

Education Committee

Oral evidence: [Special Educational Needs and Disabilities](#), HC 968

Tuesday 3 July 2018

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Members present: Robert Halfon (Chair); Lucy Allan; James Frith; Emma Hardy; Ian Mearns; Thelma Walker; Mr William Wragg.

Questions 1 - 42

Witnesses

[I:](#) Stephen Kingdom, Campaign Manager, Disabled Children's Partnership, Brian Lamb OBE, Chair, Inquiry into Parental Confidence in Special Educational Needs, and Rt Hon Baroness Warnock, Chair, Committee of Inquiry on Special Educational Needs.



Examination of witnesses

Witnesses: Stephen Kingdom, Brian Lamb OBE, and Rt Hon Baroness Warnock.

Q1 **Chair:** Good morning. Thank you so much for coming. It is an honour to have you here and I want to thank you for all the incredible work you have done over a number of years in terms of special educational needs. For the benefit of the tape and those watching on House of Commons TV, can you kindly introduce yourselves and your positions? Sir, if you could also mention your previous role and how you helped lead the 2014 Act, that would be great.

Brian Lamb OBE: Yes. I am Brian Lamb. I was Chair of the Lamb Inquiry into Parental Confidence in SEN. I am currently an SEN consultant working with local authorities, parents groups and schools. I am also Chair of Achievement for All, I work with the National Sensory Impairment Partnership and I am Visiting Professor of Special Educational Needs at Derby University.

Stephen Kingdom: I am Stephen Kingdom. I am the Campaign Manager for the Disabled Children's Partnership, which is a coalition of more than 60 charities and organisations campaigning for better health and social care services for disabled children. Previously I was a senior civil servant in the Department for Education, and between 2011 and 2014, I was the lead official on the special educational needs and disability reforms.

Q2 **James Frith:** I refer Members to my entry in the Register of Members' Financial Interests. We work with children and schools with special educational needs or disability.

Good morning, both our guests. Thank you for coming in. I want to start more broadly, giving some context to the work we plan to do with this inquiry. Is it okay to call you by your first names, Brian and Stephen?

Brian Lamb OBE: Yes, of course.

Stephen Kingdom: Yes.

Q3 **James Frith:** Brian, perhaps you could give us a sense of where your report sits in relation to the SEND system that we have today and what you see as some of the challenges in interpreting how that is being integrated into our schools. We have seen quite a lot of evidence that there is now a rise in Special Educational Needs and Disability children being off-rolled, and 20% of those who are off-rolled are referred to as "other", so we do not yet know. It strikes me that schools are feeling that it is other schools' problem. What is your view on that?

Brian Lamb OBE: If I may, I will start with the general context for my inquiry and what we found there, and then I will answer the more specific point about inclusions.

My inquiry came about because of two Select Committee inquiries in 2006 and 2007, which raised some very serious issues about the state of



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the SEN system, particularly parental confidence in the SEN system at the time. That was what I was asked to look at. At the time, the types of criticisms were that parents lacked confidence in the system. Confidence in the statementing process was low for many parents. There were significant levels of bureaucracy, poor information, complex assessments that—where they were carried out—were often very formulaically carried out to a template that did not often fit individual children's needs, and there was a lack of transparency about entitlements and what was available locally. That was what I was asked to look into.

My inquiry did indeed find evidence around all those areas and the reasons why parents lacked confidence in the system, but we also saw some very good examples of practice by school leaders who set the right ethos in their schools, welcomed children with SEN, set high aspirations and created a culture where parents were confident in being able to engage with their school. For us, it was trying to look at what the system did really well, understand that and then generate something into the new system that reflected all that.

The fundamental theme of the inquiry was wanting to bring about fundamental and far-reaching changes to the culture and behaviour of the way the system is operated. We said that the system was living with the legacy of when children were said to be uneducable, when schools did not own their SEN children and did not see themselves as schools that were there for all the children. It was this focus that permeated the inquiry. We therefore felt that parents needed to be brought more into the system and there needed to be a greater focus on outcomes.

To move on to your second question, fundamentally parents needed to be confident in schools and the way children were treated within those schools. I certainly can see from what you are saying, and it has been my own view, that while there are many good aspects in terms of the principles of the reforms, exclusions have hardly lessened since my inquiry. They are still at unacceptable levels for children with SEN, in my view. Indeed, I believe the number of children being excluded because of the off-rolling issue referred to is massively underestimated. That is not just my view; that is the view of Ofsted when they have looked at this and it is to some extent reflected in other studies that have come out of the sector. Of course, if you have children being excluded and not being able to be educated, it is one of the things that massively undermines parental confidence in the system.

Q4 James Frith: Thank you for that. Do you think parental confidence has improved or worsened in recent years?

Brian Lamb OBE: That is very difficult to answer in the round, in that it depends which bit of the system you look at in relation to parental confidence. If we were to take where the system was in 2010, when I did my inquiry, as the baseline, I would conclude that since then parental engagement in the system has massively increased. A lot of the things we would be looking at in terms of that parental engagement did not



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even exist when my inquiry was done. We did not have a local offer and we did not have schools information reports. We have obviously moved to education, health and care plans from statements.

