

## Education and Lifelong Learning Committee

### Policy Review: Special Educational Needs

#### Phase 2 - Statutory Assessment Framework - Draft Emerging Issues

#### Purpose

1. The purpose of this paper is to help inform Members' consideration of emerging issues from phase 2 of the Committee's review of Special Educational Needs. The Committee will consider these issues at its meeting on 8 December and in the light of discussion the Committee Clerk will draft a report, for consideration by the Committee in the spring term.
2. It should be noted that this paper was completed very shortly after the Committee had finished taking evidence. It was only on 30 November that the Committee received a presentation from Mark Provis on behalf of WAGSEN, the group set up to advise the Assembly Government on SEN. This presentation outlined a number of strands of the group's developing thinking and is attached at annex 4 for information. Given the importance of this group's role, some of the issues raised in that presentation have been incorporated in this paper as emerging issues and possible options. However, it has not been possible in the time available to give full justice to all the issues raised by WAGSEN which were not in any event fully formed proposals.

#### Background

3. In July 2003, the Committee decided to carry out a policy review of special educational needs (SEN) focusing initially on early identification and intervention. The Committee published its report on phase 1 of the review in November 2004. It is intended that its second report, examining the statutory assessment framework; more commonly known as statementing, will be published in the spring of 2006. Phase 3 of the review will investigate the transition between the various stages of education and lifelong learning. Members agreed that the issue of Welsh medium and bilingual provision should be included throughout all phases of the review.

#### Terms of Reference

4. The Committee agreed the following terms of reference:
  - *To examine how local education authorities are having regard to the requirements of the Special Educational Needs Code of Practice for Wales, concerning assessment and statements;*
  - *To examine the implications of the distinction between those children and young people with special educational needs who have a statement, and those who have not;*
  - *To examine how local education authorities create positive incentives for schools to review their policy and practice, to ensure*

*that all children and young people with special educational needs benefit from inclusive education;*

- *To examine how local education authorities and schools provide parents with assurance that their children's needs are being met; To identify best practice in multi-agency working in the assessment of special educational needs;*
- *To consider whether the current assessment framework makes the best use of skills and resources - both human and financial;*
- *To examine the provision of advice and support through the medium of Welsh, concerning assessment and statements; and*
- *To make recommendations to the Assembly Minister on how current arrangements for assessing special educational needs could be improved.*

### Statutory Framework and Definitions

5. The statutory framework for SEN is outlined in the Education Act 1996 and the SEN and Disability Act 2001. The Education Act 1993 placed a duty on the Secretary of State for Education to issue a Code of Practice and established the power to revise it from time to time. The first Code of Practice came into effect in 1994. Since then, the rights and duties contained in the 1993 Act have been consolidated into Part IV of the 1996 Education Act.
6. The SEN Code of Practice for Wales (2002) provides guidance and sets out procedures aimed at enabling children and young people with SEN to reach their full potential, to be included fully in their school communities and make a successful transition to adulthood. It includes new rights and duties introduced by the SEN and Disability Act 2001 and Regulations.
7. The Code describes the following areas of SEN:
  - Communication and interaction difficulties;
  - Cognition and learning difficulties;
  - Behaviour, emotional and social development; and
  - Sensory, physical and medical needs.
8. 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 (LEA); or

- c. Are under compulsory school age and fall within the definition at (a); or (b) above or would do so if special educational provision was not made for them.
9. Special education 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; and
  - b. For children under two, educational provision of any kind.

See Section 312, Education Act 1996

### Other Background Information

10. Links to all the papers presented to the Committee, the minutes and transcripts of evidence taken and the note of the Committee's visit to Scotland are attached as annex 1 to this paper. These can also be found on the Committee's web pages. A breakdown of those who responded is at annex 2.
11. At annex 3 is the brief prepared by the Members' Research Service at the outset of this phase of the review and which sets out many of the issues that have been brought to the attention of the Committee subsequently. This paper also sets out the key concerns and recommendations from both the Audit Commission's 2002 policy focus paper on statutory assessment and Estyn's 2004 report on best practice in this area.

### Statistics

12. A large proportion of children, perhaps one in four, will have some special or additional need at some time in their school life. At January 2005 some 3.3% of pupils on school rolls in Wales had statements of SEN. This percentage has remained constant, varying by just 0.1 percentage points over the last seven years<sup>1</sup>. About a quarter of all new statements in 2004 were for children under five years old. However, there was reported to be a wide variation between local education authorities across Wales; from 1.6% to 5.1%<sup>2</sup>. Three quarters of children with statements are educated in mainstream schools.
13. Total expenditure on SEN provision in Wales in 2005-06 is budgeted to be £261 million<sup>3</sup>. This represents an increase of 7 per cent on the previous year's budget. Delegated expenditure to special schools accounts for 21 per cent of the total budgeted SEN expenditure in 2005-06. Notional allocations within primary and secondary schools account for a further 36 per cent of the total. The remaining 43 per cent is made up of money held centrally by LEAs.

Source: <sup>1</sup> Statistical Release SDR 52/2005 - Pupils with Statements of Special Educational Needs: January 2005

Source: <sup>2</sup>Estyn paper ELL(2)-05-03(p1)

Source: <sup>3</sup>UK Statistical Bulletin SB 62/2005(revised)

## Response to Consultation

14. There were 99 responses to the consultation questionnaire. A breakdown of those who responded is at annex 2. Around a quarter of responses were from parents or guardians with most other responses coming from professionals working in the field. Around a third of respondents identified themselves as being based in South East Wales, with not dissimilar numbers from North Wales and Mid & West Wales.

