Policy Options for Special Educational Needs in the 1990s

BUCKING THE MARKET: LEAs and Special Needs

Peter Housden
Director of Education
Nottinghamshire County Council

Economic and Social Research Council and Cadbury Trust Project

Institute of Education, University of London
Department of Educational Psychology and Special Educational Needs

BUCKING THE MARKET
LEAs and Special Educational Needs

• *Foreword*

1. I want to address some fundamental questions about provision for those children our educational system so often places 'at risk' of failure, blighting both the lives of these vulnerable children and the society that allows it to happen.

2. This is a personal account and I do not write from a position of neutrality or distance. As an official of a local education authority, I am happily subjected to almost total immersion in the world of here-and-now. As someone who has been nurtured in the culture of LEAs, I am no doubt more alert to their strengths than their weaknesses. That said, I want to address three key issues :

- The dynamics of the current crisis in special needs.
- The role of LEAs in bringing us to this point.
- The prospects for the future, particularly as envisaged by the Government White Paper 'Choice and Diversity : A New Framework for Schools'[1] and the subsequent Education Bill.

• *Introduction*

3. Everyone approaches the issue of special educational needs differently. My personal construction starts from the fact that 95% of the population are dependent on the free public service for the education of their children. The quality of that public education service is, accordingly, vitally important for the future economic success, social cohesion and democratic health of our society. My second point of departure is to note that international comparisons about the achievement of our children in the years of compulsory schooling leave no room for complacency. I connect this seemingly chronic underachievement across the system with our peculiar national construction of 'quality' in education. The dominant view focuses on the needs of an academic minority. This view not only leaves large-scale failure in its wake, but somehow regards such failure as a positive performance indicator. The expectations of failure thus generated have important implications for the overall environment in which our thinking about special educational needs takes place.

4. The needs of children obviously differ and resist categorisation in any absolute sense. In thinking about these issues I find a three-fold division useful.

It seems that a minority of children effectively educate themselves. They are armed with significant intellectual advantages and, usually, with supportive homes. They appear immune to the impact of any poor teaching or under-resourcing they encounter.

A larger number of children make progress that satisfies their teachers and parents. These children progress, without undue alarms, on the basis of the general level of support and attention typically available.

For me, the concept of special educational needs revolves around a third group - that significant minority of **vulnerable children** who need a larger degree of support and resources to reach standards appropriate to their starting points.

5. Intuitively, this group of vulnerable children corresponds to Mary Warnock's 20%. Three characteristics of the group stand out:

- they are children drawn overwhelmingly from socially-disadvantaged backgrounds;

- they are not a race apart : for better or worse, their education and life-chances are inextricably linked to the main currents of English education, both in terms of its traditions and the provision commonly available today;

- a small percentage of these children will have needs that are manifest, complex and life-long. Their needs properly merit protection and safeguards such as those provided by a statement or other equivalent non-statutory devices. Amongst these children, social disadvantage is less apparent and there is ample evidence of skilled advocacy and organisation on their behalf. In addressing the issue of special needs, it is important that the complex and well-articulated needs of this minority should not obscure the size and social circumstances of the wider group of vulnerable children.

6. To complete this rough-and-ready approach, experience tells me that, subject to certain safeguards, the needs of vulnerable children are most likely to be met by maximising their inclusion in the mainstream of the education service.

First of all, I accept the commonplace reasoning around this - that adult life is comprehensive and inclusive, and that the awareness and acceptance by the whole community of the needs of its more vulnerable members is enhanced by supportive contact and diminished by segregation.

7. More powerfully, I am persuaded by a fundamentally educational argument about expectations and achievement. Young people learn together and from each other. The higher the range of achievement and expectation within an educational community, the higher standards all children will reach. This is the essence of comprehensive education and its success has been proven over the past twenty years. Its progressive extension would benefit vulnerable children.

8. Finally, I am convinced that greater social pressure toward integration would benefit the service as a whole and, therefore, all children. This conviction derives from the commonplace that power is unequally distributed in our society and that real progress in public education would be much aided by genuine commitment from powerful social groups. Thus, if private education were not available, the public sector would, overnight, acquire the most powerful friends and advocates. As many congenital disabilities are no respecters of social class, there is already a substantial body of powerful parents and voluntary associations whose influence in the system is potentially very great, if presently diffuse. It would be immense if focused on quality, inclusive, mainstream provision for all children.

9. This reasoning does not amount to an unqualified commitment to integration. There are two strands to my caution. The first concerns the key concept of differentiation - understanding that children have different needs and that learning objectives and support have to be tailored to these differences. For me, integration implies differentiation **within** schools; segregation rests on the notion of differentiation **between** schools. Any mainstream school which is seeking to provide for a wider range of children must be resourced to provide effectively for this differentiation. For children with complex needs, this will involve essential aids to learning, mobility and human dignity, provided in liaison with health and social services authoritities where appropriate. It also involves an acceptance of the need for greater precision in establishing learning objectives and for a learning environment in which these can be realised. All this requires confident staff with appropriate training and resources.

10. My caution on inclusion does not amount to blocking. Overstating the needs of young people is a common resting place for many who actually feel more

comfortable with segregated provision. A sensible balance has to be struck, but there can be no compromise with the principle that effective differentiation is critical to effective integration.

11. The second caution is rooted in practical concerns. We are dealing with deeply-held traditions of segregation and the vested interests that have grown up around them, and with parents whose valid and natural protective instincts have to be recognised. We are also dealing with an education system that has been subjected to enormous innovation and resource pressure for more than a decade. Teachers and schools are generally hard pressed, under-resourced and under-valued. The recession and social pressures are generating increasing difficulties for pupils which influence behaviour and attitudes at school. Teachers' scope for major challenge and development is accordingly finite.

12. It is, therefore, unreasonable to have expected rapid and radical progress in inclusion in the past, or to do so for the future. Special schools and related provision will continue to have an important part to play in our service in meeting the needs of pupils who cannot, for whatever reason, be offered inclusive environments with sufficient differentiation. Many will receive an excellent and appropriate education in special schools. Undoubtedly, however, such segregation will, on occasion, be against the best interests of the young person concerned. We should face this squarely and only countenance this price being paid, by the individual and by society, in the context of a general and determined long march toward inclusive provision.

• *Crisis? Which crisis?*

13. Nothing could speak more loudly about today's conditions than the fact that no-one argues about whether there is a crisis in special needs: the only debate concerns which particular crisis is being referred to. I can think of at least five.

14. The first concerns young people with complex needs and their access to specialist assessment and placement under the Education Act, 1981. The excellent Audit Commission/HMI report published this year threw a penetrative spotlight on the difficulties associated with uncertain criteria for undertaking formal assessment and unacceptable delays in its completion.[2] The Government shares these concerns and has promised legislation to clarify and speed up the process. They also intend to strengthen parents' right to express a preference for the

school they wish their child to attend, and to establish appeal mechanisms that are independent of the LEA. In these latter provisions, the Government are in part responding to pressure from parents and pressure groups who feel that their wishes should impose absolute conditions on LEAs. At the far end of this spectrum, lie applications for international special placements at very high cost at the Peto Institute in Hungary, in America, and beyond.

15. A second crisis is perceived in mainstream schooling as a result of LMS and the impact of continued restraint on local authority expenditure. This has dimensions both between schools and within individual schools in an LEA.

16. In LEA terms, national criteria governing schemes of local management have forced choices on LEAs which have in some cases transferred resources away from schools serving disadvantaged areas and delivered them to schools serving more advantaged communities. The requirement that 75% (subsequently raised to 80%) of the total spending on schools' formula budgets should be allocated by pupil numbers has lowered the degree of positive discrimination that many LEAs had historically undertaken. It is true that many LEAs do not use their full scope in this regard, as to do so would distort other priorities across the service. Schools in the City of Nottingham, for example, will have lost £3m in this way between 1990-91 and 1993-94. These losses have been mitigated by schemes of transitional protection and other devices within Authorities' overall LMS schemes, but exacerbated by general reductions in the level of funding due to overall spending restrictions. Thus in schools serving disadvantaged areas and with relatively high populations of vulnerable children as a result, reductions in inputs to special provision have occurred.

17. Aside from the losses between schools under LMS, it is clear that within many individual schools, a migration of resources away from special provision has taken place. Under resource pressure, most schools in my experience tend to give priority to preserving generic class sizes and the width of the curriculum in examination years. Beyond this, those areas with the strongest internal or external advocacy gain the strongest protection. Special provision all too often loses out.

18. Decisions on grouping pupils are critical. Within limits, it is by no means clear that the interests of pupils with special needs are best met through preserving generic class size at a specific level. Nor is it clear that minor variations in class size make a material difference in the opportunities for all pupils, or in the work load of their teacher. The economics of these decisions are,

however, substantial. A comprehensive school choosing to organise a year group of 240 pupils for most of the week in classes of 25 rather than 28, expends one full time-equivalent teacher in the process. Faced with this choice or reducing the level of support teaching available across the year group, it is often support teachers that are withdrawn in order to protect overall class size.

19. In targeting other reductions, protection is usually given to areas of the curriculum which are deemed to be significant in recruitment terms, such as examination classes, music and languages. Formula funding driven by pupil numbers, backed in many areas by the increasing reality of open enrolment, has given real impetus to these market pressures.

20. This combination of budget cuts, the migration of resources away from special needs provision and the pressure of the market are important factors in the third special needs crisis - that concerning emotional and behavioural difficulties. Much of the anxiety and pressure that schools currently experience comes not from managing learning difficulties, but from the increasing incidence of children presenting unruly and difficult behaviour in and out of the classroom. This concern was once the overwhelming preserve of secondary schools, but is now increasingly reported in the primary sector. It has contributed to a major rise in the number of exclusions in most LEAs at secondary level and an increase in demands for statements as a route to segregated provision.

21. It seems probable that the recession, the continued pressure on families and a general tendency in society toward less directive and attentive parenting have all contributed to a harder job for teachers and schools in this regard. In addition, some of the children now in mainstream schools as a result of the progressive movement away from segregated educational provision and from residential care have complex needs whose impact can be out of all proportion to their relatively small numbers.

22. The reported rates of increase in demands for statutory assessment and in exclusions, however, suggest that other factors are at work beyond any real uplift in the number of children presenting such difficulties. Beyond schools' natural wish to exploit all sources of additional finance, there can be no doubt that pressure from innovation and resource cut-backs, together with the schools' need to keep a weather eye on the market place for pupil recruitment, have lowered the tolerance threshold of even the most caring institutions.

23. Most interesting, perhaps, is the emerging evidence from the

Nottinghamshire service that it is the **distribution** of these pupils with very challenging behaviour that has changed to some degree. This occurs partly as a consequence of open enrolment as parents living in disadvantaged areas seek spare places for their children in suburban schools. Many of these children are from supportive homes, but others may have a history of exclusion from other schools and their admission may result from LEAs' insisting upon a strict interpretation of schools' obligations to meet parental preferences under the Education Act, 1980. In this way schools, which in the past served relatively homogenous pupil groups, have become more 'comprehensive' in intake, requiring the containment of, and rapid adjustment to, some very challenging behaviour.