Q5 **Chair:** Hold on. Could I welcome Baroness Warnock?

Baroness Warnock: I am so sorry I am late.

Chair: It is a very long way and the lifts do not work all over the place in the House of Commons. Thank you for coming. If I could reiterate what I said to the other two members, looking at your history and that you started this in the early 1970s, it is a huge honour for the Committee to have you here today. Thank you very much for giving up your time to come. It is really appreciated.

If I may, sir, what you are saying is incredibly invaluable but we need to be slightly more concise. We have a lot to get through. Thank you.

Q6 **James Frith:** Would you like to conclude on parental confidence and we will move on to Baroness Warnock?

Brian Lamb OBE: If you look at issues like the local offer, we can see that around 60% or 70% of parents are now engaged strategically in the local offer. If you look at parental confidence around education, health and care plans and individual assessments, only just over 50% of parents are saying, looking at parent carer surveys, that they are confident and feel fully included. You need to look at that picture and it is quite balanced. On balance, parental engagement has increased and parental confidence in elements of the system has increased but we still have quite a long way to go.

James Frith: Thank you.

Chair: Stephen, feel free to comment. Baroness Warnock, the same. Feel free to comment.

Q7 **James Frith:** Good morning, Baroness Warnock. I told a special educational needs and disability teacher in Bury North, for which I am Member of Parliament, that I was meeting you today. She was at teacher training college when your report came out and was in awe of the work that you oversaw. It is an honour to be taking evidence from you today. Thank you.

The conclusions that your report reached still read as enlightened even today about the challenges facing our schools. Could you give us a flavour of what you think your report achieved immediately, and what challenges you think still exist in our system, according to those findings then?

Baroness Warnock: Immediately, what it did was very much enlarge the scope of the concept of special education. We were set up, as you know, to look at the education of the handicapped. We changed our title to Special Education but we did not invent the concept of special education. There was an academic who became a member of the



Committee, though he was not one at first, called Professor Gulliford and he had written a book at the very beginning of the 1970s called “Special Educational Needs, or which included the title “Special Educational Needs”. We took over that idea of “special education” rather than “education of the handicapped”. As a matter of fact, his book was extremely influential in the findings of our Committee because the civil servants had obviously read the book and thought very highly of it. That is why we got him on to the Committee himself. Looking back on it now, probably he was the person who was most responsible for the content of the report. I feel very grateful to him. Although I did not at the time read the book, he contributed a great deal to our Committee’s findings.

As I said, the main thing that we did was widen the scope of the concept of “special education” so that it became clear that most teachers would have some children with special needs in their ordinary classroom. It was not so much that we were advocating educating all children in the same school, although we did of course do that; it was that we thought that there were already people in the schools who had special educational needs that had not, up until now, been recognised. It was widening the scope.

Q8 James Frith: Thank you. What did you see was the value in including or being inclusive of children with special educational needs in mainstream classes?

Baroness Warnock: I personally—and one of my colleagues who was a child psychiatrist—had grave doubts about including all children with special educational needs in the mainstream, but, as I said, it was not so much that we thought there was value in it as we thought that those children were already there and had needs that needed to be addressed where they were, in the classroom. We thought or I certainly thought that there were children, particularly autistic children, who would not find it at all easy to be educated in the mainstream classroom, and many of their parents agreed with that. A great number of battles were fought on that very ground. Autistic children find the rough and tumble of ordinary classrooms and playgrounds very difficult.

Q9 James Frith: Thank you. Stephen, did you want to comment on those opening questions?

Stephen Kingdom: Increasing parental confidence and parental engagement was a key driver of the reform programme and I think the Government did a lot to try to engage parents. We are now reaching 10 years of the Government funding Parent Carer Forums. The structures for that and the engagement are in a different place now from where they were when Brian started his report but it is clear that a lot of parents still have concerns and that some parts of the system are not working in the way they should be. Not all the vision of the reforms is yet reality. In the current wider climate, both of other educational reforms and the financial climate, that is a real tension.



Q10 **James Frith:** From the experiences we have seen, that is a fair assessment. Having known that there was a chance to unearth more problems with parental engagement and identifying those needs, was enough put in place to manage that and the rise in diagnosis of special educational needs?

Stephen Kingdom: That is a big question. Quite a lot of work was done and there was quite a lot of investment in organisations that were aimed at increasing expertise in specific impairments. The Government funded organisations such as the Autism Education Trust to increase understanding of specific impairments and other things on specific learning difficulties. There was a programme to help support schools in their expertise and their understanding. The Government funded the national SENCO programme and the SENCO award to increase the qualification, capacity and capability of SENCOs within schools. There was quite a programme of action put in place at the time to try to increase expertise and support.

Q11 **James Frith:** What do you put the rise in exclusion of SEN and the proportion of SEN in alternative provision down to?

