



Cynulliad Cenedlaethol Cymru
Pwyllgor Addysg a Dysgu Gydol Oes

The National Assembly for Wales
The Education and Lifelong Learning Committee

Dydd Iau, 8 Rhagfyr 2005
Thursday, 8 December 2005

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee. In addition, an English translation of Welsh speeches is included.

Aelodau'r Cynulliad yn bresennol: Peter Black (Cadeirydd), Christine Chapman, Jeff Cuthbert, William Graham, Mark Isherwood, Irene James, David Melding, Janet Ryder.

Swyddogion yn bresennol: Joanest Jackson, Cynghorydd Cyfreithiol y Pwyllgor.

Gwasanaeth y Pwyllgor: Steve George, Clerc; Ruth Hatton, Dirprwy Glerc.

Assembly Members in attendance: Peter Black (Chair), Christine Chapman, Jeff Cuthbert, William Graham, Mark Isherwood, Irene James, David Melding, Janet Ryder.

Officials in attendance: Joanest Jackson, Legal Adviser to the Committee.

Committee Service: Steve George, Clerk; Ruth Hatton, Deputy Clerk.

Dechreuodd y cyfarfod am 2.00 p.m.

The meeting began at 2.00 p.m.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau Introduction, Apologies, Substitutions and Declarations of Interest

Peter Black: I welcome Members, officials, and members of the public to the Education and Lifelong Learning Committee. In an emergency, the ushers will indicate the nearest safe exit. Headsets are available for translation and amplification, and, if there are problems with the equipment, the ushers will assist with operation or will replace faulty sets. I ask everyone to switch off all mobiles and electronic devices, including BlackBerrys. Even when they are in silent mode they interfere with the sound system.

I have had apologies from Jane Davidson, Owen John Thomas and Denise Idris Jones. Are there any other apologies? I see that there are none. I have not received any notifications of substitution. I welcome David Melding, who joins us for this meeting. It is possibly your last one, David, is it?

David Melding: It is.

Peter Black: It is a shame, but there we are. I invite Members to make declarations of interest under Standing Order No. 4.6.

David Melding: I declare an interest as chair of the governing body of Meadowbank special school and as a trustee of Autism Cymru.

Jeff Cuthbert: I declare that I am a governor of Trinity Fields Special School in Ystrad Mynach.

Peter Black: Are there any other declarations of interest? I see that there are none.

At the last meeting, I thanked Denise Idris Jones and Mark Isherwood for their contributions to the work of the committee. This is now the last meeting so, as Mark is here, I pass on my thanks to him for his contribution.

I also mention that Ruth Hatton has been appointed as deputy clerk to the committee. She is here in that capacity, therefore I welcome Ruth to the committee. Members may have come across Ruth before. She is currently acting as deputy clerk to the Environment, Planning and Countryside Committee and the Audit Committee. She has previously worked here as part of committee support. I congratulate and welcome Ruth.

2.02 p.m.

**Adolygiad Polisi: Anghenion Addysgol Arbennig—Rhan 2—Materion sydd yn
Ymddangos**
Policy Review: Special Educational Needs—Part 2—Emerging Issues

Peter Black: We have only one item on the agenda, which is to look at the emerging issues paper. Although we have two hours set aside for the meeting, it really depends on how long you will take.

Janet Ryder: Is that a hint?

Peter Black: It is up to you. The clerk has put this paper together to give a background to the review and to identify issues that have emerged from the evidence in consultation. He has divided the issues into six broad themes under the headings of ‘Future of Statementing’, ‘Resources’, ‘Inclusion’, ‘Information and Support for Parents and Carers’, ‘Welsh Medium and Bilingual Provision’, and ‘Other Issues’. I propose that we work our way through those. We are looking for some guidance for the clerk on the various options and any other guidance that the committee wishes to give towards the draft report, which will come to us in the new year. If we have unanimous agreement on all six options straight away, the meeting will be over in 10 minutes. If it takes longer than that, as I suspect it will, we will be here a little longer.

I propose that we go through each section and deal with the options. The first three and a half pages contain a general introduction. To start, do any Members want to raise anything on the first three and a half pages covering 'Background', 'Terms of Reference', 'Statutory Framework and Definitions', 'Statistics', 'Response to Consultation', and 'Emerging Issues'? I know that it is quite a lot, and I do not want to rush people, therefore take your time. I think that it is important that we do consider the issues, particularly if there is something that you want to highlight as being important for the main report.

Janet Ryder: The issues that I would like to raise appear from 'Future of Statementing' onwards.

Peter Black: In that case we will go on to the 'Future of Statementing'. The clerk has set out the issues, and I think that it is worth noting that over 65 per cent of the consultation responses were in favour of keeping statements and only around 10 per cent were clearly in favour of scrapping them. No clear consensus emerged on what changes should be made, which makes our job really easy, of course. [Laughter.] The clerk set out the positive and negative views, and, at the end of that section, you will see that the possible options for consideration are set out. I ask Members for their comments.

Janet Ryder: I would first like to say that the clerk has done a very good job. This section has been a wide-ranging part of the review—far more wide-ranging than I had first anticipated. It has been useful to see things drawn together in one place for the first time.

You raised the point that 65 per cent of the consultation respondents were in favour of keeping statementing. However, I feel that, although all the people who have come to committee and all the written evidence that we have received said that we must keep them, there is a very big 'but' there, and that big 'but' must accompany that 65 per cent, as otherwise I do not think that we are doing it justice. I do not know how you translate that into language that can go into a report. Everyone said that they were keeping it because it was a case of 'better the devil you know than the devil you don't'. However, there are many major problems with this, and that should be translated into that paragraph in some way, whether it is worded that it came with heavy feelings of dissatisfaction with the system or something. I am sure that the clerk can think of a way around that.

Jeff Cuthbert: I agree with Janet's point, and I may well be speaking for others. I cannot dispute the statistical calculations here. I can see in annex 2 the numbers and different types of respondents, but there was this very big 'but' in the presentations that were made around this table. I got the impression that people were saying that we should be careful not to just remove statementing with nothing in its place—that would clearly be wrong. Nevertheless, the message that came across to me was that perhaps statementing has had its day, particularly if we draw the link between the numbers of those young people with disabilities that are at least as great as those of children who have statements but who do not have them, maybe because their parents are not as articulate or as switched on to the system as others. We have a duty of care to them as well. That was the message that came across to me, and I agree with Janet's point. We cannot dispute the statistics that are written down there in terms of that first bullet point, but we need to qualify it quite heavily.

Peter Black: In terms of the presentations, the impression that I got was that there was consensus regarding a general dissatisfaction with the way in which the statementing process works and people wanted to see it replaced or improved in one way or another, but there was no clear consensus on what the solution was.

Irene James: Without going over ground that has already been covered, and moving on from that, it was obvious to me, from the evidence that we took, that there were far more disadvantages to keeping the statementing system as it is at present. As you have already said, Chair, I think that everyone wanted to see some safety net, if you like, and some process to safeguard everyone.

Mark Isherwood: It was apparent from all the witnesses that if we could wave a magic wand and make early intervention work from today it would be fantastic and we would not need statementing. However, because we need to manage risk, we need a safety net. The problem is often in implementation, not only between local authorities but also across the nation, establishing national standards of need and provision, but also of application. We heard that some local authorities were far better at early intervention, and so they had a minimal number of statements and a minimal number of appeals to the tribunal, while others, which were easily identifiable geographically, had a very high level of appeals, because they were seen as the only means of accessing the support that children needed.