24. A fourth crisis is perceived from another direction. The Centre of Studies on Integration in Education (CSIE) and related groups skilfully lament the slow progress being made on the implementation of the Education Act, 1981. They show the large variations in segregation rates between LEAs which seem to go far beyond any objective differences in their communities. Evidence is cited to show how in the absence of commitment and effective strategies toward inclusion in many LEAs, their systems can be bureaucratic, slow and unresponsive in meeting the needs of parents seeking inclusive placements for their children.

25. The last example projects current crises forward. It sees a future in which the public education system fulfils the Government's wish and provides more diversity and specialisation, and where the LEA has withered to a shadow of its former self. The landscape is populated by largely-autonomous schools of differing statutory character (GMS, CTC, Aided, LEA), competing for pupils with some offering differing 'specialisms' in technology, the Arts, science and other fields of endeavour. Without creating a single new Grammar School, selection becomes rife as some schools take advantage of historical kudos and/or funding incentives to corner the market in desirable pupils, leaving the many to fend for themselves in under-resourced alternatives. In this climate, children with special needs are very much at risk with only an enfeebled LEA to assist in charting their course through the market place of public education.

• *The role of the LEA*

26. To understand the contribution that LEAs have made to the overall situation

and the prospects for the future, it is necessary to dig deep into our cultural history. There lies an understanding of the dominant construction of education as a social force. This, I shall argue, rests on concepts of segregation and aptitude that hang like an invisible debilitating mist over our educational history, gathering with a particular density around the 'bottom 40%' in our schools and enveloping all our vulnerable children.

27. We have to start with an education service which had its roots in provision for an elite. This later spread through the churches to a slightly wider population but, in these days before industrialisation, education was subject to close rationing. As mass schooling was developed to skill and socialise an increasingly urban and disoriented population, the role of local councils came more into prominence. Kept short of resources and with no tradition of universal schooling, provision for the congenitally disabled, the disaffected and the severely disadvantaged was very limited. Already, at the dawn of mass education, many vulnerable children were on the outside.

28. Alongside the burgeoning public sector of education, the traditions of elite schooling were developing separately, based on the essential principle of disparity of esteem. Thus the major public schools and universities developed apace in the 19th century, providing that excellence and quality of resourcing that today remains available for privileged young people. Theirs was an increasingly defensive segregation. As education became increasingly available for all, it became necessary to protect and preserve the opportunities of the privileged in discrete institutions.

29. We should not neglect the cultural impact of this history. The elite schools embodied the cultural stereotype of education as a scarce good to be carefully rationed as though it were an exhaustible commodity rather than a universal entitlement. To this day, there is a tendency to see education as something that really matters, in its highest embodiment, only to a very few. It then becomes somehow excusable to short-change some children.

30. Moreover, the classical academic curriculum and pedagogy developed in the privileged sector became indelibly associated with quality and prestige. Other forms of education came to mimic this approach and so much public education throughout much of this century has been trapped in this constricting web.

31. Thus arose the philosophical basis of the tripartite system that underpinned the Education Act, 1944. Pupils were constructed as being of three broad types

and it was deemed possible through testing at the age of 11 to determine which path best suited their aptitudes. Although the technical schools failed to gain any ground, the basic distinction between grammar-school sheep and secondary-modern goats came to disfigure the educational landscape for more than a generation.

32. The comprehensive movement that sought to end the selective system was halting and hesitant in its ideology, ceding much important ground to segregatory concepts. Thus even Tony Crosland, the architect of the new Labourism, stated that:

> *"Both common sense and the American experience suggest that unstreaming (in the new comprehensive schools) would lead to a really serious levelling down of standards and a quite excessive handicap to the clever child."* [3]

33. There is a legitimate debate about the organisation of learning in comprehensive schools that is not aided by the adoption of dogmatic positions on banding, streaming and setting. What Crosland's words show is the preoccupation with 'the clever child' : it is their needs that naturally (through 'common sense') take priority. Many early comprehensives were criticised for paying mere lip service to a universalist concept and being, in reality, a selective system within one institution. The position has, of course, considerably broadened today but these original conceptions do illustrate how even in radical minds, the concepts of defensive segregation in the interests of the clever child were uppermost.

34. This perspective also helps us to understand why the position of children of special educational needs was seemingly disconnected from the mainstream of the comprehensive debate. No-one seemed to make the connection between the liberating concept of the universal neighbourhood school and the scope for minimising the exclusion of vulnerable children. This perspective was absent even from radical friends of the comprehensive movement. The sociologist Dennis Marsden laid out some criteria for the assessment of genuine comprehensive schools in his Fabian Society pamphlet of 1970. There was no mention whatsoever of special needs, nor of inclusive strategies. [4]

35. In this historical context lie the roots of what Eric Bolton calls 'The English sickness' in education. In his speech to the Council of Local Education Authorities in July, 1992, he regretted the present *"re-emergence of the search for a workable form of selection and segregation"* and argued that *"The English education*

system's greatest success throughout its history has been to fail children." He condemned as *"not only irrelevant but downright unproductive"* attempts *"to segregate pupils into academic and non-academic, vocational and non-vocational, practical and theoretical, sheep and goats."* [5]

36. He might well have added to the litany 'mainstream and special school'. Special education grew up in this soil of categories and segregation, not as an aberration but an expression of a deep cultural hegemony. Separation was the natural order of things. Thus, in the first half of this century when 'special education' developed as a concept, the medical and curative models of special provision quickly gained ground as they provided a scientific basis for segregation. As the public education service expanded dramatically after the second world war, so too did the segregated special education sector. Vested interests inevitably followed as institutions, reputations and careers were based on the ideology of 'specialness'. Many vulnerable and inarticulate parents took what they were given and the traditions were redoubled.

37. All this sounds too black and white. When we speak of educational segregation as an expression of a deep cultural hegemony, it is important to recognise that the concept of hegemony is not absolute. This is important in two senses. The concept embodies the notion that, over time, the force of ideas rests in their connection with social forces, and that the conflict of ideas reflect and articulate wider social conflicts, though not in a simple or linear fashion. Thus, we are not here dealing with an idealised debate about the intellectual basis of English education. Rather, we are examining a constellation of ideas within which there has been a long-running a struggle for dominance. The dominance or subordinance of particular sets of these ideas at any one moment will be relative in the sense that subordinate ideas are not extinguished or impotent - their eclipse is neither total nor permanent. The outcome at any given moment, or in relation to any major settlement, such as the Education Acts of 1944 or 1988, will be integrally connected with the overall balance of forces within society at the time in question.

38. Translating these understandings into the specific context of this debate, we see that against the tide of segregatory and exclusive educational thinking, has run a set of ideas we can best label as 'egalitarian'. These have found expression in concern for the education of disadvantaged children, the extension of education to disenfranchised groups and in the comprehensive movement. In times of their eclipse in the educational arena, we can see that they have drawn sustenance both from their wider social movement and, perhaps more

controversially, from the pedagogic process itself. It seems to me that the teacher's experience encompasses irregular but important instances where individual pupils transcend social barriers to achievement and progress. The teacher, whether intuitively or in a more formulated way, comes to see both that individuals can 'buck the system' and, as importantly, that there is a system to buck - that is, there are structural barriers in the way of some children's educational progress that do not exist, or exist in lesser forms, for others.

39. The dominance of ideas associated with segregation and categorisation by aptitude has, however, been markedly powerful over a long period. It has infected even the natural allies of egalitarian educational thinking in the Labour movement. Thus we have already noted Crosland's conservatism over comprehensives, later to be echoed by Harold Wilson who saw grammar schools being abolished 'over his dead body'. We have also suggested that the lack of connection between these broad, egalitarian notions and the concerns of special education has been a further dimension of the extent of the dominance of rival constructs. These ideas have, however, come into prominence when they have been able to connect with powerful social forces. Importantly in the modern period, these have often come at local level in the face of a neutral or even hostile national climate. The movement to comprehensive schools shows how in given localities, where the balance of forces was appropriate, egalitarian ideals could prevail. Critical in many of these situations was a strong social force involving the alienation of middle class interests for whom private education was unattainable and who were getting a poor or inconsistent deal from the selective system.

40. Having established something of the cultural terrain relevant to these questions, the performance and potential of LEAs to further the interests of vulnerable children can most usefully be considered in three phases:

- the past - 1944-89;
- the present - the climate established from 1989 onwards by the Education Reform Act;
- issues for the future as envisaged by the White Paper 'Choice and Diversity'.

In each period, we come across material factors important to understanding the role of the LEA in the area of special needs. These messages are then gathered together in paragraphs 77-87.

- *The past: 1944-89*

41. Before 1989, LEAs operated on a markedly different terrain. They were regarded as a significant partner in the overall national governance of education and had an uncontested leading role within their own localities. Education was offered to the public as a relatively undifferentiated social product: the local ideology stressed parental involvement and a school's links with its community rather than 'consumer choice'. Aside from the constraints of public examinations, individual schools had very substantial freedom to determine their curriculum and ethos. Although in resource terms they had very little scope to back their judgement, a lack of control from central or local authorities allowed our highly variegated system to develop.

42. If they cared to use it, Local Education Authorities had significant power to effect change and development in the service. They determined the level of overall spending on education, the resourcing of each sector and of each school, and the range and strength of quality assurance and development functions. They controlled appointments to Headship and exercised patronage in a myriad of interacting ways. For good or ill, policy development rested on this firm material foundation.

43. Although LEAs generally did not make full use of their powers, they were heavily and successfully interventionist in questions concerning the structure of schooling and its physical environment. LEAs supervised the rebuilding of the war-shattered service and then managed the raising of the school leaving age.

44. In this theatre of operations, one of the most striking examples of the progressive power of LEAs was the extension of educational opportunity from 1971 onwards to children with severe learning difficulties who were previously tagged with the label 'ineducable'. Junior Training Centres were incorporated into LEA provision, major training opportunities made available for their staff and their premises dramatically upgraded or replaced. New generations of qualified staff came on stream and, seemingly freed from the academic undertow that bedevils so much of the school system in this country, developed some outstanding educational practice. The best schools in this field show considerable precision in teaching and learning objectives, a tremendous sense of learning and progression - despite the complex and time-consuming physical needs of many of their pupils - and a pervading sense of joy and fulfilment, commanding deserved loyalty from their parents and admiration from their communities. Little wonder that it is these schools that have led the way in establishing

community links, humanising residential care and in the implementation of the National Curriculum. In many cases today, they are an inspiration to the educational establishments around them.

45. The whole structure of in-service training and professional development that has grown up in the best LEAs has been of enormous service to the interests of pupils with special needs, enabling sharing of techniques, information and confidence on a wide scale. The establishment of peripatetic services to support sensory and physical handicaps, to provide in-school and off-site support in the management of behavioural difficulties, support for welfare and attendance, and the contribution of skilled educational psychologists have all counted for a lot in the successful management of special needs.

