



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Education Lifelong Learning and Skills Committee

Policy Review of Special Educational Needs Part 2: Statutory Assessment Framework (Statementing)

May 2006

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Committee Service

Stephen George - Committee Clerk
Ruth Hatton - Deputy Committee Clerk
Joel Steed - Committee Support Officer

Further hard copies of this document can be obtained from:

Committee Service
Education Lifelong Learning and Skills Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel: 029 2089 8618
Fax: 029 2089 8021
E-mail: **education.comm@wales.gsi.gov.uk**

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Chair's Foreword

In July 2003 the Committee decided to undertake a review of special educational needs (SEN) split into three stages: early identification and intervention, the 'statementing' process and transition through the various levels of education and lifelong learning. The first stage of the review was published in November 2004. This report covers the second phase of the review on the statutory assessment (statementing) framework for children with SEN. The Committee intends to start the third stage in the summer 2006.

A statement of special educational needs sets how the needs of a child can be met in order to provide extra help and support to get the most out of the education system. A statutory assessment is a detailed multi-professional examination to find out exactly what a child's special educational needs are. The Committee acknowledges that the majority of those consulted are in favour of keeping some sort of statementing process. However the general view seems to be dissatisfaction with the way in which the statementing process works.

The Committee appreciates that statements are a considerable improvement on the situation prior to their introduction by the Education Act 1981, in that they provide a detailed multi-disciplinary assessment of a child's needs and draw in resources for the child concerned. However, the Committee is aware that the statementing process is costly and complex and can often create barriers between parents, teachers and other professionals. It is hoped that the recommendations in this report will lead to significant improvements in the statementing process, or its successor.

Having considered the evidence, the Committee advocates a collaborative approach to mainstream SEN provision, where inequities in provision are addressed and managed by qualified professionals. The Committee wants to see more multi-agency working between health, education and social service staff - with joint commissioning of SEN services. Existing legislation should be used to promote further co-operation by local authorities on a regional basis. The views of children and young people with SEN, and their parents, are vital in helping schools and local authorities to improve and refine their support and advice.

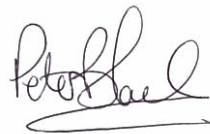
On behalf of the Committee, I should like to express my gratitude to the external reference group, with representatives from across the health, education and voluntary sectors. I am also grateful to David Melding AM, former Chair of Health and Social Services Committee, who attended all our evidence gathering sessions and made a valuable contribution to our deliberations. Our thanks also to officials from the Assembly Government's Additional Needs and Inclusion Division for their assistance.

In order to gather further evidence for the policy review, five Committee Members and committee staff travelled to Edinburgh in June 2005. Members discussed the policy background to the Education (Additional Support for Learning) (Scotland) Act 2004 with senior officials and politicians from the Scottish Parliament. They also visited Leith Academy and St Thomas of Aquin's High School, for a tour and discussion with staff. In addition, Members held discussions on special educational needs theory and practice with officials from Edinburgh City Education Department and a professor from Stirling University.

I am grateful for the warm welcome received during the visits to our Scottish colleagues.

Finally, I would like to thank all the Members of the Education and Lifelong Learning Committee for their hard work in producing this report.

I commend this report to Jane Davidson AM, Minister for Education and Lifelong Learning and also to Brian Gibbons AM, Minister for Health and Social Services.

A handwritten signature in black ink, appearing to read 'Peter Black', with a long horizontal flourish underneath.

Peter Black AM

Chair, Education Lifelong Learning and Skills Committee

May 2006

Section 1 - Introduction

Background

1.1 In July 2003, we decided to carry out a policy review of special educational needs (SEN) focusing initially on early identification and intervention. We published our report on phase 1 of the review in November 2004 the Welsh Assembly Government responded to the report on 25 January 2005.¹

1.2 This report covers the second phase of the review on the statutory assessment (statementing) framework for children with SEN. In the final phase of the review we will investigate the problems faced by children and young people with SEN in the transition through the various stages of statutory education and on to further or higher education.

Terms of Reference

1.3 We agreed the following terms of reference for this part of the review:

- *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.*

The Review

1.4 From April to November 2005, we gathered information on this subject; including formal presentations, a consultation exercise and informal visits to schools. We also paid a fact-finding visit to Scotland to see at first hand their experience of introducing new arrangements for statutory assessment.

¹ <http://www.wales.gov.uk/organicabinet/content/statements/2005/250105-ellreport-e.doc>

Section 2 - Background Information

Historical Context

2.1 The 1972 Education Act gave all children the right to an education and did away with the concept of “ineducable” children. In 1974 “The Committee of Inquiry into the Education of Handicapped Children and Young People” was set up. Chaired by Baroness Warnock, it advised on how these principles could be made to work in practice.

2.2 Its final report² in 1978 formed the basis of the 1981 Education Act which introduced Statements of Educational Need. Statements were to be issued by local education authorities based on expert assessment of a child’s needs and would set out the support that the child needed. Local authorities would be under a statutory duty to provide this support. Subsequent legislation has substantially maintained the statutory framework around Statementing.

2.3 We have heard directly from Baroness Warnock that it was estimated that only around 2% of the 20% of children with special needs would receive a statement. In fact, the number has been much higher than this leading some (notably Baroness Warnock herself) to question whether statements should be retained in their current form.

Definition of Special Educational 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:

- Have a significantly greater difficulty in learning than the majority of children of the same age; or
- 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
- 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:

- 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
- For children under two, educational provision of any kind.

See Section 312, Education Act 1996

² Warnock Committee (1978), Special Educational Needs: the Warnock Report, London: D.E.S.

A glossary of terms used in this report is at Annex E.

Statutory Framework

2.4 The current 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.

2.5 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.

2.6 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.

2.7 The Code describes procedures for assessing the special educational needs of children and young people, and of devising appropriate interventions to address them.