2.10 p.m.

So, to me, it is not an ‘either/or’ option—it is not a matter of there being either earlier intervention or statementing. We are talking about working towards a system that will gradually reduce the need for statementing, without removing the safety net unless and until that system is working fully.

David Melding: I was impressed by Lady Warnock’s evidence that, when this change occurred in the early 1970s, it was anticipated that quite a small number of children would have statements—perhaps less than 1 per cent of the population. What has happened is that there has been an expansion, and even people in mainstream schools can end up with statements. I just wonder whether statements should be seen as the gateway into very special provision, if necessary. Once you are in a special school, it is the individual education plan that drives the service. It is all around that, it is monitored and evaluated each term, and the parents or guardians are involved.

Therefore, the statement can be seen as the absolute criterion at the start, which can then come into some conflict with what is being done in the education provision and with therapy that is provided on an ongoing basis. The individual educational plans are the key to delivering an effective service. Of course, those plans can be in the mainstream sector without much difficulty, whereas going heavy on a statement, which a parent takes as saying, ‘This is what should be provided, and this is the absolute legal position’, can set up a rather conflicting system. There is a balance to be reached here.

However, there is no doubt that many parents face great difficulties until their child is statemented, and it will take a lot of convincing for parents to move away from a system where at least if you have a statement, you have a baseline. It will be a difficult process. We have a problem with statements being seen as useful for a wider population rather than for those who have complex needs. I do not think that that is the best way to structure the system.

Janet Ryder: To follow up the point that David has raised, it might be useful to have reference in this first part to that point—the original intention of statements.

Peter Black: This is not the report mind.

Janet Ryder: No, I know that, but somewhere at the beginning of the report there should be a reference to whom statements were intended for—not just in legal terms, but also the meaning behind them. When we are discussing the future of statementing in this first section, I also think that we must reflect the views of people such as Baroness Warnock, who now think that if statementing is to be retained it should be retained just for that very small minority, to guarantee that. A number of issues came up, including whether we should retain statementing just for that very small minority. If so, the crux of it is how to provide the provision and the security to parents that their children will get that provision if they do not get a statement.

The other issue that came up about statementing, and looking through the headings, was the cost involved in parents going into appeal. Perhaps that could go into the resources section, or it could be a major issue about the future of statementing. A number of people stressed the fact that resources were tied up by parents going to tribunal, resources which could be used to provide front-line services—if we had those front-line services.

William Graham: One thing that was disappointing, and which probably came out particularly in the Welsh Local Government Association's presentation, was that if you go back to why you need a statement, it is generally because parents have lacked confidence in what a school is providing. I hope that, when the directors come to us, specifically, we will be able to question why that lack of confidence has increased rather than diminished, when we know that so many more resources are now available in schools. I would like to see that.

There is also this note that we had, tangentially, to our evidence—but it is also anecdotal—that statements have become a badge, which is not good. They should be issued only as they were intended in the first place, namely where there was a real, identifiable need, which had to be placed on record. I hope that we will still hear from schools' representatives, through the LEAs, what their problem is in retaining parents' confidence.

Peter Black: We are not going to take any more evidence on this.

William Graham: We still have to hear from the directors of education.

Peter Black: We took evidence from the Association of Directors of Education in Wales on 26 May.

William Graham: That was before I became a member of the committee. I will look back to that then. Would you say then, as Chair, that you were satisfied with that?

Peter Black: So much evidence has come up, but it has not been a consistent picture. The evidence split into two, did it not? You had a consistent picture from the professionals—and Baroness Warnock, to an extent—that statements were being used as a passport, and that there were problems around the way in which they were administered, and so on. There was then evidence from the parents that there were, effectively, issues of trust and resources. So, we have two conflicting points of view on this, and that is where the evidence has been summed up.

Christine Chapman: I will just add to some of the comments. The fourth bullet point under ‘Future of Statementing’ notes that:

‘Concern has been expressed that any changes should only be made after careful consideration of possible impacts’.

This will be an important document, and, bearing in mind parents’ fears about our scrapping statements, we must be sensitive. The issue is what we put in, or what could be put in as an alternative. Once it is clear what could be better than statementing, I think that people would be fairly happy with that. We are expecting them to take a leap of faith at present. Therefore, as others have said, we need to be sensitive to this. It is about a better system, as opposed to scrapping a system. We need to get those messages across clearly that it is about finding a better system. We do not know what the better system is at the moment, but it is important that we are sensitive to that.

Peter Black: I am saying this off the top of my head, but I think that I am right in saying—and Joanest will correct me if I am wrong—that we do not have the power to just scrap them anyway, so we must have a gradualist approach.

Mark Isherwood: I have some notes here from 9 November when Peter Hosking, from the Office of the Children’s Commissioner for Wales was giving evidence. He said that guidance, or a directive, is needed from the National Assembly for Wales to ensure cross-country working. He also said that there was insufficient time for early intervention to succeed, and was anxious that the statementing process should continue, although it needs to be tightened and timescales shortened. So, I think that that is what the focus should be on.

One person who gave evidence—I forget who it was—said that,

‘Without exception, each child with a statement in our school is as a result of parental request’.

Other children with similar or greater needs but no statement are not getting the same support. That is the reality. The evidence overwhelmingly supported that.

Finally, there is a relevant point in the report about negative views around statementing. It notes that statements are biased towards children of relatively affluent or articulate parents, resulting in resources not being used on those with the greatest need. We would need to focus a little here on how we can ensure that parent partnerships work to best effect, and that parents of children with special needs know how to access the system.

Peter Black: There is always a danger of deciding an elephant by committee, which is what we are basically being asked to do here. We are being asked to try to construct a system to replace an existing system.

Several issues with statementing have come out of this review. First, there is the issue of consistency. We must address the fact that there is an inconsistent approach across Wales. I suspect that one recommendation that we would want to make is that the Minister issue guidance to try to address that. What that guidance will be, and how she deals with it, is another matter, but the issue of guidance, to try to achieve consistency, is crucial to what we do.

2.20 p.m.

The second issue is trust. It determines that any recommendations that we make must be a process rather than an event. In other words, it must be rolled out. We have to build trust as we go with regard to any changes, so that it is a gradualist approach. That is important. The third issue is what powers we have as a committee for doing this. It may be that, after 4.30 p.m. today, and the publication of the Bill, we will have a lot more powers, but that may not be for some time to come. A gradualist approach will fit into that timetable.

Looking at the options in front of us, the first option of limiting statements to children with the most complex needs fits in with what we saw in Scotland, and with a lot of the evidence that we had on the need for statements to be more about co-ordinating agencies and about marshalling resources.

William Graham: The point that is consistently made is about early intervention.

Peter Black: Yes. It is part of our first statement.

William Graham: It is the first thing, before multi-agency work.

Peter Black: We may want to reiterate the commitment to early intervention as part of this.

David Melding: I would add the criterion of severity to that of complexity. The further you move away from complex and severe needs as the basic criteria for a statement—because to construct effective education provision for that category of pupils is difficult—the more subjective the system becomes. It is then the more articulate middle-class parents who will get additional help for their children. That can lead away from a policy of providing general support for a wide range of pupils who could benefit from some intervention to using all the resources for a smaller number whose parents are able to shout on their behalf. It is quite important that there is a tight definition early on.