Stephen Kingdom: The financial pressures on services is a big issue, and the wider accountability framework. There were significant changes to the accountability framework in schools around the same time as the SEN reforms. At the time, I held hopes that they would help, that the move from the five A to C GCSE as a benchmark to an accountability system that was aimed at giving schools accountability for the progress of all the pupils in the school would help things, but some of the evidence may suggest that that has not really happened. There is a risk that schools see the accountability system driving them to take action. That comes back to Brian's point about what the purpose of schools is and how you can get that moral purpose in terms of supporting and educating all the pupils the school serves.

Q12 **James Frith:** In schools interpreting their budgets through the cuts to services in-house, we have seen SEN provision alongside enrichment activity as a school considers what its absolute fundamental role is. Do you think too quickly schools are reaching for SEN cuts? What do we need to do to discourage that?

Brian Lamb OBE: There are a number of problems around this. If you look at the way schools are funded and the SEN notional budget, that is done on a formula. Through a lot of the work I do with heads in schools, I have seen that those schools that are doing the right thing in relation to children with SEN in effect get penalised because more children and more parents want to go to schools because they have the right ethos and they are doing the right things, but—unless you are in a very enlightened authority that delegates a lot of additional money—they do not necessarily get the financial award and have the capacity to keep doing that. At the same time, other schools in the same area are let off the hook.



We had hoped that the schools information report in which every school has to say what it provides, and local authority monitoring of that, would create a more even playing field, but it has not done so. To be fair to those schools that are not investing enough, as Stephen was saying, they are under pressures both of the accountability system and the finance system. We are also under pressure because specialist support services are being cut. For example, we have very good evidence that support of specialist teachers for the deaf and teachers for the blind is being cut by local authorities. That does not help schools make the right decisions and then you get the consequence that children are excluded.

- Q13 **James Frith:** Baroness Warnock, should schools be rewarded for demonstrating inclusivity? Brian refers to the fact that within the Ofsted framework, for example, many schools are penalised if their performance reflects their willingness to include. Do you think there should be circumstances where schools that have been inclusive are acknowledged as that and judged accordingly by Ofsted?

Baroness Warnock: I think so. I have long felt that Ofsted is playing a contradictory role because they are looking for academic excellence, yet officially they ought to be giving acknowledgment to those schools that are genuinely inclusive and take real pride in what they do for children with special needs. Ofsted very often does not take that into account at all. Schools are described as “failing” or “needing improvement” when they are doing very well by the children whom they take seriously and whose needs they really do acknowledge. Ofsted does need to take a look at itself and see what it is really inspecting.

James Frith: Thank you.

- Q14 **Chair:** Baroness Warnock, you described the 2008 system as “quite bureaucratic”. Do you think that the Children and Families Act 2014 has changed that or is it also mired in bureaucracy?

Baroness Warnock: One general remark I would quite like to make to start off with is how extremely long ago the 1970s are. In the 1970s the local educational authorities were, on the whole, regarded as extremely benign institutions. People—parents—tended to trust our local educational authorities and regard them as allies on behalf of their children. This is something that I think is worth saying because I am probably the only person present who can remember those benign times when local educational authorities were trusted to take an interest in their own children and to regard them as their own children. They were a source of great support and also great faith, really, to parents and children.

I think it is worth saying this because the 1981 Education Act that came out of the report was the very worst year for finances and it was from then on that both universities and schools began to feel financial pressure. From that moment on, the local education authorities gradually became not allies but opponents because they were forever trying to save money. 1981 was a very significant year. I remember it very clearly,



not only because of the Act but because my husband became Vice-Chancellor of Oxford and it was the very year when universities started to feel the tremendous Thatcher cuts. It was a disastrous year for the Act to come out because right from the start it became clear that there were going to be far more financial pressures than we in our innocence had thought when we published the report in 1978. It really was from that moment on that things started to go wrong, entirely for financial reasons, not for conceptual reasons.

- Q15 **Chair:** Thank you. Could I ask you about the exclusions that you have mentioned? Perhaps all of you might like to comment. The rise in children with special educational needs being excluded seems to be huge. Doing rough arithmetic, there were something like 33,265 pupils with statements or an EHC plan who had a fixed-term exclusion, and 125,090 people who had SEN support who had a fixed-term exclusion over a year. That is 158,355, or 833 a day. Was the Children Act meant to stop that? Why is this going on and what should be done about it?

Brian Lamb OBE: Certainly the hope from my report and the recommendations we made was absolutely that this would change the culture within schools. That was the whole aim of my report, that schools had to do the best for all their children and therefore it would not be viable to try to manage SEN and their failure to provide the right support for children with SEN by either off-rolling or excluding them. We put a lot of recommendations in place and indeed a lot flowed through into the 2014 Act that were about changing that culture in schools, the idea of “every teacher a teacher of SEN” and then supporting those teachers.

- Q16 **Chair:** Would you agree it is not working?

Brian Lamb OBE: If you look at the level of exclusions, I would agree. That suggests that for too many schools, it is still an option to exclude those children rather than own them and work with them. To that extent, yes.