2.8 The basic principles of the Code are:

- All children with special educational needs should have their needs met;
- These special educational needs should normally be met in mainstream early years settings, or schools;
- The views of parents and their children will be listened to and taken into account;
- Parents have a vital role in supporting their child's education; and
- Children with special educational needs should receive a broad, well-balanced and relevant education.

2.9 The Code describes how support for children and young people will be provided by early years settings and schools in a step-by-step or graduated response. Different schools will take account of the Code in different ways.

Statistics on SEN in Wales

- 2.10 According to Estyn, a large proportion of children, perhaps one in four, will have some special or additional need at some time in their school life.
- 2.11 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 years³. About a quarter of all new Statements in 2004 were for children under five years old.
- 2.12 However, there was reported to be a wide variation between local education authorities across Wales; from 1.6% to 5.1%⁴. Three quarters of children with Statement are educated in mainstream schools.
- 2.13 Total expenditure on SEN provision in Wales in 2005-06 is budgeted to be £261 million⁵. This represents an increase of 7 per cent on the previous year's budget.
- 2.14 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.

³ Statistical Release SDR 52/2005 - Pupils with Statements of Special Educational Needs: January 2005

⁴ Estyn paper ELL(2)-05-03(p1)

⁵ National Statistics Release SDR 62/2005(R)

Section 3 - Issues Arising from the Review

Consultation and Evidence

- 3.1 Consultation questionnaires were sent to almost 150 individuals and organisations as well as to a 10% sample of all schools in Wales. In addition, an online discussion forum was arranged which was publicised by a press release and over 2,000 publicity flyers sent to all schools in Wales.
- 3.2 The consultation period was from June 2005 to September 2005. There were almost 100 responses to the consultation questionnaire. A breakdown of those who responded is at annex A. 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, a third from North Wales and a third from Mid and West Wales. A report of of the consultation including a schedule of respondents, can be found at Annexes A + B.
- 3.3 The issues raised were all covered, to a greater or lesser degree, in papers presented to us or in oral evidence. For the sake of brevity, it is not intended to repeat the information contained in the papers. These are listed at Annex C, and can be found on the Assembly website at www.wales.gov.uk as are transcripts of the oral evidence that we received.
- 3.4 Summarised below are the main issues that have arisen from the evidence we have gathered. It should be noted that this is not a comprehensive statement of all the points made in evidence but our assessment of some of the main factors that we have taken into account in arriving at our conclusions and recommendations:

Statements

- Over 65% of consultation responses were in favour of keeping some form of statutory assessment process and only around 10% of consultation responses expressed clear views in favour of scrapping Statements. However, many responses were critical of the process and there may be an element of “better the devil you know” in some responses.
- The general picture that has emerged during the course of the review is of a general dissatisfaction with Statements and the way in which the process works and a desire to see them replaced or improved in one way or another.
- No clear consensus emerged as to what the solution might be. 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.

- If changes are made these should only be introduced after careful consideration of all the possible impacts and in a way that seeks to build confidence and consensus.

The following represent a cross-section of the main views expressed in favour of and against statementing:

Positive Views about Statementing

- Whatever their failings, they are a huge improvement on the situation prior to their introduction by the Education Act of 1981.
- 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.
- Statements 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 percentage of pupils with Statements.
- The statementing process is costly (both to providers and to parents) and a poor use of scarce resources; Statements are variously and often described as bureaucratic, complex, time consuming and inflexible.
- The process of assessment often creates barriers between parents, teachers and other professionals; Statements put negative labels on children.
- The children of parents who are relatively affluent or articulate benefit disproportionately resulting in children with greater needs receiving less support than they should.

- Even though parents may 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.

Resources

- Currently around £260 million is provided annually across Wales to support SEN. No clear evidence has emerged that the overall level of resource is inadequate. However, the way in which resources are used has been a recurring theme throughout the review. It has been argued that the process of statementing itself is wasteful of resources, which could be better used to address real needs.
- There is a perception of a “post code lottery” based on differences in policies and funding levels between both different LEAs and schools; but Estyn⁶ has provided evidence that there is no clear link between money spent on SEN and the percentage of pupils with Statements.
- 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 pupils with statements.
- There is concern that provision of specialist staff such as therapists and specialist teachers is stretched; splits in provision between Health and Education budgets may be exacerbating some of these concerns.
- There is concern that provision for Welsh language and Welsh medium SEN is inadequate in some areas, particularly those where less Welsh is spoken.

Inclusion

- Despite concerns from some (notably Lady Warnock⁷) that what is meant by “inclusion” may need re-thinking, there is a very broad consensus that, irrespective of learning difficulties, children should be educated alongside their peers, wherever possible.

⁶ Best Practise in the Development of Statements of Special Educational Needs and Delivery by Schools of the Action Agreed. Estyn, 2004

⁷ Impact No.11 Special educational needs: a new look. Mary Warnock. Published by the Philosophy of Education Society of Great Britain. 2005. ISBN 0-902227-12-2

- However, it is also recognised that in many cases children with severe and complex needs may be better served by mainly special school or special unit provision than by mainstream provision.
- Disorders which by their nature “exclude” pupils (for instance some autistic spectrum disorders) may also be better catered for in more specialist settings outside mainstream schools in some cases.
- Using Statements as a means of accessing specific provision in specialist settings may be a way of addressing some of the issues above for the relatively small group of children with severe and complex needs for whom this approach is appropriate.

Information and Support for Parents and Carers

- There is a widespread lack of understanding and, in some cases, 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.

Welsh Medium and Bilingual Provision

- Parents are not always made aware of the language choices available to them; services are 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 with English tests having to be done for children whose first language is Welsh or children where Welsh is the language of teaching. 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.