Complexity and severity are good indicators of a very special need at that stage. If statements are concentrated at that section, we get back to the original conception of their use. That presumably will free some resources for a more whole-school approach to the part of the population—probably up to one fifth—who have impairments that will affect their life chances but that are of a much lower intensity, even if they are of a higher frequency in terms of the number of people that they affect. That moves us on to a more rational system.

Peter Black: What about the issue of a statement as being, effectively, a ticket to a special school? There are a number of authorities who will statement only those children who go to special schools. I am not an expert in this, but it occurs to me that, in a sense, that is a waste of a statement. Once you have identified a child who needs to be in a special school, as David said, the individual education plan kicks in. The question is whether a statement should be applied to children outside special schools.

Mark Isherwood: In my son's case, the statement was his ticket to the special school. Without it, he would not have gone to the special school. In many authorities that is how the system is working. Unless and until we can address the causes of that problem, it would be premature for us to advise that statements should be too restrictive. If we can ensure that, as a consequence of this report and other actions, the system starts to work better, we will see a huge reduction in statements and appeals. At that point, we could consider whether to look at the system again to restrict it more to complex need. However, at the moment, reflecting the reality across the nation today, we must recognise that, because of the disparity of provision, some parents are absolutely dependent on the statementing process to ensure that their children's special needs are met.

Peter Black: That is why I am saying that we need to have a gradualist approach. I do not think that we can say that, from 1 April, statements will be issued only for certain children.

Janet Ryder: It might be quite right to say that only children who will go on to a special unit need or have a statement. However, it is a big battle for many parents to get that statement and that provision, especially when that provision lies out of county. We have not really mentioned that problem in the report, and it was highlighted time and again. The expense of sending children to out-of-county provision quite often leads many parents to think that their children are not getting their statement because the council is thinking financially, and it is very hard to argue against that sometimes, when you look at children whose needs can only be met by out-of-county specialist units. We need to look at that.

If we could give a guarantee to parents that their children will definitely receive the level of specialist support that they have been assessed as needing, do we then need to proceed to a statement for that child and use a statementing system for someone else, or do we need a statementing system at all? This goes back to the issue of giving parents the security that, once their child has been assessed as having a need, the necessary provision will be delivered. I do not think that anybody has given us any idea as to how we can really do that, and that is the big question. That is why I would have concerns about recommending that we do not have statements for children with particular needs when for some it is the only way in which we can guarantee necessary provision.

David Melding: I think that there should be a presumption that if you have a statement, you are in a special school or special unit, or you have input from a special school or special unit. There is much more of a concept now of using special schools as centres of excellence. For example, you may be in a day class, or attend a special school one day a week, and then you are supported by the special school in a mainstream setting. So, it does not necessarily mean that all your education is provided by a special school, but that that type of input is required, because a statement is such a particular identification of a pupil as having complex or severe needs, or both, that need to be addressed. The special schools will probably continue, as they have for the last five to 10 years, to do more work in the mainstream sector to train up and support staff in mainstream schools. If we are talking about up to 20 per cent of the population having some impairment that ought to be addressed, you will not address that via specialist therapists and teachers who have special qualifications in SEN; you will address it by the general teaching population being able to use their skills, which have been honed more to address pupils with special needs. That is important, because you are then genuinely moving to a whole-school approach throughout the mainstream sector. It is important that we remember that roughly only three quarters of the population are likely to go through schooling without some need for special intervention. I understood from Baroness Warnock that the problem now is that we tend to identify anyone who needs intervention as needing very legalistic, intensive intervention with a big label, and that is what we have to get around, because, at the moment, there are huge gaps, where some children in that sector of the population receive intervention and others do not.

Irene James: I would be very concerned if I thought that we were just looking at children going to a special school as having a statement, because there are an awful lot of children in mainstream education—and, yes, they are in mainstream education, and I am somebody who is fully signed up to inclusion—who only go through mainstream education with the support of the statement and the additional resources that they access as a result of that statement. We need to look to at that also, because, as I said, I would be very concerned if we were just looking at statementing children who go to a special school. When all is said and done, one in four of us will have special needs at some time in our lives.

Peter Black: The question I posed was: should the statement just relate to mainstream education as opposed to special schools? However, I think that that has been answered. I think that it is quite clear that there is a need to keep some process in place to get children into special schools in the first place.

Mark Isherwood: There is a section on inclusion later, and a child-centred approach recognises that needs will differ, and many needs will be met within a mainstream setting—many within special units attached to mainstreamed schools and some within specialist schools. We will come to that key point later.

2.30 p.m.

Janet Ryder: Before we finish on the resources—

Peter Black: We are still on statementing; we have not got to resources yet.

Janet Ryder: Sorry.

Mark Isherwood: We can separate statementing from multi-agency working. A statement, at the moment, can be a ticket, as I say, to provision, but the need of the child in an ideal system will deliver a programme that all the agencies are signed up to. That is a separate issue, using a statement as the individual learning programme for the child. Perhaps that should be discussed in a different context.

Peter Black: Before we move on, because we need some clarity on where we are going on this, the other thing I wanted to throw into the discussion was the Welsh Advisory Group on Special Educational Needs's evidence at the last meeting, because it came up with several different options. The presenters' favoured option was the third one, which was this passport approach.

One of the things that particularly struck me was the idea of having a key worker to co-ordinate. I am not entirely sure about what that entails—obviously, it would not be a key worker for each child, but having that person as a key worker could help to generate trust, so you have someone working with the parents, co-ordinating the agencies and someone to whom the parents can go. That seemed to me to be a valuable recommendation.

Janet Ryder: You are right—it is a question of where it falls. The issue of the key worker to co-ordinate everything, and to take the onus off the parents, could develop, but the parent would have to perceive that person as being independent. However, several other issues came up that that key worker may be able to sort through, such as assessments and ensuring that health, education and social services all turn up at that meeting so that it is not cancelled instead of the parent turning up, and then somebody else not turning up and the meeting being cancelled.

Peter Black: That is the role of the person, is it not?

Irene James: Another problem is where do we find those key workers, how are they qualified, how are they trained and how long would they have to be in the system to be working alongside anything that we would want to do?

Peter Black: Clearly, there is a resource issue.

William Graham: Can we make a recommendation then, Chair?

Peter Black: I was highlighting that because it may be worth someone putting that into the report, and discussing that further as part of the draft report. It occurred to me that that passport approach had the potential to produce a gradual change. The committee may well want to adapt a version of that or work towards it. It had this individual education plan feel about it, did it not? However, at the same time, it is a document that would go with the child and not involve the same level of expense and involvement in terms of assessing as a statement does. I am throwing this in now because it was thrown at us in the WAGSEN presentation.

We need to include a caveat in these options that we are talking about gradual change and that we are not going to change anything overnight. However, a view was expressed that a statementing should eventually be limited to children with complex and severe needs.

Jeff Cuthbert: Do we define complex needs?

Irene James: We are not qualified.

Jeff Cuthbert: I know. Let me rephrase that. Is there a definition?

Peter Black: Scotland took the approach that a complex need was a need that involved more than one agency.

Jeff Cuthbert: More than one agency?