- Q17 **Chair:** Do you think there is gaming of the system and that there are schools carrying out these exclusions of children with special educational needs because of results, targets, league tables and so on?

Brian Lamb OBE: Not just targets and league tables. Also, they are not investing enough in their staff, their workforce and specialist support services to be able to deal with those children adequately. Then, when they encounter behaviour problems or issues that they could manage if they had invested the right support into those children, they use off-rolling and exclusion as a way of managing them.

We know it does not have to be like that. There are many excellent schools that are not doing this, that are doing the right thing and are not excluding children. It is not impossible, even with that unfavourable overall framework, for schools to do the right thing, and so they should not be let off the hook just on the grounds that it is difficult because of the accountability measures.



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Stephen Kingdom: I echo what Brian says there. If you are asking, “What should be done?” looking at the accountability measures is very important to see how schools have been held to account for exclusions, particularly off-rolling and unofficial exclusions. The point Brian made about support—

Q18 **Chair:** Do you agree that it is widespread now?

Stephen Kingdom: All I have are the statistics you have. There is a concern. There are undoubtedly, as Brian said, schools that operate in the right way and manage this, but clearly there is a rise in exclusions, a rise in children with special educational needs being out of education, and that is a cause for concern.

What Brian said about wider support for the school is important. That also includes wider services like social care. As we see cuts in social care for disabled children and their families, that may also have an impact that is beyond the school’s control, but is also an important part of the picture.

Q19 **Chair:** Do you think that there should be some kind of weighting when schools are inspected, as my colleague pointed out, considering the number of children with special educational needs there are in the school to make sure that it is a fair system when looking at their results?

Stephen Kingdom: Certainly the inspection framework should take into account the make-up of the pupil population of the school. There are risks in doing that in too formulaic a way in that it could create perverse incentives for over-identification of SEN. That was a concern at that time.

Q20 **Chair:** Why would that be a problem? Would it not be a good thing for mainstream schools to have plenty of children with special educational needs?

Stephen Kingdom: There was concern at the time of the Green Paper, which was reflected in the change from School Action Plus and School Action to SEN support, that identifying a child as SEN could be used as a way of explaining why a child was not doing very well rather than a way of identifying the support the child needed to do well. That is a risk you would have to manage so that you did not create incentives for schools to say, “If we just say these children have special educational needs, that explains why they are not performing and we do not need to worry about it. Ofsted will say we are doing fine”. It still has to be focused around outcomes, as Brian said earlier.

Q21 **Chair:** Baroness, do you want to say anything about the exclusions?

Baroness Warnock: Using identification of SEN as a reason why a child is not doing really well is going right back to the concept of “handicap”, is it not? There is something wrong with the child rather than something that the child needs desperately if he is going to succeed. It is that concept of what he needs if he is going to succeed that keeps getting lost



in schools, unless they are very much geared towards an interest in their SEN children.

Q22 Chair: Can I ask you about Ofsted? Under the Act, Ofsted and the CQC were given responsibility to inspect all the local authorities' SEND support to see how well they had been implementing the Government's reforms. Last year, their first report covered 30 inspections and in over one third of local authorities, leaders in education, health and social care did not include parents and pupils sufficiently when planning how to integrate their offers. In over half of the areas, the offers did not provide enough help to parents and pupils to access information and services. There was, which we will come to in a bit, a strong variability in the successful use of personal budgets. In over two thirds of areas, the assessment process is not working well enough. Could I ask you to comment on that? Does it show, again, that the Act is not working in the way it should be?

Stephen Kingdom: The first thing I would say is when the legislation was going through Parliament, the Government was rightly pushed very strongly on accountability. That is why they introduced the Ofsted-CQC framework and this inspection regime has been really important.

The Government were always clear this was going to be a transition process, and implementation was going to take time because a lot of it involved culture change and shifts in ways of working. It was not just a straight implementation of individual actions and from that point of view it was going to take time. The Ofsted CQC inspections have been really important in seeing how that progress is going. Worrying things have come out of that. It is good that information is there so there is a basis on which local authorities and their partners can plan and improve. I am not sure what the current position is but I think it is really important that the inspection regime continues. It was very much put in place first of all as a first round, to see how it has gone in. However, given what it has shown it is really important that inspection regime continues.

Baroness Warnock: I do not know on what grounds a local authority can refuse to set up a plan if asked to do so by a parent. I do not know what the grounds are but they can, and often parents do not know why they have been refused. This seems to me to be a potentially arbitrary failure to intervene on the part of local authorities, which may be adding to the already pretty hostile relationship that tends to build up between parents who are dissatisfied and local authorities. I may be simply ignorant here, but I do not think they are often particularly clear about why they refuse a request. That seems to me to be something that is quite important.

Stephen Kingdom: There is a concern—this is anecdotally to some degree—that local authorities use refusal as a rationing mechanism, to see which parents then push it because there are routes of redress for parents through the Tribunal but some parents give up at that point. It is a real concern if that is really happening.



