority. There would be a number of nationally consistent support categories: the commission approximated 12, which would each legally attract a certain level of funding, although it didn’t detail how these categories would be drawn.

#### Are SNP’s the way forward?

Although Balchin’s proposals offered a valuable alternative vision for the way forward, in speaking to practitioners including educational psychologists in the research for this report, we identified a number of potential flaws with a system based on SNPs:

107 Conservative Commission on Special Needs in Education: The Second Report, 2007

- Whilst the general direction of the Conservative Commission work related to parental choice and school autonomy, a system of SNP's as envisaged by Balchin could potentially militate against the ability of schools to decide on the precise manner of provision
  - Profiles of the detail Balchin implies would need to make a complex set of assumptions about how a child should be educated in order to come to a firm conclusion about how much this should cost. Whilst this may well be possible, these assumptions would inevitably then guide the practice of schools on the ground and the expectations of parents.
  - Whilst this is a facet of any system which seeks to assess so as to efficiently distribute funds for high-cost pupils, a system where support categories were more finely gradated and linked to cost would constrain the delivery of provision by schools more than would be desirable.
- Whilst it may be possible to develop finely grained profiles, there is no guarantee that these would be accurate for individual children. As knowledge grows about all conditions and impairments there is an increasing recognition of their complexity and the extent to which each child presents with very different needs. The notion of the Autistic Spectrum is one example of this.
  - Children with severe needs are also increasingly presenting with very complex, overlapping and multiple conditions. Whilst there is already a category of impairment which recognises this in part – Profound and Multiple Learning Difficulties (PMLD) – special school heads, academics and others are insistent that they are seeing a cohort of children with more complex and overlapping needs than before. This may be down to better understanding/identification rather than an actual increase in incidence of overlapping needs.
  - With regards to this phenomenon, one educational psychologist told us that SNPs “would work perfectly as long as you were categorising tins of baked beans and not people.”

### Problems with pupil bound budgets

As part of the case made for SNPs, Balchin referred to schemes in the USA, Canada and the Netherlands which achieved the aim of categorising pupils and assigning funds accordingly. However, these approaches have not been entirely successful. Indeed, as is shown below, the Netherlands have since abandoned their 'back-pack' funding approach.

#### Problems with pupil bound budgets

The Netherlands has operated a system of pupil bound budgets called 'back-pack' funding in the last decade. The decision whether or not to award a budget is taken by a small number of so-called indication committees (Commissie voor Indicatiestelling or Cvi), each responsible for one area of the country and loosely attached to Regional Expertise Centres (REC). All special schools in the Netherlands have been reorganised into four types of Expertise Centres.<sup>108</sup>

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108 European Agency for Development in Special Needs Education, *Assessment Policy report for the Netherlands*, available at [www.european-agency.org/.../assessment.../Assessment-policy-or-practice-that-supports.doc](http://www.european-agency.org/.../assessment.../Assessment-policy-or-practice-that-supports.doc)

Back-pack funding was made available only after a positive decision by the indication committee. If a pupil meets the criteria for a pupil-bound budget, parents and pupil choose a school and take part in all discussions as to how the budget will be used. While the regulations do not force regular schools to place special needs pupils (even if the parents and the pupil request it) only in cases where a school can clearly demonstrate to the inspectorate and parents that it is incapable of providing suitable schooling for a special needs pupil is placement denied.

Despite the attractive 'demand-led' nature of this policy, the Education ministry in the Netherlands has found it impossible to control the number of children being awarded funding and costs have skyrocketed.<sup>109</sup> As a result, the Netherlands is soon to move away from its system of pupil bound funding and is likely to return to the system it operated in the 1990s whereby mainstream and special schools were grouped into regional clusters and funded to collaborate and provide a range of provision.<sup>110</sup>

Under this approach, each of the school clusters was funded equally, based on the total enrolment in education. School clusters can decide to maintain special provision in the former special schools, or to transfer parts of that provision to the mainstream schools in the cluster in one form or another. The key factor is that regular schools participate in decision-making concerning the structure of special education provision. The new funding system enables schools to take the special services to the pupils instead of transferring pupils to these services.<sup>111</sup>

In Florida, the McKay scholarship programme gives parents of children with 'exceptional' needs a voucher with which they can purchase a private education for their child. It has been met with mixed appraisal. One positive result has been that it has led to a decrease in 'mislabelling'. From the point of view of the school, labelling a child as having SEN runs the risk that the child will leave for private provision. Thus, schools in Florida are less likely to identify underperformance as SEN.<sup>112</sup>

On the negative side, academics have argued that the vouchers work at cross purposes with efforts to address major special education problems. Moreover, the vouchers fail to address the problems which beset US special education, and which are strikingly similar to the problems faced by the UK: poor accountability, failure to focus on outcomes, lack of expertise and parental dissatisfaction.<sup>113</sup>

It should be noted also that the McKay scholarship is about access to independent provision rather than introducing market forces to what in England is called the maintained sector. It may be desirable for some children to access independent provision, as they currently do. However, the scholarship programme perpetuates a situation whereby parents perceive that good outcomes can only be achieved in the private sector, forcing children with SEN away from their peers in public (maintained) schools. In this way, the challenge posed by children with SEN is shifted away from maintained schools and therefore the incentive for them to develop their own provision is minimised. As a result, although the programme seeks to aid choice, it limits choice as maintained schools are more likely to withdraw from the market.

109 Grietens, Ghesquire, & Pijl, Toename leerlingen met gedragsproblemen in primair en voortgezet onderwijs. Een Nederlands-Vlaamse vergelijking, 2006.

110 European Agency for Development in Special Needs Education, *Assessment Policy report for the Netherlands*, available at [www.european-agency.org/.../assessment.../Assessment-policy-or-practice-that-supports.doc](http://www.european-agency.org/.../assessment.../Assessment-policy-or-practice-that-supports.doc)

111 Ibid

112 Winters, M and Greene, J, *How Special Ed Vouchers keep kids from being mislabelled as disabled*, 2009

113 Rotherham, J and Mead, S, *Think Twice: Special Educational Vouchers Are Not All Right*, 2003, p. 7.

SNPs are not the same as the Dutch back-pack approach, or the McKay scholarship, but there is a danger that they (or a similar pupil bound approach) would experience similar problems. There may also be particular negative consequences which are more specific to the context of English education. SNPs are designed to introduce market forces to special education, and, one effect might be the proliferation of small, niche special schools. Many would assert that this is intrinsically desirable allowing specialist

“ There are clearly limits to the extent that pupil bound budgets can solve problems with SEN, without creating new problems, or working against certain desirable outcomes ”

settings to develop and hone expertise. This may well be the case, and Chapter 6 will look at how new schools of this sort can be set up within the Free Schools programme in order to meet gaps in demand.

However, under a purely pupil bound system there is a danger that these schools, rather than meeting gaps in demand, would dominate provision and create a fractured market. These schools may not be disposed to sharing expertise with one another or with mainstream schools, or seek to provide options such as dual placements in partnership with mainstream schools. Indeed, in the case of children who may only need a short period of provision in a special school before being transferred back into the mainstream with appropriate support, these small special schools, relying on SNPs for their income, may well have a financial incentive to stop this happening. Such a situation was experienced in Ontario, Canada when they operated a funding system which was heavily reliant on assessing individual needs and assigning children to support categories. This approach has since been terminated but one evaluation suggested that “there was a disincentive for schools to document student improvement as it could jeopardize potential funding eligibility on the part of an individual student.”<sup>114</sup>

Balchin emphasises choice, and rightly so, but if incentives are not built in to the system there is a danger that some parents may only be offered a limited choice of special schools. Indeed, a study of international funding systems by the European Agency for Development in Special Needs Education found that ‘pupil bound’ budgets tended to result in mainstream schools withdrawing from the market for all but the easiest to cater for children.<sup>115</sup>

Moreover, a 2007 PWC report into the market for services for disabled children concluded that special education had a low potential to react effectively to market forces in the form of individual budgets. Other areas were more promising, such as home to school transport, equipment and leisure services. It may be the case that future reforms to education which may continue to ‘marketise’ the system could make the SEN sector more disposed to these forces.<sup>116</sup> For example, in the Canadian provinces of Columbia, Alberta and Manitoba, voucher schemes are used relatively successfully for students with SEN. However, this is within the context of wider voucher schemes through which all children are funded.<sup>117</sup>

There are clearly limits to the extent that pupil bound budgets can solve problems with SEN, without creating new problems, or working against certain

114 Ontario Ministry of Education, *Special Education in Ontario – Closing the Gap as the Overarching Goal: Changing Special Education Practices and Outcomes*, 2008, p. 28, available at [http://www.edu.gov.on.ca/eng/research/specEd\\_AERA\\_CSSE.pdf](http://www.edu.gov.on.ca/eng/research/specEd_AERA_CSSE.pdf)

115 European Agency for Development in Special Needs Education, *Financing of Special Needs Education: A seventeen-country Study of the Relationship between Financing of Special Needs Education and Inclusion*, 1999, p. 157.

116 DCSF, *Market for disabled childrens services – A review*, 2006, p. 126

117 Hepburn, C, R and Mrozek, A, *Let the Funding Follow the Children: A Solution for Special Education in Ontario*, 2004, p. 12.

desirable outcomes. As a result, in notable cases they have been abandoned and one area in which they are still pursued, Florida, arguably produces outcomes which are not consistent with the notion of providing a flexible range of provision put forward earlier in this report.

## Learning from Ontario

One experience of pupil bound budgets (that of Ontario, touched upon above) could prove particularly instructive for developing a new approach to funding high-cost SEN in England. In reforming SEN funding in England, the government should look to Ontario because they have managed to create a funding system which combines an element of pupil bound funding, with other grants to local school boards to develop and maintain provision.<sup>118</sup>

Ontario previously pursued a system whereby local school boards would be funded according to the level of assessed and reported need. Pupils were funded through something called an Intensive Support Amount (ISA).<sup>119</sup> School boards used a set of student profiles to identify the number of high need students enrolled locally. Funding was based on a claim process that reviews these profiles. The total number of identified ISA students were split into two levels (ISA2 worth \$12,000 and ISA3 worth \$27,000). The board's total ISA funding allocation was derived in this manner, and added to the board's funding for low incidence SEN to produce its total Special Education Grant. School boards were required to develop an Individual Education Plan (IEP) for every identified student.<sup>120</sup>

This system was designed to retain the link between assessed need and funding (seen in the approach in the Netherlands and Florida) whilst reducing the incentives to over-identify seen in other pupil bound systems. However, in 2004, it was abandoned after an escalation of high needs funding of 64%, from \$565 million in 2001-02 to \$926 million in 2003-04.<sup>121</sup> Moreover, there was a range of prevalence in different school boards between 1.24% and 9.51% suggesting that despite the independent assessment panels, eligibility criteria was not being consistently applied.<sup>122</sup> Therefore, despite the attempts in Ontario to regulate the ill effects of pupil bound budgets, they could not escape escalating costs.

Nonetheless, the path taken in Ontario since the termination of the ISA scheme could give us an idea of another approach to funding which could realize the aims of the Ontarian model.