Peter Black: Yes. That was not necessarily a satisfactory definition, but that was the approach that it took, was it not? If more than one agency was involved with a child, it triggered off a statementing process or what Scotland's equivalent of a statement was. That does not mean to say that a child who does not have that need would not then have individual education plans and other support.

Irene James: Who made that assessment that the child had more than two needs?

Peter Black: I think that that assessment has to be made by someone at some stage. At some stage, someone has to identify needs.

Irene James: No, I asked who it might be. Was it someone from health in terms of social services, someone from health in terms of education or someone else?

Peter Black: I do not know the answer to that.

Janet Ryder: I think that there is a problem when you pin your complexity on a number of agencies involved. I think that it should be tied to the need of the child.

Peter Black: I agree. At this stage, you know that we will have to come back to a definition of 'complex needs'.

Christine Chapman: And 'severe' needs.

Peter Black: Yes, and 'severe needs'.

Christine Chapman: You could have a severe autistic need—it is not a complex need, but a severe need.

Peter Black: It is 'complex and/or severe', is it not?

Christine Chapman: Yes.

Irene James: Often, until the child has actually gone down the route of being seen as autistic, he or she is not recognised as being autistic. Therefore, it is a case of the chicken and the egg, is it not?

Peter Black: Is that not the case now, in terms of statements?

Irene James: Yes.

Peter Black: So, we are not going to change the world overnight?

Irene James: That does not help either, does it?

Peter Black: No. We will try to ensure some consistency and to work towards that position. That is the option.

Janet Ryder: Perhaps if we were to bear all this in mind and then look at the draft we could come to it again.

Peter Black: I am not trying to write the recommendation; I am trying to give some guidance to the clerk. Have you got the gist of that, Steve?

Janet Ryder: You may want to take further evidence.

Mr George: You would like some options for a definition of 'severe and complex'?

Peter Black: Yes.

Irene James: Yes, and on whom makes the decision.

Peter Black: In respect of the second option in that section about a consistent approach, are we agreed that we need to get a more consistent approach? I see that we are.

The third option is the \$64 million question where it suggests:

‘Replace statements with a continuously assessed ‘record of need’ or entitlement for all pupils.’

I think that we want to move towards a situation whereby those children who were not defined as complex and severe would have an alternative support system in place, which would gain the trust of parents and also provide the child with relevant support.

The last option is:

‘Make SEN a function of whole school improvement’.

That is quite a valuable way forward. It also puts the onus on the school to move towards that whole-school approach and individual education assessment.

Janet Ryder: It is whether you want to keep using the term ‘SEN’, is it not? ‘Additional educational needs’ might be better than ‘SEN’.

Peter Black: Yes; I think that that is a good point. I think that that is right.

Mark Isherwood: On that point of making SEN a function of whole-school improvement rather than focusing on individual pupils, I do not think that it should be a case of ‘either/or’.

Peter Black: I think that you are right. You will have to focus on some individual pupils. It is a case of making additional educational needs a function of whole-school improvement.

Is there anything else on the statementing options that you want to discuss before we move on to resources?

Janet Ryder: I think that we need to go through it and just take this as a first draft.

Peter Black: Yes; okay. In terms of the section on resources, there is a definition of how much we have and various options on that at the end which includes:

‘More centrally earmarked funding for SEN distributed outside the RSG settlement’,

which is ring-fencing from the Assembly Government as opposed to ring-fencing from within the local education authority. It also includes:

‘A national needs based funding formula for SEN... Amend the SEN Code of Practice to ensure a more consistent approach across Wales by LEAs... Incentives for greater co-operation between LEAs, particularly in funding regional and specialist provision and in areas such as Welsh Language and Welsh-medium provision...Funding provided to school clusters rather than LEAs or individual schools.’

That, again, was the WAGSEN presentation.

Janet Ryder: I do not disagree with what has been put in here but, before we get to the ‘Options for Consideration’, we need to insert a bullet point that highlights the split in budgets which many people stressed as an issue that created a problem. That is the split in provision, whether it is money coming from health or from education, and where the difference might lie. Because of that split, I think that we might need a stronger recommendation than just an additional dollop coming on top of the revenue support grant.

2.40 p.m.

If you are talking about health money, that does not go through the RSG in any case. We need something really strong in there that says that we need to look at this as one budget, and forget the barriers between health and education. If it requires the creation of a new budget—I do not know whether we have the powers to do it—but we need a strong recommendation in there that that money needs to come together now. If we are looking at the child as a whole person, the financial provision should be there.

Peter Black: The only way to do that is by giving the local authority the local health board.

Janet Ryder: We have tried in the past to direct local authorities to share budgets with health authorities and it is not happening. We may not even see it succeed this time, but that is not a reason for not making the recommendation.

Mark Isherwood: I will pick up on the issue of the perception of a postcode lottery. It is more than a perception. If you look at the section 52 figures, where figures are published across local authorities, you see a very wide distribution in funding levels per statement or per SEN pupil. Is it because different authorities are measuring it differently, or is it because there is a wide difference? How do we tie in a national needs-based funding formula for SEN with the need for a critical mass? Clearly, the distribution of particular learning needs is often very random, and you can only achieve the critical mass across a wider region. For example, there is a school in Denbighshire that focuses on autism, and it is a cross-border partnership between local authorities, but as a result of the current funding arrangements, the cost at the moment appears to be disproportionately hitting the host county, even though the service is shared. Because of its geographical location, it is also servicing needs in England, and we must address those funding concerns. If we can deliver a national needs-based formula for SEN, we must acknowledge that there is more than a perception; we need to get a database of funding, but address the critical mass issues so that that service can be provided equitably and fairly wherever people happen to be.

Peter Black: I think you also have to define which needs you are funding nationally and which needs you are funding locally.

David Melding: It is very tempting to argue that therapists ought to be employed by the education authorities, and I do not deny that there is a strong logic to it. However, I think you would face considerable resistance from the profession. Most therapists see themselves very much as part of the national health service. Issues such as continuous development, training and contact with fellow colleagues, who may not be providing most of their care in an educational setting, the prospect to move jobs and get promoted, will impinge very considerably. I am tempted to think that, in terms of structure, what we have is what we have, and it may be best to work with it rather than suggest a comprehensive upheaval, which I am afraid, if therapists did go over to the employment of the education authorities, would be very considerable.

I am also unsure that the commissioning process is robust enough yet to say that we are facing an issue of resources. A lot of money is spent on SEN, and if you break that down to amount per pupil, it is very considerable indeed. I defend it and justify it; it is appropriate that we expend resources to give people maximum development and basic skills for life, despite their, very often severe, impairments. However, I am not sure that we are saying that money is the problem and it is fundamentally a resources issue. I am not sure that it is. If you strengthen the commissioning process, particularly around regional provision, which is a great weakness, with many pupils going way out of county—and sending children a long way from their home is a very inappropriate thing to do—you would have to see the system bed down much more in terms of how the statement is working, how much further we are going in terms of seeing special schools as centres of excellence, much more connected into the mainstream and flows going both ways, before you would be able to say that we have a resources problem. I am not convinced at the moment that we have a resources problem; we may have, but I do not think that that is yet established by the evidence.

Peter Black: I firmly concur with that view.

William Graham: The only thing that I would argue against is that, for those pupils who have such severe needs—I remember one pupil in Newport who was costing the authority £260,000 a year, and there will be other situations of a similar nature—they would have to be, and could only be, adequately helped outside Wales. I would tend to agree with what Janet was saying, in that there should be more provision from health than education, because it is really much more of a social and health problem than an educational one.