Chair: Then, of course, you help the parents who are going to—

Baroness Warnock: This is such a terrible waste of money.

Stephen Kingdom: Absolutely.

Chair: The parents who are very good at advocacy benefit over those who may not have those skills.

Baroness Warnock: Absolutely.

Brian Lamb: On the Ofsted area reviews, as a concept they have been a brilliant success. I totally agree with Stephen that they need repeating. My experience was that just before they were brought in, many local authorities were beginning to take their foot off the pedal in terms of the reforms: they had got through 2014 and they were in place. The inspections have really refocused that.

I would go further and say there ought to be automatic reinspections of those authorities that have received a letter of notice to improve, which was running at roughly 40% at one point. I totally take your point that it is uncovering a lot of areas where the legislation certainly is not as embedded and working in the way we would have hoped in terms of parental engagement and some of the other issues they have uncovered. That would be a very good accountability mechanism because it is very clear that local authority leaders take those inspections very seriously, changes do happen as a result of them and they are a very good way of leveraging accountability in the system.

Q23 **Chair:** I have an autistic charity in my constituency; it is a national charity called PACT for Autism, and they always talk to me about the huge amount of time it takes for the children to get support and be diagnosed. A recent report by the National Autistic Society suggested that 74% of surveyed parents have struggled to get the educational support they needed for their children, 69% said their children waited more than a year for support after they first raised concerns with 16% waiting more than three years. Again, surely the purpose of the Act was to stop that kind of thing. What is going wrong and what can be done about it?

Stephen Kingdom: I agree, they are very upsetting statistics but not ones that surprise me. We see the same in health and social care for disabled children. One of the important things in relation to support is what schools should be doing in terms of assessing children, reviewing what support they put in place, planning that, doing it and going through that cycle so you are not always waiting for the diagnosis before any support is put in place. We in the Disabled Children's Partnership hear a lot about the wait for diagnosis. However, there is support that should be put in place rather than, "We do not have a diagnosis so we cannot do anything".

Brian Lamb: I would also focus first on the schools. We need to make sure schools are incentivised to use their own SEN budgets but we have



to recognise that those are under pressure. We have to make sure the specialist support services that go round schools and support the SENCOs within schools are fully supported. The recent funding changes, which you may want to come onto, in terms of putting more of a ring-fence around the high-needs block, has already dramatically impacted on the role of specialist services. So for autism, sensory impairment, language and communication, you could get the same picture across the piece in terms of where that is then degrading the capacity of the system to deal with those children. Then you are getting the kind of figures you are talking about.

The principles behind the legislation are still absolutely right that every child should have a plan. At a certain point, if the school cannot cope with those children, then there should be a statutory plan to put extra resources in place. The principles were absolutely right. The problem is ensuring there is the right investment and focus going into the system to deliver that.

Q24 Mr William Wragg: Very briefly to Baroness Warnock, if I may, in terms of the educational special needs system today—where that is integration and inclusion—are there any areas where you think we need to go further or have perhaps gone too far?

Baroness Warnock: I still have very grave doubts about the rightness of integration as a general principle because I believe there are a considerable number of children who do not, and will never, flourish in a large school. There are hazards that people are not terribly good at noticing about large schools—obviously a lot of children flourish in large schools, but a lot do not. If these children were only in a small school, they might not have any special educational needs but get on perfectly well. The needs are—if not created or generated by it—compounded by the size and impersonality of the environment. This is a perfectly general observation that was valid at the time of our report and is just as valid now. It may be an impossible ideal but I do believe in the value of there being some small or smallish secondary schools.

On the whole children of primary school age do better; usually because their teachers are nicer to the children, so to speak, are not as insistent on the academic as the sole value and so on. I do not have nearly so many anxieties about what I could call difficult children in primary schools. However, the climate changes radically in Year 7. I think a lot of children do not get enough attention from teachers in their first year in secondary school and then start failing from then on. I believe this is an area which heads of school ought to pay particular attention to, namely how children are treated, picked out, assessed and constantly looked at in their first year of secondary school. A lot of later problems would be solved, or never arise, if that were a priority for most heads. This is really a very important general point that teachers ought to take on board.

Stephen Kingdom: The issue of inclusion versus specialist education was a big one during the development of the Green Paper and the



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legislation with strongly held differing views across the sector. What the Government did—and I think this was right—was to keep the arrangements and the balance as it previously was, which is there should be a qualified right to mainstream education if that is what parents want but parental preference should also be a driver. The evidence showed that, with the right support, children with special educational needs can thrive in special schools or in mainstream schools, depending on their needs and the support in place. There is not a hard-and-fast rule that says children do better in one more than the other.

The Government kept that qualified—quite a minor qualification—right to mainstream education, but with that parental preference as a key part of the regime. They attempted to change some of the funding incentives to mean that choice, when made by local authorities, was not driven by false funding decisions about how, for example, funding places in the non-maintained special school sector worked to make that equivalent to funding places in the maintained sector, and put in place arrangements to allow some growth in the special school sector, particularly through the free schools programme. In my view, the Government took the right balance there in keeping the settlement in the same place but with having parental preference as a driver.