46. But perhaps the major gift of LEAs to those of us who would further integration is the comprehensive school. Education officers never tire of reminding others that schools do not open or close spontaneously. The nationwide battle to move from selection at 11+ resulted in a major victory, won by LEAs with the support of teachers and parents. 85% of our secondary pupils came to be educated in comprehensive schools and our primary schools were freed, (it seems temporarily), of the shackles of teaching to tests. However flawed the concept may originally have been, and may in places remain, the comprehensive structure has created the conditions for the further development of inclusive strategies that could never have been otherwise contemplated. For this reason, the defence of the comprehensive school against the reintroduction of selection and spurious notions of 'specialisation' is the key battleground for integrationists in the 1990s: the territory was initially secured through LEAs.

47. CSIE and their friends might concede this point, but then query how much the fruits of victory went to vulnerable children. Did not the new comprehensives find much of their pleasure in aping grammar schools and do little to widen their approach to include more children, especially those with moderate learning difficulties, even during that period in the 1980s when their rolls were falling and their staffing was protected ?

48. For those who consider any achievements patchy and modest in this way, it is as well to consider the range of forces lined up against integration strategies. Success in this context starts to appear miraculous. The traditions of English education were such that curriculum matters were left to the professionals. The nature of the comprehensive school was, accordingly, very much left to the Head

and senior staff to determine. In these circumstances, the strong undertow of categorisation and segregation we have traced above continued to flow in many schools. To have reversed this on any general scale would have required all the powers of the LEA to be harnessed in a way quite foreign to the period. Until they became required by law in 1985, the concept of an LEA curriculum policy was rare. Rarer still was the notion of an active curriculum policy that expressed a distinctive view of education and backed it up with resources and training. In the absence of a concerted force from the LEA or elsewhere, the comprehensive momentum did not generally extinguish the strong cultural affiliation in England toward categorisation and separation, nor did it become connected with these issues in relation to children with special educational needs.

49. Despite all this, between 1982-90 there was, in Will Swann's words, 'a national swing to integration' of 8%. [6] More LEAs became less segregated than those where segregation rose. More LEAs made less use of out-county placements than those who saw an increase. Something was going on somewhere.

• *The Education Reform Act*

50. The implementation of the Education Reform Act from 1989 onwards marked a watershed in English education as the Government laid aside the historic settlement of the 1944 Education Act and sought to establish the foundations of a new education system. The Government took unto itself an explicit leading role in the service, establishing a National Curriculum framework and taking sweeping powers over LEAs' funding and management of education at local level. Within these strong national frameworks, individual schools and colleges were to be given substantial autonomy and to be encouraged to compete for parental custom through funding mechanisms geared to recruitment. Parents were seen as sovereign consumers. Their preferences, boosted by formula funding, open enrolment and the ability to create Grant Maintained Schools outside the LEA system, were to become the key engines of quality in the new system.

51. The challenge to LEAs in this period was manifest. Their scope for proactivity was restricted by a torrent of new statutory requirements as the Government pressed ahead with its reforms. Their powers were reduced in the squeeze between central government and the newly-empowered schools. Their own self-belief was damaged and, to some degree, their legitimacy in schools

was diminished. Independently of their feelings, the scope of schools to respond to clarion calls from the LEA was massively lowered by the same innovatory pressures.

52. The messages in the Reform Act for special needs were mixed. Special schools themselves largely breathed a sigh of relief. They had been spared the horrors of formula funding and the National Curriculum gave an identity and status to their own curriculum work that it hitherto lacked in many eyes.

53. In mainstream the picture was less rosy. LEAs had to develop explicit arrangements within their LMS schemes to provide for differential funding for special needs. At the same time, they were under pressure to review support services for special needs and to increase the size of the delegated quantum for schools. These innovatory and complex policy issues required attention at a time of massive concurrent change across the whole service, and in many cases, the requirement to reduce budgets to meet Poll Tax capping criteria.

54. It would thus have been harder to have found a less propitious time to launch a major initiative on special educational needs than 1989. This course was, however, adopted by my own Authority, Nottinghamshire, in part as a necessary response to the new conditions imposed by the Reform Act. It struck us that in order to stand any chance of 'getting it right' on the big questions posed for special needs by the Act, we had to clarify our own thinking, consult across the service and move ahead purposefully.

55. We did not start from a strong base. Although the Authority was politically stable, energetic and well-resourced, it had no distinct policy on special needs. As a policy it formed something of a backwater and left to its own devices, the system had tended toward segregation. Thus Nottinghamshire was one of a number of LEAs singled out by CSIE in 1989 as having had a rising rate of segregation from 1982-88. This was despite favourable resourcing, particularly in the secondary sector where schools had been significantly protected from the impact of falling rolls. These paradoxes of a well-resourced LEA with a high segregation rate, and of an innovatory and successful LEA with no distinct policy in this area, were brought out for the Education Committee in the Summer of 1989. They agreed to set out ten principles that should govern a new approach to special educational needs in the County, under the label of 'Children First'. These principles were unexceptional but suggested that the Committee was intending to use its resources and authority to support a wider range of inclusion in Nottinghamshire schools.

56. A major consultative exercise was undertaken over a three month period which brought universal assent to the principles and almost-equally unanimous scepticism about the resourcing of the change. The Education Committee considered the outcomes of the consultation and determined that the initial focus of the work should be *"to increase the capacity of mainstream schools to meet the needs of children with moderate learning difficulties."* There were a range of important strands to this policy, fully detailed in reports to the Education Committee, which brought together the whole resourcing structure of the LEA, both through the LMS formula, special school and special unit provision, support services and additional resource support for individual pupils. Particularly important components of the overall strategy were:

- to reduce reliance and expenditure on out-county special schools;
- to use staffing capacity freed in our own special schools to support pupils in mainstream;
- to provide additional resources (£3m to date) but use mechanisms other than statementing to distribute resources to schools and pupils for special needs support;
- to involve mainstream and special school headteachers in the holistic management of the overall additional resources available in the locality.

57. In evaluating outcomes to date, the most striking concern pupil placement. There has been a 23.9% decline in enrolments in MLD schools between June 1990 and June 1992. Over the same period, there has been a 40% drop in the use of out-county special schools.

58. The profile of special needs as an educational issue has certainly been lifted. There is a vigorous, well-informed and ongoing debate across the service. It is perhaps inevitable that in current conditions, there is by no means universal assent to the effects of the policy but for all these difficulties, substantial achievements remain. They show how, even at a time of intense pressure, an LEA acting as an instrument of social change, can harness its resources and achieve positive outcomes for vulnerable children.

• *The White Paper and beyond*

59. Some of the messages in the White Paper are welcome and positive. Following the Government's 'fundamental' review, which I must have missed, there is a reaffirmation of commitment to the integrative, mainstream principles of the 1981 Education Act. Parents of statemented pupils are to be given rights to express preferences on school placement and to facilitate admission of their children to GM schools. Additionally, there are welcome proposals to clarify the scope of assessment and statementing, to speed up the process and to strengthen the appeals mechanism.

60. It is not all sweetness and light. With statementing rates rising nationally, it is clear that Government shares the anxiety of many LEAs at the resource implications of statementing escalating beyond the 2% indicative level. In common with other aspects of state welfare provision, Government is clearly seeking ways to cap this expenditure, in this case by defining more closely the criteria that should trigger assessment and, it seems, by giving more robust decisions on appeal cases where moderate and specific learning difficulties at stake.

61. The White Paper reflects this more restrictive concept of special educational needs. It draws a careful distinction, for example, between such pupils and those who simply 'Behave Badly'. Here, there is no affirmation of mainstream opportunities. In fact, a duty is to be placed on LEAs to make 'alternative provision' for these young people.

62. More broadly, the fate of the remainder of our vulnerable children is to be bound up with the Government's recipe of Choice and Diversity for the system as a whole. Although the White Paper scarcely mentions the word, the essence of the approach is, of course, to strengthen market mechanisms.

63. This is nothing new. The unifying logic of Government policy toward education since 1979 has been to strengthen market factors in the service. The focus of their policy has been very much on the supply side, controlling the activities of LEAs and schools, rather than on demand side. Thus, in all of the mountain of education legislation since 1979, we have not seen a wholesale drive to provide all parents with genuine choice. Such choice as is available in the public sector is heavily conditioned by legal caveats and the practical constraints of school accommodation and transport.

64. A more radical approach would have seen the introduction of a voucher system redeemable at any recognised school. This has been repeatedly discounted on grounds of practicality and expense, an implicit acceptance that the concept of parental choice in education is, at bottom, more useful on the hustings than in office.

65. The principle focus of attack has not, then, been to arm the consumer, but to disarm the provider - the LEA. Government has worked hard to end LEAs' monopoly on the provision of public sector education through the Assisted Places Scheme, CTCs and Grant Maintained Status. The ability of the LEAs to plan and manage the system overall has been progressively restricted. At every turn, Government has emphasised and strengthened its own national role in setting regulatory frameworks for education within which an increasing diverse pattern of publicly-provided schools would compete for parental custom, free of the bureaucratic control of the LEA.

66. This market-driven approach has major implication for vulnerable children. It is a simple issue, rooted in a basic tension between the logic of market forces and the requirement to provide a common educational entitlement for all.

67. The White Paper's argument is based on a fallacy about supply and demand in education. Although incentives are offered for schools to compete for pupils, and measures such as open enrolment, capital incentives and GMS are designed to enable certain schools to expand, these popular schools cannot expand beyond fixed physical limits. Often they have no wish to expand at all, seeing size as an important component of their appeal. In these circumstances of restricted supply, schools are in a position to choose their parents, rather than vice versa.

68. Alongside this, the White Paper's concept of diversity gives a green light and promises financial inducements for 'specialisation'. Students of the debate around the 1944 Education Act can be excused an acute sense of deja-vu at this point. It is all too easy to see, however, that some schools will quickly come to 'specialise' in offering more academic and traditional approaches. They will seek admission criteria which allows them to give priority to pupils for whom such an approach is 'best suited'. As David Miliband said in his excellent paper on 'Markets, Politics and Education', this *"differentiation of schooling supply is a prelude to the differentiation of school populations."* [7] In other words, for 'specialisation', read selection.

69. In this market model, parents will implicitly be seen as potential 'shareholders' in the company of the school; their children being their capital. They invest their children's attributes, whilst the school recognises it will have to pay a dividend by providing resources to meet their needs.

70. As we have seen, it is not a free market. Popular schools take care to choose their investors. Parents of pupils with special needs present a doubly unattractive proposition. They both have less to invest and require a higher dividend. Therein lies the tension. Left to market forces, these weaker players will find it harder to place their investment. Truancy, exclusion and segregation rates begin to rise. The reality of education as a universal public service is shaken.