## Emerging Issues

15. A number of issues have emerged from consultation and from the evidence taken in Committee as either perceived failings of the current arrangements or possible areas for improvement. These are set out in note form below. These issues are not exhaustive but they focus on some of the main areas in which evidence has been provided. They are provided as an initial basis for discussion rather than as recommendations for the way forward:

## Future of Statementing

### Issues

- Although many negative issues were identified with statementing, over 65% of consultation responses were in favour of keeping statementing. Only around 10% were clearly in favour of scrapping statements.
- Even among those who favour change, no clear consensus has emerged for what changes should be made. There does however, seem to be general agreement that some form of statutory "safety net" should be retained and that changes should aim to make the focus of the system more child-centred and user-friendly and encourage multi-disciplinary approaches.
- Respondents who did not express a clear view were often concerned at what might replace statementing (as were some of those in favour of scrapping it and many of those who were against).
- Concern has been expressed that any changes should only be made after careful consideration of possible impacts.

### *Positive Views about Statementing*

- Whatever their failings, they are a huge improvement on the situation prior to their introduction.
- They provide a detailed multi-disciplinary assessment of a child's needs.
- They draw in resources for the child concerned.

- They provide a legally enforceable safety net and meaningful rights of appeal.
- Parents are involved closely in the process.
- They provide for Annual Review.

### ***Negative Views about Statementing***

- Professional time and resources are tied up in assessment rather than meeting the needs of pupils.
- They do not promote a whole school approach.
- There is no clear link between number of statements and quality of provision.
- There is no clear link between money spent on SEN and the % of pupils with statements (Source: Estyn report but mentioned in a number of responses).
- They are variously and often described as bureaucratic, complex, time consuming and inflexible.
- They put negative labels on children.
- They are biased toward the children of relatively affluent or articulate parents resulting in resources not being used on those with the greatest needs.
- The process (both to providers and to parents) is costly and a poor use of scarce resources.
- The process of assessment often creates barriers between parents, teachers and other professionals.
- Even though parents see them as a way of drawing in resources for their children this is not necessarily borne out in practice.
- They create perverse funding incentives and rewards for schools.
- Assessments are often conducted sequentially rather than in a genuinely multi agency, child-centred and holistic way.
- The needs of children on the “borderline” of statementing can be ignored.
- Statements end at age 18 even though there may be continuing needs. (This is probably an issue for the next phase of the review on transition.)

### **Possible Options for Consideration**

- Limit statements to children with most complex needs.

- Change guidance to ensure a more consistent approach between LEAs and schools.
- Replace statements with a continuously assessed “record of need” or entitlement for all pupils. The co-ordinated plans used in Scotland or strengthening the arrangements for Individual Education Plans may offer a model.
- Make SEN a function of whole school improvement rather than focusing on individual pupils

## Resources

### Issues

- Are the resources (currently around £260 million) at an all-Wales level sufficient? Although resources has been a recurring theme, it has been their use rather than the overall provision, which has been of most concern.
- Use of resources - the process of statementing uses valuable resources which could be better used to address needs.
- Schools which are effective in dealing with special needs, but have low levels of statements, may receive less funding than schools that are not so effective but have higher numbers of statemented pupils.
- There is a perception of a “post code lottery” based on differences in policies and funding levels between both different LEAs and schools.
- There is concern that provision for specialist staff such as therapists, specialist teachers and SENCOs is stretched.
- There is concern that provision for Welsh language and Welsh medium SEN is inadequate in some areas, particularly the less Welsh-speaking areas.
- Evidence has been provided that there is no clear link between money spent on SEN and the % of pupils with statements (Estyn report).

### Possible Options for Consideration

- More centrally earmarked funding for SEN distributed outside the RSG settlement.
- A national needs based funding formula for SEN.
- Amend the SEN Code of Practice to ensure a more consistent approach across Wales by LEAs.
- Incentives for greater co-operation between LEAs, particularly in funding regional and specialist provision and in areas such as Welsh Language and Welsh-medium provision.

- Funding provided to school clusters rather than LEAs or individual schools.

## Inclusion

### Issues

- Has inclusion moved too far? Is the balance between mainstream and special schools/units right?
- Should there be a different balance of provision so that disorders which by their nature “exclude” pupils (for instance some autistic spectrum disorders) are in future catered for in more specialist settings outside mainstream schools?
- Should statements provide a “passport” to a place in a special school or unit?

### Possible Options for Consideration

- More special needs units within mainstream schools.
- Guaranteed places within special units or schools for children with a statement.
- Greater use of school clusters to provide for those with moderate to severe difficulties.

## Information and Support for Parents and Carers

### Issues

- There is a widespread lack of understanding and even distrust of school action and school action plus programmes among parents.
- There was a need for more and better information for parents on the support available for their children.
- Many parents complain that statementing is process driven, bureaucratic, complex and time consuming.
- Some parents do not feel supported through the statementing process or feel forced into pursuing the statementing route because of a breakdown of trust between them and schools or LEAs.
- Multi-disciplinary assessments are often completed in isolation from one another. This makes it difficult for parents and children who have to attend many appointments with different professionals at different venues.
- Child and adolescent mental health issues are often overlooked in statementing leading to later behavioural and emotional difficulties arising.

### Possible Options

- More resources for, and greater use made of, children's centres or multi-disciplinary support facilities.
- Multi-agency meetings similar to annual reviews both before and during formal assessment.
- Better co-ordination between agencies.
- Better information for parents on the alternatives to statements, in particular on what school action and school action plus involves.
- Greater use of key-workers to support parents and children during the statementing process.
- Greater involvement of children in discussions on their needs and in explaining the statementing process
- Encourage greater use of the disagreement resolution service.
- More focus on mental health issues.
- Encourage greater use of "Notes in lieu of a Statement"

### Welsh Medium and Bilingual Provision

#### Issues

- Parents not always made aware of the language choices available to them.
- Services not always made available to parents in their language of choice.
- Welsh-medium assessments may not be possible or effective if tests are not available in Welsh. Welsh-medium diagnostic tests should be made available to ensure that children's needs are effectively identified and appropriately assessed.
- There is a shortage of practitioners able to work through the medium of Welsh.

#### Possible Options for Consideration

- Regional centres and provision should be encouraged.
- Welsh-medium diagnostic tests need to be developed.
- Recruitment policies and staff training need to be adapted to ensure sufficient qualified staff able to carry out assessments through the medium of Welsh and bilingually.
- Carry out an audit of Welsh medium and Welsh language expertise to see what gaps exist and to inform future provision.