Now, in Ontario, school boards are funded based on a combination of their historic funding levels, their total enrolment and a smaller element of pupil bound budgeting. School boards receive five grants:<sup>123</sup>

1. *The Special Educational Per Pupil Amount*

This is calculated on the basis of total enrollment in the school district

2. *The High Needs Amount*

Addresses the cost of providing intensive support for a small amount of pupils with high needs (not allocated to specific students)

3. *Special Equipment Amount*

Covers the cost of an individual students specialist equipment

118 Ontario Ministry of Education, *Special Education Transformation: The report of the Co-Chairs with the Recommendations of the Working Table on Special Education*, 2006, available at <http://www.edu.gov.on.ca/eng/document/reports/speced/transformation/transformation.pdf>

119 Ontario Ministry of Education, *The Ontario Special Education Funding Model*, available at <http://csef.air.org/publications/related/jsef/naylor.pdf>

120 Ibid, p. 6

121 Ontario Ministry of Education, *Special Education in Ontario - Closing the Gap as the Overarching Goal: Changing Special Education Practices and Outcomes*, 2008, p. 27, available at [http://www.edu.gov.on.ca/eng/research/specEd\\_AERA\\_CSSE.pdf](http://www.edu.gov.on.ca/eng/research/specEd_AERA_CSSE.pdf)

122 Ibid

123 Ibid

4. *Special Incidence Portion*

Addresses the cost of providing support to children with exceptionally high needs who require 2 or more full time staff to support them

5. *Facilities amount*

Provides funding for the development of facilities such as mental health or youth custody settings

Canada is still reviewing its system of funding as part of a program of ongoing reforms to SEN more generally. Nonetheless, potential reforms to the way in which high-cost SEN pupils are funded in this country could take an important lesson from the way in which Ontario now approaches matters.

### What a more effective funding model in the UK might look like

As Ontario demonstrates, there is no reason to adopt an all or nothing approach to funding high-cost SEN pupils. Funding does not have to be entirely pupil bound but at the same time there can be an element of needs based funding. Adopting a combined approach potentially reduces the incentive to push for identification, as it is no longer a 'zero sum game' of funding or no funding. This is because local bodies are funded (through grants based on total enrolment) to develop general capacity which they can use to react flexibly to demand in their area. Once again, this approach is supported by the European Agency study of international funding models which argued that an approach which combined elements of pupil bound funding with other, flat rate grants was probably the most effective model. Within this, it also suggested that local bodies should be given freedom to use grants to develop capacity as they saw fit.<sup>124</sup>

The government should be required to determine the level of funding allocated to the high-cost pot. This process should be based on a set of judgments about what the government feels it could and should fund at a higher level, through a separate mechanism from the rest of school funding. Importantly, this requires a degree of political courage from the government as they must face up to the fact that they must take on the role currently held by local authorities in rationing provision.

If central government is to perform this role properly, it must be clear about what it is willing to fund at a local level. It should allocate local bodies a grant to provide for high-cost SEN. This should be either roughly in line with historic allowances for these functions, or following a review process which would seek to identify the broad levels of existing high-cost need in the country as a whole. Local authorities would use the funds to resource specialist provision. A portion of this funding (but not all) should be linked to the national assessment criteria described in Chapter 3. In contrast to the finely grained approach of SNPs, these would be broad bands of provision across need and linked to severity and the cost of provision rather than the nature of impairment.

If, as in other countries, demand for this pupil-bound element of funding does outstrip supply, local bodies would not be able to draw down extra funding (beyond an agreed upon in year flexibility). They would however be able to draw on the capacity built up using the rest of the funding given to them by central government to develop high-cost provision. The provision of grants to local

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<sup>124</sup> European Agency for Development in Special Needs Education, *Financing of Special Needs Education: A seventeen-country Study of the Relationship between Financing of Special Needs Education and Inclusion*, 1999, p. 157.

bodies to develop capacity (not linked to assessed need) would allow local bodies to develop a range of provision which wouldn't necessarily just serve pupils with statements. In Canada, school boards are encouraged to develop Individual Education Plans for children who have not met the requirements of any formal assessment.<sup>125</sup> This would also allow them to work with the Independent Assessment Panels to monitor the outcome of their light touch assessment services and help coordinate programmes of early intervention and advise schools on how best to use their funding for AEN to stop problems developing.<sup>126</sup>

A further consideration should be the notion of 'output' funding, or outcomes based funding. Schools could be effectively funded according to outputs. This is not something which it would be advisable for central government to dictate, however local bodies could use a portion of their funding not linked to assessed need to reward schools for good outcomes as they saw fit. This was noted in relation to early intervention, on page 59.

### Coping with rationing – a third sector funding model

One reason there is dissatisfaction with the current system is that supply does not match demand. Reforming the system so that parents drive decision making will not necessarily solve this problem. In fact, it may make it worse by more clearly highlighting the gap between what is provided and what is demanded.

However, it would be far more productive to view this phenomenon as a potentially positive one. Specialist provision for high-cost pupils is very expensive. Headteachers and teachers would always be able to add more value with extra resources. Clearly, this would be an unsustainable level of funding, but similar disparities will undoubtedly occur in discussions regarding expenditure on high-cost SEN pupils.

In light of this, schools and bodies with responsibility for funding and commissioning provision should actively seek to engage extra funding for the services and provision they offer. This is done by many schools already, and the third sector is particularly active in this area. The approach of one special school, in partnership with a charity could prove particularly instructive.

One mainstream secondary school has developed an innovative relationship with a leading charity in order to secure extra funding, as well as expertise and guidance, for a specially resourced unit for children with severe ASD.

The head of the school told us that he understood that the local authority had limited funds and negotiated a clear agreement with them as to how much funding they would provide. The aim then was to secure the shortfall in funding from the partner charity.

Newly opened, the school is not expected to reach capacity for another five to seven years. It has budgeted carefully for the transitional years as its roll grows and it builds capacity. When full, the special unit will have 50 children. The current projections are that by this time they will be operating with a shortfall of £100,000 a year – or £2,000 per pupil in the resourced unit. They will receive this extra money from their charity partner directly. The money will not be ring-fenced for any specific extra provision but will rather boost the unit's general budget, so as to allow them to use the money as they see fit, to boost staff to pupil ratios or buy in specialist services or therapies.

125 See, <http://www.edu.gov.on.ca/eng/general/elemsec/speced/ontario.html>

126 Systems of light touch assessments have been recommended in Sodha, S and Margo, J, *Ex Curricula*, 2010, p.165; and Wilkins, R, *Learning the Hard Way: A strategy for Special Educational Needs*, 2008, p. 6

The head teacher reported that the process had been relatively painless with no real problems in the relationship between the school and the charity, apart from the stumbling blocks which would be considered perfectly normal in any project. The key to maintaining a healthy and productive partnership was that the school and the charity established very early on where responsibilities lay. Effectively, although the charity is available to provide expertise and guidance, it acts as a funding body. This means that the school retains a strong sense of responsibility for the children in the unit, rather than abdicating responsibility to its partner.

This is one example of the way in which schools access and use money from the third sector to provide an additional level of quality for their pupils. Individual schools should be actively encouraged to seek out these sorts of partnerships and advice and guidance should be developed in partnership with national charities, on how best to develop them.

### Recommendations

- **The government should fund local bodies to commission specialist provision with a grant designed to cover the costs of providing for high-cost pupils.**
- **At a local level this money should be distributed in two ways. A portion of the funding would not be linked to assessed need, local bodies should be free to spend this how they see fit (including on services for children who have not been statutorily assessed):**
  - **Some funding should be ring fenced to provide for statutory assessments. These assessments should be according to consistently applied national criteria and would be grouped into broad bands of funding according to severity or complexity of need;**
  - **Funding should not be linked to finely grained profiles of need but to broader bands of needed, as described in Chapter 4.**
- **Schools and other services should be encouraged to develop relationships with the third sector in order to supplement government funding:**
  - **The government should collect and disseminate best practice on relationships between schools and third sector bodies.**

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# 5

## A Flexible Range of Provision

At the moment (as described earlier) it is local authorities who essentially commission specialist provision for high-cost pupils at a local level. The introduction of a national funding formula, pupil premium and a separate high-cost pot means that local authorities will no longer occupy an intermediate tier between schools and central government, receiving the DSG and reallocating it. This provides an opportunity for re-thinking the role of local authorities in this regard.

It would be possible to simply continue with a situation similar to now, with local authorities commissioning provision, as with school boards in Ontario. Given the appropriate grant, they could then set about providing the flexible of range of provision. However, as the recent Ofsted report has documented, few local authorities have demonstrated an ability to do this: “the pattern of local services had often developed in an ad hoc way, based on what had been done in the past rather than a strategic overview of what was needed locally.”<sup>127</sup> There are two steps which should be taken in order to improve upon this:

- The introduction of a formal regional tier of organisation which could commission for very low incidence needs, monitor local provision and develop and spread expertise; and
- The introduction of contestability at a local level for who should run high-cost commissioning and create and maintain the flexible range of provision.

### The problem of low incidence commissioning

All high-cost SEN is relatively low incidence, as explained in the opening chapter and also requires special expertise and, often, specialist equipment. This is the reason that funds for high-cost pupils should not be delegated to individual mainstream schools according to a formula. The amount of money each school would receive would prove too small for them to build capacity in preparation for the placement of a child with low incidence SEN. As has been found with academies who sometimes receive funds for non-statemented but nonetheless relatively low incidence provision, such as for hearing impairment, schools often spend the money on other priorities instead.<sup>128</sup> Resources for low incidence needs must be allocated in a strategic manner, used to develop services to aid children in mainstream settings and to support capacity in specialist settings.

127 Ofsted, *SEN and Disability Review: A statement is not enough*, 2010, p. 8

128 National Deaf Childrens Society, *Hands up for help*, 2010. See, [http://www.ndcs.org.uk/about\\_us/campaigns/england/hands\\_up\\_for\\_help/](http://www.ndcs.org.uk/about_us/campaigns/england/hands_up_for_help/)

This can be done to a large extent at a local level, although local authorities differ in size and demographics and incidence of SEN. However, local authorities have had difficulty providing for all children, in particular children with the most profound and complex difficulties. This has led to local authorities using expensive 'out of authority' placements in some cases, sending children to non-maintained or independent special schools in neighbouring authorities. This incurs huge expense and is one of the key drivers of the unsatisfactory, adversarial approach taken by some local authorities to the statementing process.<sup>129</sup>

There have been attempts to deal with this issue, in particular with recourse to regional commissioning. This was a particularly clear message in the last audit of provision for low incidence needs which followed the government's SEN strategy, *Removing Barriers to Achievement*.<sup>130</sup> It concluded that there were a number of functions which could be operated, potentially, at a regional level.

