

Education and Lifelong Learning Committee

Role Of Statutory Assessment & Statementing In Meeting Special Educational Needs A dew (Sen) Group Paper For ELL Committee 26.05.05

Introduction

1. The purpose of this paper is to share some proposals regarding the role of the multi-disciplinary statutory assessment process and Statements of Special Educational Needs (SEN) in meeting the special educational needs of children and young people in Wales. It focuses in particular on:

- A. The proportion of pupils who participate in the assessment process and are issued with statements.
- B. Parental confidence and pupil participation in the assessment of SEN and the quality of the resulting special educational provision.
- C. The role of educational psychologists.
- D. The need for an inter-agency common assessment framework.
- E. Conducting the assessment and review procedures through the medium of Welsh.
- F. Best Practice in multi-agency working.
- G. Transition planning
- H. Collaborative working between LEAs

A. Proportion of Pupils

2. The proportion of pupils who participated in the statutory assessment process and were issued with a statement of SEN in the late 1990s rose gradually in both England and Wales. However, since 2000, the percentage of pupils with statements has remained fairly constant in Wales with 3.3% in January 2004 having a statement. (Source: Pupils with Statements of Special Educational Needs : National Statistics Bulletin, SDR 38/2004, 23 June 2004.) This has not stopped LEAs spending well above the rate of inflation on special educational provision over recent years. (Source: Budgeted Expenditure on Special Educational Needs Provision in Welsh Local Education Authorities: 2002-03 and 2003-04.)

3. The question is – does the issuing of a statement mean that pupils are guaranteed a higher level of special educational provision than without a statement? The level of statementing in Wales in 2004 varied between 1.55% in Rhondda Cynon Taff and 4.94% in Newport. However, work undertaken by HMI Sue Willan on behalf of Estyn in 2004 showed that there is no clear link between the amount of money that Welsh LEAs spend on pupils with special educational needs and the percentage of pupils with statements. (Source: Best Practice in the Development of Statements of Special Educational Needs & Delivery by Schools of the Action Agreed : Estyn, 2004.) In fact, her research found that LEAs do not save money by reducing statements, but they do use their available resources more effectively by redirecting the time of officers, specialist teachers and educational psychologists towards school improvement work and earlier intervention with pupils with special educational needs.

4. If there is no clear link between levels of statementing and expenditure of SEN in LEAs, the next question which should be asked is - is the level of statementing across Wales too high? Particularly if by reducing the level, it would enable more resources to be focused on special provision and better early intervention practice. It may be that Wales needs to learn from developments in Scotland where the equivalent of a statement is only issued if other agencies, as well as education, are required to contribute to the special provision needed by a pupil.

5. Maintaining a high statement rate encourages schools to consider a child's learning difficulties as a product of within child factors. However, external school generated factors could be contributory or main reasons for the child's problems. Giving funding directly to schools, without the mediation of statements, allows schools to make their own resource decisions. In doing so it encourages them to identify any contributory factors such as the curriculum they offer or the way they motivate children to succeed and engage them in their learning.

6. built in disincentives to reduce statements

Any attempts to remove statements or reduce their incidence must take into account a number of other factors which are dependent on them. That is, a number of entitlements or procedural requirements have become linked to statements. The link between these entitlements and procedural requirements and statements therefore needs to be broken. They are:

6.1 Disapplication

Long term disapplication from the National Curriculum is only possible with a statement. This requirement means that some schools and parents seek a statement simply to be able to disapply a child from a subject(s). Permanent disapplication can be beneficial for a

child. Where it is beneficial, it should be available without a statement. The LEAS could act as an arbiter for such decision, as it does effectively now, via the statement.

6.2 Surplus places

Children with statements count for three places when calculating school accommodation numbers. This tends to promote inequalities in terms of surplus places between LEAs who have different criteria for statements. It is also a disincentive for LEAS with a high rate of surplus places and a high rate of statements to reduce their number of statements. By meeting WAG requirements in one area they make themselves more vulnerable in the other.

6.3 Inter LEA recoupment for statement costs

For pupils in out of county maintained schools the host LEA can only insist on recoupment for the extra provision they have made for those pupils with additional educational needs who have statements. For example LEA 'X' may offer centrally funded specialist teaching for dyslexic children at School Action Plus. If a pupil from LEA 'Y' attends a school in LEA 'X' and meets the criteria for their School Action Plus support then, as things stand, either the child will not be offered this support because LEA 'Y' refuses to pay without a statement, or LEA 'X' is forced to provide it without compensation. The temptation for LEA 'X' is then to statement the child solely so that it can recoup the funding.

One solution is to allow LEAs to recoup against the provision they make under School Action Plus support arrangements. This would be facilitated by having agreed access criteria to this support.