### Other Issues

- Administering of medicine in mainstream schools - need to clarify the legal liability of untrained teachers.
- Issues surrounding testing or statementing for children whose language is neither Welsh nor English or whose parents might not speak either language.
- Similarly, support for parents who might themselves have special health or education needs.
- Looked-after children are particularly susceptible to not having their needs met.
- A number of recommendations made as part of the report on part one of the review may also be relevant to this part of the review.

### **Conclusion**

16. The Committee is invited to discuss the issues set out in this paper, along with other issues that they consider relevant, and provide guidance to the Committee Clerk on the recommendations that the Committee would wish to see included in the Committee's final report.

List of Committee Papers and TranscriptsELL2 01-05 - 19 January 2005

Papers
<a href="#">ELL(2)-01-05(p2) - Terms Of Reference and Provisional Programme</a>
Minutes of Meeting
<a href="#">ELL(2)-01-05 Minutes</a>

ELL2 02-05 - 9 February 2005

Paper to Note
<a href="#">Paper to Note - ELL(2)-02-06(p7)- Revised terms of reference</a>

ELL2 03-05 - 9 March 2005

Paper to Note
<a href="#">ELL(2)-03-05(p7) - Draft E-Democracy Internet Page</a>

ELL2 04-05 - 20 April 2005

Papers
<a href="#">ELL(2)-04-05(p2) - Special Educational Needs (SEN): MRS Background Paper</a>
<a href="#">ELL(2)-04-05(p3) - Paper From SNAP Cymru</a>
Minutes of Meeting
<a href="#">ELL(2)-04-05 Minutes</a>
Transcript of Meeting
<a href="#">ELL(2)-04-05 Transcript</a>

ELL2 06-05 - 26 May 2005

Papers
<a href="#">ELL(2)-06-05(p1) - Paper from ESTYN</a>
<a href="#">PowerPoint Presentation from ESTYN</a>
<a href="#">ELL(2)-06-05(p2) - Paper from ADEW</a>
Minutes of Meeting
<a href="#">ELL(2)-06-05 Minutes</a>
Transcript of Meeting
<a href="#">ELL(2)-06-05 Transcript</a>

ELL2 07-05 - 8 June 2005

Papers
<a href="#">ELL(2)-07-05 PowerPoint Presentation by SEN tribunal for Wales</a>
Minutes of Meeting
<a href="#">ELL(2)-07-05 Minutes</a>
Transcript of Meeting
<a href="#">ELL(2)-07-05 Transcript</a>

ELL2 08-05 - 29 June 2005

Papers
<a href="#">ELL(2)-08-05(p3) - College of Occupational Therapists</a>
<a href="#">ELL(2)-08-05(p3a) - Autism and the National Autistic Society</a>
Minutes of Meeting
<a href="#">ELL(2)-08-05 Minutes</a>
Transcript of Meeting
<a href="#">ELL(2)-08-05 Transcript</a>

ELL2 09-05 - 21 September 2005

<b>Papers</b>
None. See transcript for Oral Evidence from Baroness Warnock.
<b>Papers to Note</b>
<a href="#">ELL2-09-05(p.6) Note of Committee's fact-finding Visit to Scotland</a>
<b>Committee Minutes</b>
<a href="#">ELL2-09-05(p.6) Minutes</a>
<b>Transcript of Meeting</b>
<a href="#">ELL(2)-9-05 Transcript</a>

#### ELL2 10-05 - 29 September 2005

This Meeting took place at the Aberavon Beach Hotel, Port Talbot
<b>Papers</b>
<a href="#">ELL(2)-10-05(p1) Presentation from Project Dyslexia Cymru</a>
<a href="#">ELL(2)-10-05(p2) Presentation from Autism Cymru</a>
<b>Minutes of Meeting</b>
<a href="#">ELL(2)-10-05 Minutes</a>
<b>Transcript of Meeting</b>
<a href="#">ELL(2)-10-05 Transcript</a>

#### ELL2 11-05 - 13 October 2005

<b>Papers</b>
None. Oral evidence was heard from Special Educational Needs Co-ordinators (SENCOS)
<b>Minutes of Meeting</b>
<a href="#">ELL(2)-11-05 Minutes</a>

<b>Transcript of Meeting</b>
<a href="#">ELL(2)-11-05 Transcript</a>

**ELL2 12-05 - 9 November 2005**

<b>Papers</b>
None. Oral Evidence was heard from Rhieni Dros Addysg Gymraeg (RHAG), Mudiad Ysgolion Meithrin (MYM) and the Office of the Children's Commissioner.
<b>Minutes of Meeting</b>
<a href="#">ELL(2)-12-05 Minutes</a>
<b>Transcript of Meeting</b>
<a href="#">ELL(2)-12-05 Transcript</a>

**ELL2 13-05 - 30 November 2005**

<b>Papers</b>
<a href="#">ELL(2)-13-05 (p.2) Royal College of Speech and Language Therapy</a>
<a href="#">ELL(2)-13-05 PowerPoint Presentation from Welsh Advisory Group on Special Educational Needs (WAGSEN)</a>
<b>Paper to Note</b>
<a href="#">ELL(2)-13-05 (p.11) - Paper from the Welsh Local Government Association (WLGA)</a>
<b>Minutes and Transcript</b>
Not yet available

**Background Information on respondents to the Special Educational Needs  
Questionnaire - (Part 2) Issued in 2005**

Total number of Questionnaires Received: 99

**Sex:**

Sex	Total	% of Total*
Male	21	21
Female	63	64
Did not Specify	15	15

\* Figures may not add to 100% due to rounding

**Age Groups:**

Age Group	Total	% of Total*
Under 14yrs	5	5
14-19yrs	3	3
20-25yrs	4	4
26-35yrs	6	5
36-45yrs	24	21
46-55yrs	34	30
56-65yrs	12	11
65 and over	1	1
Did not Specify	23	20