71. Pragmatically, Government recognises that this tension between an universal entitlement and the selective instincts of the market has to be contained. There is a temptation to stick with narrow economic models. Thus the weaker players should be provided with more resources to boost their power as investors. The LEA is then seen as the underwriter, guaranteeing to place their shares if the market declines to play.

72. This solution does not avoid the critical questions that are at the heart of special needs provision, particularly who should be defined as the weaker players and how much additional resources should be provided for them. We have seen the Government's answer to this - to seek to tighten access to assessment and statementing - a restrictive notion of special educational needs.

73. Beyond this restrictive notion, the broad mass of vulnerable children are to take their chances in the market place. Someone once said *"You cannot buck the market"*. As the guardians of vulnerable children, LEAs will have to try.

74. Important funding questions were left untouched by the White Paper and there are two key issues that should remain prominent as we assess subsequent Government proposals in this area. The first concerns the distribution of resources between schools. The global funding of schools must recognise predictable differences in levels of special educational need associated with social disadvantage. There is some controversy and dissatisfaction about appropriate measures here. Most LEAs have settled for proxy indicators, others are seeking more direct educational indicators of differential need. The principle should, however, be secure. Without these differential levels of resourcing, vulnerable children will suffer a clear diminution in resourcing levels. Such differentiation is

enshrined in local authorities' LMS schemes : any arrangements for the direct funding of GMS schools must carry forward this principle.

75. The second key issue concerns accountability. There has been much discussion following the White Paper on the role of the LEA as a 'consumer watchdog' in education. If this role is to mean anything for vulnerable children, then the dog has to have some teeth. Since the introduction of LMS the general trend of resourcing for schools has been to maximise the generic grant to schools and to move progressively to a situation where the school is accountable for the use of these resources not in terms of mere financial probity, but also in terms of educational outputs. Unsurprisingly, greater progress has been made in the area of devolution than in accountability where the issues and measures are so complex.

76. There are clearly loose/tight dimensions to such accountability in the field of special needs. Statements are an example of tight accountability where resources can be earmarked against specific provision for an individual. Beyond that, the spirit of the times resists earmarking, and the larger and more diffuse the client groups defined as having 'special educational needs', the more complex the problem of securing appropriate accountability becomes. It would, however, be obviously unwise in an increasingly market-oriented system to rely solely on loose forms of accountability. Two dimensions of a tighter approach will be important. First, the statutory inspection criteria for schools need to give a firm steer on expectations in the field of special needs. Second, the provision of financial incentives for integration/retention and disincentives for exclusion are required.

- *Messages for the LEA*

77. In exercising their continuing statutory responsibilities in the special needs arena, LEAs will need more than moral goodness and general exhortation on their side. They will need to understand fully the terrain on which they are fighting and to marshal carefully all their available forces. The stakes are considerable. The White Paper seeks to establish in the public mind a new vision of the management of education. It sees the key axis resting on schools (of various types) and their relationship with national government, (with its quangos) operating as a distant regulator of the educational market. Under this vision, schools would be very much left to their own managerial devices but operate under firm national policy frameworks. Although the White Paper

concedes a transitional necessity to maintain LEA frameworks to underpin the new system in its emergent period, it raises the possibility of an education system without the local focal point that LEAs have historically provided.

78. Does this matter for special needs? Can arrangements not be left primarily to the schools and the quangos to resolve, with the LEA standing meekly in the background as goalkeeper and provider of the last resort? The foregoing sections of this paper lead to an answer firmly in the negative. The following factors make, definitively for me, the case for the LEA as managing agent in the field of special educational needs.

79. It is crystal clear that left to its own devices, the system will tend toward segregation and fracture. This tendency arises from deeply-rooted cultural factors and new emphases on market factors in education. To argue for a 'hands off' approach is to condone such fragmentation. The social and economic costs of this will be immense.

80. At the minimum statutory level, structures are required to make appropriate provision, to develop policies for the general regulation of the education system and for intervention in the cases of pupils whose needs are manifestly not being met.

81. In addition, structures beyond the individual school enable the effective provision for low-incidence special educational needs, for example, those associated with sensory impairments.

82. At a deeper level, it is clear that value questions are at the heart of any debate about special needs provision within public education. In a democracy, the providers and consumers of education need a social forum to argue out collectively these value questions and to monitor their articulation in policy terms. If they are to engender constructive debate such arrangements can only sensibly be established at local level. This proximity is essential to provide responsiveness and involvement in any meaningful way, particularly for parents who are most vulnerable in distant, legal and bureaucratic structures.

83. The debate thus engendered will raise big questions which go beyond the narrow confines of special needs and concern the management of education as a whole. Relations with other public service functions such as health and social services will also arise, particularly in terms of a coordinated response to the Children Act in developing a practical understanding of the interaction between

the concepts of 'children in need' and those with 'special educational needs'. Thus special education is inextricably entwined with overall social policy and too important to be left to the professionals. Big issues, large-scale resources and vested interests are involved, In this environment, vulnerable children need some big dogs in their kennel. This all suggests that the discharge of the statutory functions and discretionary powers relevant to special needs provision is best located within a democratically-accountable tier of local government rather than a merely administrative structure, distantly accountable to central government. This makes possible a creative synergy in policy terms where social purpose can be commonly expressed through a variety of related agencies.

84. To make the case for a pivotal role for LEAs in special needs is not enough. We need to understand whether the general provisions of the White Paper make its realisation possible. Do they leave the LEA with sufficient leverage on the education system as a whole to make progress in this one area feasible ? This is critical as, just as synergy is potentially very powerful at the macro, inter-agency level, so too is it clear that successful policies require special needs to come out of the closet and capture the resources and imagination of the whole education service. We have, therefore, to ask whether the LEA can survive as other than a broken reed and play a strategic role in relation to special needs.

85. The White Paper makes it clear, albeit grudgingly, that LEAs have the potential for a continuing strategic role, if they wish to seize the opportunity. They are not only to be providers of the last resort with duties in a narrowly-defined area of special needs, but will also have wide generic roles in planning school provision, in resourcing schools, in curriculum, assessment and training, and in advice to Heads and Governors. The present reluctance of parents to move more than a handful of schools to GM status makes it essential that these LEA functions remain, although the White Paper understandably doesn't make too much of a song and dance about it.

86. This provides LEAs with a wide range of opportunities to promote the interests of vulnerable children. There are three principal dimensions to this:

- to promote commitment to a wide and inclusive concept of comprehensive education through:
    - monitoring and publicising information and key indicators on the effectiveness of inclusive strategies;
    - taking every opportunity to praise successes and to build teachers' confidence;

- looking at every turn to generalise thinking and provision, rather than to categorise and segment.

- to develop understandings of effective special needs education as a dimension of effective schooling in general; this involves:
  - building on the impressive research base on school effectiveness;
  - recognising the importance in school development of external sources of stimulus and support in which the LEA can play a pivotal role.

- to develop schemes of local management of mainstream and special schools which are:
  - based on, and reward, inclusion;
  - include appropriate accountability to supplement that offered in the new inspection arrangements through OFSTED.

87. In seeking to work this passage, it is important that LEAs 'go with the flow'. They must respond to the deep currents of society which, beyond the confines of any individual piece of legislation, are now providing greater delegation, autonomy and responsibility for a variety of social institutions, including schools. Because it never existed, there can be no reconstruction of a monolithic LEA with widespread and intrusive powers to intervene and direct in special needs or elsewhere. We have to endorse delegation and to encourage the ownership and responsibility that goes with it. This points toward strong working relations with those GM schools that emerge, discouraging fracture and staking out the strong moral ground of mutual responsibility for all our children, including the most vulnerable.

88. Thus conceived, the whole apparatus comes to be more than the sum of the parts. It can provide a genuine bulwark against tendencies within the system towards segregation and fracture. It relies, however, on the LEA getting beyond 'administration' which so often amounts to little more than passive supervision of the status quo. It requires the LEA to enable and sustain a genuine debate within the service and with parents, and to use these understandings to test the boundaries of legislation, resource difficulties and cultural barriers.

• *Conclusion*

89. The arguments in this paper have set out a daunting canvas for those who believe that the interests of vulnerable children are best served by an education

system which celebrates its universal and inclusive character. We have seen how firmly rooted segregation is in our educational culture and how recent Government proposals for increased competition and differentiation between schools is likely to lead to the emergence of a more selective school system. In this market place, the Government would only wish to protect a small minority of pupils through the medium of a statement of special educational need.

90. We have to recognise also that those LEAs who wish to reaffirm and develop their commitment to special needs will have to do so in a difficult climate. The LEA role in the planning and provision of local education is brought into question by the White Paper. It provides a slippery slope for Authorities to descend into impotence at their own pace. This destabilisation undermines the moral authority of the LEA to act, particularly in any manner which runs counter to accepted wisdom amongst the system's front-line producers - the schools. The schools themselves have to counter the absurd pressure they face from multiple innovation and from society itself which thrusts an ever-greater proportion of surrogate parenting and social remediation roles upon schools.

91. All this may seem hopeless. It is not. Just as LEAs do occasionally, Governments fall into the trap of assuming that there is neither gap nor struggle between their rhetoric and actual reality. In fact, neither the Education Reform Act nor the legislation that will follow the White Paper will eradicate the local traditions, values and relationships that are strongly embedded in our schools and LEAs. The experience of the years since 1988 give clear evidence of the strength and resilience of local education in the face of these challenges.

92. There are some key battlegrounds to be fought in the next few years. The following considerations will be important:

- measures to preserve the local integrity of the education system : resisting movement to GMS and minimising the fracture where it does occur;

- ensuring that funding processes and policy expectations for mainstream schools in relation to special needs are clear and equitable between LEA and GM schools and include appropriate accountability;

- establishing clear and consistent evaluation criteria for special needs issues in the statutory inspection of schools;

- managing local management of special schools and the rationalisation of surplus places in these schools as a positive force for integration;

- maintaining relations on special needs issues with schools and teachers that are collegiate, involving and supportive rather than confrontational : this requires a recognition of their multiple pressures and the celebration of their successes.

93. The common theme is that the special needs of vulnerable children will need to form an important focus for all LEAs, one on which they bring to bear all their moral authority, the synergy of multi-function local government and their important remaining statutory functions for education. Above all, they will have to extend and develop alliances across the service and with parent bodies and voluntary associations. In these ways, they can 'buck the market' at each and every stage where its emergence or its operation threatens the interests of vulnerable children.

Peter Housden
November, 1992

References

1. 'Choice & Diversity: A new Framework for Schools'. HMSO. Cm 2021, 1992

2. 'Getting in on the Act': Provision for Pupils with Special Educational Needs: the National Picture. HMSO 1992

3. A Crosland. The Future of Socialism. p. 202

4. D Marsden. Politicians, Equality and Comprehensives. p.23 Fabian Tract 411. Fabian Society 1970.

5. Times Educational Supplement, 24th July 1992.

6. CSIE Factsheet. Segregation Statistics English LEAs. 1991

7. D Miliband. Market, Politics and Education. IPPR. 1991

Policy Options for Special Educational Needs in the 1990s

BUCKING THE MARKET: LEAs and Special Needs

Peter Housden
Director of Education
Nottinghamshire County Council

Economic and Social Research Council and Cadbury Trust Project

Institute of Education, University of London
Department of Educational Psychology and Special Educational Needs

BUCKING THE MARKET
LEAs and Special Educational Needs

• *Foreword*

1. I want to address some fundamental questions about provision for those children our educational system so often places 'at risk' of failure, blighting both the lives of these vulnerable children and the society that allows it to happen.

