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Education and Lifelong Learning Committee

Policy Review: Special Educational Needs

Key Issues and Recommendations

Purpose

1. The purpose of this paper is to consider the key issues, and to propose recommendations. The Committee Clerk will draft a report during the summer recess, for consideration by the Committee at the start of the autumn term.

Background

2. 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 gathered information (including presentations, a consultation exercise, and visits to schools in north and south Wales) between October 2003 and May 2004. It is intended to publish a report in autumn 2004, and then to investigate other aspects of SEN; including statutory assessments and statements, and 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

- To review what support is provided by local authorities and other agencies to assist parents and teachers in the early identification of SEN;
- To review how local authorities are having regard to the requirement for early identification as set out in the SEN Code of Practice for Wales;
- To identify good practice in multi-agency working in the early identification of SEN and the provision of appropriate intervention strategies, including the supply and training of speech and language therapists;
- To take account of recommendations in the Review of Services for Children with Special Health Needs undertaken by the Assembly's Health and Social Services Committee and the response issued by the Welsh Assembly Government in February 2003;
- To quantify the provision of advice and support through the medium of Welsh for children with SEN, with regard to early identification and intervention; and
- To make recommendations to the Assembly Minister on how existing services might be

improved so that more children with SEN are identified in sufficient time to enable effective intervention strategies to be developed and implemented.

Statutory Framework and Definitions

3. 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.

4. 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.

5. 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.

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.

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

Statistics

6. It is important that the conclusions and recommendations of the Committee's report are firmly based on evidence. Members have been given electronic copies of all the papers presented, notes of the visits to north and south Wales, and a summary of the responses to the consultation exercise. These are on the Committee's WebPage.

7. To illustrate the scale of the problem, a large proportion of children, perhaps one in four, will have some special or additional need at some time in their school life. In 2002 some 3.4% of children in Wales had statements, but there was wide variation between local education authorities across Wales; from 1.6% to 5.1%¹. About a quarter of all new statements in 2002 were for children under five years old. Three quarters of children with statements are educated in mainstream schools.

8. Total budget for SEN provision in Wales for 2003-04 is £224 million². This represents an increase of 11% on the previous year's budget. Delegated expenditure to special schools accounts for 21% of the total budgeted SEN expenditure in 2003-04. Notional expenditure within primary and secondary schools accounts for a further 38% of the total. The remaining 41% is made up of money held centrally by LEAs and inter-authority charges (non-delegated).

Source: ¹Estyn paper ELL(2)-05-03(p1)

Source: ²UK Statistical Bulletin SB 63/2003

Key Issues

Early Identification

9. Early identification of SEN is essential. The earlier action is taken, the more responsive the child is likely to be, and the more readily can intervention be made.

10. Estyn is due to introduce new inspection arrangements in September 2004. Inspectors will be looking for evidence that schools effectively diagnose individual learning needs, and provide appropriate additional support. Evidence gathered and evaluated by Estyn will be used to monitor future progress in the identification of special educational needs.

Statutory Assessment

11. Assessment is a process of gathering information about the health, education and social care needs of a child. Assessment should also identify the disabling social and physical factors which are inhibiting

the child's access to a good quality of life. For those children and young people with special needs it is important that the process of assessment is supportive of the child and the family. Assessment should begin as soon as possible when a developmental delay or disability is suspected. The earlier action is taken, the more responsive the child is likely to be, and the greater the likelihood of preventing some longer-term difficulties.

12. Assessment should not be regarded as a single event, but rather as a continuing process. An early assessment of need, in terms of medical, social and educational needs, is essential to secure and define appropriate service provision. However, the needs of the child and the family will change over time as a result of the child's development, family factors and as an outcome of the support provided. The ongoing assessment process must be flexible and responsive to changing needs. ACCAC and SENCOs are investigating means of better assessing the achievement of learners with SEN.

13. In some respects, existing statutory assessment procedures can be unhelpful. Bypassing these formal assessment, and ensuring that appropriate resources are focused on those who need them, as quickly as possible, could be a more effective method of early intervention. The statutory assessment process and provision of statements will be considered by the Committee as a separate phase of this overall review, and so it is not intended to comment further at this stage.