\* Figures may not add to 100% due to rounding

**Residence:**

Area of Residence	Total	% of Total*
Anglesey	2	2
Blaenau Gwent	0	0
Bridgend	6	6
Caerphilly	0	0
Cardiff	11	11
Carmarthenshire	3	3
Ceredigion	10	10
Conwy	1	1
Denbighshire	1	1
Flintshire	8	8
Gwynedd	3	3
Merthyr Tydfil	0	0
Monmouthshire	0	0
Newport	2	2
Neath Port Talbot	3	3
Pembrokeshire	3	3
Powys	6	6
Rhondda Cynon Taff	6	6
Swansea	2	2
Torfaen	0	0
Vale of Glamorgan	4	4
Wrexham	11	11
England	3	3
Northern Ireland	0	0
Republic of Ireland	0	0
Scotland	0	0
Did not Specify	18	18

\* Figures may not add to 100% due to rounding

Roles:

Role	Total	% of Total*
Parent, Carer or Guardian of person with SEN	24	24
Person with SEN (With Statement)	0	0
Person with SEN (Without Statement)	0	0
Sibling or other relative of person with SEN	1	1
Teacher/ Headteacher	15	15
Therapist or other Healthcare Professional	30	30
Social Services Professional	2	2
Lawyer	0	0
Local Politician	0	0
National Politician	0	0
Member of Relevant Organisation	10	10
Other	7	7
Did not Specify	10	10

\* Figures may not add to 100% due to rounding

Language:

First Language	Total	% of Total*
English	74	73
Welsh	12	12
Other	0	0
Did not Specify	16	16

\* Figures may not add to 100% due to rounding

## Education and Lifelong Learning Committee

### Policy Review of Special Educational Needs

#### Statementing Process

##### Abstract

This paper has been prepared by the Members Research Service and covers:

- ◆ The current system for statementing in Wales and England;
- ◆ Arrangements in Scotland;
- ◆ A summary of the Audit Commission Policy Focus Paper, *Statutory assessment and statements of SEN: in need of review*<sup>1</sup>;
- ◆ A summary of the Estyn report *Best Practice in the Development of Statements of Special Educational Needs and Delivery by Schools of the Action Agreed*<sup>2</sup>; and
- ◆ Information on the British-Irish Inter Parliamentary Body (BIIP).

##### Statementing Process in Wales

The statementing process in Wales is very similar to that in England. If a child has special educational needs (SEN) they may need extra help and support to get the most out of the education system. For those with special educational needs which cannot be met within the early years settings or school's own resources, the local education authority (LEA) may carry out an assessment to help them decide whether further action is required. The appropriate authority must consider an assessment unless it thinks it is unnecessary or if the child has had an assessment in the last six months. As a result a document may be issued, known as a Statement of Special Educational Needs, which sets out how they should be met. The whole process, from considering whether an assessment is necessary, to producing a final Statement should take no longer than 26 weeks.

##### The Process of Assessment

The 'graduated response' to a child's special educational needs is set out in the *Special Educational Needs Code of Practice for Wales*<sup>3</sup>. This sets out the key principles for identifying, assessing and reviewing SEN. There is an emphasis on a graduated response, highlighting the importance of early identification of a child's SEN.

##### Educational Assessments for children under 2

If a child has a particular condition or health problem which has caused concern from an early age, they may be referred to the LEA for an assessment. If the parent requests an assessment this must be carried out. This assessment does not need to follow the statutory procedures that are applicable for children over 2. Statements for children under two are rare. The LEA should first consider individual support based on a child's need. If a statement is made it is usually because the child has complex needs or a particular service is required e.g. home-based teaching.

<sup>1</sup> <http://www.audit-commission.gov.uk/Products/national-REPORT/D3265D20-FD7D-11d6-B211-0060085F8572/senpolicyfocus.pdf>

<sup>2</sup> [http://www.estyn.gov.uk/publications/Remit\\_1.pdf](http://www.estyn.gov.uk/publications/Remit_1.pdf)

<sup>3</sup> [http://www.learning.wales.gov.uk/scripts/fe/news\\_details.asp?NewsID=1206](http://www.learning.wales.gov.uk/scripts/fe/news_details.asp?NewsID=1206)



## Educational Assessments for children under compulsory school age and over 2

- ◆ Early Years Action - if it is felt a child needs support additional to or different from that provided as part of the usual curriculum on offer, interventions will be agreed by the Special Educational Needs Co-ordinator (SENCO) and child's teacher;
- ◆ Early Years Action Plus - this stage is when outside support services or more specialist advice is sought to help a child's development;
- ◆ Requests for a statutory assessment - for some children the stages above are not enough to meet their additional needs. It is at this stage that the education provider, with the parents and anyone else involved with the child, should consider a request for a statement.

## Educational Assessments for Children attending school

The levels are similar to a child attending an early years setting.

- ◆ School Action - this is the level at which a teacher or SENCO identifies a child with SEN who needs additional or different support to that given as part of the general curriculum;
- ◆ School Action Plus - this results in the request for help from outside services or specialist help to meet a child's needs;
- ◆ Request for a Statutory Assessment - where it is felt the child still has extra needs which have not been met in the previous stages, the school may ask for a statutory assessment of the child.

## Statutory Assessment

This is a detailed multi-professional examination to find out exactly what the child's special educational needs are. It includes reports from the school or education adviser, an educational psychologist, a doctor and any social services or health professionals involved with the child (such as health visitor or therapist). Parents are also asked to give a report which can include details of professionals they would like consulted. An assessment should also include, where possible, the views of the child. The letter proposing formal assessment will give the parent not less than 29 days notice and will advise the parent of their right to send in comments in English or Welsh including whether there are any additional people the parent would like the LEA to consult. Children should, where possible take part in all the decision-making processes that take place in education.

## Result of the Assessment

The LEA will make a decision of whether or not to issue a Statement in writing. The Statement will outline the child's special educational needs and ways in which each of those needs should be met. It may give details of the type of school the child needs, for example a special school.