2. This is a personal account and I do not write from a position of neutrality or distance. As an official of a local education authority, I am happily subjected to almost total immersion in the world of here-and-now. As someone who has been nurtured in the culture of LEAs, I am no doubt more alert to their strengths than their weaknesses. That said, I want to address three key issues :

- The dynamics of the current crisis in special needs.
- The role of LEAs in bringing us to this point.
- The prospects for the future, particularly as envisaged by the Government White Paper 'Choice and Diversity : A New Framework for Schools'[1] and the subsequent Education Bill.

• *Introduction*

3. Everyone approaches the issue of special educational needs differently. My personal construction starts from the fact that 95% of the population are dependent on the free public service for the education of their children. The quality of that public education service is, accordingly, vitally important for the future economic success, social cohesion and democratic health of our society. My second point of departure is to note that international comparisons about the achievement of our children in the years of compulsory schooling leave no room for complacency. I connect this seemingly chronic underachievement across the system with our peculiar national construction of 'quality' in education. The dominant view focuses on the needs of an academic minority. This view not only leaves large-scale failure in its wake, but somehow regards such failure as a positive performance indicator. The expectations of failure thus generated have important implications for the overall environment in which our thinking about special educational needs takes place.

4. The needs of children obviously differ and resist categorisation in any absolute sense. In thinking about these issues I find a three-fold division useful.

It seems that a minority of children effectively educate themselves. They are armed with significant intellectual advantages and, usually, with supportive homes. They appear immune to the impact of any poor teaching or under-resourcing they encounter.

A larger number of children make progress that satisfies their teachers and parents. These children progress, without undue alarms, on the basis of the general level of support and attention typically available.

For me, the concept of special educational needs revolves around a third group - that significant minority of **vulnerable children** who need a larger degree of support and resources to reach standards appropriate to their starting points.

5. Intuitively, this group of vulnerable children corresponds to Mary Warnock's 20%. Three characteristics of the group stand out:

- they are children drawn overwhelmingly from socially-disadvantaged backgrounds;

- they are not a race apart : for better or worse, their education and life-chances are inextricably linked to the main currents of English education, both in terms of its traditions and the provision commonly available today;

- a small percentage of these children will have needs that are manifest, complex and life-long. Their needs properly merit protection and safeguards such as those provided by a statement or other equivalent non-statutory devices. Amongst these children, social disadvantage is less apparent and there is ample evidence of skilled advocacy and organisation on their behalf. In addressing the issue of special needs, it is important that the complex and well-articulated needs of this minority should not obscure the size and social circumstances of the wider group of vulnerable children.

6. To complete this rough-and-ready approach, experience tells me that, subject to certain safeguards, the needs of vulnerable children are most likely to be met by maximising their inclusion in the mainstream of the education service.

First of all, I accept the commonplace reasoning around this - that adult life is comprehensive and inclusive, and that the awareness and acceptance by the whole community of the needs of its more vulnerable members is enhanced by supportive contact and diminished by segregation.

7. More powerfully, I am persuaded by a fundamentally educational argument about expectations and achievement. Young people learn together and from each other. The higher the range of achievement and expectation within an educational community, the higher standards all children will reach. This is the essence of comprehensive education and its success has been proven over the past twenty years. Its progressive extension would benefit vulnerable children.

8. Finally, I am convinced that greater social pressure toward integration would benefit the service as a whole and, therefore, all children. This conviction derives from the commonplace that power is unequally distributed in our society and that real progress in public education would be much aided by genuine commitment from powerful social groups. Thus, if private education were not available, the public sector would, overnight, acquire the most powerful friends and advocates. As many congenital disabilities are no respecters of social class, there is already a substantial body of powerful parents and voluntary associations whose influence in the system is potentially very great, if presently diffuse. It would be immense if focused on quality, inclusive, mainstream provision for all children.

9. This reasoning does not amount to an unqualified commitment to integration. There are two strands to my caution. The first concerns the key concept of differentiation - understanding that children have different needs and that learning objectives and support have to be tailored to these differences. For me, integration implies differentiation **within** schools; segregation rests on the notion of differentiation **between** schools. Any mainstream school which is seeking to provide for a wider range of children must be resourced to provide effectively for this differentiation. For children with complex needs, this will involve essential aids to learning, mobility and human dignity, provided in liaison with health and social services authoritities where appropriate. It also involves an acceptance of the need for greater precision in establishing learning objectives and for a learning environment in which these can be realised. All this requires confident staff with appropriate training and resources.

10. My caution on inclusion does not amount to blocking. Overstating the needs of young people is a common resting place for many who actually feel more

comfortable with segregated provision. A sensible balance has to be struck, but there can be no compromise with the principle that effective differentiation is critical to effective integration.

11. The second caution is rooted in practical concerns. We are dealing with deeply-held traditions of segregation and the vested interests that have grown up around them, and with parents whose valid and natural protective instincts have to be recognised. We are also dealing with an education system that has been subjected to enormous innovation and resource pressure for more than a decade. Teachers and schools are generally hard pressed, under-resourced and under-valued. The recession and social pressures are generating increasing difficulties for pupils which influence behaviour and attitudes at school. Teachers' scope for major challenge and development is accordingly finite.

12. It is, therefore, unreasonable to have expected rapid and radical progress in inclusion in the past, or to do so for the future. Special schools and related provision will continue to have an important part to play in our service in meeting the needs of pupils who cannot, for whatever reason, be offered inclusive environments with sufficient differentiation. Many will receive an excellent and appropriate education in special schools. Undoubtedly, however, such segregation will, on occasion, be against the best interests of the young person concerned. We should face this squarely and only countenance this price being paid, by the individual and by society, in the context of a general and determined long march toward inclusive provision.

• *Crisis? Which crisis?*

13. Nothing could speak more loudly about today's conditions than the fact that no-one argues about whether there is a crisis in special needs: the only debate concerns which particular crisis is being referred to. I can think of at least five.

14. The first concerns young people with complex needs and their access to specialist assessment and placement under the Education Act, 1981. The excellent Audit Commission/HMI report published this year threw a penetrative spotlight on the difficulties associated with uncertain criteria for undertaking formal assessment and unacceptable delays in its completion.[2] The Government shares these concerns and has promised legislation to clarify and speed up the process. They also intend to strengthen parents' right to express a preference for the

school they wish their child to attend, and to establish appeal mechanisms that are independent of the LEA. In these latter provisions, the Government are in part responding to pressure from parents and pressure groups who feel that their wishes should impose absolute conditions on LEAs. At the far end of this spectrum, lie applications for international special placements at very high cost at the Peto Institute in Hungary, in America, and beyond.

15. A second crisis is perceived in mainstream schooling as a result of LMS and the impact of continued restraint on local authority expenditure. This has dimensions both between schools and within individual schools in an LEA.

16. In LEA terms, national criteria governing schemes of local management have forced choices on LEAs which have in some cases transferred resources away from schools serving disadvantaged areas and delivered them to schools serving more advantaged communities. The requirement that 75% (subsequently raised to 80%) of the total spending on schools' formula budgets should be allocated by pupil numbers has lowered the degree of positive discrimination that many LEAs had historically undertaken. It is true that many LEAs do not use their full scope in this regard, as to do so would distort other priorities across the service. Schools in the City of Nottingham, for example, will have lost £3m in this way between 1990-91 and 1993-94. These losses have been mitigated by schemes of transitional protection and other devices within Authorities' overall LMS schemes, but exacerbated by general reductions in the level of funding due to overall spending restrictions. Thus in schools serving disadvantaged areas and with relatively high populations of vulnerable children as a result, reductions in inputs to special provision have occurred.

17. Aside from the losses between schools under LMS, it is clear that within many individual schools, a migration of resources away from special provision has taken place. Under resource pressure, most schools in my experience tend to give priority to preserving generic class sizes and the width of the curriculum in examination years. Beyond this, those areas with the strongest internal or external advocacy gain the strongest protection. Special provision all too often loses out.

18. Decisions on grouping pupils are critical. Within limits, it is by no means clear that the interests of pupils with special needs are best met through preserving generic class size at a specific level. Nor is it clear that minor variations in class size make a material difference in the opportunities for all pupils, or in the work load of their teacher. The economics of these decisions are,

however, substantial. A comprehensive school choosing to organise a year group of 240 pupils for most of the week in classes of 25 rather than 28, expends one full time-equivalent teacher in the process. Faced with this choice or reducing the level of support teaching available across the year group, it is often support teachers that are withdrawn in order to protect overall class size.

19. In targeting other reductions, protection is usually given to areas of the curriculum which are deemed to be significant in recruitment terms, such as examination classes, music and languages. Formula funding driven by pupil numbers, backed in many areas by the increasing reality of open enrolment, has given real impetus to these market pressures.

20. This combination of budget cuts, the migration of resources away from special needs provision and the pressure of the market are important factors in the third special needs crisis - that concerning emotional and behavioural difficulties. Much of the anxiety and pressure that schools currently experience comes not from managing learning difficulties, but from the increasing incidence of children presenting unruly and difficult behaviour in and out of the classroom. This concern was once the overwhelming preserve of secondary schools, but is now increasingly reported in the primary sector. It has contributed to a major rise in the number of exclusions in most LEAs at secondary level and an increase in demands for statements as a route to segregated provision.

21. It seems probable that the recession, the continued pressure on families and a general tendency in society toward less directive and attentive parenting have all contributed to a harder job for teachers and schools in this regard. In addition, some of the children now in mainstream schools as a result of the progressive movement away from segregated educational provision and from residential care have complex needs whose impact can be out of all proportion to their relatively small numbers.

22. The reported rates of increase in demands for statutory assessment and in exclusions, however, suggest that other factors are at work beyond any real uplift in the number of children presenting such difficulties. Beyond schools' natural wish to exploit all sources of additional finance, there can be no doubt that pressure from innovation and resource cut-backs, together with the schools' need to keep a weather eye on the market place for pupil recruitment, have lowered the tolerance threshold of even the most caring institutions.

23. Most interesting, perhaps, is the emerging evidence from the

Nottinghamshire service that it is the distribution of these pupils with very challenging behaviour that has changed to some degree. This occurs partly as a consequence of open enrolment as parents living in disadvantaged areas seek spare places for their children in suburban schools. Many of these children are from supportive homes, but others may have a history of exclusion from other schools and their admission may result from LEAs' insisting upon a strict interpretation of schools' obligations to meet parental preferences under the Education Act, 1980. In this way schools, which in the past served relatively homogenous pupil groups, have become more 'comprehensive' in intake, requiring the containment of, and rapid adjustment to, some very challenging behaviour.