### 1. Strategic role:

- Regional mapping – highlighting gaps
- Regional planning – jointly commissioning and addressing gaps in provision
- Monitoring quality/consistency

### 2. Provision of specialist services:

- Specialised assessments (using specialist technology approaches not routinely available)
- Specific sessional provision (therapeutic inputs or child/family leisure activities with peers with similar disabilities)
- Full time education/respite for severe or complex needs
- Running a resource centre for professionals and parents to try out and borrow specialised equipment
- Specialist outreach services

### 3. Development and training:

- Research and development
- Co-ordinating training
- Support networks

The national audit looked at the possibilities for developing regional capacity in these areas as well as at existing arrangements for regional commissioning and provision. It found that some SEN Regional Partnerships were already doing work with regards to regional mapping, planning and monitoring. It also found that some third sector groups such as the National Autistic Society are interested in developing regional specialist services, supporting local provision.<sup>131</sup> Finally, there were also examples of universities providing centres of expertise and training, such as the University of Birmingham which served the West Midlands in this capacity.<sup>132</sup>

The national audit was particularly interested in the notion of Regional Centres of Expertise, and how they might be designed in order to fulfil some of the roles mentioned above. The focus, rightly, was on the way in which regional forms of organisation could support and develop local capacity.<sup>133</sup> This was in the context

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129 Audit Commission, *Out of Authority Placements for Special Educational Needs*, 2007. P. 38

130 Gray, P, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, 2006, p. 93.

131 Ibid, p. 82.

132 Ibid, p. 83

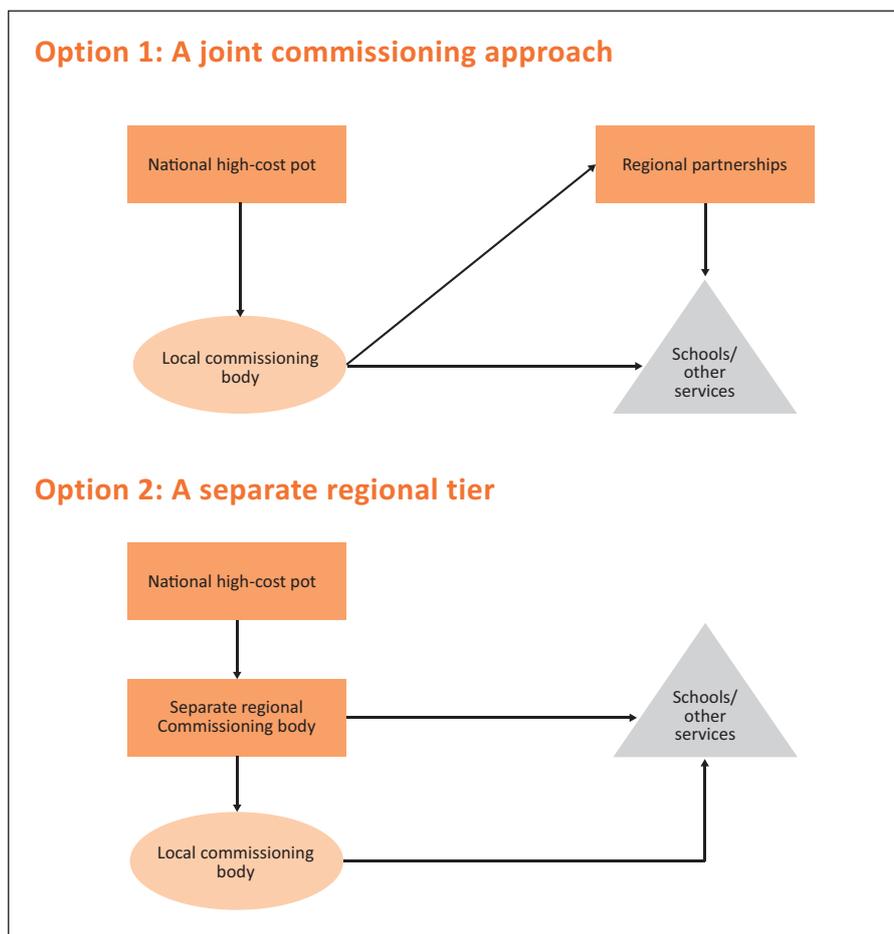
133 Ibid, p. 84

of funding for high-cost pupils being given to local authorities as part of the DSG, so the focus of discussion was on issues such as regional partnerships and joint commissioning by groups of local authorities.

However, the high-cost pot and the fact that local authorities would no longer be in a position to re-direct schools' funding under the model proposed in this report offers a clear opportunity to provide something more formal and potentially more effective on a regional basis.

A review of international financing models found that models which combined a regional and local element were often successful at allocating resources fairly and efficiently. He argued that regional decision making enhanced cooperation and responsibility although he did emphasis that a balance needs to be found between different ways of deciding how funding is allocated – input measures (funding according to reported needs) and a need to fund regions equally to deliver a specified service.<sup>134</sup>

Broadly, there are two options for a regional tier in financing and providing for high-cost SEN:



There are advantages and disadvantages to both options. However, Option 1 accords more strongly with the views expressed by local authorities and other practitioners when asked by researchers developing the national audit of low incidence needs. It allows local needs to drive decision making more clearly and for local bodies to decide more flexibly what needs should be met, how and

134 European Agency for Development in Special Needs Education, *Financing of Special Needs Education: A seventeen-country Study of the Relationship between Financing of Special Needs Education and Inclusion*, 1999, p. 157.

where, via a regional approach. It would also build on earlier experience in the form of SEN Regional Partnerships which operated in the early part of this decade and were successful in driving up performance and developing innovative approaches.<sup>135</sup> These Regional Partnerships have since been replaced with SEN Regional 'Hubs' which perform a similar function. However, these hubs have placed more of a focus on disseminating expertise and, in particular, driving forward national priorities such as the National Strategies. The partnership approach should be returned to. An evaluation of Regional Partnerships in 2006 made recommendations which would move towards the role of partnerships being more formal within this system.<sup>136</sup> We would recommend that the government return to Regional Partnerships and give them a more formal role in the system with specific responsibilities. The partnership could have specific, pre-determined responsibilities. For instance, it may be charged with commissioning provision for a particular group of children such as those with high functioning autism. This would have the merit of geographic consistency in terms of whether decisions are made locally or regionally. It would also allow for a situation whereby the regional tier could effectively monitor local developments and hold local bodies to account for the standard of their provision.

### Local contestability

Local authorities may remain in the best position to commission local provision, utilising their expertise, experience and existing infrastructure. However, making contracts to run local services contestable may serve to drive up performance as well as introducing a further mechanism of accountability for parents. Other potential providers could bid to run high-cost services in their local area. These providers may well be private companies, charities or even schools, clusters/federations of schools or academy chains.

At the moment local authorities can outsource certain functions to private or third sector organisations, however this will be done on their own terms. Introducing contestability would challenge the local authority to innovate and improve its approach. It would also allow third sector and private organisations to utilise their expertise more directly if they won a bid to run local services. Importantly, a further layer of parental choice could be introduced by allowing parents to exercise influence over who runs local provision through Parent Partnership Groups. These groups would be a representative body for parents of children with SEN and would need to be consulted during the bid process for running local services. They could also have the power to call for a local provider to be inspected if they were deemed to be ineffective, failing to deliver choice or failing to respond to parental demand.

Currently, local areas are required to run statutory Parent Partnership Services (PPS) which offer information, advice and support to parents and carers of children and young people with SEN.<sup>137</sup> Parent Partnership Groups could be created by building on the infrastructure already in place through PPS.

These services have a role in making sure that parent's views are heard and understood and that these views inform local policy and practice. Currently a variety of organisational forms exist, some are based with voluntary organisations whilst others remain within the local authority or Children's Trust. All services are

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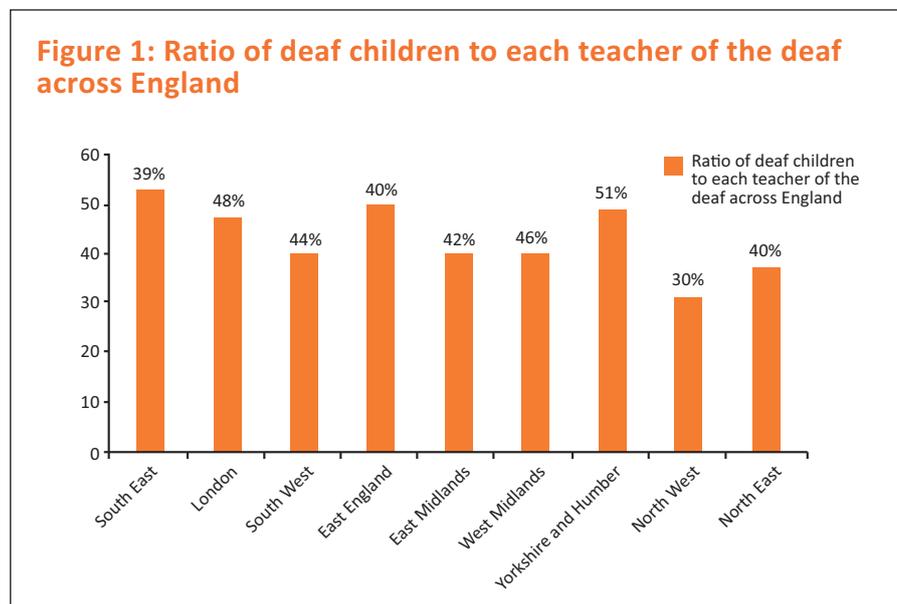
<sup>135</sup> Fletcher-Campbell, F, Chamberlain, T and Smith, P. *Evaluation of the SEN Regional Partnerships*, 2006, p. 30.

<sup>136</sup> Ibid

<sup>137</sup> See, <http://www.parentpartnership.org.uk/>

operated at arms length from the local authority but if parent partnerships are to play a core role in deciding who runs local provision they need to be fully independent. This means they need to be funded separately. Using the mean per pupil spend on PPS in 2004, this would require a national spend of around £13 million, to provide grants to local Parent Partnership Groups.<sup>138</sup> This money could be found from within the grants to local authorities (who currently pay for PPS), and would not be at extra cost to the department.

Parent Partnership Groups could provide a key layer of accountability on a more regular basis than the system of audits described in Chapter 2. The inconsistency of assessment decisions and the related inconsistency of provision between local areas was identified as a major problem with high-cost SEN provision in Chapter 5. Whilst providing nationally consistent assessment bands of funding, as part of a package of funding given to local bodies, would go some way towards solving this, it would not ensure complete uniformity. Indeed, this would not necessarily be desirable. As was noted in the criticism of the rigidity of SNPs, there is not necessarily one right way of doing things. However, there remains a need for parents to draw attention when they feel provision is inadequate, and one way in which they can do this is by comparing the practice with other areas. The National Deaf Children's Society (NDCS) recently conducted an exercise of this sort. The graph below shows the ratio of teachers of the deaf to deaf children across England. Above each bar is shown the percentage amount by which deaf children in that area are less likely to achieve the expected level at GCSE.



Parent Partnership Groups should have access to this sort of information regularly so as to provide an important layer of accountability at a local level. This should mean that local bodies tasked with commissioning provision would be required to publish information in a nationally consistent manner so as to allow comparison. This information should feed into the less regular, full national audits.

138 Rogers, R et al, *Evaluation of the Special Educational Needs Parent Partnership Services in England, 2006*, p. 22

### Specialist schools – regional centres of expertise and school cooperation

The future role of special schools in their local communities should be determined by the schools themselves in partnership with the body which plans provision in their locality. There should be little room for any degree of national prescription regarding their role. Having said this, there is a need to ensure that progress made in recent years in placing special schools at the heart of their community of schools is not lost. In the past, there has been a danger that special schools are segregated from other schools, seen as outsiders offering niche provision, not relevant to the mainstream. Nothing could be further from the truth. One of the most strikingly encouraging developments in recent years has been in the way in which special schools, mainstream schools and local authorities have developed an array of innovative partnerships in order to drive up attainment.<sup>139</sup> These partnership arrangements might involve special schools delivering services such as one-to-one tuition directly to the mainstream and often involve teacher training and the dissemination of expertise and research. Schools have also done a great deal to develop more flexible forms of placement, such as dual placements with a mainstream partner, supervised placements in the mainstream (particularly in early years settings), and models such as co-location and satellite units in the mainstream. As stated above, it would be unwise to attempt to be prescriptive regarding the precise model for these relationships. However, it should be clear that all special schools are expected to perform a key role in their local community of schools, with Ofsted reporting on this role.

#### Specialist Schools

There are existing arrangements which do formalise the role played by special schools in their local community of schools. Special schools have the option of attaining specialist school status, with a primary specialism in a particular area of SEN.<sup>140</sup> In order to achieve this they must develop their relationship with, and be strongly involved in driving up SEN attainment in a 'family of schools'. Specialist schools can be seen as one model amongst many for the relationship between special schools and mainstream partners and the current ones should remain, but there are doubts as to what extent adding new specialist schools would continue to add value.