The Statement is split into six parts:

**Part 1 - Introduction** gives the child's details;

**Part 2 - Special Educational Needs** outlines any areas of difficulty the child experiences;

**Part 3 - Special Educational Provision** should give details of all provision to be made directly relating to all needs listed above and arrangements for monitoring progress;

**Part 4 - Placement** school, or other educational provision, where the child will attend;

**Part 5 - Non-educational needs** those which are agreed by social services, health or other agencies and the LEA;

**Part 6 - Non-educational provision** provision made by health, social services or other agencies and how it will be met.

### Note in Lieu of Statement

The LEA may decide that the child's needs can be met within the schools own resources and decide not to issue a Statement, but may issue a Note in Lieu of Statement. This must include copies of all the reports collected during the assessment.

A flowchart showing the statementing process is attached at Annexe A.

### Audit Commission Policy Focus Paper

In June 2002, the Audit Commission published a Policy Focus paper, *Statutory assessment and statements of SEN: in need of review* which presents evidence on the shortcomings and the strengths of the statutory framework for identifying and meeting children's needs. The analysis was based on research in five LEAs in England and Wales, including interviews with key officers, meetings with headteachers, governors and SENCOs and discussions with parents of children with SEN.

Key concerns about statutory assessment and statements:

- ◆ Statutory assessment is costly and bureaucratic;
- ◆ The same process must be followed irrespective of a child's needs;
- ◆ The process may add little value in helping to meet a child's needs – statutory assessment seldom reveals new information about a child's needs;
- ◆ Parents find it a stressful and alienating process – parents said that they had to fight to have their child's needs assessed, linked to the perception that the LEA did not want to pay more for their child;
- ◆ During assessment, many parents experienced long delays and did not know what was happening;
- ◆ Statements often provide little assurance to parents – LEAs are responsible for arranging for the provision in a statement to be made, but in practice, most provision is made at school level;
- ◆ Research found that monitoring by governors was variable;
- ◆ Statements often include aspects of health and social services provision, but LEAs have no control over how these agencies deploy their staff or budgets;
- ◆ Statements lead to an inequitable distribution of funding, with (at the time of writing) 68% of SEN spending focused on pupils who have statements, with the remaining 32% being spent on those with SEN but no statement;
- ◆ Whether a child has a statement can depend on in which local authority they live and which school they attend as there are differing local policies;
- ◆ Parental means and attitude also appear to have an influence – many parents felt they were able to win more support for their child by being assertive.

Some aspects of the current framework were found to be positive by parents and professionals:

- ◆ Parents valued the formal recognition of their child's needs provided by the statement;

- ◆ SENCOs valued the external advice that they received, especially from the educational psychologist, although this was often prior to statutory assessment;
- ◆ Parents felt that they had done their best to ensure that their child's needs would be met in seeking a statement;
- ◆ Statements can add rigour to planning to meet the needs of individual children – and pressure to ensure that agencies work together to this end;
- ◆ Although monitoring by both schools and LEAs was generally weak, at the level of the individual pupil, much careful planning appeared to be taking place;
- ◆ Statements offer parents a mechanism for redress in their right of appeal to the SEN Tribunal;
- ◆ Most parents spoke highly of the support they received through the parent-partnership services in helping them through the statutory process.

### Recommendations

The paper set out a range of options, the most significant of which are:

- ◆ Further delegation of SEN resources to enable schools to meet more children's needs without having to request a statutory assessment and giving them the means and incentive to intervene at the earliest opportunity, and linked to this;
- ◆ The development of rigorous monitoring arrangements, so that their parents may be confident that their child will get the support they need in school.

The paper states that action at a local level can only improve matters so far as there are a number of tensions in the statutory framework that lie behind its key recommendations. In particular:

- ◆ LEAs are held responsible for arranging provision to meet the needs of children with statements, but resources are increasingly controlled by schools;
- ◆ Some children require the support of health and social services, but these agencies are only required to respond in so far as their resources and priorities allow; and
- ◆ Statements place unlimited demands on limited LEA budgets.

More than 350 responses to the report were received, the largest group of which were from parents. These revealed strong support for the report's recommendations. The analysis of responses was undertaken by the Institute of Education, London University. This can be seen at:

<http://www.audit-commission.gov.uk/Products/national-REPORT/D3265D20-FD7D-11d6-B211-0060085F8572/SEN-Analysisofdata.pdf>

### System in Scotland

The present system in Scotland will change shortly with the introduction of the *Education (Additional Support for Learning) (Scotland) Act 2004*<sup>4</sup>. At present, Scotland has a system similar to the statementing system, called a Record of Needs (RON). The RON is a means of assessing, planning and delivering provision for a child with SEN. The spirit of the education system in Scotland is that any child who experiences difficulties with learning should get the help they need regardless of whether they have a RON or not. As a result a fairly small percentage of children with SEN have a RON (approximately 1-2%

<sup>4</sup> <http://www.scotland-legislation.hms.gov.uk/legislation/scotland/acts2004/20040004.htm>

in Scotland, in Wales, as at January 2004, 3.3% of pupils had statements). The children who do have a RON are those with the most pronounced, complex or severe SEN.

The *Additional Support for Learning Act* will introduce a system which will replace the RON system.

### ***Additional Support for Learning Act***

The *Additional Support for Learning Act* received Royal Assent on 7 May 2004 and is likely to be commenced in Autumn 2005. Amongst the key changes are:

- ◆ The new concept of 'additional support needs' which is wider and more encompassing than special educational needs;
- ◆ More duties on LEAs and others;
- ◆ More rights for parents;
- ◆ New independent mediation services for all parents with children with additional support needs;
- ◆ New dispute resolution services for parents;
- ◆ A new Code of Practice;
- ◆ Better planning and preparation for transition to post-school life;
- ◆ Removing the RON and introducing the Co-ordinated Support Plan for those who need it;
- ◆ A new independent Tribunal to hear appeals on a range of issues relating to Co-ordinated Support Plans.