24. A fourth crisis is perceived from another direction. The Centre of Studies on Integration in Education (CSIE) and related groups skilfully lament the slow progress being made on the implementation of the Education Act, 1981. They show the large variations in segregation rates between LEAs which seem to go far beyond any objective differences in their communities. Evidence is cited to show how in the absence of commitment and effective strategies toward inclusion in many LEAs, their systems can be bureaucratic, slow and unresponsive in meeting the needs of parents seeking inclusive placements for their children.

25. The last example projects current crises forward. It sees a future in which the public education system fulfils the Government's wish and provides more diversity and specialisation, and where the LEA has withered to a shadow of its former self. The landscape is populated by largely-autonomous schools of differing statutory character (GMS, CTC, Aided, LEA), competing for pupils with some offering differing 'specialisms' in technology, the Arts, science and other fields of endeavour. Without creating a single new Grammar School, selection becomes rife as some schools take advantage of historical kudos and/or funding incentives to corner the market in desirable pupils, leaving the many to fend for themselves in under-resourced alternatives. In this climate, children with special needs are very much at risk with only an enfeebled LEA to assist in charting their course through the market place of public education.

• *The role of the LEA*

26. To understand the contribution that LEAs have made to the overall situation

and the prospects for the future, it is necessary to dig deep into our cultural history. There lies an understanding of the dominant construction of education as a social force. This, I shall argue, rests on concepts of segregation and aptitude that hang like an invisible debilitating mist over our educational history, gathering with a particular density around the 'bottom 40%' in our schools and enveloping all our vulnerable children.

27. We have to start with an education service which had its roots in provision for an elite. This later spread through the churches to a slightly wider population but, in these days before industrialisation, education was subject to close rationing. As mass schooling was developed to skill and socialise an increasingly urban and disoriented population, the role of local councils came more into prominence. Kept short of resources and with no tradition of universal schooling, provision for the congenitally disabled, the disaffected and the severely disadvantaged was very limited. Already, at the dawn of mass education, many vulnerable children were on the outside.

28. Alongside the burgeoning public sector of education, the traditions of elite schooling were developing separately, based on the essential principle of disparity of esteem. Thus the major public schools and universities developed apace in the 19th century, providing that excellence and quality of resourcing that today remains available for privileged young people. Theirs was an increasingly defensive segregation. As education became increasingly available for all, it became necessary to protect and preserve the opportunities of the privileged in discrete institutions.

29. We should not neglect the cultural impact of this history. The elite schools embodied the cultural stereotype of education as a scarce good to be carefully rationed as though it were an exhaustible commodity rather than a universal entitlement. To this day, there is a tendency to see education as something that really matters, in its highest embodiment, only to a very few. It then becomes somehow excusable to short-change some children.

30. Moreover, the classical academic curriculum and pedagogy developed in the privileged sector became indelibly associated with quality and prestige. Other forms of education came to mimic this approach and so much public education throughout much of this century has been trapped in this constricting web.

31. Thus arose the philosophical basis of the tripartite system that underpinned the Education Act, 1944. Pupils were constructed as being of three broad types

and it was deemed possible through testing at the age of 11 to determine which path best suited their aptitudes. Although the technical schools failed to gain any ground, the basic distinction between grammar-school sheep and secondary-modern goats came to disfigure the educational landscape for more than a generation.

32. The comprehensive movement that sought to end the selective system was halting and hesitant in its ideology, ceding much important ground to segregatory concepts. Thus even Tony Crosland, the architect of the new Labourism, stated that:

> *"Both common sense and the American experience suggest that unstreaming (in the new comprehensive schools) would lead to a really serious levelling down of standards and a quite excessive handicap to the clever child."* [3]

33. There is a legitimate debate about the organisation of learning in comprehensive schools that is not aided by the adoption of dogmatic positions on banding, streaming and setting. What Crosland's words show is the preoccupation with 'the clever child' : it is their needs that naturally (through 'common sense') take priority. Many early comprehensives were criticised for paying mere lip service to a universalist concept and being, in reality, a selective system within one institution. The position has, of course, considerably broadened today but these original conceptions do illustrate how even in radical minds, the concepts of defensive segregation in the interests of the clever child were uppermost.

34. This perspective also helps us to understand why the position of children of special educational needs was seemingly disconnected from the mainstream of the comprehensive debate. No-one seemed to make the connection between the liberating concept of the universal neighbourhood school and the scope for minimising the exclusion of vulnerable children. This perspective was absent even from radical friends of the comprehensive movement. The sociologist Dennis Marsden laid out some criteria for the assessment of genuine comprehensive schools in his Fabian Society pamphlet of 1970. There was no mention whatsoever of special needs, nor of inclusive strategies. [4]

35. In this historical context lie the roots of what Eric Bolton calls 'The English sickness' in education. In his speech to the Council of Local Education Authorities in July, 1992, he regretted the present *"re-emergence of the search for a workable form of selection and segregation"* and argued that *"The English education*

system's greatest success throughout its history has been to fail children." He condemned as *"not only irrelevant but downright unproductive"* attempts *"to segregate pupils into academic and non-academic, vocational and non-vocational, practical and theoretical, sheep and goats."* [5]

36. He might well have added to the litany 'mainstream and special school'. Special education grew up in this soil of categories and segregation, not as an aberration but an expression of a deep cultural hegemony. Separation was the natural order of things. Thus, in the first half of this century when 'special education' developed as a concept, the medical and curative models of special provision quickly gained ground as they provided a scientific basis for segregation. As the public education service expanded dramatically after the second world war, so too did the segregated special education sector. Vested interests inevitably followed as institutions, reputations and careers were based on the ideology of 'specialness'. Many vulnerable and inarticulate parents took what they were given and the traditions were redoubled.

37. All this sounds too black and white. When we speak of educational segregation as an expression of a deep cultural hegemony, it is important to recognise that the concept of hegemony is not absolute. This is important in two senses. The concept embodies the notion that, over time, the force of ideas rests in their connection with social forces, and that the conflict of ideas reflect and articulate wider social conflicts, though not in a simple or linear fashion. Thus, we are not here dealing with an idealised debate about the intellectual basis of English education. Rather, we are examining a constellation of ideas within which there has been a long-running a struggle for dominance. The dominance or subordinance of particular sets of these ideas at any one moment will be relative in the sense that subordinate ideas are not extinguished or impotent - their eclipse is neither total nor permanent. The outcome at any given moment, or in relation to any major settlement, such as the Education Acts of 1944 or 1988, will be integrally connected with the overall balance of forces within society at the time in question.

38. Translating these understandings into the specific context of this debate, we see that against the tide of segregatory and exclusive educational thinking, has run a set of ideas we can best label as 'egalitarian'. These have found expression in concern for the education of disadvantaged children, the extension of education to disenfranchised groups and in the comprehensive movement. In times of their eclipse in the educational arena, we can see that they have drawn sustenance both from their wider social movement and, perhaps more

controversially, from the pedagogic process itself. It seems to me that the teacher's experience encompasses irregular but important instances where individual pupils transcend social barriers to achievement and progress. The teacher, whether intuitively or in a more formulated way, comes to see both that individuals can 'buck the system' and, as importantly, that there is a system to buck - that is, there are structural barriers in the way of some children's educational progress that do not exist, or exist in lesser forms, for others.

39. The dominance of ideas associated with segregation and categorisation by aptitude has, however, been markedly powerful over a long period. It has infected even the natural allies of egalitarian educational thinking in the Labour movement. Thus we have already noted Crosland's conservatism over comprehensives, later to be echoed by Harold Wilson who saw grammar schools being abolished 'over his dead body'. We have also suggested that the lack of connection between these broad, egalitarian notions and the concerns of special education has been a further dimension of the extent of the dominance of rival constructs. These ideas have, however, come into prominence when they have been able to connect with powerful social forces. Importantly in the modern period, these have often come at local level in the face of a neutral or even hostile national climate. The movement to comprehensive schools shows how in given localities, where the balance of forces was appropriate, egalitarian ideals could prevail. Critical in many of these situations was a strong social force involving the alienation of middle class interests for whom private education was unattainable and who were getting a poor or inconsistent deal from the selective system.

40. Having established something of the cultural terrain relevant to these questions, the performance and potential of LEAs to further the interests of vulnerable children can most usefully be considered in three phases:

- the past - 1944-89;
- the present - the climate established from 1989 onwards by the Education Reform Act;
- issues for the future as envisaged by the White Paper 'Choice and Diversity'.

In each period, we come across material factors important to understanding the role of the LEA in the area of special needs. These messages are then gathered together in paragraphs 77-87.

• *The past: 1944-89*

41. Before 1989, LEAs operated on a markedly different terrain. They were regarded as a significant partner in the overall national governance of education and had an uncontested leading role within their own localities. Education was offered to the public as a relatively undifferentiated social product: the local ideology stressed parental involvement and a school's links with its community rather than 'consumer choice'. Aside from the constraints of public examinations, individual schools had very substantial freedom to determine their curriculum and ethos. Although in resource terms they had very little scope to back their judgement, a lack of control from central or local authorities allowed our highly variegated system to develop.

42. If they cared to use it, Local Education Authorities had significant power to effect change and development in the service. They determined the level of overall spending on education, the resourcing of each sector and of each school, and the range and strength of quality assurance and development functions. They controlled appointments to Headship and exercised patronage in a myriad of interacting ways. For good or ill, policy development rested on this firm material foundation.

43. Although LEAs generally did not make full use of their powers, they were heavily and successfully interventionist in questions concerning the structure of schooling and its physical environment. LEAs supervised the rebuilding of the war-shattered service and then managed the raising of the school leaving age.

44. In this theatre of operations, one of the most striking examples of the progressive power of LEAs was the extension of educational opportunity from 1971 onwards to children with severe learning difficulties who were previously tagged with the label 'ineducable'. Junior Training Centres were incorporated into LEA provision, major training opportunities made available for their staff and their premises dramatically upgraded or replaced. New generations of qualified staff came on stream and, seemingly freed from the academic undertow that bedevils so much of the school system in this country, developed some outstanding educational practice. The best schools in this field show considerable precision in teaching and learning objectives, a tremendous sense of learning and progression - despite the complex and time-consuming physical needs of many of their pupils - and a pervading sense of joy and fulfilment, commanding deserved loyalty from their parents and admiration from their communities. Little wonder that it is these schools that have led the way in establishing

community links, humanising residential care and in the implementation of the National Curriculum. In many cases today, they are an inspiration to the educational establishments around them.

45. The whole structure of in-service training and professional development that has grown up in the best LEAs has been of enormous service to the interests of pupils with special needs, enabling sharing of techniques, information and confidence on a wide scale. The establishment of peripatetic services to support sensory and physical handicaps, to provide in-school and off-site support in the management of behavioural difficulties, support for welfare and attendance, and the contribution of skilled educational psychologists have all counted for a lot in the successful management of special needs.