Other Issues

- The role of staff in administering medicine in mainstream schools was raised. In particular, the legal liability of staff who have not received training to administer medicines has proved problematic.
- The needs of children whose first language is neither Welsh nor English, or whose parents might not speak either language, need to be considered, as does support for parents who might themselves have special health or education needs.
- There is evidence that looked-after children are particularly vulnerable to not having their needs met.

Section 4 - Consideration of Issues

Introduction

4.1 As we made clear in our first report, every child has the right to the best possible start in life. When a child has special needs it is vital that these needs are correctly identified as early as possible so that effective early intervention is made available for the child along with help and support for parents.

4.2 When they were first introduced, following the 1981 Education Act, Statements of Special Educational Need were a very significant step forward in the recognition that the education system should seek to nurture children's abilities rather than exclude them because they faced specific significant challenges. It would be a mistake to underestimate the advance that they represented both in the legal framework and also in society's attitude toward special needs education.

4.3 For the reasons set out above, we believe that any change to the statutory assessment framework should only be made if it is clear that the current framework is not working and only then after careful consideration of all the possible impacts and in a way that seeks to build confidence and consensus.

[1] We recommend that the Welsh Assembly Government should carry out a wide-ranging consultation with parents and other stakeholders to build consensus and confidence before any fundamental changes are made to the statutory assessment framework.

Legislative Competence

4.4 We note that at present the Assembly does not have the legal powers to make substantive changes to the arrangements for statutory assessment, despite the fact that education is otherwise an almost wholly devolved matter.

4.5 We can see no justification for this and believe that it would be in line with both the current devolution settlement, and the principles outlined in the Government of Wales Bill, currently completing its passage through Parliament for the Assembly, to have full legal competence in this area.

[2] We strongly recommend that the Assembly Government seeks the necessary powers for the Assembly to have full legal competence for statutory assessment arrangements for children with special or additional educational needs.

Terminology

4.6 We believe that the term "Special Educational Needs" has acquired certain negative connotations over time and may not be a wholly accurate description. While we accept the risk that any change in

terminology will itself acquire negative connotations, we believe there is merit in changing terminology at the same time that any substantive changes are made to the statementing system in Wales. Although we are not wedded to any particular term, "additional educational needs" is one that in our view better conveys the issues faced by children.

[3] We recommend that the term "special educational needs" should no longer be used and that consideration by the Welsh Assembly Government is given to using the term "additional educational needs" in future.

Statements

Target Group

- 4.7 As many as 1 in 4 children will be identified as having a special or additional need at some point in their school lives. We have heard evidence that it was estimated at the introduction of the 1981 Education Act that at most only 2% of children with special or additional needs would need Statements. In fact, the proportion is considerably higher than this.
- 4.8 This is to some extent because of the greater recognition today of a range of disorders some of which were not well known when Statements were introduced. However, it also means that Statements are being asked to do a job - of assessing the needs of a very broad group of children with very different types of needs - for which they were never intended or designed. This has led to a range of problems, which are identified in the previous chapter of this report.
- 4.9 We recognise that for many parents there is reassurance in being able to seek clarification of provision and process through the Statementing process. However, we believe that in future Statements should play a diminishing role in helping meet children's additional educational needs. We believe that the focus in future should be on supporting the needs of every child so that the time-consuming, frequently confrontational and often unproductive Statementing process becomes a thing of the past. If Statements continue to be required they should be aimed primarily at children with the most severe and complex needs.
- 4.10 Our hope is that, as new arrangements for supporting additional needs are gradually rolled-out, fewer and fewer parents will feel the need to pursue Statements for their children.
- 4.11 For children with severe and complex needs the Statement should continue to provide a guarantee of special school or unit provision. This is not to say that all of a child's education would necessarily be provided in these settings, and it may involve teachers and other professionals from special schools sharing their expertise, but access to highly specialised support would need to be guaranteed if the Statement was to be meaningful.

[4] We recommend that Statements should continue to be available for those parents that wish to use them to help clarify provision and process but should be limited to those children with the most severe and complex needs.

Definition of Severe and Complex Needs

4.12 We recognise that defining severe and complex needs is not easy. We are not aware of any definition that commands universal support or is problem-free. The definition in the box below is one that has been drawn to our attention and which we believe offers a starting point for defining severe and complex needs in a way that is widely understood and as unambiguous as possible. Another option, simpler but possibly more ambiguous, that has been suggested is simply to say that severe and complex needs are ones where two or more agencies are involved with a child's needs.

[5] We recommend that the Assembly Government should consult on a clear, unambiguous and widely understood definition of the most severe and complex needs that affect between 0.5% - 1% of children.

Possible Definition* of Severe and Complex Needs.

Children and young persons with severe low incidence disabilities have pronounced, specific or complex special educational needs which are such as require continuing review. The degree of inter-agency co-operation, planning and support required to meet their needs is greater than that usually required to meet the needs of children and young persons. In addition, they require a high level of educational support in one or more of the following areas:

- the physical environment
- the curriculum
- the degree of adult support and supervision required
- the level of specialist resources, including Information and Communications Technology, required

Their incidence in any one local authority is small. It is likely that they comprise between 0.5% and 1% of the population aged between 0-19 years.

A consequence of the interaction of the above factors is that local authorities may not currently have adequate and efficient educational provision for these children and young persons.