Janet Ryder: I would agree that perhaps we have those resources there, but the problem is how those resources are allocated. Once you start splitting a large pot into little, different ones, it becomes difficult to create the critical mass that is needed to provide for a child's needs. Every time that you split it up into a different departments, a little more is taken out for administration here and administration there, and for a little bit of work here and a little bit of work there. If it were all dealt with in one straight line, it would be easier to deal with.

I certainly understand and appreciate what David is saying about therapists not wanting to move from a health authority to a local education authority, but we still have the problem that education authorities are legally responsible for providing the statement. They are the ones who will be taken to tribunal sometimes when it is not their responsibility to provide what is in that statement. There is still a dichotomy there.

Jeff Cuthbert: I take all those points; it is not an easy task. I very much take the point that David made about career structures, lines of management and such issues. When we went to the special school in north Wales, was it St Michael's?

Irene James: St Christopher's.

Jeff Cuthbert: It was St Christopher's. The headteacher pointed out to us, in clear terms, some of the practical difficulties that were caused by the therapists working different hours, for example, and not being able to follow the school week, and having different holiday arrangements. All these things which are simple, in and of themselves, were having a significant impact on their ability to deliver for the children in that school. I accept that the resource was there, but the flexibility and the planning were not.

It has to be within our wit now, I would have thought, with goodwill and co-operation, to be able to say that we are aiming to move to a different path in terms of providing for additional needs for the children that need it. At the moment, I am not talking about those with the most severe needs, who may have to be dealt with separately, but about the great majority of the rest who are likely to need it—that three in four. It will be for them that we move to a position of encouraging far better practise and the need for collaboration, because we trust that we are going to move away from statementing towards recognition of additional needs across the board. It is a question of getting heads together. I do not think that we are going to get it into one budget; I can see the attraction in that, but I can also see a whole host of practical and important difficulties that will also go with it.

I have a brief point on the bullet point that refers to Welsh-language provision. The point was also made that, for those children for whom neither Welsh nor English is the first language, such issues also needed to be addressed. That should be reflected there.

Christine Chapman: I just wonder whether we are missing out on the 'Making the Connections' agenda here. There is an awful lot of discussion on collaboration, and, obviously, I have been a party to lot of this as deputy to Sue Essex, but there is an agenda going on that talks about collaboration across sectors. Perhaps we need to take account of that, because, otherwise, we will be going off in one direction, while there is some really good stuff coming out from that agenda on collaboration, which is what we want, is it not?

2.50 p.m.

Peter Black: In terms of the resource issue, we recommended regional provision in the previous report, which is important, to the extent that it is developed properly, when it may catch a number of out-of-county placements, and may well alleviate some of that resource issue. That regional collaboration between local authorities may be worth repeating in this report as well. Obviously, as to how that is resourced, the assumption in the previous report was that that would be resourced from the existing local authority budgets, but they would get savings from doing that. From our previous discussion, the assumption is also that, as you get more consistency in terms of statementing, and as you move towards an all-school approach, you will achieve savings in that respect too—money that can then be put back into the system and given as more support to schools to deliver those needs. Like David, I am not convinced that there is a resource issue, per se. There are issues, but I take his point about the therapists and their career paths, and whether or not they would want to come to education authorities. The issue is this dual role. The education authorities have the legal duty, but they do not have the power or the resource to do it. I am not sure that that can be easily resolved, other than through maybe trying to resolve this through non-statutory means, which, with this all-school approach, could mean using the resource to buy a therapist for a school for a particular period of time, which all the children can benefit from, as opposed to focusing on the individual child in that respect. That seems to be a sensible way forward.

Janet Ryder: We took some evidence, did we not, that suggested that we should be looking at the provision of therapists directly to school clusters?

Peter Black: Yes, that is the last option in this section.

Janet Ryder: Are they education employees or health employees? Could that be a central provision from the Assembly?

Peter Black: Looking at hypothecating resources from the Assembly, there is a classic case here in terms of Supporting People, in that the Assembly was given that resource from central Government, and then it does not have the resources to meet the increasing demand for it. Once you start saying to a local education authority, ‘Here is x amount of money for special educational needs’, they take that amount of money, and you cannot build on that—there may not be more to add. That is the danger, is it not? You take it out of the education pot anyway, and you start dictating priorities to local education authorities within their own budgets. It seems sensible that local education authorities should be able to use their present resources in a manner that is most effective for their own area, but the guidance that we are giving them in terms of these school clusters, which is an excellent idea in terms of trying to get some consistent approach across statementing, may well free up those resources to be used more effectively, for children and for the area as a whole. That is the danger in having a central pot; it suddenly becomes a ring-fenced central pot, which no more money goes into and does not meet up the demand of the local area. That is the point.

Janet Ryder: I agree with what you say. However, would it be possible to ask for some sort of monitoring of the situation, especially regarding how resources are being used at a local level, to say, 'Look, if we are going to make this extra resource available, we would like to see it used for therapists to clusters, but we would like you to monitor and feed back to us what it is freeing up of your other resources, so that we can be better informed when we take future budgetary decisions'?

Peter Black: I shall be recommending that we change the guidance in that way. I would have thought that that would be part of that monitoring of how that guidance works. That will be a useful thing to include there. You may want to consider saying to the Minister that we believe that what we are suggesting should work within the existing resources, but that she might want to consider putting additional resource in to kick-start regional provision. You might want to make a recommendation along those lines. Therefore, if you say to local authorities, 'I have a pot that you can bid against to make regional provision', that might be useful in terms of kick-starting that. I do not know whether anyone has a view on that.

David Melding: Maybe for specific capital issues.

Peter Black: Yes, for capital issues or specific start-up costs.

Mark Isherwood: We should also address the cross-border issues, which are a factor, certainly in north Wales.

Peter Black: Do you mean the Wales-England border?

Mark Isherwood: Yes; where the provision is also servicing young people from across the border.

Peter Black: It would be nice if they contributed from over the border then, would it not?

Mark Isherwood: Yes, exactly.

Peter Black: It is not going to happen.

David Melding: That is an important point. 'Regional' could mean parts of England coming in with parts of Wales.

Mark Isherwood: While we are on that point, the secondary care health review in north Wales includes part of Cheshire. However, that is thinking outside the box.

Peter Black: That is right; you cannot get away from the cross-border issues, particularly in east and north-east Wales. It is a big issue. Can I take it that the last option with regard to school clusters is considered to be a more effective use of resources that we would want to move towards, but that we would want to suggest that a pot of money be made available to kick-start regional initiatives if at all possible? The amended special educational needs code of practice for a more consistent approach reflects what we discussed earlier. We are also talking about regional and specialist provision, which includes Welsh-medium provision. The point about cases where neither English nor Welsh are the main language is picked up later. It may be worth reflecting that.

Jenny Randerson: The only caveat that I would put on the second option of specialist units in future being created in specialist settings outside mainstream schools is that we must bear in mind the experiences of Ysgol Plas Brondyffryn, and especially those of the secondary school. It is a brand new facility that has been bolted on the rear of the secondary school. The bolt-on facility allows each child, as far as they are able to, to integrate with the mainstream school. Some children, unfortunately, stay within the unit, while some integrate heavily, and others perhaps just integrate at meal times. A bolt-on facility provides that opportunity. I am just slightly concerned about the wording ‘settings outside mainstream schools’. I know that we have heard evidence that it is not always an advantage.