6.4 Provision of speech and language therapy

The SEN Code of Practice for Wales states, as plainly as it is possible to state it, that speech and language therapy provision should be considered as educational provision and written into the compulsory section of the statement, under Part 3. The eagerly anticipated advent of joint commissioning of Speech and Language Therapy services for children should remove much of the current tension between Education and Health about who funds such therapy. However, it will not remove the incentive for schools and parents to seek a statement simply to have speech and language therapy made compulsory by it being written into Part 3. Joint commissioning is an ideal opportunity to break this link between speech and language therapy and statements, allowing the joint commissioners to concentrate provision where it is most needed, without the inequity potentially implicit in a system where the most vocal and aware schools and parents secure the greater proportion of resource.

7. Equity Of Provision Via A Statement

There is considerable inequity in the kind of support made available via statements. This is a classic example of the Post Code Lottery. The only way around this inequity is to have national criteria for statements. There is no other way.

8. Different Access Criteria For Extra Funding

Statements apply across counties. They follow the children for whom they are made out and the provision in them or its equivalent must be made by a new county. The same safeguard does not apply to extra LEA provision made at School Action Plus.

B. PARENTAL CONFIDENCE & PUPIL PARTICIPATION

9. Some organisations have stressed that many parents are only confident that their children will get the special educational provision they require if there are statements to protect it. This has been stated against a background where many parents have found the whole statutory assessment process to be very stressful. Many parents have stated that during such assessments, they experienced long periods when they did not know what was happening and felt overwhelmed by quantities of often complex information. (Source : Statutory Assessment and Statement of SEN – In need of Review? : Audit Commission, June 2002.)

10. Would parents' confidence be better secured at the non-statemented stages of special educational provision if there was a national drive in Wales to ensure that the procedures of needs identification and assessment, and provision planning, implementation and review were carried out with greater rigour, parental involvement and consistency across schools and LEAs in Wales than is the case at the present time? There are suitable stages within the SEN Code of Practice – namely, 'School Action' and 'School Action Plus' – to enable this to happen. It is more a matter of all the partners in the process, particularly schools, local authorities, other statutory agencies and national government, demonstrating to parents that the non-statemented stages of provision planning can be applied with equal conviction as with the statemented stages. A demonstration of such a commitment would soon help enhance the confidence of parents in non-statemented SEN provision.

11. As with needing parental involvement in a meaningful way and the engaging of their trust and confidence, it is also vital that the various professional groups involved in the process engage pupil participation in a meaningful manner. Too many pupils, particularly those who have the capacity to participate, feel that interventions are applied to them without their having the opportunity to influence the process or the direction it takes.

12. The whole process of matching special educational provision to special educational needs could be far more streamlined if it was simplified and professionals were appropriately trained and resourced to involve parents and pupils more meaningfully in the process.

13. Across Wales Disagreement Resolution Service

Through the offices of the Association of Directors of Education in Wales SEN Advisory Group (ADEWSEN), 20 of the Welsh LEAs have signed up to this service. It offers parents a free arbitration service for disagreements with schools and LEAs about any aspect of assessment of provision for children with additional needs.

14. Rights of appeal

If parents disagree with a decision made during or as an outcome of statutory assessment they can appeal against it to the SEN Tribunal for Wales. They have no right of appeal for decisions made at School Action Plus. Two North Wales LEAs are exploring the notion of each acting as an appeal body for the other for School Action Plus decisions. That is, parents may appeal to the other LEA if they do not agree with a decision by the other.

C. THE ROLE OF EDUCATIONAL PSYCHOLOGISTS

15. Too often in the past, many schools have perceived the role of their link educational psychologist as being to support their case to either get more resources for an individual pupil with special educational needs and/or to get a statement of special educational needs issued for that pupil. Too often, educational psychologists have had to spend significant proportions of their time carrying out professional assessments of the needs and provision requirements of individual pupils. As HMI Sue Willan found in her 2004 Estyn Study, freeing educational psychologists from having to spend so much of their time in this way, should enable their professional expertise to be used far more constructively in providing advice, guidance and support for school staff and other professionals in meeting the needs of groups of pupils with special educational needs as well as those of individuals. This applies particularly in the areas of early intervention and on such key provision issues as: teaching and learning styles; social and emotional development; and behaviour management dynamics.

16. The educational psychologist is central to the assessment of children with significant needs. They are the only group which can bring a genuinely broad perspective to the assessment of children from an informed knowledge of child development. However, their time should not be heavily committed to the production of advice for statutory assessments which, in many cases, simply puts in different words what is well known about the child anyway. Their knowledge and expertise is much better used working with

children, parents and teachers directly to improve educational opportunities for the child. There should, therefore, be no link made between a reduction in statements and a reduction in educational psychologists. The role of educational psychologists was not created to complete Appendix D of statements!

17. There is some concern that the Department for Education & Skills in England has simultaneously done two things:

- Refused to fund the now compulsory three year doctorate training for educational psychologists.
- Described them in its consultation document ‘Children’s Workforce Strategy’ as being at Level 6 of an eight point matrix relating to qualifications for those working with children. This equates their qualifications between something just above A-level to a first degree and equates educational psychologists with youth workers and social workers; below those at Level 7, who include specialist teachers and LEA numeracy advisers.