Support for Parents

14. Parents are the first and primary educators of their child and the agencies and services supporting them must be able to respond flexibly and positively to the very wide range of families with whom they work. Families can be diverse in terms of their experience, resources and expectations as well as their cultural, religious and linguistic influences.

15. Providing information to families is a key function of service provision. The Health and Social Services Review (2001) received evidence to suggest that there is a real need for comprehensive information services at the time of diagnosis and subsequently throughout a child's development. Reliable and timely information enables families to remain in control as they take decisions about what to do.

Children and Young People

16. The SEN Code of Practice for Wales highlights the importance of children and young people's participation in all the decisions about their education. Successful inclusion is a key step towards preparing pupils with SEN to become full and contributing members of the community. Service providers must plan and act to design services to achieve inclusive provision for children and young people with SEN.

Teacher Training and Continuing Professional Development

17. As more children with severe and complex difficulties are entering mainstream schools, the initial training and continuous professional development of teachers is becoming increasingly important. Teacher training colleges should incorporate SEN training more widely, as an integral part of initial teacher training courses. In addition, teachers should be encouraged to keep abreast of latest theories and techniques as part of their continuing professional development (CPD).

18. The Welsh Assembly Government has recently announced that it will develop a strategy to train staff involved with educational provision for children and young people with Autistic Spectrum Disorder (ASD). This strategy will recognise that training of practitioners is fundamental, and that opportunities must be provided for continuing professional development.

Scarcity of Specialist Staff

19. There is a shortage of specialist staff involved with early identification and provision of support for children and young people with SEN. These include speech and language therapists, educational psychologists and specialist teachers for deaf children. Some initiatives are already in train.

20. The Speech and Language Therapy Group (SALTAG), a Welsh Assembly Government joint education and health group, reported on its work in late 2003. The report 'Working Together' includes 17 recommendations, which have recently been subject to consultation. Several of these recommendations are relevant to other specialisms; for example, better use of information technology to store and share data, greater partnership between local health boards and local authorities, and the development and implementation of evidence based recruitment and retention strategies. The Committee awaits the outcome of the consultation with interest.

21. A joint Child and Adolescent Mental Health Services workforce group has been investigating the position of education and training for professional staff working with this group of children and young people. Funding has been provided for the development of a course, to begin in September 2004.

22. These initiatives are welcome, but it takes four years to train a speech and language therapist; and so it will be necessary to make better use of existing resources in the short term.

Multi-Agency Working and Workforce Planning

23. Multi-agency working is critical to early intervention. Meeting the special educational needs of individual children and young people requires flexible working on the part of statutory agencies. All the agencies involved in providing SEN support should plan their interventions together; to agree priorities, and to make appropriate resources available in time to make a difference.

24. There should be flexible and efficient arrangements in place to share information about the child and the family, between all the professionals and agencies involved. Without this, the opportunity to build a cumulative picture of the child's abilities and needs over time is lost, and parents are left with the

responsibility of retelling their story to every new professional they meet.

25. Workforce planning will become increasingly important, to address current shortages of specialist staff. In the short term, more innovative use must be made of existing professionals and their support staff.

26. It will also be necessary to resolve the question of who has 'prime' and 'ultimate' responsibility for the provision of specialist support for children and young people with SEN. At present, this responsibility is divided between health and education authorities; thereby hindering effective workforce planning and the deployment of resources. A change to primary legislation is the only way to resolve this anomaly.

Regional Provision

27. The Education Act 2002 gives powers to local education authorities in Wales to collaborate in providing advice and support for children and young people with SEN on a regional basis. The Welsh Assembly Government could encourage and facilitate this process by issuing guidance.

Welsh Medium and Bilingual Provision

28. In February 2003, the Welsh Assembly Government published 'Iaith Pawb', which sets out an action plan for a bilingual Wales. This plan aims to increase the number of Welsh speakers by 5% by 2011. The plan acknowledges the right of pupils with SEN to receive provision in the language of their choice.

29. In 2002, the Welsh Language Board published a comprehensive report on this issue entitled 'Acknowledging Need'. This report sets out current provision through the medium of Welsh, and makes a number of recommendations to improve services. The equality of linguistic opportunity for children and young people with SEN, including bilingual support for parents; improved access to therapies bilingually; improved cross-agency collaboration, sharing good practice and improved use of ICT; and ensuring that sufficient numbers of Welsh speaking SEN staff are trained, recruited and retained (including teachers, therapists and psychologists). The Welsh Advisory Group for SEN (WAGSEN) is currently considering the implications of this report.