Peter Black: We are moving on to inclusion, Janet. May I just finish this?

Janet Ryder: I thought that we were on inclusion. We have been dotting around with this.

Peter Black: I was just trying to sum up the resources issue. I hope that what I just said, which I have now forgotten—although it will be in the Record of Proceedings—is okay for the direction that we want to go in as regards resources. If Members are happy with that, we will move on to inclusion. Janet was making a point about the bolt-on unit.

Janet Ryder: We have heard evidence for and against putting a specialist unit on a mainstream school site and putting it in a specialist setting. We must look at Ysgol Plas Brondyffryn and at the lessons from there that bolt-on provision can provide the best of both worlds in many cases.

Peter Black: I think that that is right. Where there is a unit as part of a school, where you have the whole-school approach, there is an element of inclusion. It is only in cases of really severe or complex needs, where pupils are in a special school, that there will not be that level of inclusion.

Janet Ryder: It is the specialist autistic centre for the north of Wales. However, it has that facility. That is why it is unique. It is an excellent provision.

Mark Isherwood: That is a valid point. It is based on a child-centred approach. Last year, the committee visited a primary school in Gwersyllt near Wrexham, which was an independent school on a campus that was shared with a mainstream school. The more able-bodied pupils could go to the mainstream school and the less able-bodied pupils could be visited by pupils from the mainstream school so that social skills and interaction could be developed. On the same trip, we visited St Christopher's School, which you mentioned before. To an extent it caters for the school-phobic youngsters who have been failed by mainstream schools and who would not necessarily benefit in those circumstances. It is a child-centred approach.

On inclusion in the mainstream, we need to look at class sizes. I have a certain interest because I have a nephew who is affected. St David's school in Llandudno is a private school, but some of the pupils are funded by local authorities and some by their parents. Some pupils have no special learning needs whatsoever, and some have complex learning needs. They are taught together, but in relatively small class sizes, so that the needs of each child can be addressed in that whole-school environment. It is often a challenge to deliver that in a larger class environment, unless the needs are easily or simply met.

3.00 a.m.

David Melding: I thought that Lady Warnock was a little too depressed on the whole issue of inclusion and special schools, because she has made such a contribution, and I thought that she was overreacting to what is undoubtedly an issue, which is that you do not include a child by putting it in an inappropriately and improperly supported mainstream setting. That is not inclusion; that is a rather cruel way of stranding people in a very hostile environment. I think that the inclusion agenda can mean sharing a campus with a mainstream primary school, as, indeed, does the primary school of which I am chair of governors. That can be done at secondary level, too. Even where you have special schools that retain perhaps a bit more of the traditional sanctuary status, they can still be linked in to mainstream provision through visits and support teachers and pupils, as well as more day classes of one day a week for particular pupils rather than their being there full time. There are many ways to do this.

I still think that special schools will be required, and even in the centre-of-excellence model, many children with severe and complex needs will still get most of their education in that setting, I suspect. However, it is not a case of one or the other; I just think that we need this flexibility of approach. I think that the sector is going in that direction, which is why I thought that Lady Warnock was just a little too gloomy in her general analysis. Some will have misinterpreted her as meaning—and I know that she did not mean this—that, somehow, we have to go back to the old system wherein there was a separation of the special and mainstream systems.

Christine Chapman: I agree with David, because I think that inclusion is about mainstream pupils as well. When we talk about trying to change the profile of special needs, it is about getting everybody in society to accept it, which, perhaps years ago, they did not. I felt that Baroness Warnock was very gloomy about children going to visit youngsters with special needs, and I did not agree with that at all. I would not like to think that we would see the return of the situation whereby these children are kept completely apart, with mainstream children never seeing them. I did not agree with that, and I would not be happy were we to look at that option.

Peter Black: I think that we would all agree with that. It is quite clear that we must have a flexible provision—a mixed economy approach, if you like. That may not be an appropriate analogy, but the needs of the child are most important, and if children can be integrated, as happens at that school in north Wales—what is it called again?

Janet Ryder: Ysgol Plas Brondyffryn.

Peter Black: Thank you. If you can integrate the child in that way, then that is good, and that could perhaps be a model that you could hold up to authorities. However, it has to be a case of what is most appropriate for the child and of trying to work the child into the mainstream, and vice versa.

In terms of these options, more special needs units in mainstream schools is a bit prescriptive, but I think that you can—

Janet Ryder: It depends on what you mean by ‘more’. We have heard evidence that making more of specialist units actually means making more of the resources that you have in the staff in those specialist units who can work with colleagues in mainstream schools, providing in-service training. So, we can make more of the specialist units that we have by using them, as David suggested, as centres of excellence to feed out that expertise to other schools. However, we must remember that staff in specialist units benefit greatly from that interface with colleagues in mainstream schools, because they have to be kept up to date with what is going on in the general curriculum.

Peter Black: I think that that is a more sensible approach to that issue. Guaranteed places in school special units for children with a statement is, in a way, turning it on its head, is it not? You have to have a statement to get there. Everyone who has a statement will get a guaranteed place in the unit. That is not necessarily needed, is it? It may be, but not in every case.

Mark Isherwood: Perhaps we should put such a guaranteed place in school special units for children with complex needs.

Irene James: Or as required.

Peter Black: Yes—complex or severe needs, as required. The last option about school clusters very much reflects what we have always discussed concerning moderate and severe learning difficulties. We have talked about getting funding to school clusters, which would follow on from that again, would it not?

Are there any other options or anything else that you want to bring in on inclusion? Shall we move on to information support for parents and carers? This relates to the trust issue—do parents trust the process and do they feel that they are getting what they need for their child? How can we help them through that process, and what support can we include? Over the page, you will see a range of options, including the key workers issue and the disagreement resolution service, notes in lieu of a statement, better co-ordination between agencies and multi-agency meetings in which we can get the agencies to turn up. Do Members have any comments? Is there anything here that you would particularly like to see in that package?

Jeff Cuthbert: No, I think that all that is true, going on the contents of my postbag. Constituents come to me with this type of problem, and there is invariably an issue of trust. There is a belief that the best is not being done for their child. Very often, it is down to communication and a lack of information being provided to them. However, I always balance that by the fact that only a small percentage of those parents whose children have statements come to me. It might be a little unsafe to assume that the great bulk of them are therefore happy, but it is the case that, in most events, statementing works reasonably well. That is not to say that there are no grounds for improvement, and I have no particular problem with considering these options further.

Mark Isherwood: Communication is critical, and I speak from personal experience. How do we ensure that when there is a problem with provision, parents are entitled to know about that from the outset? We talk a great deal about parent partnerships. I have experienced a situation where I learned, through the young people concerned, that they had not been receiving the provision that they should have been receiving through their statements for a very long time. I took the matter up with the LEA concerned, and, on condition that I did not publicise the issue, a resolution was finally brought forward. My concern is that if I had not brought it up we could still be in that position today, because the LEA had not felt that it had a duty to the parents concerned to involve them in the solution from the outset.

Similarly, what role should LEAs, schools and other agencies have from the outset to make all parents aware of the options and support available to them, particularly parent partnerships? I think that those are beginning to work quite well through citizens advice bureaux. In the instances in which I have referred people to them, they have almost invariably produced a solution. However, too many parents do not know about that and they have to come to people such as us to find out. So how can the system systematically ensure that they receive the information that they should be receiving?