Taken together these could be seen as a threat to the role of the educational psychologist in England, a conscious reduction of the role to the point where it has no value. We would not wish to see this view adopted in Wales. Schools and parents frequently tell the LEAs that they greatly value the role of the educational psychologist - that the only thing needed is more of them!

D. INTER-AGENCY COMMON ASSESSMENT FRAMEWORK

18. Another fundamental requirement if we are to have a more streamlined system in place, and parents and pupils are able to understand and play a meaningful part in the process, is the need for a ‘common assessment framework’ which applies to all the contributing statutory agencies. This need has long been recognised and some preliminary work has already been undertaken – however, this needs to be speeded up and implemented as soon as possible.

19. This would mean that the resulting multi-disciplinary assessment process produces not just a ‘Statement’ of the child’s ‘special educational needs’, but also of his/her ‘special welfare needs’ and ‘special health needs’. No one domain, whether education, welfare or health should have predominance over the other – but each should carry equal status in ensuring access to any special provision required as a result of a multi-disciplinary assessment. This would be further enhanced, and probably secure greater parental trust and confidence, if primary legislation was introduced to put equal responsibility on statutory agencies for ensuring the delivery of special provision within their domain.

20. Contributing to the common assessment framework and to keeping it up-to-date should be a responsibility shared by all the statutory agencies involved. Similarly, a

composite system of record keeping and information sharing across the statutory agencies would aid communication with parents and pupils, and avoid the unnecessary duplication that exists at the present time.

E. CONDUCTING THE PROCEDURES THROUGH THE MEDIUM OF WELSH

21. A particular problem for some statutory agencies in some parts of the country is being able to give equal access to the statutory assessment and review procedures through the medium of Welsh due to the low incidence of occasions when this is requested. Some authorities do not experience difficulties with this requirement – but in others it is a major challenge in delivering policies of equal opportunities.

22. One possible way forward might be to build this requirement into regional and sub-regional arrangements in ensuring that entitlement is not compromised by where children and their families live in Wales.

23. One North Wales LEA has agreed with its neighbour for Welsh medium educational psychologist to be bought in on a needs basis.

F. BEST PRACTICE IN MULTI-AGENCY WORKING

24. There are numerous examples of this in Wales:

(1) Education and Children's Services combined within the same Directorate

In one local authority, where these agencies are in the same Directorate, senior managers of the Inclusion Services and the Children's Services attend each other's management meetings. Joint decisions for the benefit of children are made at these meetings. A genuinely pooled budget has been created for out of county places. Decisions to place out of county are made by inter-agency moderation panels. These decisions are then scrutinised by a senior manager in each agency. If approved they are then funded by the joint budget. Decisions are taken retrospectively for external moderation to the Inclusion Service Steering Group. This group includes elected members, school, parent and agency representatives.

(2) Creation of an integrated service for children with a disability

In one LEA a multi-agency team has been formed for children with a disability. (Children's Integrated Disability Service, CIDS) This team is led by a single manager. It is staffed by those employees from Education, Children's Services and Health who have a clear disability role. These people are managed by the CIDS manager. A team of care co-ordinators has also been appointed to promote effective joint working and act as a single

focal point for parents.)

G. Transition Issues

25. Transition between school phases

In general, the Welsh SEN Code of Practice more precisely laid down timetable for transition for pupils with statements between school phases has worked well. It has led to parents and schools knowing well in advance what provision the LEA intends to make each pupil. There is a further problem here though with children whose extra support is now provided at School Action Plus where before it would have been with a statement. When the statement applied, it guaranteed a level of information and provision would transfer with the child also. We are finding this smooth transition does not always occur with children who have School Action Plus support.

26. Transition to Adulthood

There are some inter-agency boundary issues here particularly the different ages in which transition to adult services is judged to take place:

- Special schools operate up to nineteen years of age
- Children's social services stop at eighteen years of age
- Further education can begin at fifteen years of age.

These differences can impede smooth transition. In one local authority a 'Transition Protocol' has been agreed between all the agencies which will give clearer guidance to all agencies, young people and parents.

H. Collaborative working between LEAs

27. Welsh LEAs have a growing tradition of working collaboratively to meet low incidence needs and develop national and regional policies for children with additional needs. They have been greatly helped and encouraged to do so by officers of the Welsh Assembly Government. Examples of such working are:

- Establishment of the SEN Disagreement Resolution Service
- Agreement of a national policy on recoupment issues
- Agreement of a national policy on charging for hospital education
- Supported by the Welsh Assembly Government, annual conferences are held to discuss national policy and practice.
- Establishment of regional provision for autism in North Wales
- Developing regional provision for autism in South Wales

- Examples of two or more counties joint funding specialist provisions:
 - A Resource Centre for autistic children
 - A school for children with behavioural difficulties

28. Agreeing national policies helps LEAs to limit the postcode effect in terms of equity of service across the Principality. Developing regional arrangements can allow LEAs to make high quality provision at the most economic costs.

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