### **Additional Support Needs**

The new concept of Additional Support Needs refers to any child or young person who, for whatever reason needs additional support for learning. Additional support can arise from any factor which causes a barrier to learning, whether that factor relates to social, emotional, cognitive, linguistic, disability or family and care circumstances, for example emotional support for someone who is being bullied, has behavioural or learning difficulties, is a parent, is at risk or is bereaved. Some additional needs will be long term and some will be short term. It is how these factors impact on the individual's learning that is important and that will determine the level of support required.

### **New Co-ordinated Support Plan**

This will be a new statutory planning document for children and young people with enduring complex or multiple barriers to learning who need a range of additional support from different services. Co-ordination of the services is required where the LEA needs help from others both from inside the authority, such as social work, or from outside agencies such as health. It will plan long-term strategically for the achievement of learning outcomes, rather than focussing on deficits and weaknesses as the RON does.

Everyone involved in supporting the individual's learning needs will have the opportunity to be involved in drawing up the plan, reviewing it and making provision. The LEA will have ultimate responsibility for the Plan

There will be new independent Additional Support Needs Tribunals who will be able to consider aspects relating to Co-ordinated Support Plans, including provision and will have the power to direct LEAs to take action to prepare, review or close a Co-ordinated Support Plan.

## Estyn Report

In 2004, Estyn published a report, *Best Practice in the Development of Statements of Special Educational Needs and Delivery by Schools of the Action Agreed*<sup>5</sup>

The report:

- ◆ Identifies best practice in the ways in which LEAs in Wales are working with schools to improve provision for pupils with SEN;
- ◆ Considers the implications of the distinction in the current statutory framework between pupils with and without statements of SEN; and
- ◆ Makes recommendations for improving SEN provision in Wales.

## Main findings

- ◆ There is considerable variation between LEAs across Great Britain and within Wales in the percentage of pupils with a statement of special educational needs.
- ◆ All authorities in north-west, north-east and mid Wales have a higher than average percentage of statements.
- ◆ All authorities that have a low percentage of statements, compared with the Welsh average, are in south-east and south-west Wales.
- ◆ There is no clear link between the social and economic characteristics of local authority areas in Wales and the percentage of pupils with statements.
- ◆ 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.
- ◆ Authorities that have the lowest percentage of pupils with statements generally reserve them for pupils who need special school placement. They provide additional resources to pupils in mainstream schools, without requiring a statement. These authorities have discontinued the statements of some pupils whose needs can be met by other means.
- ◆ Authorities with a higher percentage of pupils with statements deliver much of their additional mainstream school support through a statement. Also, they do not often discontinue existing statements.
- ◆ Most LEAs have achieved some success over the past three years in reducing the number of new statements that they issue, some from a high starting point.
- ◆ Most LEAs state in their Strategic Plans that they aim to reduce statements. However, very few LEAs have specified a corresponding target as a percentage of pupils with statements. Almost all LEAs' plans show clear links between strategies to promote inclusive education and strategies to reduce statements. Most emphasise the importance of developing the capacity of mainstream schools to make high quality provision for pupils with special educational needs.
- ◆ 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.
- ◆ LEAs and schools still have much work to do to monitor and evaluate the effectiveness and value for money of SEN provision that they make with or without a statement.
- ◆ Many LEAs have not succeeded in persuading parents and some of their schools that they can guarantee pupil's entitlement to provision without the statutory protection of a statement.

<sup>5</sup> [http://www.estyn.gov.uk/publications/Remit\\_1.pdf](http://www.estyn.gov.uk/publications/Remit_1.pdf)

- ◆ LEAs face challenges to provide statements for pupils in order to secure scarce services from other agencies, particularly speech and language therapy.
- ◆ A minority of LEAs would like the Assembly to provide guidance on a suitable target for the percentage of pupils with statements. More would prefer to have clear guidance on the type and degree of SEN for which a statement is required, and on the quality and standard of provision that is appropriate for meeting the various types and degrees of SEN.

### Recommendations

The Welsh Assembly Government should:

- ◆ Work with local authorities and health trusts, early years providers, schools and the voluntary sector to define the standards and quality of provision for all types of SEN;
- ◆ Provide guidance to local authorities and schools about the threshold of special educational need at which statutory assessment and provision of a statement is appropriate;
- ◆ Review the SEN Code of Practice in order to clarify whether LEAs are required to provide statements for pupils for whom they make special provision in mainstream schools;
- ◆ Consult more widely with parents, carers and pupils when planning and evaluating educational provision and additional support for pupils with SEN;
- ◆ Use the opportunity of the current review of the curriculum and assessment arrangements in Wales to strengthen the entitlement of all pupils to a broad and balanced curriculum, and to remove the link between statements and National Curriculum disapplication;
- ◆ Improve the clarity of information for LEAs and schools about funding of SEN provision;
- ◆ Work with LEAs and schools to develop a system to determine the value for money of all additional provision; and
- ◆ Work with local authorities and health trusts to develop a more systematic approach to the joint planning and funding of services for children and young people with special needs.