* [Scottish Executive Advisory Committee: Report into the Education of Children with Severe Low Incidence Disabilities: Page 3](#)

Alternatives to Statements

- 4.13 If the recommendation above to limit statements to those with severe and complex needs were to be accepted there would be a clear need for new arrangements to provide a process for identifying needs and ensuring those needs are met for all other children. (And indeed for those who might still qualify for a Statement.)
- 4.14 Several possible approaches have been suggested to us. In particular, we were grateful for the presentation⁸ we received from a Member of the Welsh Advisory Group on Special Educational Needs' (WAGSEN) sub-group on statutory assessment and statementing. In this, 6 options that the group was considering for improving the current arrangements were outlined. These ranged from relatively minor refinement of the current system through to more radical options. A hybrid of the features from the various options was also being considered.
- 4.15 We are mindful that the presentation we received described ongoing work by WAGSEN and that the group had not at that time reached any firm conclusions on their preferred model. We also note that there was an intention to consult more widely before making any firm recommendations. Nonetheless, we were impressed by the thoughtful and constructive way in which the group appeared to be approaching its work.
- 4.16 We have already indicated that any changes in this area should be made only after careful consideration of all the options and should be based as far as possible on consensus. It would, therefore, be invidious for us to make prescriptive recommendations on the precise arrangements that might apply in the future when thoughtful expert work is still being done.
- 4.17 However, we are attracted to the concept of a continuously assessed record of need forming the basis of future assessment arrangements. Possible models for this approach include building on the current Individual Education Plans or introducing something along the lines of the co-ordinated plans, which were explained to us on our visit to Scotland. We are also attracted to arrangements where in future additional educational needs are a function of whole school improvement.
- 4.18 We note that one of the options described in the WAGSEN presentation was for a child-centred, continuously assessed "Passport" approach. This very much accords with the philosophy we favour.
- 4.19 Our view is that despite the clear advance they represented at the time they were introduced, Statements, in their current form, are not working as originally envisaged.

⁸ ELL(2)-13-05: Item 6 <http://www.wales.gov.uk>

[6] We recommend that while there may be a need to retain them as a safety net (including a legally enforceable right of appeal) and as a guarantee of access to special provision for children with severe and complex needs, Statements should be gradually replaced for most children.

[7] We recommend that the Assembly Government considers new statutory assessment arrangements based on a continuously assessed record of need. This should be allied closely with arrangements encouraging a whole school improvement approach to meeting additional educational needs.

[8] We recommend that the Minister give very serious consideration to the main features of the “passport” approach to SEN assessment as outlined in the presentation from WAGSEN.

Consistency

4.20 A number of those who have given evidence have made the point that there is often inconsistency between local authorities in their approach to statementing under the current arrangements. This is borne out by the figures⁹ which show a considerable variation in the numbers of Statements issued by local authorities in Wales.

4.21 There may be sound reasons for some of these local variations but it contributes greatly to the perception of a “postcode lottery”. We see no reason why greater consistency need wait for substantive changes to the current arrangements.

[9] We recommend that the Minister consider issuing revised guidance to local authorities aimed at ensuring a more consistent application of the current statementing arrangements across Wales.

Information and Support for Parents and Carers

4.22 Parents and carers are often the prime movers in pressing for Statements for their children. Many parents feel compelled to press for Statements because they do not feel that their children are being adequately supported. Often this may be because trust has broken down between parents and the school or authority. We consider that refocusing Statements on those children with severe and complex needs together with moves toward continuous assessment (the passport), and the introduction of whole school improvement methodologies, will help dispel this lack of trust.

4.23 However, we do not consider that improvements in the current system should be put on hold while wider changes are considered. We made a number of recommendations in our first report aimed at improving support and information for parents. We draw attention in

⁹ Best Practice in the Development of Statements of Special Educational Needs and Delivery by Schools of the Action Agreed, Estyn 2004

particular to our recommendation on **independent advice and advocacy for parents** (recommendation 4.13). The recommendations that follow are complementary to those recommendations but are specifically aimed at supporting parents, carers and children through the statementing process and at informing them of possible alternatives.

Improving the Statementing Experience

4.24 We heard that multi-disciplinary assessments are more often a series of single appointments with different professionals in different places. Improving co-ordination between agencies would make the whole process less demanding and traumatic for parents and children. Among the approaches that have been suggested are those set out in recommendation [10 and 11] below.

4.25 We have also heard that the use of key-workers can be very valuable in encouraging a multi-disciplinary approach and in supporting parents and children during and through the statementing process.

[10] We recommend that the Assembly Government together with local authorities considers how the following approaches might be better facilitated for more people:

- Assessments being held at a single venue, such as a children's centre or other multi-disciplinary support facilities;
- Multi-agency meetings similar to annual reviews both before and during formal assessment; and
- Greater use of the disagreement resolution service

[11] We recommend that LEAs appoint key workers as a way of supporting parents and ensuring a more genuinely multi-disciplinary approach.

Information on Alternatives to Statements

4.26 Many parents may not be aware of the alternatives to statementing such as "school action", "school action plus" and "notes in lieu of Statements". More information needs to be made available to parents on these and other alternatives and on the support that can be provided to children without the need to obtain a formal Statement of need.

[12] We recommend that LEAs in particular do more to explain and publicise alternative mechanisms for supporting children with additional needs.

Involvement of Children

4.27 The use of key workers may also be of value in supporting children during statementing. Although it is important that parents and carers receive support and information during the statementing process it is also important that children are kept involved in discussions on their needs and that the statementing process is explained to them. It is also important that child and adolescent mental health issues are given due attention during the statementing process.

[13] We recommend that the Assembly Government and local authorities, in consultation with the Children's Commissioner, consider how best children can best be supported through the statementing process.

Resources

Overall Funding

4.28 There is a considerable resource available for special educational needs in Wales. The latest figures show that £261million was set aside for SEN in 2005-06 budgets. We believe that this level of resource is fully justified to help equip children, no matter the difficulties they face, with the skills and development opportunities that they need to make the most of their lives. Although we believe that increased funding in this area would be welcome, we have heard no compelling evidence that there is a significant resource problem overall.

Specific Issues

4.29 We have heard that the process of statementing itself wastes resources, which could be better used to address real needs. We have also heard of difficulties in the provision of specialist services, particularly where these need to be commissioned across local authority and Health Service budgets and boundaries. The continuing perception of a "postcode lottery" is also one that we have heard from a number of sources and there is concern about the adequacy of Welsh medium provision particularly in areas where less Welsh is spoken.