46. But perhaps the major gift of LEAs to those of us who would further integration is the comprehensive school. Education officers never tire of reminding others that schools do not open or close spontaneously. The nationwide battle to move from selection at 11+ resulted in a major victory, won by LEAs with the support of teachers and parents. 85% of our secondary pupils came to be educated in comprehensive schools and our primary schools were freed, (it seems temporarily), of the shackles of teaching to tests. However flawed the concept may originally have been, and may in places remain, the comprehensive structure has created the conditions for the further development of inclusive strategies that could never have been otherwise contemplated. For this reason, the defence of the comprehensive school against the reintroduction of selection and spurious notions of 'specialisation' is the key battleground for integrationists in the 1990s: the territory was initially secured through LEAs.

47. CSIE and their friends might concede this point, but then query how much the fruits of victory went to vulnerable children. Did not the new comprehensives find much of their pleasure in aping grammar schools and do little to widen their approach to include more children, especially those with moderate learning difficulties, even during that period in the 1980s when their rolls were falling and their staffing was protected ?

48. For those who consider any achievements patchy and modest in this way, it is as well to consider the range of forces lined up against integration strategies. Success in this context starts to appear miraculous. The traditions of English education were such that curriculum matters were left to the professionals. The nature of the comprehensive school was, accordingly, very much left to the Head

and senior staff to determine. In these circumstances, the strong undertow of categorisation and segregation we have traced above continued to flow in many schools. To have reversed this on any general scale would have required all the powers of the LEA to be harnessed in a way quite foreign to the period. Until they became required by law in 1985, the concept of an LEA curriculum policy was rare. Rarer still was the notion of an active curriculum policy that expressed a distinctive view of education and backed it up with resources and training. In the absence of a concerted force from the LEA or elsewhere, the comprehensive momentum did not generally extinguish the strong cultural affiliation in England toward categorisation and separation, nor did it become connected with these issues in relation to children with special educational needs.

49. Despite all this, between 1982-90 there was, in Will Swann's words, 'a national swing to integration' of 8%. [6] More LEAs became less segregated than those where segregation rose. More LEAs made less use of out-county placements than those who saw an increase. Something was going on somewhere.

• *The Education Reform Act*

50. The implementation of the Education Reform Act from 1989 onwards marked a watershed in English education as the Government laid aside the historic settlement of the 1944 Education Act and sought to establish the foundations of a new education system. The Government took unto itself an explicit leading role in the service, establishing a National Curriculum framework and taking sweeping powers over LEAs' funding and management of education at local level. Within these strong national frameworks, individual schools and colleges were to be given substantial autonomy and to be encouraged to compete for parental custom through funding mechanisms geared to recruitment. Parents were seen as sovereign consumers. Their preferences, boosted by formula funding, open enrolment and the ability to create Grant Maintained Schools outside the LEA system, were to become the key engines of quality in the new system.

51. The challenge to LEAs in this period was manifest. Their scope for proactivity was restricted by a torrent of new statutory requirements as the Government pressed ahead with its reforms. Their powers were reduced in the squeeze between central government and the newly-empowered schools. Their own self-belief was damaged and, to some degree, their legitimacy in schools

was diminished. Independently of their feelings, the scope of schools to respond to clarion calls from the LEA was massively lowered by the same innovatory pressures.

52. The messages in the Reform Act for special needs were mixed. Special schools themselves largely breathed a sigh of relief. They had been spared the horrors of formula funding and the National Curriculum gave an identity and status to their own curriculum work that it hitherto lacked in many eyes.

53. In mainstream the picture was less rosy. LEAs had to develop explicit arrangements within their LMS schemes to provide for differential funding for special needs. At the same time, they were under pressure to review support services for special needs and to increase the size of the delegated quantum for schools. These innovatory and complex policy issues required attention at a time of massive concurrent change across the whole service, and in many cases, the requirement to reduce budgets to meet Poll Tax capping criteria.

54. It would thus have been harder to have found a less propitious time to launch a major initiative on special educational needs than 1989. This course was, however, adopted by my own Authority, Nottinghamshire, in part as a necessary response to the new conditions imposed by the Reform Act. It struck us that in order to stand any chance of 'getting it right' on the big questions posed for special needs by the Act, we had to clarify our own thinking, consult across the service and move ahead purposefully.

55. We did not start from a strong base. Although the Authority was politically stable, energetic and well-resourced, it had no distinct policy on special needs. As a policy it formed something of a backwater and left to its own devices, the system had tended toward segregation. Thus Nottinghamshire was one of a number of LEAs singled out by CSIE in 1989 as having had a rising rate of segregation from 1982-88. This was despite favourable resourcing, particularly in the secondary sector where schools had been significantly protected from the impact of falling rolls. These paradoxes of a well-resourced LEA with a high segregation rate, and of an innovatory and successful LEA with no distinct policy in this area, were brought out for the Education Committee in the Summer of 1989. They agreed to set out ten principles that should govern a new approach to special educational needs in the County, under the label of 'Children First'. These principles were unexceptional but suggested that the Committee was intending to use its resources and authority to support a wider range of inclusion in Nottinghamshire schools.

56. A major consultative exercise was undertaken over a three month period which brought universal assent to the principles and almost-equally unanimous scepticism about the resourcing of the change. The Education Committee considered the outcomes of the consultation and determined that the initial focus of the work should be *"to increase the capacity of mainstream schools to meet the needs of children with moderate learning difficulties."* There were a range of important strands to this policy, fully detailed in reports to the Education Committee, which brought together the whole resourcing structure of the LEA, both through the LMS formula, special school and special unit provision, support services and additional resource support for individual pupils. Particularly important components of the overall strategy were:

- to reduce reliance and expenditure on out-county special schools;
- to use staffing capacity freed in our own special schools to support pupils in mainstream;
- to provide additional resources (£3m to date) but use mechanisms other than statementing to distribute resources to schools and pupils for special needs support;
- to involve mainstream and special school headteachers in the holistic management of the overall additional resources available in the locality.

57. In evaluating outcomes to date, the most striking concern pupil placement. There has been a 23.9% decline in enrolments in MLD schools between June 1990 and June 1992. Over the same period, there has been a 40% drop in the use of out-county special schools.

58. The profile of special needs as an educational issue has certainly been lifted. There is a vigorous, well-informed and ongoing debate across the service. It is perhaps inevitable that in current conditions, there is by no means universal assent to the effects of the policy but for all these difficulties, substantial achievements remain. They show how, even at a time of intense pressure, an LEA acting as an instrument of social change, can harness its resources and achieve positive outcomes for vulnerable children.

• *The White Paper and beyond*

59. Some of the messages in the White Paper are welcome and positive. Following the Government's 'fundamental' review, which I must have missed, there is a reaffirmation of commitment to the integrative, mainstream principles of the 1981 Education Act. Parents of statemented pupils are to be given rights to express preferences on school placement and to facilitate admission of their children to GM schools. Additionally, there are welcome proposals to clarify the scope of assessment and statementing, to speed up the process and to strengthen the appeals mechanism.

60. It is not all sweetness and light. With statementing rates rising nationally, it is clear that Government shares the anxiety of many LEAs at the resource implications of statementing escalating beyond the 2% indicative level. In common with other aspects of state welfare provision, Government is clearly seeking ways to cap this expenditure, in this case by defining more closely the criteria that should trigger assessment and, it seems, by giving more robust decisions on appeal cases where moderate and specific learning difficulties at stake.

61. The White Paper reflects this more restrictive concept of special educational needs. It draws a careful distinction, for example, between such pupils and those who simply 'Behave Badly'. Here, there is no affirmation of mainstream opportunities. In fact, a duty is to be placed on LEAs to make 'alternative provision' for these young people.

62. More broadly, the fate of the remainder of our vulnerable children is to be bound up with the Government's recipe of Choice and Diversity for the system as a whole. Although the White Paper scarcely mentions the word, the essence of the approach is, of course, to strengthen market mechanisms.

63. This is nothing new. The unifying logic of Government policy toward education since 1979 has been to strengthen market factors in the service. The focus of their policy has been very much on the supply side, controlling the activities of LEAs and schools, rather than on demand side. Thus, in all of the mountain of education legislation since 1979, we have not seen a wholesale drive to provide all parents with genuine choice. Such choice as is available in the public sector is heavily conditioned by legal caveats and the practical constraints of school accommodation and transport.

64. A more radical approach would have seen the introduction of a voucher system redeemable at any recognised school. This has been repeatedly discounted on grounds of practicality and expense, an implicit acceptance that the concept of parental choice in education is, at bottom, more useful on the hustings than in office.

65. The principle focus of attack has not, then, been to arm the consumer, but to disarm the provider - the LEA. Government has worked hard to end LEAs' monopoly on the provision of public sector education through the Assisted Places Scheme, CTCs and Grant Maintained Status. The ability of the LEAs to plan and manage the system overall has been progressively restricted. At every turn, Government has emphasised and strengthened its own national role in setting regulatory frameworks for education within which an increasing diverse pattern of publicly-provided schools would compete for parental custom, free of the bureaucratic control of the LEA.

66. This market-driven approach has major implication for vulnerable children. It is a simple issue, rooted in a basic tension between the logic of market forces and the requirement to provide a common educational entitlement for all.

67. The White Paper's argument is based on a fallacy about supply and demand in education. Although incentives are offered for schools to compete for pupils, and measures such as open enrolment, capital incentives and GMS are designed to enable certain schools to expand, these popular schools cannot expand beyond fixed physical limits. Often they have no wish to expand at all, seeing size as an important component of their appeal. In these circumstances of restricted supply, schools are in a position to choose their parents, rather than vice versa.

68. Alongside this, the White Paper's concept of diversity gives a green light and promises financial inducements for 'specialisation'. Students of the debate around the 1944 Education Act can be excused an acute sense of deja-vu at this point. It is all too easy to see, however, that some schools will quickly come to 'specialise' in offering more academic and traditional approaches. They will seek admission criteria which allows them to give priority to pupils for whom such an approach is 'best suited'. As David Miliband said in his excellent paper on 'Markets, Politics and Education', this *"differentiation of schooling supply is a prelude to the differentiation of school populations."* [7] In other words, for 'specialisation', read selection.

69. In this market model, parents will implicitly be seen as potential 'shareholders' in the company of the school; their children being their capital. They invest their children's attributes, whilst the school recognises it will have to pay a dividend by providing resources to meet their needs.

70. As we have seen, it is not a free market. Popular schools take care to choose their investors. Parents of pupils with special needs present a doubly unattractive proposition. They both have less to invest and require a higher dividend. Therein lies the tension. Left to market forces, these weaker players will find it harder to place their investment. Truancy, exclusion and segregation rates begin to rise. The reality of education as a universal public service is shaken.