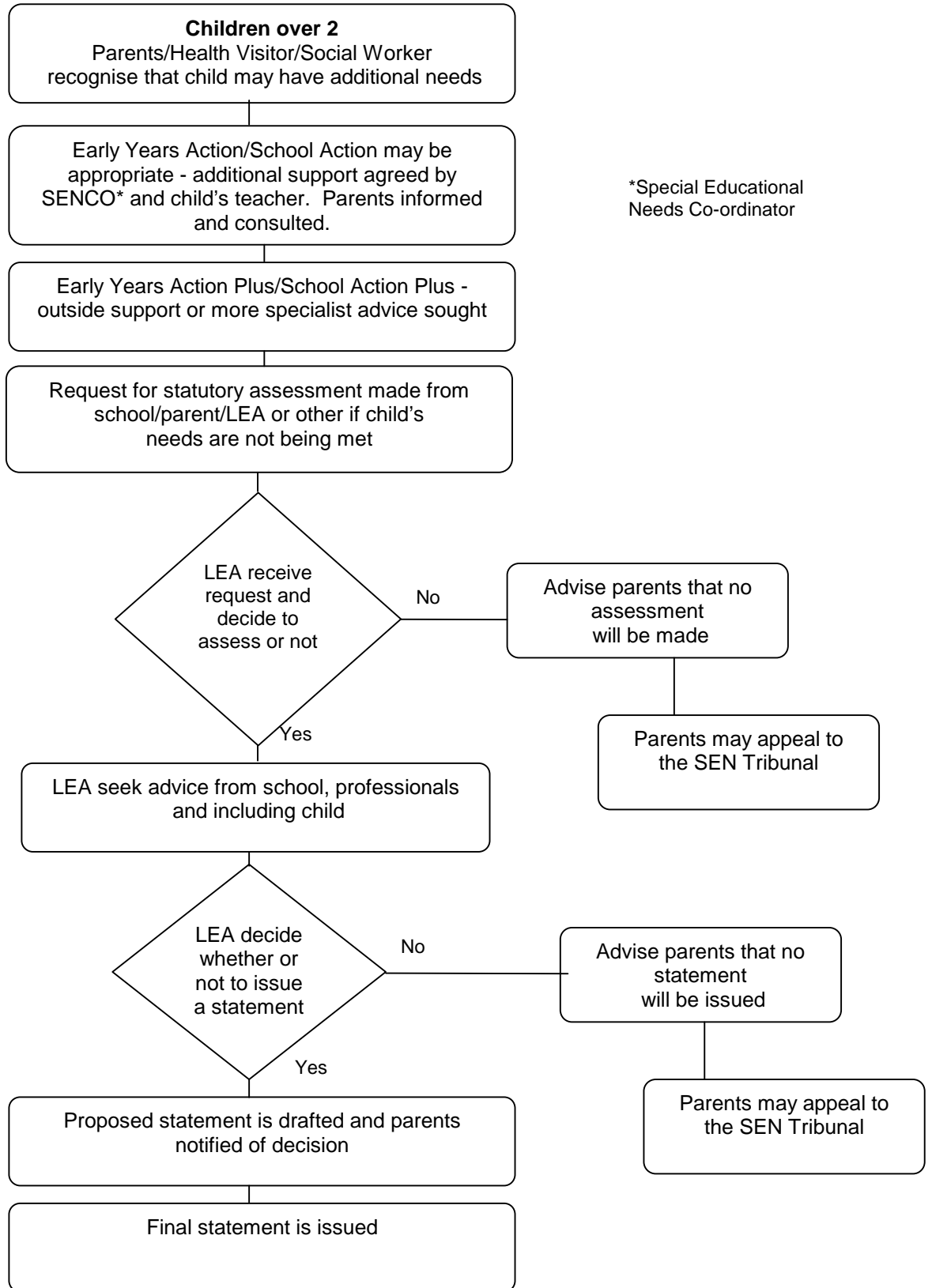
Local Education Authorities should:

- ◆ Work closely with schools and partner agencies to improve the monitoring and evaluation of the impact on pupils' achievements of all additional provision and funding; and
- ◆ Consult more widely with parents, carers and pupils when planning and evaluating educational provision and additional support for pupils with SEN.

Schools should:

- ◆ Improve the monitoring and evaluation of the impact on pupils' achievements of all additional provision and funding;
- ◆ Consult more widely with parents, carers and pupils in order to evaluate the impact of provision and additional support for pupils with SEN; and
- ◆ Make better use of the flexibility within the National Curriculum orders to improve the breadth and balance of the curriculum for pupils with special educational needs, particularly in key stages 3 and 4.

**Annex A**




Slide 1

**Presentation to the  
Education and Lifelong  
Learning Committee**

Wednesday 30<sup>th</sup> November

On behalf of the WAG Working Group on  
Statutory Assessment and Statementing




Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Slide 2

**Context**

- The '81 transformation
- A reduction in marginalisation
- A reduction in discrimination
- Rights and entitlement
- A process for identifying needs
- A system for ensuring needs were met
- Integration
- Parents' right of appeal




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Slide 3



### The concerns 2005

- Costly
- Bureaucratic
- Unresponsive
- No clear link between monies spent and percentage of statemented pupils
- Focus on provision
- Poor evidence base
- Resources caught up in paperwork
- Too little evidence of effectiveness




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Slide 4

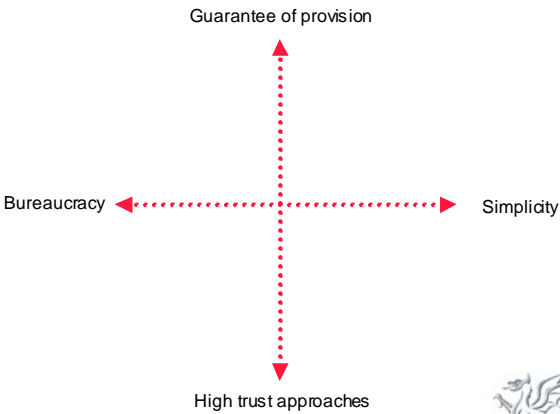
### The work of the Task Group

- Remit
- Initial discussions
- Problems of focus
- Need for an options paper
  - highlighting benefits
  - setting out concerns
  - identifying drawbacks
  - providing options for change