4.30 To a considerable extent these issues were all raised and dealt with in our report on phase 1 of this review. We believe that the recommendations we made then remain valid. In particular, we draw attention to our recommendations that the Assembly Government should encourage greater **provision of SEN services on a regional basis** (recommendation 4.5), that there should be a **review of the formula for allocating SEN funding** (recommendation 4.15) and that the Assembly Government should **encourage further joint projects between local health boards and local authorities** using the Flexibilities Special Grant (recommendation 4.17).

4.31 However, in addition to these recommendations we believe that there is a need for some sort of incentive funding to help start the

process of improving regional and specialist provision, including Welsh language and Welsh Medium provision. This would be compatible with the work being carried out by the Assembly Government under the “Making the Connections” agenda.

[14] We recommend that the Assembly Government sets aside a sum of money centrally to pump-prime initiatives aimed at improving regional and specialist provision, including Welsh language and Welsh Medium provision.

School Clusters

4.32 Among the options being worked on by WAGSEN, and linked to the idea of a “passport” approach to assessing additional educational needs, is the use of school clusters as the focus for SEN funding. We believe that this concept, alongside the whole-school improvement approach to SEN which we favour, has much to commend it.

[15] We recommend that the Assembly Government considers providing SEN funding to school clusters and mechanisms for encouraging funding to be shared among schools in clusters.

Inclusion

Principles

4.33 The key principles of inclusive education were set out clearly in our first report. They are worth re-stating:

- Inclusion is a process by which schools, LEAs and others develop their cultures, policies and practices to include children and young people;
- With the right training, strategies and support, nearly all children and young people with SEN can be successfully included in mainstream education;
- An inclusive education service offers excellence and choice and incorporates the views of parents, carers and children and young people;
- The interests of all children and young people must be safeguarded;
- Schools, local education authorities and others should actively seek to remove barriers to learning and participation;
- All children and young people should have access to an appropriate education that affords them the opportunity to achieve their personal potential;
- Mainstream education will not always be right for every child or young person all of the time. However, even if mainstream education is not right at a particular stage, this does not prevent the child or young person from being included successfully at a later stage, where this meets their individual needs.

4.34 We continue to strongly support these principles, which we believe have very broad support among parents and educationalists. We agree that children are not included when they are placed in inappropriate and improperly supported mainstream settings, which was a central point made by Lady Warnock. However, we did not take this to mean that there is a need for a return to arrangements whereby special and mainstream provision is wholly separated.

Role of Special Schools and Units

4.35 Although we fully support inclusive education, we recognise, as outlined, above that there is a continuing need for specialist provision in both special schools and units. We believe that the greater use of school clusters may be a better way of organising special unit provision within mainstream settings to cater for a range of children with moderate to severe difficulties.

4.36 We believe that these units should be seen and should be encouraged to develop as centres of excellence for SEN teaching with their staff sharing their expertise and knowledge both within school clusters and more widely with other teachers in mainstream settings.

[16] We recommend that the Assembly Government considers how school clusters can play a greater role in supporting special unit provision within the mainstream.

[17] We recommend that special units within clusters should be developed as centres of excellence for SEN teaching.

[18] We recommend that the Assembly Government considers mechanisms for encouraging the exchange of expertise and knowledge between teachers in mainstream and special education settings.

Welsh Medium and Bilingual Provision

4.37 Our first report commented on the fact that, while there has been very significant growth in Welsh-medium and bilingual education, there was little evidence of similar growth in services for children with SEN. At the time, we commended the Welsh Language Board's comprehensive report "Acknowledging Need" as providing a comprehensive and coherent set of recommendations for improving provision and practice.

4.38 The evidence we have heard in this part of the review suggests that there are specific issues concerned with the statementing process which have not improved since the Welsh Language Board published its report. In particular, we have heard that there is a lack of staff able to carry out statutory assessments in Welsh and a lack of Welsh-medium diagnostic tests. The shortage of staff seems particularly acute in areas where less Welsh is spoken.

4.39 The recommendations that we make earlier in this report, to encourage regional provision and school clustering, may help with the provision of practitioners able to carry out statutory assessments in Welsh. However, we consider that more needs to be done to ensure that a lack of resources does not prevent children from being assessed in the language of their choice.

4.40 Underlying the above recommendations is our belief that all testing as part of the statementing process should be available in a child's first language of choice.

[19] We recommend that LEAs adapt their recruitment policies and staff training to ensure sufficient qualified staff able to carry out assessments through the medium of Welsh and bilingually.

[20] We recommend that within the next 12 months the Assembly Government carries out an audit of Welsh medium and Welsh language expertise to establish where gaps exist and to inform future provision.

[21] We recommend that the Assembly Government review provision for additional needs education in initial teacher training courses for Welsh-medium and Welsh language teachers.

[22] We recommend that the Assembly Government consider providing funding to ensure that there is a full range of Welsh-medium diagnostic tests available for use in the statementing process.

[23] We believe that the availability of statementing tests in a child's first language should be a fundamental right in Wales and we recommend that the Assembly Government should adopt this as a guiding principle.

Other Issues

Administering of Medicines

4.41 Although somewhat outside the remit of this part of the review, the role of school staff in administering medicine to pupils was raised with us. This can be problematic involving questions of legal liability, training and resources. It is also a more complicated area than it might first appear given the need on occasions for significant numbers of staff to be trained to deal with emergency situations that may only affect a small number (or even one) pupil.

[24] We recommend that the Assembly Government along with the General Teaching Council for Wales and teaching unions considers whether the guidance and support for teachers and pupils in relation to the administering of medicines is appropriate.

