

# House of Commons' Education & Skills Select Committee's Inquiry - Special Educational Needs: separation of assessment of need from funding of provision



## Context and General Approach

We agree with the Committee's report of July 2006, that there should be a 'fresh look' at the system<sup>1</sup>. We believe this should be undertaken in the current context and framework of the recent Government cross-cutting review *Aiming High for disabled children: better support for families* and the broader integration and improvement of child-focused services prompted by the *Every Child Matters* Change for Children reforms. This requires a more universal approach to planning and access across agencies, e.g. including health and social care, not simply education, and a different relationship with parents and carers, so that they are involved through a collaborative ethos and ongoing relationships with relevant agencies, not only the local authority<sup>2</sup>. We agree entirely with the Committee's conclusion that:

'The Every Child Matters agenda with its emphasis on five broad outcome measures (being healthy, staying safe, enjoying and achieving, making a positive contribution to society, and achieving economic well being), inter-agency working, establishing lead professionals, and using the extended services agenda to bring sectors together has the capacity to achieve a great deal for children with SEN.'<sup>3</sup>

Local authorities agree with the general thrust of the Committee's conclusion that SEN policy operates 'a separate system for special educational needs' and that SEN continues to be sidelined away from the mainstream agenda<sup>4</sup>. We would contend this is not purely in the context of education, but that the needs prompting children to present for SEN in the education system have effects in other areas of their and their parents' and carers' lives, which ought to be considered more holistically by the ECM Change for Children developments and in planning and provision within children's trust arrangements.

Perversely, however, many parents may consider the current system as the passport to help for their children, despite the deep frustrations that many have in navigating and gaining a positive outcome from the process, as they see it. A revised system must be more helpful and hold credibility for them. Alternatives need to be considered in, which enable children and parents to access a more complete package of support measures, in the security that a revised process is credible and has the interests of the child at its heart. This would, of course, include an appeals process. This would answer the Committee's conclusion, and local authorities' aspiration, that:

'With a range of appropriate high quality SEN provision in place, a clearer understanding of roles and responsibilities and more transparent processes, the confidence of parents in the system should increase and the level of anxiety, frustration and litigation should reduce.'<sup>5</sup>

We wholeheartedly agree that the role of children and young people in reviewing, planning and designing services should be advanced and many local authorities are leading the way in this area. E.g. Brighton and Hove Council, in its recent review of disability services, worked

<sup>1</sup> *Special Educational Needs: Third Report of Session 2005-2006, Vol. 1*, (House of Commons, 6th July 2006), Conclusions and Recommendations, para. 8

<sup>2</sup> *Government Response to the Education and Skills Committee report on Special Educational Needs* (October 2006), Section 1, para. 6

<sup>3</sup> *Special Educational Needs: Third Report of Session 2005-2006, Vol. 1*, Conclusions and Recommendations, para. 98

<sup>4</sup> *Ibid.*, para. 13

<sup>5</sup> *Ibid.*, para. 55

# submission

with local voluntary sector organisations and the Council for Disabled Children to hold planning workshops with children, their parents and carers. LGA is currently undertaking research with the National Foundation for Educational Research to investigate the input of children and young people to the development and review of Children and Young People's Plans, including the extent to which local authorities obtain ideas and feedback from children with special needs, their parents, carers and professionals engaged in working with them at the frontline<sup>6</sup>.

We are pleased that the Committee sees an important ongoing role for local authorities in the planning of SEN and we believe this is critical to deliver on our duties under the Children Act 2004 (s.10) and the Education and Inspections Act 2006 (s.1), among others, but we believe the principles proposed in the current inquiry would nullify this in practice<sup>7</sup>. We see the ECM framework as outlined by the Government in its *Response* to the Committee's report as the one which we recognise and very much support<sup>8</sup>.

Over the last few years, local authorities have been putting considerable efforts into development of joint planning and commissioning of children's services through children's trust arrangements and co-operation with partners under section 10 of the Children Act 2004. This commissioning process ought to be the arena for dealing with low incidence disabilities and SEN requirements<sup>9</sup>. This is also the arena for the Committee's support for local planning and flexibility that:

Local authorities must continue to have the capacity to plan and re-organise provision to meet the needs identified locally—including support, services and provision for low-incidence needs<sup>10</sup>.