It was announced prior to the Comprehensive Spending Review that funding for specialist schools would no longer be ring fenced but rolled into the DSG.<sup>141</sup> We recommend that a portion of this funding that might have paid for more specialist SEN schools should instead be redirected in to the high-cost pot to enable local bodies to develop the outreach and partnership working of all special schools and specialist provision in their area.

Finally, specialist schools tend to have developed independently of broader plans for local and regional provision and so existing ones should endeavour to ensure that their work contributes to the broader attempts of local and regional bodies to develop a flexible range.<sup>142</sup>

#### Regional Centres of Excellence

Regional Centres of Excellence (RCEs) have at various times been seen as the holy grail for SEN. We have argued that there should be a regional tier in administering, planning and commissioning funding for high-cost SEN. In the past, some have suggested that RCEs could be specialist providers as well as offering assessment services and commissioning for low incidence needs.<sup>143</sup>

<sup>139</sup> For example, see DfE, *Report of the Special Schools Working Group*, 2003; and DCSF, *Breaking the link between special educational needs and low attainment: Everybody's business*, 2010,

<sup>140</sup> See, <https://www.ssa-trust.org.uk/teachingandlearning/networks/specialschools/Pages/default.aspx>

<sup>141</sup> See DfE Announcement 20th October, available at <http://www.education.gov.uk/intenews/inthenews/a0065472/michael-gove-announces-changes-to-the-specialist-schools-programme>

<sup>142</sup> Gray, P, *National Audit of Support, Services and Provision for Children with Low Incidence Needs*, 2006, p. 103

<sup>143</sup> *Ibid*, p. 38

We believe it would be best that the regional body would not also be a school or provider but that one of its roles should be nominating and funding RCEs. RCEs could be special schools, mainstream schools or a cluster of schools working together to provide for certain groups of children. Regional partnerships should be free to pursue an approach to RCEs which suits them – one potential model might be to have an RCE for each area of impairment in each region. This would follow practice in countries such as the Netherlands, Canada, Sweden and Finland who all have regional schools for certain areas of impairment, sometimes called ‘demonstration schools’, which drive research and expertise and develop new and effective interventions.<sup>144</sup>

These RCEs could be providers which benefit from regional commissioning or they could be ordinary schools commissioned at a local level. They should be singled out for their excellence and their willingness to deliver a sustained programme of outreach across the region. They would also need to be able and prepared to conduct research, working where appropriate with Higher Education Institutions (HEI’s), particularly those HEIs which provide Initial Teacher Training. The money to pay for RCEs could be funded from a small voluntary top slice on local high-cost SEN budgets. Regional partnerships could even broker an arrangement whereby a small sum from the per-pupil amount for every child with a particular impairment would be donated to pay for the RCE. As with SEN specialist schools now, regional bodies could offer to match funding raised by the centre itself, rather than fund it in its entirety.

In Chapter 4, it was argued that schools should be given advice and guidance on how they can develop partnerships with charities in order to boost their income. Regional Partnerships could also consider the possibility of third sector partnerships on a larger scale. This may involve a charity or a number of charities contributing to the overall pot for high-cost pupils at a regional or local level. The per-pupil amount given to schools could increase in proportion to the additional funding raised. There are numerous ways in which third sector money can be raised, as well as utilising their expertise and commitment. Each area, school and region will want to do this differently. Nonetheless, regional partnerships, as part of their general approach to ensuring that there is an adequate supply of good quality provision in local areas, should monitor progress made by schools and local bodies in attracting and utilising third sector funding and support.

## The parental experience

The experience parents have of the SEN system has been an underlying theme in many of the discussions so far in this report, and has been touched on explicitly in certain areas, most extensively in relation to developing a better vision for inclusion. Here we argued that a commitment to inclusion should entail providing a flexible range of provision at a local level and present parents with a choice of providers and placements, along with detailed information on the outcomes to be expected for their child. It was also asserted that the Code of Practice, which currently regulates placement decisions and the role of parental choice in this process, should be amended to reflect a right to an inclusive

<sup>144</sup> See International Review of Curriculum and Assessment Framework (INCA) Country reports, available at <http://www.inca.org.uk/>

education, as opposed to a right to a mainstream placement. This reflects an understanding of inclusion which centres around the quality of education children receive, and not the place in which they receive it.

However, it is important to remember that the Code of Practice contains far more than just the current prescription regarding mainstream placements. In particular, as Brian Lamb explained, it offers a useful approach to the relationship between parents of children with statements and the local authority (or other local provider, as the case may be).<sup>145</sup> This partnership approach, combined with good quality information and support, is highly valued by parents. The problems of recent years, characterised by increased appeals to SENDIST were, according to Lamb, a result of the failure of local authorities to properly enact the process described in the Code of Practice, rather than fundamental problems with the process itself.<sup>146</sup> Indeed, parents' complaints with regards to the process were in the vast majority of cases based around a lack of information and support, as well as the attitudes of local authority officers.

Lamb recommended that the 'core offer' described in *Aiming High for Disabled Children*, given to parents of disabled children, including their right to expect services to deliver information; transparency; assessment; participation; and feedback should be extended to encompass all parents of children with statements of SEN.<sup>147</sup> This would help alleviate many of the core problems with the system as it currently exists, improving engagement with parents and children, making language in statements more specific and less jargon-filled and providing more detail with regards to the specific needs of the individual child. Lamb also focused on the vital importance of an ongoing, structured conversation with parents, the local authority and schools. This would involve regular monitoring of a child's progress to contribute to a meaningful annual review.

Of course, Lamb envisaged this process occurring in the context of the current system. However, there is no reason to expect that in a system whereby local bodies are charged with developing a flexible range, that the process would be any less effective. The aim should be that for every child with a statement issued by the independent assessment body, the parent should be presented with a range of choices. This would constitute the beginning of an ongoing and structured conversation with the child's parents as to what is best for that child's needs.

Although there should not be rigid rules for what choices should consist of, it would not be fair to argue that parents would be presented with a real range of choice if this range did not include at least one variation on a mainstream placement: for example a dual special/mainstream placement or a place in a resourced mainstream unit. Therefore choices should include at least one of these variations. Each choice would be accompanied by clear, easy to understand information on the past performance of the school or type of provision for children with similar characteristics, with reference to a number of different indicators.

The independent assessment panels recommended in Chapter 3 could play a key role in this process, especially if they also acted as a 'hub' for other services to work together to develop a team around the child as suggested.

In performing this role they would be well positioned to provide a core point of contact for parents, using a key worker approach.<sup>148</sup> The independent assessment panel could guide parents through the decision making process and would be well suited to explaining the value of certain placements to parents.

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145 DCSF, *Lamb Inquiry: Special Educational Needs and Parental Confidence*, 2009, p. 61

146 *Ibid*

147 *Ibid*, p. 41.

148 Boddy, J, Potts, p, Statham, J, *Models of good practice in joined-up assessment: working for children with 'significant and complex needs'*, September 2006

Parents would be likely to appreciate and value their independence. The assessment panels would also be well placed to act as a further advocate for parents' and childrens' needs by maintaining a dialogue with the local commissioning body, advising it on how best to design its provision to meet local needs.

### Accountability for specialist provision

Specialist provision for children with SEN cannot be measured in the same way as standard provision in mainstream schools. Whilst all schools should strive to 'personalise' their approach where appropriate, it is nonetheless the case that their performance should be measured against objective criteria. These criteria should be a combination of raw attainment measures (exam results or expected levels of attainment at key stages) and measures of progress made. As detailed in the introduction, progress measures are even more important for children with SEN who may not be capable, or may find it significantly more difficult to reach certain levels of attainment. The government should continue to work with special schools and other groups to ensure that the measures of academic achievement of children with SEN are fair and accurate.

On the whole schools report that P-scales – which are a method of measuring children's attainment below Key Stage 1 – work effectively in measuring the work of special schools with some children.<sup>149</sup> However, there is also a sense that some of the work which specialist providers do is not recognised by traditional indicators or by Ofsted inspectors. One teacher told us that for a child with Profound and Multiple Learning Difficulties, a significant measure of progress might be the development of the ability to blow their own nose. However, this would not be measured by official criteria. For other children, such as those with autism, schools may spend a great deal of time preparing children for later life and developing functional life skills – such as being able to go to the shops. Parents and children value this sort of work highly, as was shown in the recent Ofsted report which found that they wanted: "*successful relationships and friendships; independence...and the opportunity to work.*"<sup>150</sup>

It is important that the role of special schools and other specialist providers is not seen as one of 'caring'. They must primarily be involved in teaching and learning, like any other educational setting or provider. At the same time, it would not be right to ignore some of the less understood work that they do. However, as yet there have not been any significant proposals for how this work can be adequately measured in the same way that academic attainment is. There may well be room to improve P-scales but on the whole, it would seem that schools would be held more effectively to account for this sort of work by parents themselves. Therefore, information accompanying placement choices presented to parents could include parental testimonies, and testimonies from the children themselves, on the wider support provided by certain placements.

If a parent rejects the choices available to them and expressed a preference for another school this should be explored by the providing body. If this preference is considered unfeasible the parent must be told clearly why this is the case, making reference to the broader strategies which have been developed to provide a flexible range and why the original choices are able to offer a better quality of education than the parent's preference. This happens in Ontario where mainstream schools are not forced to take on children with SEN.<sup>151</sup> However, they

149 DfE, *Report of the Special Schools Working Group*, 2003

150 Ofsted, *The special educational needs and disability review: A statement is not enough*, 2010, p. 7.

151 See, <http://www.edu.gov.on.ca/eng/general/elemsec/speced/ontario.html>

must provide a detailed explanation of why they believe themselves incapable of providing adequate support and provision. If the parent is still not satisfied they can take recourse to the SENDIST, as they can now.

## Recommendations

- The government should introduce a formal regional tier of commissioning to address the problem of very low incidence commissioning.
- This regional body should nominate and fund Regional Centres of Expertise:
  - RCEs could be funded through a number of means: a top slice on local budgets; a voluntarily agreed upon top slice on the per pupil amount for children with certain impairments; matched funding on the model of specialist schools.
- Regional bodies should consider the possibility of third sector partnerships on a wider scale to supplement regional and local funding and draw on expertise.
- Regional bodies must also maintain a role in monitoring the performance of local bodies commissioning provision as well as being involved in developing audits of achievement, provision and expertise described in Chapter 2.
- At a local level – the role of commissioning services for high-cost pupils should be open to providers other than the local authority
  - There should be a bidding process to decide who provides at a local level;
  - Independent Parent Partnership Groups should play a core role in deciding who runs local provision as well as holding services to account.
- Funding that might have been provided for more specialist schools should be used to aid local bodies in developing the work of all special schools and other specialist settings in conjunction with the mainstream. Existing specialist schools should remain as beacons of expertise.
- The government should build on the recommendations made by Brian Lamb regarding the experience of parents whose children receive statements and the way in which they are guided through the statutory process and remain constantly engaged in their child's education.
- Parents of children with statements should be offered a range of choices of placement:
  - Each choice must be accompanied by easy to understand information on the past performance of the particular schools or settings compared to one another, for children with similar impairments and levels of need;
  - This information should include parental testimonies on the performance of schools and settings in areas which are less easily measured;
  - Parents should be guided through this process by the independent assessment panels.

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# 6

## Special Schools

There are a number of issues and areas of opportunity with regards to special schools that are worth highlighting. It is important that the general reforms proposed in this report do not militate against the progress made in some areas in recent years. The first area is greater co-location of special schools with mainstream sites, an exciting opportunity that should be available for those that value it. Secondly, it is vital to explore the way in which special schools fit into the broader context of school reform and the drive towards greater levels of school autonomy in the policies on academies and Free Schools.