Brian Lamb: I agree the Government got the balance right in terms of the presumption towards inclusion, but with parental choice around that. I agree with everything Stephen said.

What would worry me about the way that has played out to some extent is that we have seen a rise in the number of children in special schools and also a lot of children being placed outside of county in special provision. I raise a question about whether that also indicates that we have not succeeded in giving parents enough confidence about what schools are doing for their children, and then—even within an authority—whether the special schools are good enough for their children. The Lenehan Review has already raised this question of the number of children we are sending hundreds of miles from their home because provision is not available within that authority. I want to see a continuum of provision for children. There is no right or wrong answer to what the number of children at special schools should be, but that we have seen a growth may indicate we are not doing enough to make sure our schools, and even our in-authority special schools, are supported well enough to do this.

I will also raise the point about social care here. In my work with special school heads, they have often raised the issue that they think their local authority special school could look after children in their area, but that the wraparound social care provision is not available for those children. That is driving children to out-of-county placements that are, by definition, far more expensive, which is money the authority might be able to spend on investing in in-authority provision and making sure that was right for families.



Q25 Thelma Walker: Last Friday, I met 30 head teachers from my constituency of Colne Valley. They all agreed about the level of frustration at their inability to support children and young people in their schools. This is going back to Robert's point earlier to do with the level of bureaucracy and also funding shortages and cuts. One of the issues they raised was the fact they would go for statutory assessment and support and would be knocked back; it would be refused. The whole level of bureaucracy and time involved was a disincentive for them to be persistent in their support for their children and young people.

I want to ask the panel, in what way could we be better at supporting heads in supporting their children? What can we do to cut through this bureaucracy to get that early intervention support in as quickly as possible?

Baroness Warnock: I do not know. During the life of our Committee, the most recalcitrant problem we had was to devise a way—any way—of getting teachers, social workers and doctors to talk to one another. As far as I can see, that has remained a problem ever since, and was presumably the motive behind the invention of the EHC plans where it was made perfectly apparent that the aim was to bring these sets of people together.

Q26 Thelma Walker: Realistically it is possible to get stakeholders to put these plans—

Baroness Warnock: The trouble is I do not think that has worked, has it?

Thelma Walker: No.

Baroness Warnock: It seems to me that teachers draw up the plans and therefore inevitably the plans are educationally centred. Teachers are concerned with schools and education, so of course they take the educational and classroom aspect more seriously than any other. I do not think this concept of bringing them by name together has had very much effect at all.

Q27 Thelma Walker: Do you think there is a role for Sure Start in bringing stakeholders together? The intention of Sure Start was to bring partnerships together.

Baroness Warnock: This may be completely wrong, but for many children the medical aspect does not need to be brought in. Obviously there are children who are in hospital schools and so on, and children who are ill who do need medical care as one of the three elements. However, for the most part—and given the attitude of most doctors—I do not think the medical aspect is anything like as important as attempting to bring together social and educational interests in the children. If one could do that, I would not worry too much about whether the doctors come along to meetings or not. They have their principles of confidentiality and this, that and the other, which inhibit them from doing so, even if they had time. I would be much more interested in the future



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in making a serious effort to get together the social workers, who are interested in the whole family and children, and the teachers in the classroom, who are interested in their progress. I believe that even then, medical time would be little short of a miracle if it happened.

I vividly remember an occasion when I organised a weekend when the social workers and teachers were going to come together and have a lovely, jolly time talking to one another. What happened was that we got to the hotel, they got into their groups and never talked to one another again. They sat at different tables, went to different places to sit and never spoke to one another. They were thrilled to meet their colleagues whom they didn't know in the same profession, and they got on terribly well, but as to the teachers and social workers talking, it never occurred. This is a real difficulty that I see no solution to. However, I think that in many cases where a child has educational needs that arise out of social conditions, the unity of these two professions would be a huge advantage.

Stephen Kingdom: The system is necessarily very legalistic when you have public agencies and families working together. You have a power imbalance there and it is really important there are those legal protections for families. However, that does, or can, drive a level of bureaucracy. We had ambitions to have a much shorter, sharper special educational needs and disability code of practice and we ended with a longer one. However, it is important to have some of those details tied down and those legal protections for parents and families. That does not mean it needs to be bureaucratic. If there is real co-production and real working together with families, and joint working between services centred round the outcomes you are trying to achieve for the child, it need not be bureaucratic.

Where the bureaucracy can come in is where services are under pressure and under financial constraints and it is really about how services are rationed. That is a real problem. As I said before, there is that anecdotal concern that refusal becomes the first point of rationing and you put in place difficult bureaucratic systems as a rationing mechanism.

Thelma Walker: The will is there, it is just operationally—

Stephen Kingdom: I would like to pick up on what Baroness Warnock said. I absolutely agree about bringing education and social care together. I would say health should be there too. A big issue we heard during the Green Paper consultation was the engagement of health, with things like getting the right equipment, health providing their part in short breaks for families with disabled children. We have seen some really sad evidence of services being closed by health over the last year or so. I do think health needs to be there too.