Language Needs

4.42 Our first report made the point that the early identification of SEN in children whose first language is neither Welsh nor English requires particular care. This applies equally to the statutory assessment process where parents' own linguistic background might also prove an additional barrier to fully involving them in the statementing process. In principle, we believe that all testing as part of the statementing process should be available in a child's first language of choice. However, we recognise that there may be practical and resource constraints that will make that principle difficult to achieve in all circumstances.

[25] We recommend that the Assembly Government considers guidance on how best to support children and parents whose first language is neither Welsh nor English through the statementing process.

Parents' Special Needs

4.43 Parents may themselves have special health or educational needs which can make it difficult for them to participate in the assessment process as they might wish.

[26] We recommend that the Assembly Government considers best practice in supporting parents who have special health or educational needs during the statementing process.

Looked-After Children

4.44 We heard from the Office of the Children's Commissioner that looked-after children find it particularly difficult to access statutory assessment arrangements so that their educational needs can be met. This is a wider problem than the statementing system and special educational needs. However, it is a very important point to note that looked-after children are doubly vulnerable if they also have special educational needs.

[27] We recommend that the Assembly Government, in conjunction with the Children's Commissioner, considers best practice in supporting looked-after children who have special educational needs including how they access the statutory assessment arrangements.

Monitoring

4.45 Some of our recommendations make it clear that we recognise the need for caution, to build consensus and to provide reassurance to parents. It should not be inferred from this that we favour inaction or foot dragging. Although there is a need to proceed carefully, the current arrangements are failing very many children and compounding the challenges faced by them and their parents and guardians. It is important, therefore, that there should be urgency in developing improved arrangements.

[28] We recommend that the Minister for Education Lifelong Learning and Skills should give an initial response to this report within six weeks in accordance with the protocol and should report to Committee on progress in implementing improved arrangements, including a further update on those recommendations in Part 1 of this inquiry, within twelve months.

Section 5 - Conclusion and Summary of Recommendations

Conclusion

There was clear evidence from the review that there should be some form of statutory assessment process, with very few respondents in favour of scrapping statements. However there was strong support for a change in focus to channeling energies and resources to support the needs of the child, rather than embarking on the time consuming process of Statements. Statements should be aimed at children with severe and complex needs but changes should only take place after wide-ranging consultation with parents and other stakeholders.

The lack of consistency across LEAs and the issues regarding Welsh language provision, and provision for parents and children whose first language is neither Welsh nor English, emerged as areas of concern that need to be addressed by the Assembly Government.

Summary of Recommendations

[1] We recommend that the Welsh Assembly Government should carry out a wide-ranging consultation with parents and other stakeholders to build consensus and confidence before any fundamental changes are made to the statutory assessment framework.

[2] We strongly recommend that the Assembly Government seeks the necessary powers for the Assembly to have full legal competence for statutory assessment arrangements for children with special or additional educational needs.

[3] We recommend that the term “special educational needs” should no longer be used and that consideration by the Welsh Assembly Government is given to using the term “additional educational needs” in future.

[4] We recommend that Statements should continue to be available for those parents that wish to use them to help clarify provision and process but should be limited to those children with the most severe and complex needs.

[5] We recommend that the Assembly Government should consult on a clear, unambiguous and widely understood definition of the most severe and complex needs that affect between 0.5% - 1% of children.

[6] We recommend that while there may be a need to retain them as a safety net (including a legally enforceable right of appeal) and as a guarantee of access to special provision for children with severe and complex needs, Statements should be gradually replaced for most children.

[7] We recommend that the Assembly Government considers new statutory assessment arrangements based on a continuously assessed record of need. This should be allied closely with arrangements encouraging a whole school improvement approach to meeting additional educational needs.

[8] We recommend that the Minister give very serious consideration to the main features of the “passport” approach to SEN assessment as outlined in the presentation from WAGSEN.

[9] We recommend that the Minister consider issuing revised guidance to local authorities aimed at ensuring a more consistent application of the current statementing arrangements across Wales.

[10] We recommend that the Assembly Government together with local authorities considers how the following approaches might be better facilitated for more people:

- Assessments being held at a single venue, such as a children's centre or other multi-disciplinary support facilities;
- Multi-agency meetings similar to annual reviews both before and during formal assessment; and
- Greater use of the disagreement resolution service

[11] We recommend that LEAs appoint key workers as a way of supporting parents and ensuring a more genuinely multi-disciplinary approach.

[12] We recommend that LEAs in particular do more to explain and publicise alternative mechanisms for supporting children with additional needs.

[13] We recommend that the Assembly Government and local authorities, in consultation with the Children's Commissioner, consider how best children can best be supported through the statementing process.

[14] We recommend that the Assembly Government sets aside a sum of money centrally to pump-prime initiatives aimed at improving regional and specialist provision, including Welsh language and Welsh Medium provision.

[15] We recommend that the Assembly Government considers providing SEN funding to school clusters and mechanisms for encouraging funding to be shared among schools in clusters.

[16] We recommend that the Assembly Government considers how school clusters can play a greater role in supporting special unit provision within the mainstream.

[17] We recommend that special units within clusters should be developed as centres of excellence for SEN teaching.

[18] We recommend that the Assembly Government considers mechanisms for encouraging the exchange of expertise and knowledge between teachers in mainstream and special education settings.

[19] We recommend that LEAs adapt their recruitment policies and staff training to ensure sufficient qualified staff able to carry out assessments through the medium of Welsh and bilingually.

[20] We recommend that within the next 12 months the Assembly Government carries out an audit of Welsh medium and Welsh language expertise to establish where gaps exist and to inform future provision.

[21] We recommend the Assembly Government review provision for additional needs education in initial teacher training courses for Welsh-medium and Welsh language teachers.

[22] We recommend that the Assembly Government consider providing funding to ensure that there is a full range of Welsh-medium diagnostic tests available for use in the statementing process.