### Co-location

One person we spoke to during the research for this project described co-location as “the most exciting national educational initiative that I have been involved in for a long time.” This is a sentiment shared by many of the heads of special schools and mainstream schools who have been involved in co-location projects.

#### What is it?

Co-location is where two schools, a special school and a mainstream school, share the same building. From this basic starting point there is a significant degree of variety in almost all facets of organisation and detail. Some schools place special classes directly alongside the mainstream, others operate in separate areas of the building. This second model is sometimes described as ‘two schools under one roof’.<sup>152</sup>

The key difference between co-location and arrangements whereby mainstream schools are resourced to provide a specialist unit (which will also be on the mainstream site) is that in the case of co-location, whatever the extent of co-operation between the two schools, they remain separate entities with their own governing bodies, financing and admissions.

#### What are the benefits?<sup>153</sup>

- **Social:** This is the area which has, to date, proven to be one of the most beneficial in co-location projects. The most immediate benefits derive from the greater proximity between mainstream pupils and those in the special school and the opportunities for social integration and interaction which arise as a result. Although it was argued in Chapter 2 that social inclusion should not subsume or take precedence over educational inclusion and access to a high quality and appropriately differentiated curriculum, it is nonetheless a valuable aim if

152 Gordon, P, *Opening doors, opening minds – exploring co-location as a route to inclusion*, 2006, p. 4

153 The following discussion of the benefits of co-location comes predominantly from discussions with schools and local authorities with experience of the policy and practice in this area.

attainable. In the case of co-location, interaction between two groups occurs as a result of the shared use of certain areas. These areas differ from school to school. In some schools it may just be the traditional communal areas such as the dining and assembly halls, in other schools all children will use the same corridors and will only be in separate settings when there is a need to use different classrooms. Staff rooms will almost always be shared use. The results indicate far less prejudice on the part of mainstream children towards their counterparts in the specialist provision and less bullying.

- **Educational:** One important issue to come out of our discussions with schools that had co-located was that it was felt that not enough academic research had been done into the effect on attainment for pupils in both schools, although all those we spoke to were clear in their belief that co-location had driven up attainment, in particular for low achievers in the mainstream school. There are a range of opportunities and innovations which co-located schools can adopt which have the potential to drive up attainment and boost educational outcomes:
  - Mainstream schools can help special schools with subject specialist knowledge. Special schools are by nature small and co-location offers them a fantastic opportunity to broaden their curriculum offer;
  - Special schools can offer a range of expertise to boost the attainment of low achieving children in the mainstream, in particular, children who may have behavioural issues. One mainstream head teacher we spoke to told us that he would not have been able to provide adequately for an autistic child who was placed in his school without the assistance of the teachers in a co-located special school;
  - Some schools have explored opportunities for a joint curriculum targeted at the lowest achievers in the mainstream and the highest achievers in the special school;
  - Schools can access one another's facilities which can be of great benefit to pupils in specialist provision, in particular in relation to vocational subjects and PE; and
  - Co-location gives the option for pupils from the special school to spend parts of lessons in the mainstream. Where schools are on separate sites transport costs may be too high and pupils will instead spend the whole lesson or part of the day in the mainstream. This can be counterproductive, for example in the case of a child with high functioning autism who might have difficulty concentrating for more than 20 minutes.
- **Finance:** There are potential economic efficiencies to be made as a result of co-location including on utilities bills but particularly on administrative functions such as business management and payroll. Moreover, both schools can access one another's facilities without having to pay for costly school-to-school transport.

#### What works best?

If an expansion of co-location projects is under consideration, it is important to try and understand what works best in what is a varied sector.

In the first place, it is worth investigating whether or not co-location works better or worse in certain circumstances, or for certain types of schools. Those we

spoke to generally argued that the variation in organisation and approach taken by schools was a reflection and recognition of their different circumstances. In other words, they adapted their approach to co-location according to the nature of the schools involved. On the whole, teachers we spoke to felt that it could be achieved in most cases.

The general view was that in the short term, existing schools for Visually Impaired or Hearing Impaired children may prove the easiest targets for new co-location projects, with pupils with behavioural difficulties the hardest to accommodate, because their behaviour made them particularly unsuited to the mainstream environment and they were likely to have already had very unsatisfactory, negative experiences of mainstream schooling.

Another point emphasised in discussions was the importance of preparing mainstream children for the arrival of a new set of pupils, as well as preparing the parents of children from both schools. A final, very strong emphasis was placed on the importance of staff working together. It was felt that this was where the strongest educational benefits could be gained, from constant communication between staff so that the sharing of expertise would be seamless. One school told us that they had fostered this by having buddy systems or mentoring, not only between children, but between teachers.

We heard different points of view on the virtues of various governance models. However there was a clear sense that keeping the schools separate (with separate heads) was favoured and all schools we spoke to emphasised the importance of having some representation on or relationship with one another's governing bodies.

The general theme was that co-location, although challenging like any form of co-operation between institutions, was not hard to get right provided both parties worked together and developed a relationship built on trust and mutual respect. There was no sense that one approach worked better than another, as long as the process was sensibly managed.

In terms of buildings themselves, again it would seem that different arrangements worked for different schools, although there were some issues about specific approaches to the design of buildings. Some argued that complying with the requirements of the Disability Discrimination Act did not ensure that schools were properly prepared for children in the special school. One example given was that of lifts: although lifts are mandatory, they may not be of particular use if they are not big enough to carry children and their support assistants and any relevant equipment. On the other hand, one person told us that they had visited a recently built co-located school which was far bigger than it needed to be because the building bulletins regarding floor space were based on the needs of children with impairments which meant that they needed a lot of room. She questioned whether or not every single room or space in the school needed to be accessible to every single child. Policy Exchange previously argued for the relaxation of building bulletins in the design of new school buildings. Whilst all schools should of course be DDA compliant, we believe that a good working relationship and understanding between special schools and mainstream partners would be enough to ensure that buildings would be adequately designed. Schools looking to co-locate should have access to evidence of best practice with regards to building design in other co-located schools.

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### Funding co-location projects

Many, though not all, of the co-located schools which are currently open were funded through the government's school capital programme Building Schools for the Future (BSF). However, fewer special schools benefited from BSF funds than ought to have, partly because special schools were seen as more challenging and were put to the bottom of the pile. It is also possible that local authorities were reluctant to invest in special schools whilst either being unsure of their future role, or actively planning for their eventual closure. Given the large cuts to the BSF programme as a result of the Coalition's drive to cut the budget deficit, it would appear special schools may have missed out on an era of plenty in capital grants to schools.<sup>154</sup>

However, a lack of abundant capital grants should not stop schools seeking to improve their buildings and there are other potential routes to financing projects such as co-location. For example, Barnet council managed to make the best use of its land assets and as a result funded an ambitious programme of building renewal for the schools in the area, without access to any BSF funding at all. They also did this in the context of year on year budget cuts to the local authority in the mid 2000s.<sup>155</sup> Many schools achieved significant improvements, including complete rebuilds. As part of this there were two separate co-location projects: the co-location of Northway Special School and Fairway School and the co-location of Colindale School with the Acorn Assessment Centre. Barnet raised the funds for its programme through different sources including the capital receipts from the sale of surplus school land, government grants and other local authority revenue streams. The council ring fenced the capital receipts from the sale of surplus

school land to pay for their investment in new school buildings.

At the same time, as more schools attain academy status, an approach such as that taken in Barnet will be made harder as the local authority will not be in as strong a position to coordinate the sale and acquisition of land. In light of this, the government should consider funding a pilot scheme involving a

number of academies from within the £15.8 billion allocated to schools capital spending over the next five years. The pilot would need to be focussed on schools recently converted to academy status that did not benefit from BSF new builds and in the same local authority area. The government could provide money for the costs of procurement and other services which the group of schools would need to purchase from the local authority. It could look to places such as Barnet and other areas such as Islington to estimate the costs needed. In Barnet for instance, the cost of procurement was estimated at £1 million. Assuming the pilot would be on a far smaller scale, but the government would be funding more than just procurement services, it may need funding of around £500,000. This could be done through BSF. Whilst the government should not be in a position to dictate nationally what forms of provision should be developed, this particular pilot would clearly be aimed at developing expertise and best practice with regards to funding co-location projects. Therefore the pilot should include at least one co-location project.

“ The requirement to work in partnership with a local body in providing a flexible range of provision should not be considered an obstacle to significant freedoms over the curriculum, finance and admissions ”

154 See DfE Press Notice, 5th July 2010, available at <http://www.education.gov.uk/schools/adminandfinance/schoolscapital/funding/bsf/a0061486/overhaul-to-englands-school-building-programme>

155 Barnet Council cabinet report – <http://www.barnet.gov.uk/index/education-learning/schools-colleges/first-class-schools.htm>.

It may also be possible that in cases where responsibility for high-cost provision is awarded to a body other than the local authority that they may be equipped to provide support for rebuilding projects. In any case, they would of course need to be consulted as part of any plan to go ahead with co-location, in order that it would be consistent with their plans to develop a flexible range of provision at a local and regional level. Local and regional bodies may be well-placed also to coordinate any fundraising which may be needed to pay for additional costs of building programmes not found through the sale of land.

Furthermore, despite the impressiveness of the Barnet approach, there is no reason that co-location must be achieved within the context of such an ambitious programme of rebuilding. One approach could involve a relatively simple partnership between two schools in which one school sells its land to pay for part of the cost of the new building.

The £15.8 billion to be spent on schools capital projects over the next five years will be prioritised on 600 projects already planned, the Free Schools programme and essential maintenance and refurbishment.<sup>156</sup> We recommend that as well as the £500,000 earmarked above for a pilot scheme to develop new ways of funding co-location and other building projects, there should be a dedicated fund for projects which co-locate special and mainstream schools. It is understandable that beyond existing commitments, it will be difficult to find money from within the capital budget to pay for this, but any money which does remain once existing commitments and new schools are funded should be prioritised to fund these projects, given the fact that special schools have not only done relatively badly out of BSF, but that their buildings have been historically neglected.

## Special academies and Free Schools

The Coalition government's education policy has been strongly focused on the value and efficacy of school autonomy. Although wider reforms are yet to come, the new government made it a legislative priority to pass the Academies Bill this summer. This Bill allows all schools to apply for academy status, and fast-tracks schools which have been judged outstanding by Ofsted.<sup>157</sup> Initially, this offer included special schools. At the same time, the government has also made it possible for parents, teachers and other groups to set up their own academies (Free Schools) in response to local demand. In theory these schools could be special schools. However, there are problems with these two developments, and the government's initial decision to postpone special schools' access to academy status is a direct recognition that there are complex issues to resolve.<sup>158</sup> Special schools will now be able to convert in January 2011. Nonetheless, there are still challenges to overcome.<sup>159</sup>

There needs to be an acceptance that special schools are different kinds of schools. This does not mean they cannot be afforded important freedoms, it merely means these freedoms will not look exactly the same as those for mainstream academies. The requirement to work in partnership with a local body in providing a flexible range of provision should not be considered an obstacle to significant freedoms over the curriculum, finance and admissions. Importantly, the government ought not to forget that there is an excellent model in existence already for special schools with important freedoms. Non Maintained Special Schools have been operating with these sorts of freedoms for decades. Lord Adonis was partly inspired by the case of Non Maintained Special Schools when drawing up New Labour's initial academy plans.

<sup>156</sup> HM Treasury, *Spending Review 2010*, 2010, p. 41.