71. Pragmatically, Government recognises that this tension between an universal entitlement and the selective instincts of the market has to be contained. There is a temptation to stick with narrow economic models. Thus the weaker players should be provided with more resources to boost their power as investors. The LEA is then seen as the underwriter, guaranteeing to place their shares if the market declines to play.

72. This solution does not avoid the critical questions that are at the heart of special needs provision, particularly who should be defined as the weaker players and how much additional resources should be provided for them. We have seen the Government's answer to this - to seek to tighten access to assessment and statementing - a restrictive notion of special educational needs.

73. Beyond this restrictive notion, the broad mass of vulnerable children are to take their chances in the market place. Someone once said *"You cannot buck the market"*. As the guardians of vulnerable children, LEAs will have to try.

74. Important funding questions were left untouched by the White Paper and there are two key issues that should remain prominent as we assess subsequent Government proposals in this area. The first concerns the distribution of resources between schools. The global funding of schools must recognise predictable differences in levels of special educational need associated with social disadvantage. There is some controversy and dissatisfaction about appropriate measures here. Most LEAs have settled for proxy indicators, others are seeking more direct educational indicators of differential need. The principle should, however, be secure. Without these differential levels of resourcing, vulnerable children will suffer a clear diminution in resourcing levels. Such differentiation is

enshrined in local authorities' LMS schemes : any arrangements for the direct funding of GMS schools must carry forward this principle.

75. The second key issue concerns accountability. There has been much discussion following the White Paper on the role of the LEA as a 'consumer watchdog' in education. If this role is to mean anything for vulnerable children, then the dog has to have some teeth. Since the introduction of LMS the general trend of resourcing for schools has been to maximise the generic grant to schools and to move progressively to a situation where the school is accountable for the use of these resources not in terms of mere financial probity, but also in terms of educational outputs. Unsurprisingly, greater progress has been made in the area of devolution than in accountability where the issues and measures are so complex.

76. There are clearly loose/tight dimensions to such accountability in the field of special needs. Statements are an example of tight accountability where resources can be earmarked against specific provision for an individual. Beyond that, the spirit of the times resists earmarking, and the larger and more diffuse the client groups defined as having 'special educational needs', the more complex the problem of securing appropriate accountability becomes. It would, however, be obviously unwise in an increasingly market-oriented system to rely solely on loose forms of accountability. Two dimensions of a tighter approach will be important. First, the statutory inspection criteria for schools need to give a firm steer on expectations in the field of special needs. Second, the provision of financial incentives for integration/retention and disincentives for exclusion are required.

• *Messages for the LEA*

77. In exercising their continuing statutory responsibilities in the special needs arena, LEAs will need more than moral goodness and general exhortation on their side. They will need to understand fully the terrain on which they are fighting and to marshal carefully all their available forces. The stakes are considerable. The White Paper seeks to establish in the public mind a new vision of the management of education. It sees the key axis resting on schools (of various types) and their relationship with national government, (with its quangos) operating as a distant regulator of the educational market. Under this vision, schools would be very much left to their own managerial devices but operate under firm national policy frameworks. Although the White Paper

concedes a transitional necessity to maintain LEA frameworks to underpin the new system in its emergent period, it raises the possibility of an education system without the local focal point that LEAs have historically provided.

78. Does this matter for special needs? Can arrangements not be left primarily to the schools and the quangos to resolve, with the LEA standing meekly in the background as goalkeeper and provider of the last resort? The foregoing sections of this paper lead to an answer firmly in the negative. The following factors make, definitively for me, the case for the LEA as managing agent in the field of special educational needs.

79. It is crystal clear that left to its own devices, the system will tend toward segregation and fracture. This tendency arises from deeply-rooted cultural factors and new emphases on market factors in education. To argue for a 'hands off' approach is to condone such fragmentation. The social and economic costs of this will be immense.

80. At the minimum statutory level, structures are required to make appropriate provision, to develop policies for the general regulation of the education system and for intervention in the cases of pupils whose needs are manifestly not being met.

81. In addition, structures beyond the individual school enable the effective provision for low-incidence special educational needs, for example, those associated with sensory impairments.

82. At a deeper level, it is clear that value questions are at the heart of any debate about special needs provision within public education. In a democracy, the providers and consumers of education need a social forum to argue out collectively these value questions and to monitor their articulation in policy terms. If they are to engender constructive debate such arrangements can only sensibly be established at local level. This proximity is essential to provide responsiveness and involvement in any meaningful way, particularly for parents who are most vulnerable in distant, legal and bureaucratic structures.

83. The debate thus engendered will raise big questions which go beyond the narrow confines of special needs and concern the management of education as a whole. Relations with other public service functions such as health and social services will also arise, particularly in terms of a coordinated response to the Children Act in developing a practical understanding of the interaction between

the concepts of 'children in need' and those with 'special educational needs'. Thus special education is inextricably entwined with overall social policy and too important to be left to the professionals. Big issues, large-scale resources and vested interests are involved, In this environment, vulnerable children need some big dogs in their kennel. This all suggests that the discharge of the statutory functions and discretionary powers relevant to special needs provision is best located within a democratically-accountable tier of local government rather than a merely administrative structure, distantly accountable to central government. This makes possible a creative synergy in policy terms where social purpose can be commonly expressed through a variety of related agencies.

84. To make the case for a pivotal role for LEAs in special needs is not enough. We need to understand whether the general provisions of the White Paper make its realisation possible. Do they leave the LEA with sufficient leverage on the education system as a whole to make progress in this one area feasible ? This is critical as, just as synergy is potentially very powerful at the macro, inter-agency level, so too is it clear that successful policies require special needs to come out of the closet and capture the resources and imagination of the whole education service. We have, therefore, to ask whether the LEA can survive as other than a broken reed and play a strategic role in relation to special needs.

85. The White Paper makes it clear, albeit grudgingly, that LEAs have the potential for a continuing strategic role, if they wish to seize the opportunity. They are not only to be providers of the last resort with duties in a narrowly-defined area of special needs, but will also have wide generic roles in planning school provision, in resourcing schools, in curriculum, assessment and training, and in advice to Heads and Governors. The present reluctance of parents to move more than a handful of schools to GM status makes it essential that these LEA functions remain, although the White Paper understandably doesn't make too much of a song and dance about it.

86. This provides LEAs with a wide range of opportunities to promote the interests of vulnerable children. There are three principal dimensions to this:

- to promote commitment to a wide and inclusive concept of comprehensive education through:
    - monitoring and publicising information and key indicators on the effectiveness of inclusive strategies;
    - taking every opportunity to praise successes and to build teachers' confidence;

- looking at every turn to generalise thinking and provision, rather than to categorise and segment.

- to develop understandings of effective special needs education as a dimension of effective schooling in general; this involves:
  - building on the impressive research base on school effectiveness;
  - recognising the importance in school development of external sources of stimulus and support in which the LEA can play a pivotal role.

- to develop schemes of local management of mainstream and special schools which are:
  - based on, and reward, inclusion;
  - include appropriate accountability to supplement that offered in the new inspection arrangements through OFSTED.

87. In seeking to work this passage, it is important that LEAs 'go with the flow'. They must respond to the deep currents of society which, beyond the confines of any individual piece of legislation, are now providing greater delegation, autonomy and responsibility for a variety of social institutions, including schools. Because it never existed, there can be no reconstruction of a monolithic LEA with widespread and intrusive powers to intervene and direct in special needs or elsewhere. We have to endorse delegation and to encourage the ownership and responsibility that goes with it. This points toward strong working relations with those GM schools that emerge, discouraging fracture and staking out the strong moral ground of mutual responsibility for all our children, including the most vulnerable.

88. Thus conceived, the whole apparatus comes to be more than the sum of the parts. It can provide a genuine bulwark against tendencies within the system towards segregation and fracture. It relies, however, on the LEA getting beyond 'administration' which so often amounts to little more than passive supervision of the status quo. It requires the LEA to enable and sustain a genuine debate within the service and with parents, and to use these understandings to test the boundaries of legislation, resource difficulties and cultural barriers.

• *Conclusion*

89. The arguments in this paper have set out a daunting canvas for those who believe that the interests of vulnerable children are best served by an education

system which celebrates its universal and inclusive character. We have seen how firmly rooted segregation is in our educational culture and how recent Government proposals for increased competition and differentiation between schools is likely to lead to the emergence of a more selective school system. In this market place, the Government would only wish to protect a small minority of pupils through the medium of a statement of special educational need.

90. We have to recognise also that those LEAs who wish to reaffirm and develop their commitment to special needs will have to do so in a difficult climate. The LEA role in the planning and provision of local education is brought into question by the White Paper. It provides a slippery slope for Authorities to descend into impotence at their own pace. This destabilisation undermines the moral authority of the LEA to act, particularly in any manner which runs counter to accepted wisdom amongst the system's front-line producers - the schools. The schools themselves have to counter the absurd pressure they face from multiple innovation and from society itself which thrusts an ever-greater proportion of surrogate parenting and social remediation roles upon schools.

91. All this may seem hopeless. It is not. Just as LEAs do occasionally, Governments fall into the trap of assuming that there is neither gap nor struggle between their rhetoric and actual reality. In fact, neither the Education Reform Act nor the legislation that will follow the White Paper will eradicate the local traditions, values and relationships that are strongly embedded in our schools and LEAs. The experience of the years since 1988 give clear evidence of the strength and resilience of local education in the face of these challenges.

92. There are some key battlegrounds to be fought in the next few years. The following considerations will be important:

- measures to preserve the local integrity of the education system : resisting movement to GMS and minimising the fracture where it does occur;

- ensuring that funding processes and policy expectations for mainstream schools in relation to special needs are clear and equitable between LEA and GM schools and include appropriate accountability;

- establishing clear and consistent evaluation criteria for special needs issues in the statutory inspection of schools;

- managing local management of special schools and the rationalisation of surplus places in these schools as a positive force for integration;

- maintaining relations on special needs issues with schools and teachers that are collegiate, involving and supportive rather than confrontational : this requires a recognition of their multiple pressures and the celebration of their successes.

93. The common theme is that the special needs of vulnerable children will need to form an important focus for all LEAs, one on which they bring to bear all their moral authority, the synergy of multi-function local government and their important remaining statutory functions for education. Above all, they will have to extend and develop alliances across the service and with parent bodies and voluntary associations. In these ways, they can 'buck the market' at each and every stage where its emergence or its operation threatens the interests of vulnerable children.

Peter Housden
November, 1992

• *References*

1. 'Choice & Diversity: A new Framework for Schools'. HMSO. Cm 2021, 1992

2. 'Getting in on the Act': Provision for Pupils with Special Educational Needs: the National Picture. HMSO 1992

3. A Crosland. The Future of Socialism. p. 202

4. D Marsden. Politicians, Equality and Comprehensives. p.23 Fabian Tract 411. Fabian Society 1970.

5. Times Educational Supplement, 24th July 1992.

6. CSIE Factsheet. Segregation Statistics English LEAs. 1991

7. D Miliband. Market, Politics and Education. IPPR. 1991