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[26] We recommend that the Assembly Government considers best practice in supporting parents who have special health or educational needs during the statementing process.

[27] We recommend that the Assembly Government, in conjunction with the Children's Commissioner, considers best practice in supporting looked-after children who have special educational needs including how they access the statutory assessment arrangements.

[28] We recommend that the Minister for Education Lifelong Learning and Skills should give an initial response to this report within six weeks in accordance with the protocol and should report to Committee on progress in implementing improved arrangements, including a further update on those recommendations in Part 1 of this inquiry, within twelve months.

List of Respondents

ASBAH- Association for Spina Bifida and Hydrocephalus
BATOD Wales- British Association of Teachers of the Deaf Wales
Bridgend County Borough Council
Bro Morgannwg NHS Trust
Cardiff and the Vale NHS Trust
Cardiff and the Vale Parents Federation
Careers Wales
Ceredigion and Mid Wales NHS Trust
Disability Rights Commission
ELWa
Flintshire Parents Partnership Service
Gwynedd Council
Mencap
Mudiad Ysgolion Meithrin
NAEAIC- National Association of Education Advisors Inspectors and Consultants
NAGC- National Association for Gifted Children
NAHT Cymru- National Association of Head Teachers Cymru
Neath-Port Talbot County Borough Council
North East Wales NHS Trust
NUT Cymru- National Union of Teachers Cymru
Pembrokeshire and Derwen NHS Trust
Penybont ar Ogwr NHS Trust
Pontypridd and Rhondda NHS Trust
Powys County Council
RhAG- Rhieni dros Addysg Gymraeg
Royal College of Speech and Language Therapists
RNID Cymru- Royal National Institute for Deaf People Cymru
Swansea NHS Trust
The National Autistic Society

Please note that the above list shows only specific organisations who responded to the SEN questionnaire. Individual members of the public and parents also completed the questionnaire anonymously.

Special Educational Needs Policy Review

Consultation responses

The main points arising from the consultation are outlined below.

What are the advantages and disadvantages of the current assessment process?

Advantages

- ◆ The child's problems and needs are identified and recognised and assessed;
- ◆ There is a process for regular reviews;
- ◆ There is a comprehensive and formal assessment made to which all services have an input;
- ◆ There is parental contribution to the process;
- ◆ It is a standardised national practice;
- ◆ Statements are legally binding;
- ◆ Statements ensure that necessary support and resources are provided;
- ◆ The process provides a reassurance for parents;
- ◆ There is legislative support for parents and a clear appeals process.

Disadvantages

- ◆ The process is slow, complex, cumbersome, too bureaucratic and costly;
- ◆ There may be a lack of provision to meet specified needs;
- ◆ The process can be adversarial, frustrating, stressful and complicated for parents;
- ◆ It can be an unequal system. More vocal and able parents are able to utilise the system more than others;
- ◆ There is a danger of labelling and stigma for the child;
- ◆ Parents are not always properly involved;
- ◆ The process involved takes away from service delivery;
- ◆ The process can cause tensions between agencies and schools and parents;
- ◆ There are insufficient resources;
- ◆ Limited resources are focussed on the few with statements.

Should statements of special educational needs be scrapped - why or why not?

The majority of respondents believed that despite the disadvantages outlined above, statements should not be scrapped for the following reasons:

- ◆ They are a safeguard and reassurance for parents;

- ◆ They are particularly important for those with more complex needs;
- ◆ Parents need to be re-assured that their child's needs will be met, there is a perception that this will not happen without a statement.

Those who thought they should be scrapped cited the following reasons:

- ◆ They are inflexible;
- ◆ Funding could be better used elsewhere.

If the statementing process were abolished, what should be put in its place?

- ◆ A robust system;
- ◆ Multi-agency assessment;
- ◆ A system that is legally binding;
- ◆ Less bureaucratic and less time consuming;
- ◆ Child-centred;
- ◆ A universal system of assessment;
- ◆ Something similar and of equal weight to the current system;
- ◆ A system that is properly resourced;
- ◆ Parent friendly and with more advocacy for parents.

Is information on the statutory assessment process easily accessible and understandable?

The majority of respondents believed that information was accessible, although approximately 10% of respondents disagreed. Other comments included:

- ◆ Information can vary from area to area and school to school;
- ◆ Can be confusing for parents, should be clearer and more easily understandable;
- ◆ Parents should be encouraged to use SNAP Cymru.

Is support for parents/carers of children and young people currently undergoing statutory assessment readily available?

The majority of those responding said that information was available through SNAP Cymru and other voluntary organisations. Eight respondents thought that information was not readily available. Three thought that information varied between areas.

Is support for children and young people with a statement of special educational needs appropriate and timely?

Comments were evenly balanced between positive and negative, with roughly the same amount of respondents believing that support was appropriate and timely as those who did not. Nine respondents thought that this varied between different areas. Comments included:

- ◆ Support depends on the parents and their ability to fight for it;
- ◆ There are long waiting lists for some therapies;
- ◆ The process is too slow;
- ◆ Support may be appropriate, but is not necessarily timely.

Is support for children and young people with special educational needs, but without a statement appropriate and timely?

The majority of respondents thought that support for those without a statement was not appropriate and timely, and a similar number thought that support varied between different schools and local authority areas. Comments included:

- ◆ More resources are needed;
- ◆ School Action and School Action plus can be helpful.

With regards to statutory assessment, can you give examples of good practice in joint working between local education and health authorities?

Comments included:

- ◆ Joint working can work in some areas
- ◆ There are some good examples of joint working with speech and language therapy;
- ◆ This varies between areas;
- ◆ Good joint working between school and psychologists;
- ◆ Good work with sensory impairment;
- ◆ County level transitional planning in some areas.