<sup>157</sup> For the Academies Act, see [http://www.legislation.gov.uk/uksi/2010/1937/pdfs/ukxi\\_20101937\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/1937/pdfs/ukxi_20101937_en.pdf)

<sup>158</sup> See, DfE Academies FAQs, available at <http://www.education.gov.uk/schools/leadership/typesofschools/academies/academiesfaq>

<sup>159</sup> DfE Press Notice, 17th November 2010, available at <http://www.education.gov.uk/schools/leadership/typesofschools/academies/a0068006/academy-model-extended-so-every-school-can-benefit>

Academy schools have three key areas of freedom:<sup>160</sup>

1. They are funded centrally, rather than through the local authority. These means they receive more funding than maintained schools, as they receive a portion of funding which would in normal circumstances be retained by the local authority to pay for certain services.
2. They have freedom to set their own admissions criteria. Whilst they are bound to comply with the Schools Admissions Code, academies are also their own admissions authority which means that they have the right to choose their own criteria in cases of oversubscription. Academies are also specialist schools which means that they are permitted to select up to 10% of their pupils on the basis of aptitude for the academy specialism.
3. They also have freedom to depart from the national curriculum allowing them to deliver a more flexible curricular offer.

The first area of freedom, funding, presents the core problem for making special schools academies. Funding special schools centrally makes little sense. Under the current funding system, for a special school to be funded nationally, there would need to be a completely separate system created for assessing, planning and funding places in centrally funded special schools, distinct from that for maintained special schools. It is difficult to see how this would work, and easy to see the potential problems that this could cause on the ground: Which children would be considered outside of the normal local processes and part of the national funding process and why? This would inevitably involve central government making potentially highly contentious decisions regarding local provision for high-cost pupils.

Whilst in the case of mainstream schools, there can effectively be a parallel system of funding for academies and for maintained schools, this is not possible for special schools. Currently, special schools must have a link with the local authority which effectively commissions school places and other services for children with high-cost SEN. Under the proposals set out for reform in this report, special schools retain this local link (albeit not necessarily with the local authority).

However, it is still possible to give special schools significant freedom over how they spend their money. Our proposed reforms to funding for high-cost pupils would mean that a portion of special schools funding would be a nationally set amount for each pupil they admit, according to their assessment. This would further reduce the scope for local authorities to influence special schools by virtue of their holding the purse strings. Moreover, how to spend the extra funding given by local authorities to schools (beyond the pupil bound element) to build and maintain capacity to provide for high-cost pupils in the area should be entirely up to the schools themselves.

Some of the most important freedoms for academies have been with regards to the curriculum, as schools have been free to innovate and develop new and effective approaches to learning which suit their pupils needs.<sup>161</sup> There is no reason why special schools could not be afforded the same freedoms in this area as mainstream academies. Schools would value the ability to pace their provision and change the structures of their schools to reflect changes to the way the

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<sup>160</sup> Fazazkerley, A, Wolf, R and Massey, A, *Blocking the Best: Obstacles to new, independent state schools*, 2010

<sup>161</sup> See for example the innovative curriculum model at the JCB Academy, <http://www.jcbacademy.com/>

curriculum is approached. They would also like to be more in control of the targets set for certain pupils, particularly in the early years where they often feel that targets are unrealistic. It would also give them more freedom to introduce non core curriculum subjects – perhaps with a vocational bent – which they feel may benefit their pupils more widely. In comparison to these freedoms, concerns about where the money comes from should be far less of an issue.

### Free Schools

The Academies Bill was also designed to make it easier for new schools (which would also be academies) to be set up and to compete for public funding.<sup>162</sup> New schools or Free Schools are a highly promising opportunity for schools reform, introducing new providers and contestability in the system can drive up standards, whilst also giving parents and teachers the opportunity to directly influence education.

Free Schools are also academies. Therefore, parents, teachers or other groups would at the moment be unable to set up a Free School which was also a special school. However, it is vital that the same opportunity exists to introduce new providers for children with high-cost needs, as for children with mainstream needs.

In this case, it is important to recognise that although special schools cannot yet attain academy status, new special schools being set up (for instance to meet a perceived gap in local demand) is already a facet of the special sector. TreeHouse, a special school in north London for children with ASD, is perhaps the most famous of these. Indeed, TreeHouse currently supports other schools which follow its approaches to teaching children with ASD.

#### **TreeHouse Applied Behaviour Analysis Schools Forum**

Applied Behaviour Analysis (ABA) is the science and application of human learning and has been found to be particularly effective for supporting children with autism to learn and develop.

Representatives from TreeHouse and two other London special schools – Jigsaw and Rainbow set up the ABA Schools Forum in 2002. There are 20 members (which include existing schools and groups who are planning to set up a school but are yet do so) and meetings are held termly. The ABA Schools Forum provides an opportunity for members to discuss the particular issues facing their schools and receive guidance from the other members.

Although the group was brought together by a common belief in the efficacy of ABA as a psychological and educational toolkit, they share a much wider store of knowledge. Among the issues that members consult each other on include: training, human resources, teachers' pay and conditions, health and safety law, Ofsted inspection, school subject areas and curriculum, the setting up of a school advisory committee, risk assessments and behaviour policies.

All these topics are of value to all members and some topics were of particular value to new schools setting up. For example: advice on the location of a new school in order to achieve sufficient pupil intake and guidance on the establishment of the unique characteristics that new schools could offer pupils and parents. Once a school has been set up making use of expertise from the ABA Schools Forum, they almost always choose to remain active members. This makes for a constantly evolving centre of expertise that can support new schools.

162 For the Academies Act, see [http://www.legislation.gov.uk/uksi/2010/1937/pdfs/uksi\\_20101937\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/1937/pdfs/uksi_20101937_en.pdf)

The government should recognise that special schools can be academies whilst not being funded nationally, and therefore that special Free Schools can be set up, as in the case of TreeHouse and the schools it supports.

The priority therefore should be to improve the system of support so that parents or others who feel that there is a gap in provision locally can have the confidence to do something about it. In the recent Academies Bill, the government has already made progress towards improving the process whereby new schools are approved so as to allow schools to be set up quicker and react more flexibly to demand.

The New Schools Network (NSN) has been designated by the government as the body with responsibility for giving advice and support to new schools.<sup>163</sup> However, the NSN has in the past heavily focussed on mainstream issues and has less experience of the special sector. The NSN should consider establishing a working group comprised of leading charities such as TreeHouse who have an extensive knowledge of the processes involved, and the particular challenges of setting up new special schools. This should be done with a view to having a specific source of advice on expertise on the special sector within the NSN. The NSN should also help nurture groups such as the ABA schools forum, and similar groups that other schools or charities may wish to set up supporting like minded schools.

However, as was described above, special academies would remain funded via a local body with responsibility for commissioning high-cost SEN provision. Therefore, in the case of special Free Schools, the approval process would need to remain local. Under a system which is firmly focussed on outcomes, if a prospective Free School makes a strong enough case that it can serve the local community, there is no reason to expect that the body which commissions high-cost provision would act in any way other than to work with it and incorporate it into its flexible range of local provision. Parental Partnership Groups, described in Chapter 5, should have a key role in putting forward the case for new special schools where these schools have significant support amongst parents

Moreover, whoever is in charge of commissioning high-cost provision locally must present parents with an adequate choice of placements and an adequate rationale for why the choice consists of these particular placements. If they do not, they will face losing their contract to run local services. Therefore, if an appropriate Free School is set up and prepared to offer high quality provision, and parents are attracted by it, there is no reason it should not become in time part of the flexible range at a local level, pushing out any provision of a lesser quality and with less parental demand.

## Recommendations

- **Government should fund a pilot scheme to discover whether a group of schools could cooperate together to raise finance to improve their own buildings – one aim of which would be to fund the co-location of a special and mainstream school.**
- **The government should also fund research into best practice in relation to co-location which it should disseminate to schools.**

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<sup>163</sup> See DfE, 18th June 2010 announcement, available at <http://www.education.gov.uk/intenews/inthenews/a0061366/michael-gove-outlines-process-for-setting-up-free-schools>

- Any capital funding left after existing commitments and other priorities are met should be prioritised to provide a ring fenced fund for co-location projects.
- The government should make it clear that special schools are different from mainstream schools and therefore cannot be funded by central government. This is because special schools must retain a link with local bodies which fund high-cost provision, therefore special schools cannot be funded directly by central government.
  - They can however attain the valuable freedoms which academies and Free Schools have over the curriculum and other areas which help drive innovation and improve attainment and schools should be encouraged to take up these freedoms.
- Free Schools must form a part of a flexible range of provision at a local level, therefore local bodies should retain a role in deciding whether or not new schools should receive public money.
- Parent Partnership Groups should be a conduit through which potential Free Schools could make strong representations to the local funding body.
- The New Schools Network should consider setting up a working group of charities and others who already have experience in setting up new special schools to develop a set of guidelines and a system of advice and guidance for potential new schools.

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# 7

## Teacher Training

The majority of this report has focused on the broad policy structures and approaches which should underpin the approach to SEN. Throughout, it has been asserted that all aspects of policy should be firmly aimed at improving the outcomes that children with SEN achieve. It is vital to remember that whilst these broad structures should create the environment in which children can best be enabled to achieve, the most important factor will always remain the teachers and other professionals on the ground who work with children and parents on a daily basis.

In a previous report, *Teacher Expertise for Special Educational Needs: Filling in the gaps*, Policy Exchange focused on the issues of teacher training and teacher expertise in relation to SEN. It found that, although the problem has been recognised time and time again, no government has got to grips with the fact that teachers are often woefully underprepared to teach children with SEN.

This chapter offers a summary of this previous report with selected recommendations. It also attempts to place it within the context of the wider reforms recommended in the preceding chapters of this report. However, the full original report should be consulted for greater detail. The report was split into three main sections:

- 1. Teaching expertise in special schools and other specialist settings:** The original report focused on special schools, but the issues here are applicable to any specialist setting including units in the mainstream or other resourced provision. An assumption that teacher training should prepare teachers for the mainstream and the disappearance of specialist courses for teachers wishing to teach in special schools has been a factor in the decline in teaching expertise in special schools. Steps must be taken to ensure that special schools can recruit teachers with specialist knowledge relevant to the particular needs of the children they teach so that some of the most vulnerable children with the most complex and severe needs can be adequately provided for.
- 2. Core skills for all teachers:** SEN is not represented strongly enough in Initial Teacher Training (ITT) courses. This has been a problem for decades, and has yet to be remedied. The result is that teachers are not prepared when they enter the profession to provide for children with SEN. There need to be measures which improve the teaching of SEN in ITT, and a commitment to providing Continuing Professional Development (CPD) to those teachers who missed out when they undertook ITT.

**3. Advanced and specialist skills for the mainstream:** Mainstream schools will continue to provide for children with AEN (who make up the vast majority of children currently described as SEN). Whilst these children should be provided for from within the school's normal financial resources, they will still sometimes require specialist knowledge on behalf of teachers in order to achieve their potential. Furthermore, mainstream schools will also form an important part of the flexible range of provision at a local level. Therefore they must be equipped with differing levels of expertise across a range of 'types' of SEN. At the moment, although there is a policy commitment to this in theory, it can be difficult to ensure in practice.