Baroness Warnock: It does need to be there, but one somehow cannot expect it to be quite as integrated as I would hope the other two would be integrated.



Brian Lamb: I have a lot of sympathy for your heads. Moving on from acknowledging Stephen's point that it may be therefore about managing demand, we could look at it from the other way up. My inquiry was very clearly told by parents that they will start looking at the system for the expertise they need for their children, which is when you start moving on to needing a statutory plan. Part of the whole aim was to try to ensure that where your heads were concerned, they had that support coming in around the children through the delegated SEN budget, through SENCOs and through the specialist support services. My question would be why do they need to have to keep going to get a statutory plan to get the support they need for those children? We ought to be doing more to encourage local authorities to delegate budgets directly to heads, but then holding them very seriously accountable—through things like the school information report on the local offer—to deliver to those children within their schools. Over time, we have to shift the system away, I know it is not going that way at the moment. We now have more education, health and care plans than we had statements. That is partly because we have extended to 25 but also that shows there still is not confidence in the system to deal with children without having that support in place.

I would also say on the health point that it was a very clear desire from parents to have multi-agency assessments and to have their child seen in the round. That is more of a challenge for health to do, especially because of the way they are contracted.

Q28 **Chair:** Again, it is great in principle but is it really working in practice with CAMHs under enormous pressure and so on?

Brian Lamb: The health bit, no. If you look at the recent survey done by Derby University into 13,000 families, around two thirds of parents said they like the overall process of getting an EHC plan and 75% of parents said the process was family centred. The overall plan—especially for those receiving new education, health and care plans rather than in the last year of the transfer process—has been working quite well for a majority of parents. I do not think the health and social care integration of that has been working well at all. Ofsted, which you quoted earlier, was very clear that in a lot of instances, that is not working. Again, there are instances where it is. We need to look at that and say, "Why are some authorities able to do this and other authorities not?"

Q29 **Chair:** Yes, why is that? Is that a question of leadership?

Brian Lamb: It is a question of leadership. It is a question of commitment from those involved.

Q30 **Chair:** How do we get better leaders across the board?

Baroness Warnock: Partly, the medical profession is not performing well overall in the area of children's mental health. If they were absolutely 100% interested and competent in children's mental health, their contribution to the educational scene would be completely different. At the moment, it is very poor.



Brian Lamb: Absolutely, I agree. There are some areas where for children's mental health the services are not there. Speech and language therapy, the services are not there in the way they should be. What you therefore need is good leadership locally that does bring these services together and is being held more accountable for things like a local offer.

Q31 **Chair:** How do you get better leadership across the board as there is such a variation? There are some great local authorities doing wonderful things for children with special educational needs and others that are clearly failing.

Brian Lamb: One of the mistakes when the local offer was introduced—I am a great fan of the local offer—was that there were not enough accountability measures in it to hold authorities to account when they did not do that joint commissioning and joint planning. What we need is more accountability within those measures. I think the local offer is great. I think using joint commissioning is great. However, nothing happens when people do not deliver on that. All you have are the Ofsted area reviews. They are making some difference but you need some way for parents, or people in the system, to trigger some kind of investigation where that is not happening.

At the end of the day you have to come back to the culture of the system. If you do not have good leadership, you do not have people committed to this and being held accountable to it, it is not going to happen. Whether it is statements or whether it is education, health and care plans, we are seeing the same issues with the new system as we saw with the old one. If you do not get the culture and the leadership right, you do not get commitment and inclusion right, it does not happen.

Thelma Walker: If you look at a positive incentive that we were talking about earlier, having an inclusion award and having that as part of Ofsted, then that would give the incentive, wouldn't it?

Chair: Can we have brief answers? We only have another 15 minutes.

Q32 **Mr William Wragg:** I have a question for later in the proceedings but it is easier to do it now rather than detain ourselves then. We obviously have the tri-environs of health, social care and education all playing a role here. I sense from your evidence that they are not necessarily all pulling their weight or even pulling in the same direction. What would the challenges be if the Government attempted to make duties on all parties equal, which I presume is through accountability?

Brian Lamb: That is obviously one reason that it falls down: health and social care do not have the same level of accountability. I believe, under Jeremy Hunt, at least if health provision appears in the plan it has to be delivered. That was certainly an improvement. The challenge is simply that the protections in the education bit of the plan are quite unique across the whole system. My understanding of the debate at the time when there was an attempt to include this in the legislation was that health and social care will always resist because they feel if they have to



do it for this particular group of children, they would have to do it for other people and it would extend across the system. That is the particular challenge there.