Is information and support for parents/carers of children and young people currently undergoing statutory assessment readily available through the medium of Welsh?

There were thirty responses to this question, the majority of those felt that information in Welsh was available and only four respondents felt that this was not so. A number of respondents felt that there was a lack of Welsh speaking professionals.

What improvements to the statutory assessment process would you like to see implemented as soon as possible?

- ◆ A quicker, more streamlined process;
- ◆ More information on the process;
- ◆ A multi-agency approach to assessment;
- ◆ Continuation of statements post-16;
- ◆ More support for families;
- ◆ More resources for the process;
- ◆ A more child-centred process.

Schedule of Committee Papers

Date	Name of Paper/ Organisation	Paper Reference Number
19 January 2005	Terms Of Reference and Provisional Programme	ELL(2)-01-05(p2)
9 February 2005	Revised terms of reference	ELL(2)-02-05(p7)
9 March 2005	Draft E-Democracy Internet Page	ELL(2)-03-05(p7)
20 April 2005	Special Educational Needs (SEN): MRS Background Paper	ELL(2)-04-05(p2)
20 April 2005	Paper From SNAP Cymru	ELL(2)-04-05(p3)
26 May 2005	Paper from ESTYN	ELL(2)-06-05(p1)
26 May 2005	PowerPoint Presentation from ESTYN	ELL(2)-06-05(p1)
26 May 2005	Paper from ADEW	ELL(2)-06-05(p2)
8 June 2005	PowerPoint Presentation by SEN tribunal for Wales	ELL(2)-07-05
29 June 2005	College of Occupational Therapists	ELL(2)-08-05(p3)
29 June 2005	Autism and the National Autistic Society	ELL(2)-08-05(p3a)
21 September 2005	Oral evidence Baroness Warnock	ELL(2)-09-05
21 September 2005	Note of Committee's fact-finding Visit to Scotland	ELL(2)-09-05(p6)
29 September 2005	Presentation from Project Dyslexia Cymru	ELL(2)-10-05(p1)
29 September 2005	Presentation from Autism Cymru	ELL(2)-10-05(p1)
13 October 2005	Oral Evidence from SENCO's (Special Educational Needs Co-ordinators)	ELL(2)-11-05

9 November 2005	Oral evidence from RhAG (Rhieni Dros Addysg Gymraeg); MYM (Mudiad Ysgolion Meithrin) and Office of the Children's Commissioner	ELL(2)-12-05
30 November 2005	Presentation from the Royal College of Speech and Language Therapy	ELL(2)-13-05(p2)
30 November 2005	PowerPoint Presentation from Welsh Advisory Group on Special Educational Needs (WAGSEN)	ELL(2)-13-05
30 November 2005	Paper from the Welsh Local Government Association (WLGA)	ELL(2)-13-05(p11)

Annex D

Members of the Reference Group

Name	Organisation
John V Williams	Qualifications, Curriculum and Assessment Authority for Wales (ACCAC)
Dr Gareth Price	Association of Directors of Education Wales (ADEW) SEN Sub-group
Julia Nawell / Jane Marshall	All Wales Speech and Language Therapy Group/Paediatric Speech and Language Therapy Services, Cardiff and Vale NHS Trust
Peter Hosking	Office of the Children's Commissioner for Wales
Gareth Foulkes	Disability Rights Commission (Wales)
Hilary Anthony	Estyn - Her Majesty's Inspectorate For Education and Training in Wales
Nicola Jones	General Teaching Council for Wales (GTCW)
Michael Edwards	General Teaching Council for Wales (GTCW)
Chris Major	Head Teacher, Heronsbridge Special School
Dr Sian Munro	Head of Centre: Speech and Language Therapy, School of Health and Social Sciences, University of Wales Institute, Cardiff (UWIC)
Andrea Miller / Catrin Redknapp	Welsh Language Board (WLB)
Denise Inger	Special Needs Advisory Project for Wales (SNAP Cymru)
Mair Watkins / Alan Lansdown	Welsh Advisory Group for SEN (WAGSEN)
Louise Roberts	National Association of Special Educational Needs (NASEN) Wales

Glossary of Terms

ADHD	Attention Deficit Hyperactivity Disorder
BECTa	British Educational Technology and Communications agency
CAs	City Academies
CAMHS	Child and Adolescent Mental Health Strategy/Services
CHC	Community Health Council
CTC's	City Technology Colleges
DCD	Autistic Spectrum Disorder or Development Co-ordination Disorder
EBD	Emotional and Behavioural Difficulties
Early Years Action Plus	Advice and support to the education practitioner through Early Years Action
Early Years Development and Childcare Partnerships	To review the sufficiency of nursery and early years development plans in each LEA
EMAS	Ethnic Minority Achievement Service
HPC	Health Professions Council
IPS	Individual Parental Supporter
IEP	Individual Education Plan
LEA	Local Education Authority
LHB	Local Health Board
LSA	Learning Support Assistant
NASEN	National Association for Special Educational Needs
PPS	Parent Partnership Services
Portage	Planned, home-based educational support for pre-school children with SEN
PMLD	Profound and Multiple Learning Difficulties
Pupil Referral Unit (PRU)	Specially provided for pupils to receive who would not otherwise receive education due to illness, exclusion or any other reason
RCSLT	Royal College of Speech and Language Therapists
SALTAG	Speech and Language Therapy Action Plan

SEN	Special Educational Needs
SENCO	SEN Co-ordinator
SENDIST	Special Educational Needs and Disability Tribunal
SIG	Specific Interest Group
SLCD	Speech , Language and Communications Difficulties
SLT	Speech and Language Therapy/Therapist
WAGSEN	Welsh Advisory Group for Special Educational Needs
WIHSC	Welsh Institute for Health and Social Care
WLSLTC	Welsh Language Speech and Language Therapy Committee