### Skills in special schools and other specialist settings

89,000 children were educated in special schools in 2010.<sup>164</sup> Special schools and other specialist settings, by definition, provide a specialist service to a group of children whose needs are so particular or challenging that it is difficult or inappropriate to meet them in a mainstream setting. Despite this, the approach to teacher training has tended to assume that all teachers should be prepared for the mainstream and that any specialisms can be built on top of this foundation. The result has been almost the complete loss of specialist routes for teachers who wish to teach in special schools, in particular bachelor and masters level degrees in Severe Learning Difficulties/Profound and Multiple Learning Difficulties, with only a very small number of places left.<sup>165</sup>

In addition, as some special schools have closed, those left have been required to take in pupils with needs they did not previously cater for. The result is that special schools have become increasingly 'generic' which adds further challenges when trying to equip teachers with the right skills as they may have to teach children across a wide range of needs, all of which in practice require a different specialism. It also makes it more difficult for schools to plan the development of their staff in a coherent manner. Wider reforms recommended in this report should mean that special schools are in a far stronger position to plan the development of their staff so as to fit with a more coherent local strategy. However, there remains a need to ensure that schools and other settings find it easier to access well trained teachers.

The recent *Review of Teacher Supply for Pupils with Severe, Profound and Multiple Learning Difficulties* attempted to address the issue of expertise in special schools but only in relation to teaching children with Severe Learning Difficulties and Profound and Multiple Learning Difficulties (SLD/PMLD). It recommended that the shortage in supply of teachers with specialist knowledge in SLD/PMLD could be remedied in a number of ways. Many of these recommendations are very sensible but few of these issues should be considered as exclusively relevant to the area of SLD and PMLD and where appropriate should be extended to other areas of expertise within special schools.

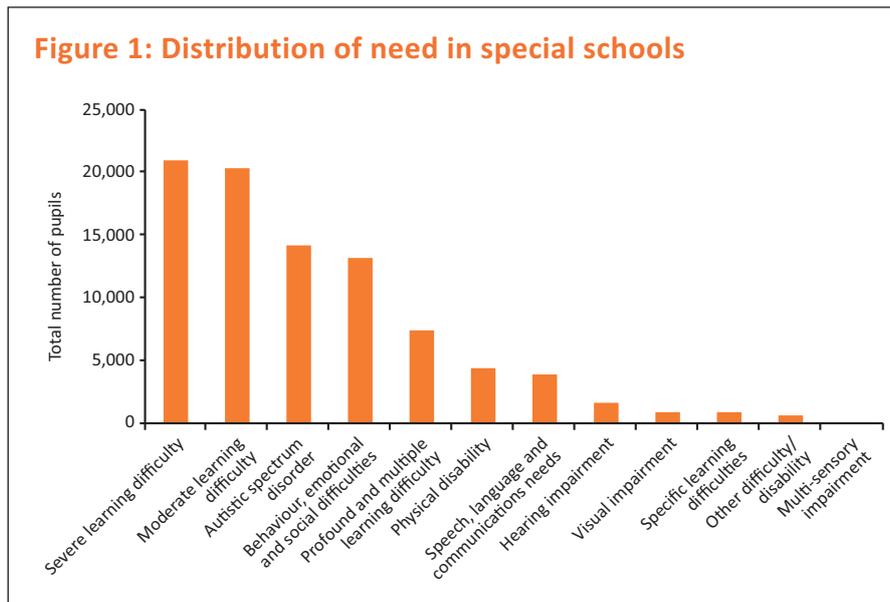
The evidence used to illustrate the problem of a shortage of supply in SLD and PMLD teachers is actually relevant to the whole special school sector. For example, the fact that that 45% of head teachers and teaching staff in special schools are aged 50 or over compared with only 27% in the mainstream and that the number of vacancies as a percentage of teachers in post is more than twice as high in special schools as in the mainstream.<sup>166</sup> Moreover the review explicitly states that "The published data is not detailed enough to indicate whether vacancies are specifically for teachers of pupils with SLD/PMLD."<sup>167</sup>

<sup>164</sup> DCSF, *Children with special educational needs 2010: an analysis*, October 2010

<sup>165</sup> DCSF, *Salt Review: Independent Review of Teacher Supply for Pupils with Severe, Profound and Multiple Learning Difficulties (SLD and PMLD)*, 2010, p. 15.

<sup>166</sup> *Ibid*, p. 2.

<sup>167</sup> *Ibid*, p. 22.



As Figure 1 shows, although SLD/PMLD form a significant proportion of the current special school population there is a much wider variety of needs present.

**Policy Exchange survey of Special Schools training requirements**

With the help of the National Association for Special Educational Needs (NASEN), we conducted a survey of 45 special schools, covering a wide range of impairment. 73% of respondents told us that they found it hard or very hard to recruit staff with the requisite skills whereas only 5% found it easy. On average, per school, 52% of teachers had any qualification in SEN and just 30% had a qualification which was relevant to the particular needs of the children they were teaching. On average, per school, 34% of teaching support staff had any qualification in SEN. The survey also found that, in order to provide on the job training for their staff, some special schools are operating as “permanently overstaffed”. One respondent suggested there was a culture of “university protectionism” in relation to the delivery of SEN training.

One of the other key issues that came out of our survey was the lack of recognition that special schools have expensive and time consuming training requirements. In a previous report on teacher training *More Good Teachers*, Policy Exchange recommended that money for CPD should be ring fenced by giving each teacher an individual entitlement of around £500.<sup>168</sup> If this policy were pursued, it might be possible to recognize the greater needs of teachers in special schools by providing them with extra funds on top of their core entitlement. These funds could in turn be ring fenced for use only in training which leads to specialist skills in teaching children with SEN.

It will be important to ensure that if the government moves to a cash entitlement for CPD the need for head teachers to strategically plan the expertise amongst their staff is not neglected and that the operation of the entitlement is properly managed and allocated, probably through the performance review system. In particular, the cash entitlement may not adequately take account of the practice of many special schools in helping their teaching assistants attain QTS. This is because the entitlement is designed to pay for the CPD needs of qualified teachers rather than to pay for ITT.

168 Policy Exchange, *More Good Teachers*, 2008, p. 8.

Moreover, as was suggested by respondents to our survey, the expertise and training that could be most useful, in many cases lies firmly within the schools themselves and no longer within universities. The training of teachers and teaching assistants is likely to increasingly occur within schools themselves and although a boost to the CPD entitlement may account for some costs, it is necessary to recognize the need of schools to develop capacity and infrastructure to deliver these sorts of services on a more sustained and less ad hoc footing.

Another recommendation in *More Good Teachers* was that there should be an expansion of the training schools programme. It argued that “the development of schools as centres of training will enable them to offer much more CPD themselves rather than relying on external suppliers.”<sup>169</sup> The Salt review recommended that special schools be made aware that they can become training schools, but it is unlikely that this alone would be enough to encourage any serious upsurge of special school participation in Employment Based Initial Teacher Training provision. Nor will making special schools aware of this possibility necessarily create an immediate impact on the roles of special schools in providing outreach or in developing expertise within their own schools (both facets of the training school programme.)

In order to better facilitate this process, we recommend all outstanding special schools and all special schools with specialist SEN status as part of the ‘Specialist Schools’ programme should be invited to become training schools with access to the relevant funding immediately. Training schools receive £60 per student so if every special school in England were to become a training school, funding for this programme would amount to £5.4 million. Training schools would predominately work within local and regional training arrangements, including partnering with Higher Education Institutions (HEIs). However, local bodies with responsibility for commissioning and developing high-cost SEN provision should work closely with training schools to ensure that the development of teacher expertise is in line with local plans.

Moreover, special schools with training school status should be allowed to seek accredited status for the provision of specialist qualifications in their relevant field. These specialist qualifications would be certified by independent bodies with expertise in the field. The British Dyslexia Association already does this for specialist qualifications in teaching children with Dyslexia and other Specific Learning Difficulties for example and the government should consult on which bodies would be most appropriate to perform the role for other categories of impairment.<sup>170</sup>

Importantly, a push to make specialist qualifications available to teachers and schools should take into account the extent to which many teachers will already have relevant skills but are unlikely to have the relevant qualifications. There is a danger that too rigid an approach will result in teachers and schools wasting money on accrediting existing skills. Although these specialist qualifications would not be mandatory (as is the case for qualifications in Visual and Hearing Impairment and Multi Sensory Impairment currently), it should be acknowledged that teachers will not wish to be seen to be less qualified than their peers and potential competitors in the market place. It is likely then that many, if not all teachers, will seek this training and so there should be a cheaper fast track to assessment and accreditation for those teachers who do not need extensive training as a result of their prior experience.

A final, and very important point raised by our survey was the question of leadership. Several respondents pointed out that their headteachers were due to retire in the next five years or so and many also pointed out that deputy heads or other

169 Policy Exchange, *More Good Teachers*, 2008, p. 8.

170 <http://www.bdady.org.uk/quality-mark-and-accreditation.html>

senior leaders were also due to retire. As with many of the other issues, this was a situation raised by the Salt review and it recommended that the National College should provide targeted support and intervention to boost the supply of leaders for the sector. This is undoubtedly a good idea. In considering the options for targeted support, the National College ought to pilot a programme of ‘internships’ for prospective headteachers. As the expertise lies firmly in the hands of the current cadre of senior leaders it makes more sense for them to pass this on directly. Some independent special schools have begun operating an internship model to ensure effective succession and this could certainly be fruitful for other schools.

### Skills in the mainstream: core skills for all teachers

Chapter 1, argued that a large proportion of what is currently called SEN should fall under the category of Additional Educational Needs (AEN) and be firmly considered the responsibility of mainstream schools. However, whilst the needs of these children should be dealt with from the normal resources of a school, this does not mean that teachers will not require specialist skills in order to ensure that all children achieve their potential. Although we have recommended grouping children who have ‘high incidence’ and ‘low severity’ needs into the broader category of AEN, this also does not mean that they will not have needs which may fall into a specific category. Although for many children, their needs may be a symptom of under achievement, it does not mean that they do not have specific problems which can be dealt with using evidenced interventions.

It therefore makes sense that rather than attempting to react to demand on a relatively ad hoc basis, all teachers should be equipped with a certain basic understanding of SEN which allows them to identify and deal with problems in a productive manner when they first occur. This basic understanding should equip all teachers to deal, themselves, with some of the most prevalent but least severe forms of SEN. There has been a recognition of this need for perhaps 30 years, but successive governments have failed to act decisively enough. Improving the core skills of all teachers requires action at two levels: Initial Teacher Training (ITT) to ensure that new entrants to the profession are appropriately equipped; and CPD, to ensure that in service teachers can keep their skills up to date.

At ITT level, the government needs to force the hand of ITT providers who currently do not provide enough coverage of SEN issues in their courses. One recent survey found that many institutions offer as little as one afternoon dedicated to SEN in the entire duration of an ITT course. The TDA has attempted to disseminate SEN best practice but the knowledge and skills which NQTs take into their first job is still, to a large degree, determined by the particular institution at which they train.<sup>171</sup>

As the current approach is not working, the requirements of Qualified Teacher Status (QTS) must be strengthened in relation to SEN in order to force the hand of training providers and improve the coverage of SEN in ITT. Rather than the QTS standards relevant to SEN sitting in a section entitled ‘Achievement and Diversity’, as they currently do, there should be a new section created entirely dedicated to Special Educational Needs. The standards currently described in Q18 should also include a requirement to have an understanding of theories of child development. Numerous bodies in the sector have called for this and they were given a boost by the recent Salt review which called for QTS to include basic knowledge of the definitions of SLD/PMLD. This principle is

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171 Ofsted, *How well new teachers are prepared to teach pupils with learning difficulties and/or disabilities*, 2008

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sound but should be extended and QTS should require teachers to have knowledge of the four main areas of impairment as identified by the government. Beyond this, the standards should also require that teachers have knowledge regarding the identification of specific needs within these broader areas which can be seen below:

Beyond identification, it is also imperative that NQTs know how to adapt the curriculum in their subject areas in relation to the key areas of impairment. ITT providers could well develop specialisms according to their expertise, and the expertise of the schools with which they have partnerships. They could pay particular attention in their ITT courses to one area of impairment for instance. This could serve as a taster to students who may wish to develop a specialism either as a six month appended course as recommended by Salt, or later on in their career. In addition, it is vital that there should be a corresponding increase in the focus of Ofsted in these areas when inspecting ITT providers.