Peter Black: On the statementing cases that I have been made aware of, parents have told me that they do not feel supported through the statementing process. The information available to parents through that process could be improved and could certainly include where to find that support.

Irene James: Moving on from Mark's point, we need better communication between the different agencies, because all too often when parents deal with health, they do not give the information back and then they move on to education. There needs to be far better communication between parents and other agencies.

Peter Black: That is where the passport comes in. If you are recording in that passport all the agency interventions, you have a record so that people can look at it and say, 'Such and such has looked at that'. William, did you want to come in on that?

William Graham: Irene has raised the point that I wanted to make about communication between the agencies.

Janet Ryder: To go alongside that, we talked about the key workers, but we must stress that recommendation, namely the benefit of a key worker to work as the advocate. It might be worth including some of the recommendations that we made in the previous report about the need for independent advice, advocacy and how parents can get to know that that is available. We should take some of that out and put it in here, as it is worth repeating.

Peter Black: We are putting in the forward work programme the need for the Minister to come back and report on that. It will be useful to continue monitoring those recommendations. That is a useful suggestion, Janet.

3.10 p.m.

It seems to me that all of these options are not contradictory; they all seem quite sensible and form a sensible package. Therefore, if Members are happy we will move on to 'Welsh Medium and Bilingual Provision'. We will deal with the non-Welsh, non-English and first-language issue under 'Other Issues'. We will just deal with the Welsh-medium issue here. There are a number of options. Does anyone want to comment on these to start?

Janet Ryder: I read the third bullet point, where it says:

'Welsh-medium assessments may not be possible or effective if tests are not available in Welsh'.

That can be read in a number of different ways. I think that we should be making the recommendations that all testing should be available through the child's first language. That is crucial. We must get to the point where everything is available in that child's first language. If you have a child who has a difficulty in learning in any case and you are asking them to be tested in a language that is not their first language, you are making it very complex for them. You will not get a sound testing. It has major implications, particularly for resources, as we need to recruit staff and have everything available in Welsh and in English. You will have children who will require it in either or both languages. You are discriminating against that child if he or she cannot undertake these tests in his or her first language.

Peter Black: The first option, 'Regional centres and provision', may be one way of getting around that lack of resource.

Janet Ryder: Not if all the materials are not available.

Peter Black: The materials can be there but in terms of people resource. If you have a limited number of people, you should not use that regional centre.

Janet Ryder: They are not geographically spread. Where we have resources, they can be geographically specific. So we need to look at a pan-Wales bilingual provision.

David Melding: There is the obvious point that so much more education is now delivered bilingually, particularly in primary education, although I am sure that it also affects secondary education. There has been a big shift in the last 25 years. Up to 25 per cent of children now get primary education in a bilingual setting. That has to have an effect on special educational needs services and how they are delivered.

Irene James: Would Janet's point not also cover Jeff's point that if it was just done as first language you would not need to have a separate section for something else?

Peter Black: I had the same question. If you said 'first language', that could also cover ethnic minority languages, which makes things even more resource-intensive.

Janet Ryder: As long as it is made very clear that that parent has a right to demand that facility through that first language. It has to be fulfilled. You have got to have the matching up.

Peter Black: Parents currently have the right, through statementing, to demand things that are not available. That is the problem. It is a supply issue. It is a matter of making sure that the supply of materials and people are available to deliver.

Mark Isherwood: I will address a related point that was raised with me in a surgery some three weeks ago. A mother came to see me. She had a 14-year-old daughter who still cannot read or write, although she has been through mainstream education throughout. However, she is dyslexic-dyspraxic. The local education authority is now putting in one-to-one provision but only on a very short-term basis. The school suggests that perhaps this could be continued by opting out of the lessons in which she has a chance of achieving GCSEs—subjects such as physical education and so on—rather than the lessons in which she has no chance of achieving, in her unique circumstances. In their case, they are saying that it is Welsh-medium. She cannot even handle English, let alone Welsh. However, the legislation, as they have been told by the local authority, means that their daughter cannot come out of Welsh lessons to have the one-to-one coaching that she needs to learn to handle the basic skills of reading, writing and basic mathematics. Should we also consider flexibility in the legislation in those unique circumstances where a particular need is identified?

Janet Ryder: That was the opt-out when we took evidence from ADEW.

Jeff Cuthbert: I take the point about stretching resources, but, at this stage, I think that it is fair to say that a parent should expect to be able to have the assessment and testing in English or Welsh, which should be the case now, and that we are working towards the position in which other languages will be provided for, because of the vastness of them.

Peter Black: It may well be the case that parents do not speak the same language.

Janet Ryder: Sorry, but it has to be the child's first language that is taken into consideration.

Peter Black: We have accepted that point.

Janet Ryder: If a child is being educated through the medium of Welsh, it is quite reasonable for the child to be tested in Welsh, even if the parents are English speakers.

Peter Black: I accept that, Janet.

Janet Ryder: Could we include a recommendation that we carry out an assessment across Wales of the resources available through the medium of Welsh, so that we can get a good picture of where we need to return to?

Peter Black: I think that you will find that that is option 4—an audit of Welsh-medium and Welsh-language expertise and provision, to see what gaps exist and to inform future provision.

Janet Ryder: Within a timescale.

Peter Black: We can discuss timescales when we have the recommendations before us. It would be useful to have an idea of how long it will take. I could not specify a timescale now, and the Minister may want to contribute to that particular aspect. We can discuss that when it comes to the recommendations in the report. The options here are that regional centres and provision should be encouraged, there should be diagnostic tests in English or Welsh, depending on the first language of the child, recruitment policy and staff training are to be adapted to ensure that sufficient, qualified staff are able to carry out assessments through the medium of Welsh and bilingually, and that there should be an audit of Welsh-medium and Welsh-language expertise in provision. Are we on the right track with those? I see that Members agree.

On other issues, and there are some very difficult ones here, the administering of medicine in mainstream schools in itself is an issue, particularly Ritalin.

Irene James: What is an untrained teacher? Do we mean untrained in the dispensing of medicine, or are we looking at students?

Peter Black: No, we are looking at dispensing medicine. Schools take different views on this.

Irene James: So do local authorities.

Peter Black: Are we going to ask the Minister to provide some guidance on this, and are we going to specify what that guidance should be?

Jeff Cuthbert: Which Minister should it be?

Peter Black: As it is teachers, it should be Jane.

Jeff Cuthbert: Well, it is about medicine.

Irene James: The Minister for Health and Social Services, then.

Peter Black: I think that the guidance is for schools.

Christine Chapman: This has reminded me of a particular issue. Is it about which teachers or all teachers? I am thinking of one case where a child had a condition whereby he could have some sort of convulsion at any time, and the parent wanted all the teachers to be trained.

Peter Black: If Gwenda were here, she would say that we need a school nurse, and there is an argument that, if you are going to have clusters of schools, a nurse should be assigned to each cluster who can deal with this issue.

David Melding: The larger the school, the more feasible it is to go via the school nurse route, obviously, but, even in clusters, there is no way that daily medication would be delivered by a nurse. He or she would be doing nothing other than hurtling around trying to get there before midday or whatever. Nurses may assist the teachers who have the responsibility, but I think that we should be careful about assuming that having a strengthened school nursing service—which I would absolutely welcome, let me assure you—would address all the points.