Local authorities believe future strategy should be built on the ECM Change for Children principles of the child-centred approach<sup>11</sup>. We agree with the Government's *Response* that:

'...[T]he best way of improving outcomes for children with SEN and disabilities is through sustained action to build the capacity of the system to meet children's individual needs earlier and more effectively.'<sup>12</sup>

We believe that casting the problem only as 'pupil-centred' will be inadequate in truly helping children and parents to access the best support that they need, both within the educational setting, but also beyond it. Support beyond the educational setting can very obviously improve development and attainment within the narrower education arena, which is clearly only one aspect of children's experience and needs<sup>13</sup>. We believe the 'national framework with local flexibility', that the Committee wishes to see, exists in the ECM framework and that SEN should be much better integrated in the overall planning and commissioning processes of children's trust arrangements for children with disabilities than current systems allow for<sup>14</sup>. This would also enable the early diagnosis of particular conditions, which the Committee rightly advocates<sup>15</sup>.

In response to the Committee's recommendation regarding improved training for teachers on SEN and disability, LGA would argue that this is cast too narrowly in the context of effective Change for Children reforms and that the work of the Children's Workforce Development Council and others should be taken into account in ensuring the requisite training for dealing with children with disabilities across the more integrated children's workforce. If SEN is to be drawn more into mainstream ECM planning, workforce issues must also be considered in

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<sup>6</sup> *Ibid.*, para. 29

<sup>7</sup> *Ibid.*, paras. 42 and 43

<sup>8</sup> *Government Response*, Section 2 (in particular paras. 1-4)

<sup>9</sup> *Special Educational Needs: Third Report of Session 2005-2006, Vol. 1, Conclusions and Recommendations*, para. 61

<sup>10</sup> *Ibid.*, para. 72

<sup>11</sup> *Ibid.*, para. 90

<sup>12</sup> *Government Response*, Section 3, para. 2

<sup>13</sup> *Special Educational Needs: Third Report of Session 2005-2006, Vol. 1, Conclusions and Recommendations*, para. 64

<sup>14</sup> *Ibid.*, para. 67

<sup>15</sup> *Ibid.*, para. 69

that context too<sup>16</sup>.

### **Separation of Assessment and Provision**

We disagree with the Committee's conclusion that:

'There is an inbuilt conflict of interest in that it is the duty of the local authority both to assess the needs of the child and to arrange provision to meet those needs, and all within a limited resource. The link must be broken between assessment and funding of provision.'<sup>17</sup>

We are grateful for the opportunity of this further inquiry to explain why we take a very different view<sup>18</sup>.

We agree with the position set out in the Government's Response that parents need to have confidence in a system that can identify and address the needs of their children early and effectively<sup>19</sup>. We agree further that the right way forward is to focus on:

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- building further the capacity of the children's workforce;
- improving the range of provision to meet children's diverse needs;
- securing better planning, commissioning and coordination of services around the needs of children with SEN and/or disabilities and their families;
- improving accountability for the progress and outcomes that children achieve; and,
- strengthening the role of and support for parents.<sup>20</sup>

We believe the proposal being considered by this enquiry will not actually achieve the policy goal intended, if that is to improve access to services for children with disabilities and SEN, retain local flexibility and local accountability.

The Committee asks:

*How might assessment of special educational needs be undertaken other than by the relevant local authority without the establishment of a new separate agency for the purpose?*  
*And*

*What other issues need to be addressed in order to make the separation of assessment and provision effective?*

To suggest that the local authority should not undertake assessments undermines the work around a Common Assessment Framework (CAF) and overall planning and commissioning principles devised through the ECM Change for Children reforms to look at a child's support needs in the round. These are fundamental planks in the effective delivery of the Children Act 2004. The CAF contributes to the delivery of integrated frontline services, as outlined in the statutory guidance supporting section 10 (interagency cooperation) and section 11 (safeguarding and promoting the welfare of children) of the Act. The principles of ECM are that the local authority, along with partner bodies, is responsible for ensuring the well-being of *all* children and young people. If the local authority, along with relevant partners, is not in a position to make the assessment of need in the first place, it is pointless for the authority to be involved in the process at all, as all else derives from the assessment. It would not make sense to take the local authority out of the process for SEN but leave the local authority with legal duties and a commissioning role for the well-being of all other children, particularly if the Committee follows the logic of the principle that all assessment should be divorced from funding.

In any case, a divorce of assessment from funding will still not square the ultimate problem of there being finite resource, whoever runs the system or undertakes assessments. Someone will still need to take responsibility for stating that one need takes priority over another.