With regards to CPD, the government should retain a commitment to a scheme along the lines of the Inclusion Development Programme which aims to deliver core skills to in service teachers. However, the IDP must be adapted to reflect the strengthening of the QTS standards as recommended earlier. Ideally it should be designed in such a way as to chime with the approach to core skills that would be taken at the ITT level: ensuring an understanding of the four main areas of impairment and the various types of need within them. In this sense it should be a direct attempt to provide in service teachers with the core skills which will be acquired by NQTs but which they did not necessarily have the chance to develop themselves.

Despite the strengthening of the QTS in this area, the framework at ITT level would still allow providers to approach the issues in their own way, leaving room for innovative practice to develop. By contrast, the danger with a programme such as the IDP is that, because it is created centrally, it relies too heavily on a 'one size fits all' approach. This problem has been evident in much of the work of the National Strategies which has tended to promote a single way of doing things, and denied teachers the freedom to choose from amongst various methods and resources which have been proven to work.

In order to ensure a diversity of approaches and room for innovation, we referred back to a previous paper discussing literacy and numeracy in primary and secondary schools in which Policy Exchange recommended that the government should fund a national research database. This proposal was based on the 'What works clearinghouse' model developed in the United States. The research database would be funded by the Department of Education and maintained by a new Standards Agency (replacing OFQUAL).

The government should ensure that this research database includes research on methods and interventions for children with Special Educational Needs. All teachers would be encouraged to access the resources within it but it would be of particular use to teachers at advanced and specialist levels, Special Educational Needs Co-coordinators and those with responsibility for co-coordinating CPD within schools.

### Advanced and specialist skills for mainstream teachers

The issue of advanced and specialist skills in the mainstream overlaps greatly with that of skills for teachers in specialist settings. As such, it should be part of the general approach of the local body which commissions high-cost SEN provision

in an area to ensure that schools in which they place children with statements have teachers with the appropriate expertise. However, although the skills and knowledge of specialist teachers will remain similar (regardless of whether they are in a special school or specialist setting, or are predominantly in a mainstream setting offering expertise and help to other teachers), there need to be routes open to teachers who have pursued a career exclusively in mainstream education to develop their skills to advanced and specialist levels, as opposed to the sorts of direct routes to specialisms described above.

Local bodies that commission high-cost SEN provision should be tasked with ensuring expertise is in the right schools at the right time. However, this is not about having a certain amount of 'experts' per child or any other similarly crude measure. The precise distribution of expertise should be decided on locally, taking into account the local profile of needs and the expertise of teachers situated predominantly in special schools or other specialist settings.

However, for local bodies to be able to properly coordinate the professional development of their staff, the career structure and opportunities for teachers to develop expertise and specialisms need to be more clear and consistent nationally. Although teachers are required to be aware of the professional responsibilities of others, there are not enough attempts to encourage teachers to think of their own career opportunities in relation to SEN. This is partly because career structures and the acquisition and use of advanced and specialist skills are fractured and poorly understood. In particular, there is a real need to clarify exactly what advanced and specialist skills are in an SEN context and how teachers with these skills fit within a broader framework of career development which includes 'Excellent Teachers' and 'Advanced Skills Teachers'.

We recommend that teachers taking on advanced and specialist roles should be required to acquire or be in the process of working towards the achievement of an accredited qualification in their relevant field. As with qualifications for teachers in special schools, these would be approved by national voluntary bodies or trusts – in the same way that specialist qualifications in Dyslexia already are. Courses could be provided by a variety of routes, including by local special schools.

Local bodies in charge of high-cost provision, and schools, should be required to develop and contribute to audits of expertise, using nationally agreed, standardised criteria in order to build a clear picture of supply and demand in relation to SEN teacher expertise. We also recommend that data be collected nationally and locally regarding specialisms in SEN. This is already done for subject specialisms and it should be replicated across all major areas of impairment with a view to introducing appropriate financial incentive schemes if necessary. These audits should form part of the more general audits of provision and performance in regard to high-cost SEN, recommended in Chapter 2.

In the context of major budget cuts, to which the Department for Education is not immune, the money for specialist training will need to come from existing funds. In light of this, there should be a major review of the existing SEN allowance which should seek to understand whether or not it works effectively as an incentive for teachers to specialize in SEN. The conclusions of this review may mean that the money currently spent on the allowance can be refocused, some of which could contribute to extra training for SEN specialists.

## Recommendations

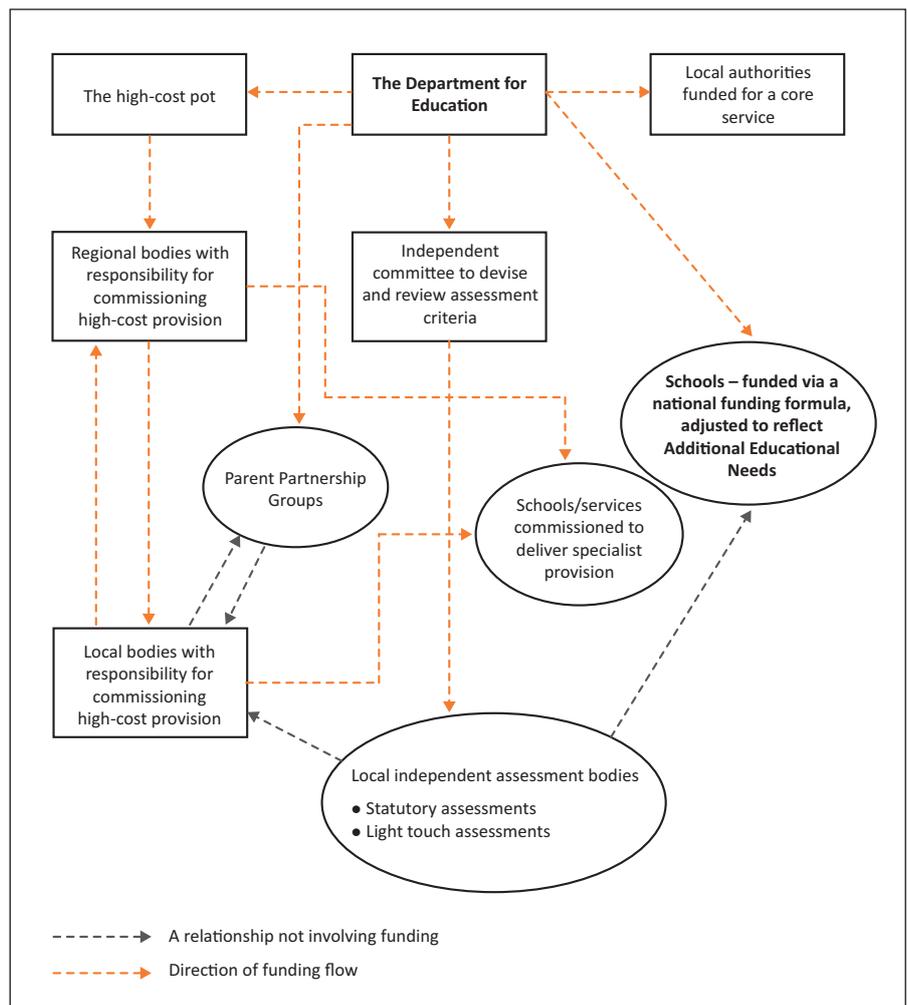
See *Teacher Expertise for Special Educational Needs: Filling in the gaps* for a full list of recommendations regarding teacher training and expertise.

- All recommendations made by Salt which do not relate solely to SLD/PMLD should be expanded to cover the remaining major areas of impairment dealt with by special schools
- A CPD cash entitlement should be introduced (as recommended in the Policy Exchange report *More Good Teachers*) and boosted for all teachers in special schools
- The need for special schools to build and maintain training capacity should be recognized financially. One mechanism by which this could be done would be to extend training school status to all outstanding and/or specialist special schools with a view to extending the programme to all special schools in due courses. Schools with training school status should be enabled to seek accrediting powers for specialist qualifications in their field, in partnership with voluntary bodies or trusts
- As part of its efforts to increase the supply of leaders for Special Schools the National College should pilot a programme of Head Teacher ‘internships’ for special schools
- The requirements for the achievement of QTS should be strengthened in relation to SEN
- The ‘What works clearinghouse’ – recommended in a previous Policy Exchange report, *Rising Marks, Falling Standards* should be expanded to encompass research into interventions for children with SEN rather than solely literacy and numeracy challenges
- There should be a clarification of what amounts to advanced or specialist skills in an SEN context and how advanced and specialist SEN teachers would fit within a broader framework of career development which included the Excellent and Advanced Skills Teacher schemes
- Teachers taking on advanced and specialist roles should be required to acquire or be in the process of working towards the achievement of an accredited qualification in their relevant field. Voluntary bodies or trusts could certify the qualifications and the training which could be delivered by HEI’s, private providers or special schools or a combination of these bodies
- Data should be collected nationally and locally regarding specialisms in SEN in the same manner as it is for subject specialisms, across all major areas of impairment
- There should be a major review of the SEN allowance which should consider:
  - How effectively it currently operates as an incentive to teachers to specialize in SEN
  - How it interacts with other pay awards for the development of teaching expertise
  - Alternative models of financial incentives such as those pursued abroad and for subject specialisms in this country

# Conclusion

This report has recommended reforms to the general structures which underpin the approach to SEN education in this country. There is a great deal to be done on the ground in relation to best practice and the detailed, specialist work which teachers and others need to deliver on the ground. However, in keeping with the general trend in educational policy, this report has assumed that these matters should not be dictated on at a national level. Rather, they should be the responsibility of schools and local communities to decide. Central government must fund provision and do what it can to ensure that the system is fair and consistent and that parents can hold schools and the government to account.

The diagram below attempts to illustrate how some of the recommendations in this report should be reflected in the organizational structures and the funding flows in relation to SEN.



As many as one in five children in English schools are identified as having Special Educational Needs (SEN). Less than 20% of these children achieve five good GCSEs, which is under half the national average and children with SEN are eight times more likely to be excluded than their peers who are not identified with SEN. As much as £5.2 billion a year is spent directly on education and services for children with SEN and they are more likely, in later life, to access services such as adult social care. They are also over-represented in the prison population. Furthermore, the particularly low attainment of this group contributes significantly to wider under achievement in education, low basic skills and other skills shortages which the CBI estimates cost the economy £2.04 billion each year.

A better approach to SEN should be seen as a vital concern in reforming the education system. SEN fits within and plays a part in many educational debates, including the role of academies and Free Schools; the pupil premium; and how to improve accountability. This report considers potential reforms to the approach to SEN in England in the context of broader educational issues and policy changes. It also considers specific problems such as what SEN is, and how the government should approach inclusion before making further recommendations to improve assessment, funding and provision.

How to boost the attainment of this group should be an urgent priority for the new government and the forthcoming Green Paper is a welcome sign that this will be at the heart of wider reforms. This report seeks to offer recommendations to this effect. This report is the second Policy Exchange report of two on SEN. The first report, *Teacher Expertise for Special Educational Needs: Filling in the gaps*, offered recommendations to improve the expertise of all teachers with regards to SEN. This report also summarises these findings.

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