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Slide 5



Guarantee of provision

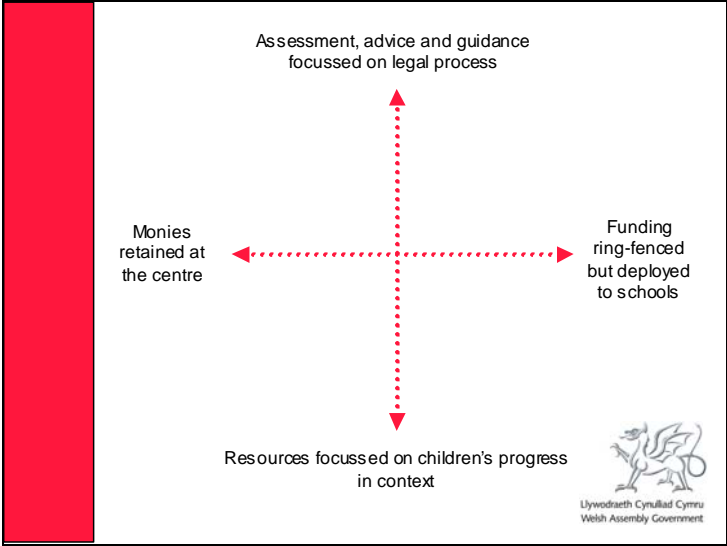
Bureaucracy ← → Simplicity

High trust approaches

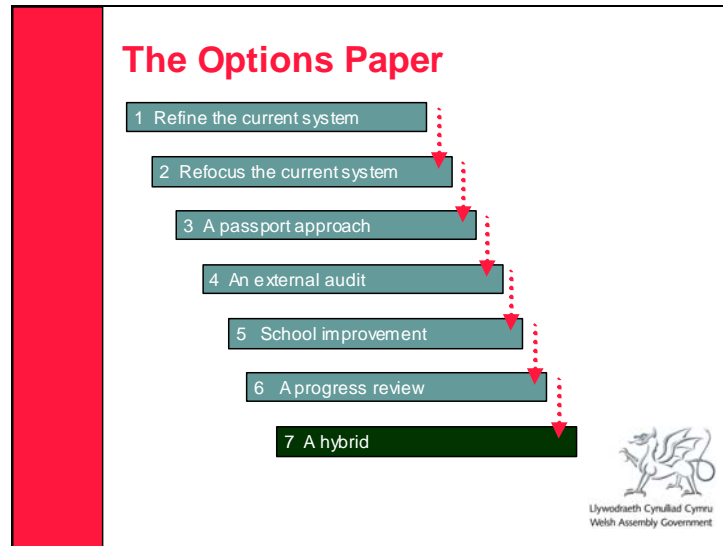


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Slide 6




Slide 7



Slide 8

## Option 1 Refine the current system

- The focus is upon:
  - The child and his or her progress
  - The context and its developing capability
- Assessment of the:
  - Child and his/her needs
  - School's development task to meet the pupil's needs
- Medical and therapy advice:
  - Setting out the implications for the child's functioning in the classroom


  
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**Option 1 Refine the current system**

- Planning
  1. What school needs to do
  2. How additional resources are to be used
  3. Targets for the child's learning
- Monitoring
 

By school improvement and additional needs specialist services
- Review
  1. Of the school's developing capability
  2. Of the individual pupil's progress




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Slide 10

**Option 2 Refocus the current system**

- Focus
  1. Statementing upon the 0.5% most vulnerable pupils
  2. Ring-fence and devolve all other resources to cluster of schools to meet needs at School Action and School Action Plus
- Assessment
  1. In-depth multi-agency assessment of the 0.5%
  2. School clusters use their SA and SA+ monies to employ own specialist staff



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**Option 2 Refocus the current system**

- Planning
  1. Integrated multi-agency planning for the 0.5% most vulnerable
  2. School Action And School Action Plus planning for the 0.5% to 4.5%
- Monitoring
 

By multi-agency key worker
- Review
 

Integrated multi-agency reviews

Reducing pressures on child, parents and carers



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### Option 3 **A passport approach**

- Focus Very child-centred  
May retain the multi-agency focus for the 0.5%
- Assessment Triggered by any stakeholder  
But assessment is continuous
- Resources Ring-fenced for meeting additional learning needs  
Deployed to clusters of schools  
Flexibly deployed as needs change  
A Contingency Fund Panel



## Slide 13

**Option 3 A passport approach**

- **Planning**      The passport provides the ongoing plan  
                          Provides a continuous record  
                          Ensures parents do not have to keep repeating their history
- **Monitoring**    By school, parents and visiting specialist professionals
- **Review**         Termly until parents are confident of progress  
                          Annually once parents are satisfied




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## Slide 14

**Option 4 An external audit approach**

- **Focus**            The quality and impact of the provision to meet all additional learning needs in schools
- **Assessment**    At school level, triggered by any stakeholder's concern
- **Resources**     All additional educational needs resource deployed to school cluster level  
                          These resources deployed on a graduated basis



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## Slide 15

### Option 4 An external audit approach

- Planning Individual plans for the most needy pupils  
Group plans for those with similar needs
- Monitoring - by parents who may ask for an 'individual audit' if they are concerned  
- by the LEA which samples progress each year  
- by full audit every 3 or 4 years
- Review Annually with parents



Slide 16

### Option 5 A facet of school improvement

- Focus The improvement of all children's learning  
Meeting additional learning needs becomes a central element in school improvement
- Assessment At school level of the child's needs in context  
Schools draw on devolved specialist staff
- Resources All monies for statutory assessment and statementing plus all personnel ring-fenced and devolved to school clusters to meet additional learning needs



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### Option 5 A facet of school improvement

- Planning As per School Action and School Action Plus  
- Statutory planning for the 0.5%
- Monitoring - by school  
- by parents  
- by visiting professionals
- Reviews Annually with parents of all pupils in receipt of additional resources to meet their needs



Slide 18

## Option 6 **A progress review approach**

- Focus A 'label free' approach that sees children's progress as the key concern
- Assessment As part of the assessment for learning approach to meeting the needs of all children
- Resources Devolved to school clusters

A contingency fund is retained by the LEA Progress Panel






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**Option 6 A progress review approach**

- **Planning**      Targets for progress are set on the basis of pupils' assessed rate of learning  
  
Individual learning plans developed with parents for all pupils who make less than expected progress
- **Monitoring**    - by class teachers, Senco and parents  
                          - by the LEA using individual and school level data
- **Review**          Annually with parents




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**Option 7 A hybrid approach**

- Drawing together the 'best' ideas from options 1- 6
- Reconciling the inherent contradictions
- Within the context of retaining the positives of the current system



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