We believe a more helpful measure would be to look further into whether developments to

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<sup>16</sup> Ibid., para. 30

<sup>17</sup> Ibid., para. 26

<sup>18</sup> See also *ibid.*, para. 37

<sup>19</sup> *Government Response*, Section 1, para. 12

<sup>20</sup> *Ibid.*, Section 1, para. 16

the Common Assessment Framework (CAF) could better integrate the current SEN system into wider ECM integrated provision and planning. LGA is keen to consider how to progress this agenda with DfES and others.

Further, on the question of funding and resource we believe the current division of resources for children with disabilities and SEN may not be helpful. This is why greater co-ordination of local agencies is required to ensure common goals lead to more effective joint commissioning. Some local authorities and their partners e.g. Telford, have indeed taken the ultimate route of not only co-ordinating, but also pooling budgets.

On the contrary, far from divorcing assessment from funding, we believe an early assessment of children and young people's needs or a child with a disability of any kind, using CAF, can then draw together the funds of all relevant agencies to deliver a more comprehensive package of support to the child and parents than the current narrow stream of funding which is SEN statemented support alone.

### **Accountability**

The Committee also asks:

*How might local accountability for assessment be maintained if the local authority does not directly undertake the assessment?*

Currently the SEN system is linked into local democratic accountability and the various auditing and inspection measures to which the local authority is subject, along with other arrangements for *Every Child Matters* and the children's trust. We would suggest that any alternative arrangement should at least match that, for the sake of transparency and the influence that parents can bring to bear to ensure that the system addresses the child's needs effectively. There is a risk that another system could in fact make parents feel more alienated. There would still be the need for an appeals system as now.

There are a number of areas where LGA would like to pursue thinking around future developments. One, is that an assessment having been made and an appropriate level of funding agreed, that a system of direct payments could be made to parents or carers of children with disabilities. In effect, micro-commissioning would then be in the hands of parents directly. While the local authority and partners could support the parents in finding effective provision, it would be for parents to make the ultimate decision. It would be for local authorities to help manage the 'market' to ensure that a range of provision was locally available. This could help increase the credibility of the system and improve collaboration with parents, making them more empowered in providing for their children's needs.

### **Conclusion**

We believe that the current system can be made to work much more effectively for children with disabilities and SEN if SEN were genuinely made more integrated with the wider ECM processes.

We do not accept that the principle of dividing assessment or funding will improve the system.

On the contrary, we believe that assessment and funding are inextricably linked. If they are divorced, the same process of decision-making needs to be made in assessing real need against absolute and finite resource. The current and developing ECM measures, in the context of local accountability and flexibility, have the potential to weave the rather narrow SEN system into a broader more transparent one. Assessments of children's needs should be picked up at an earlier stage. They should be reviewed on an ongoing basis by a diversity of professionals in the workforce who understand the cross-cutting, multiple and complex nature of children's needs, not simply in education, but also in health and social care and where those resources can also be brought to bear effectively to help underpin better educational outcomes for children with disabilities.

Parents need to be more closely woven into an empowered position in the system too. Ultimately, we need to effectively integrate SEN into ECM, not perpetuate it as a separate totemic strand of assessment and support.

One aspect of our current work is a project called 'Narrowing the Gap', run in conjunction

with DfES and a wide range of local authorities. The overriding purpose of this project, which has just begun, is to make a significant difference on a national scale to the performance of children's trusts in narrowing the gap in outcomes between vulnerable and excluded children (including those with disabilities and SEN requirements, of course) and the rest, against a context of improving outcomes for all. The project will pursue:

- How to create and sustain the right links between schools and children's services
- How to engage and support parents and carers in helping their children to succeed
- How to strengthen and align local leadership and governance arrangements – both professional and political
- How to strengthen systems for developing local leaders to deliver improved services based on the understanding of what works
- How to use the new systems and process brought into being by Every Child Matters to orientate services more towards prevention and early intervention.

LGA would be pleased to provide the Committee with more information about the findings regarding SEN and children with disabilities as the project progresses.

Overall, LGA and local authorities are currently actively considering how to progress developments in policy and practice on SEN with DfES, which relates directly to the Committee's specific recommendations with regard to improving the system<sup>21</sup>.

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<sup>21</sup> *Special Educational Needs: Third Report of Session 2005-2006, Vol. 1, para. Conclusions and Recommendations, 39*