30. While there has been steady growth in Welsh medium and bilingual education, there is no evidence of similar growth in bilingual services and education for children and young people with SEN. Such children and young people from Welsh speaking homes are regularly placed in English medium settings, due lack of appropriate Welsh medium or bilingual specialist support. Supply of SEN support through the medium of Welsh is patchy, as is the available data on the need for such support.

English/Welsh as a Second Language

31. The identification of the special educational needs of children and young people, whose first

language is neither English nor Welsh, requires particular care. It is necessary to consider the child within the context of their home, culture and community. When children and young people who have English and Welsh as an additional language make slow progress, it should not be assumed that inadequate language proficiency is the only reason; they may have some form of learning difficulty.

Health and Social Services (HSS) Committee Report on Children with Special Health Needs

32. In November 2002, the Assembly's Health and Social Services Committee published a report on children with special health needs, including those with special educational needs. The Assembly Government responded to this report in February 2003.

33. Some of the recommendations and responses are relevant to this review; for example, the following two recommendations were accepted - "Agencies should be encouraged to make better use of funding flexibilities and to pool budgets." And "The feasibility of the position of speech therapy assistants should be explored to undertake, under supervision, basic therapy services."

34. It would be helpful if, in its response to this review, the Assembly Government made a written statement summarising progress on the accepted recommendations from the HSS Committee's report, including a timetable for the completion of outstanding action.

Funding

35. Funding underpins the effective identification of children and young people with special educational needs, and provision of support to help meet those needs. It is unlikely that current funding levels will be increased significantly in the near future; so could this funding be used more effectively?

36. There are several ways in which this might be achieved; for example, by adjusting the formula which determines the allocation of funding to LEAs, to take account of different levels of need (based on evidence); by giving a greater weighting to early years provision (implying a reduction of funding in other areas); by increasing resources for the training and recruitment of specialist staff; and by recruiting more support staff, to enable more effective use of therapists and specialist teachers.

37. Greater co-operation between local education authorities, in planning and funding regional SEN provision, should result in some economies of scale. Any such savings should be used to further improve SEN services.

38. The Flexibilities Special Grant, introduced by the Welsh Assembly Government, has facilitated a number of collaborative initiatives between local health boards and local authorities. Such projects are welcome and should be encouraged.

Possible Recommendations (as a basis for discussion)

- In consultation with the Wales Office, the Assembly Government to prepare primary legislation to resolve the prime and ultimate responsibility anomaly between the education and health authorities, in the provision and funding of professional SEN services;
- The Assembly Government to Issue guidance to LEAs in order to encourage regional SEN provision, using powers in the Education Act 2002;
- Estyn remit letter; include advice on the early identification of SEN in the electronic 'compendium of good practice' currently being developed;
- ACCAC remit letter; develop better means of assessing and monitoring the attainment of children and young people with differing complexity of SEN;
- The Assembly Government, in consultation with LEAs and the voluntary sector, to issue guidance on best practice in the provision of information, advice and contact points to parents of children and young people with SEN;
- The Assembly Government, in consultation with GTCW and teaching unions, to issue guidance on continuing professional development for teachers; focusing on skills and techniques necessary to support children and young people with SEN;
- The Assembly Government to issue guidance to teacher training colleges to improve initial teacher training in the identification of, and support for, children and young people with SEN;
- The Assembly Government to issue guidance to LHBs and LEAs encouraging them to make more use of the Flexibilities Special Grant, to fund collaborative SEN projects;
- After consideration of the consultation responses, the Assembly Government to publish a timetable for implementing the recommendations of the SALTAG report on speech and language services for children and young people with SEN;
- After consideration by WAGSEN, the Assembly Government to publish a timetable for implementing the recommendations of the report 'Acknowledging Need', to improve Welsh medium and bilingual services for children and young people with SEN;

- The Assembly Government to issue a written statement summarising progress on the accepted recommendations from the Health and Social Services Committee's report on children with special health needs, including a timetable for the completion of outstanding action;
- The Assembly Ministers for Education and Lifelong Learning, and Health and Social Services, to report regularly to their respective committees; monitoring progress on improving the planning, funding and delivery of services for children and young people with SEN.