Peter Black: I just thought I would throw that one in to see what came out.

Irene James: Would teachers have the right to say, 'No, I am not prepared to administer medication'? The situation is that we live in a system that is no win, no fee, and if something went wrong with a teacher who, as it says here, is not trained in handing out medicine—

Peter Black: Some schools will not administer medicines. Correct me if I am wrong, but some schools take that position.

Irene James: Are we actually going along the lines of saying that they would have to? What is our role, and when do they have the right to pull back and say 'no way'?

3.20 p.m.

Janet Ryder: It is a difficult one, I would agree on that; it is one where we can make things unworkable for class teachers, especially in small primary schools. On the other hand, you have to safeguard the teacher, and I would be reluctant to make any recommendation on that without taking further advice from the General Teaching Council for Wales and the unions. I think that that might be an area where we would want to ask questions of the unions and the GTC.

Mark Isherwood: That is what it says, is it not, that we,

‘need to clarify the legal liability’?

Peter Black: Yes.

Jeff Cuthbert: It is more than just a legal liability; there is a moral liability here as well. I share Janet’s view that we need more evidence from the relevant bodies.

Peter Black: From the point of view of the report, we might just want to recommend that the Minister address this problem and flag it up as such an issue. It may well be that you might want to suggest that a strengthened school nursing service might assist in this process, though it would not solve the problem.

Mark Isherwood: As well as consulting teachers, we need to consult parent groups and representative bodies like the National Autistic Society. I have had people raise issues about school medication with me, where their children are taking medication. They have practical experience that they could share.

Peter Black: Okay. The next issue is, essentially, on ethnic minority languages, is it not?

Jeff Cuthbert: I think that we have covered that.

Peter Black: Yes, I think that we have; we have highlighted it and flagged it up as an issue, and maybe the suggestion to strengthen the school nursing system might assist that. Issues surrounding testing or statementing children whose first language is neither Welsh nor English or whose parents might not speak either language is a really difficult one, because, as Jeff has said, there are so many languages involved here. Clearly, there needs to be some sort of resource built up to deliver this. That resource may well be area-specific, because there are clearly areas of Wales where there is a greater concentration of ethnic minority people than others: such as Cardiff, Swansea, Newport and Wrexham.

Janet Ryder: If you look at an area like Wrexham, it has a growing Portuguese community, which has major implications for its education system. It has a growing Polish community, which is building on the Polish community that has been there for a long time. Communities are changing rapidly at the moment; we are seeing a big flux. The question is where you place that provision.

Peter Black: That was my point.

Janet Ryder: Have we had enough evidence to make a recommendation?

Peter Black: We have not really taken a great deal of evidence on this particular issue, and, again, it may be something that you want to flag up with the Minister as an issue for her to address. Do you want to come in, Mark?

Mark Isherwood: We could utilise the experience of the race equality networks as they develop, as these will be the issues that they will be dealing with in their communities.

Peter Black: Yes. It is something that we need to flag up, and we need to tell the Minister that this needs to be addressed.

Christine Chapman: If you have a child from another country, even if it is just one child, he or she has to be accommodated. It is the local education authority's responsibility to ensure that there is provision for that one child, even if it may not be a permanent feature. It is a question of ensuring that every individual is catered for. It could be a building up of provision if there are a lot of children, but it does not have to be—even one child should not be discriminated against, whatever the language. That flexibility needs to exist.

Peter Black: We have specific provision for English as an additional language, do we not? It may well be that you could build some provision into that, as one way of dealing with this. It might be worth suggesting that that is looked at as part of that.

Parents who might themselves have a special health or education need and looked-after children are the final two issues that have been flagged up as issues that need to be addressed. I do not know what people think.

Mark Isherwood: Parents who might themselves have special health or education needs tie into the point that was made about parent partnership earlier. I was recently approached by a father who said, 'I had exactly the same problems when I was in school; now my son has the problems, and I do not know what to do'.

Peter Black: It is about parental support, is it not?

Mark Isherwood: Yes, exactly; it also ties in with adult and family literacy programmes. The second point about not meeting the needs of looked-after children follows on from matters raised in the Social Justice and Regeneration Committee this morning, which highlighted the number of looked-after children and children with missed special educational needs, whether they were looked-after or not, who were entering the youth justice system.

Peter Black: So, you have to address that early on, do you not? Again, in terms of looked-after children, it may simply be a matter of flagging that issue up to schools, and saying to them that there is a problem with looked-after children in terms of trends—I do not know whether the trends show that—and you need to address that. Resource obviously comes into it.

Janet Ryder: It is a resource for us, but it is also a particular problem for local authorities with looked-after children. Would David be able to give us some guidance on whether this should be going back to local authorities for them to look at specifically?

David Melding: The evidence is that something like half of looked-after children have an identifiable mental health issue. Their education is usually highly disrupted, and they have behavioural difficulties. I assume that they are probably as susceptible as the rest of the population to highly complex needs of cognitive or physical order, but that, in a sense, is a different issue, I guess. However, there is no doubt that they have particular needs as they go through the education system.

Christine Chapman: On looked-after children, we know, for whatever reason, that it seems to be growing in Wales, which is a difficulty. It is about disruption, but it is also that they are moving from different authorities, in some cases. It is about emphasising the role of local authorities, wherever those children are, as corporate parents, and the emphasis that is put on that. It is a worrying feature of looked-after children with special needs, so I am glad it is there.

Irene James: I am also glad that it is there. However, we do not have any consistency from authority to authority. That needs to be built into all of this, which would help these looked-after children.

Peter Black: The guidance from the Minister, again, to local authorities on looked-after children, and their particular needs, needs to be highlighted as part of the report.

Irene James: It is not only looked-after children; if any child moves from one authority to another, all too often they have to go back and start at the bottom of the structure, and go through it again.

Peter Black: This is where this passport approach is useful. If they bring a passport or record with them of what provision has been made available for them, that deals with that issue.

Janet Ryder: That is provided that they are coming from Welsh authorities, not if they are coming from incoming authorities.

Peter Black: Do you mean from England, or Scotland?

Janet Ryder: From outside of Wales. If we establish a passport system in Wales, and it works in Wales, that will be a great benefit to children who stay within the education system in Wales. However, problems sometimes occur when children move from countries outside of Wales.

Peter Black: Yes, of course.

Are there any other issues or points that you want the clerk to take into account when drafting the draft report? I see that there are not. In that case, leave that in our hands, and we will try to come up with a draft report at some stage in the new year. I will not promise that it will be at the first meeting—it will probably be later than that—but it will be as soon as we are able to get that together, and we can work from that.

David Melding: As I will no longer be part of this process formally, as I will no longer be chair of the Health and Social Services Committee from 1 January, if the clerk could get the draft report to me, perhaps I could write to you with some comments. I would appreciate that.

Peter Black: That would be helpful. You are welcome to come along to the meeting when the committee discusses this. You have been involved in this, and your input has been invaluable. You have been with us all along, and it would be helpful if you were here.

David Melding: I would be very grateful.

Peter Black: The clerk will invite you to that meeting, and most probably your successor as well.

I thank everyone very much, and wish you all a merry Christmas and a happy new year.

Daeth y cyfarfod i ben am 3.29 p.m.

The meeting ended at 3.29 p.m.