Stephen Kingdom: Although the Children and Families Act essentially covers health and social care, this part came from an education perspective. There are clear issues about implementation, but to a large degree it has made a good fist of that. The legislation around health and social care for disabled children is much more convoluted; it goes back 50 years with various different pieces of legislation and guidance. There is a real case—that is one of the calls of the Disabled Children’s Partnership—for a more fundamental review of the health and social care law as it affects the safety of children. Going back to the leadership point, we also think it would be good if that leadership started at Government level and there was a clear ministerial priority and lead across Departments for education, health and social care for disabled children.

Q33 **Emma Hardy:** Good morning. Both your reports looked into teacher training. Do you think the Government have done enough to deal with this as an issue? I say this partly as a former primary teacher who had no specialist training on children with SEND at all. Do you think enough has been done now to deal with this?

Baroness Warnock: My impression is that there is still a great deficiency in teacher training to introduce the basic concept that there are going to be children with special needs in every class. I still think that after all these years, as far as I know, teachers are introduced to this idea certainly, but it is a kind of extra, hanging-on bit. It is not really central to teacher training still. This ought to have got better run, now that so much training of teachers is in schools, but I am not sure that it has actually got better because I do not know that the people responsible—the SENCOs in schools—have enough authority to insist that teachers do take account of children with special needs in the ordinary classroom. The SENCO ought to be there in the classroom to see that the teacher does take account of the whole range of abilities of people in the classroom. I still think that there are some schools, not all, where children with special needs are allocated to someone who sits beside them and actually does the work for them, rather than being sure to engage in what is going on themselves.

Brian Lamb OBE: No, I do not think enough has been done, but I do not think it is simply about loading even more courses on SEN into initial teacher training. The Government did move from half a day to a day, I think it was. I do not think just moving to another half a day is what is going to make the difference.

I would agree with what you are saying that it is more about changing the culture and expectations that teachers have of pupils with SEN, and that is what I would like to see embedded from the beginning of initial teacher training.



Much more has to then come in terms of the support from the SENCO, on-the-job training over time, and again the role of specialist services to support the teacher in that role, but it needs to go back to a fundamental expectation that, yes, every teacher is a teacher of SEN, but what that really means is that every teacher has an aspiration to deliver the best outcomes for the children with SEN in their classroom.

Baroness Warnock: This goes back to what you were saying about using SEN as an excuse for the child not performing, rather than treating it as a challenge to be met.

Brian Lamb OBE: Exactly so. Thinking of training as continued professional development, how do we then ensure that teachers are getting that support all the way through—getting the support from the SENCO, getting the support from specialist support services—and knowing when to do which? Part of the problem has been, with the understandable focus on getting education, health and care plans in place, we have not had the focus until now. The Government are now moving on to this and beginning to focus on this. For the first four years of implementation, we did not have enough focus on the children who did not have plans.

Q34 **Emma Hardy:** What concrete steps, then, would you recommend that the Government take to deal with this? As I say, I speak from personal experience of having very limited training in SEND, and it was, “Learn on your feet and just get on with it, and if you need help, shout”. What do you think could be done better? I know you talked about a culture and embedding a culture, but I am talking tangible actions that the Government could take or that schools should take.

Brian Lamb OBE: More training and support directly on all the areas of SEN—when my report came out, we did have a whole load of materials for those five areas—so that teachers know what they know and what they do not know and when they can get that support. Therefore, an enhanced role for SENCOs. A lot of SENCOs I talk to still do not even know within their schools what their SEN budget is and how that can be deployed, so more power for SENCOs within the system to do that, and more programmes that come in and support teachers.

I said that I am chair of Achievement for All. We run a programme where we go into schools and we support those schools around quality-first teaching, how to talk to parents, more training about how to talk to parents, more training on wider outcomes, and more support for schools, where we go and we provide that underlying support for schools to be able to do that. The Government supported us for the first three years of our existence. Now we are like anybody else, sunning into individual schools. Again, I would go back to more delegated budgets into the schools so they can support their teachers to do all of that.

Stephen Kingdom: I agree with what Brian said there. The Government need to make sure the resources are there in terms of the materials and



the expertise, and they have done a lot on that, as Brian said: funding Achievement for All in its early days and funding resources on specific impairments; special schools as teaching schools; funding the national SENCO award; funding scholarships for teachers to take higher level qualifications, and so on. The primary responsibility for the continual professional development of staff is with the schools they are in. If the accountability framework is right, if the leaders of the schools are right that they are going to be judged on how their children with special educational needs are doing, they are going to invest the resources they have on training in a different way, and that is the way to drive it.

Baroness Warnock: Are there any resources in schools for teachers to be able to teach parents how they, the parents, can help their children at home in educational matters?

Brian Lamb OBE: Achievement for All does a lot of this through something called the structured conversation, and there is training around that. It is only there if the school goes out and commissions that. There is nothing routinely within teacher training or even continual professional development that really supports teachers in engaging with parents. We know that where that happens and there is good home-school working, outcomes increase, attendance increases, and the whole commitment of the parents to the school in what is happening increases, and you get better outcomes for children as a result.

Q35 **Lucy Allan:** The Baroness gave us an excellent précis of the context of the environment in which the 1981 Act was introduced. In the context of the 2014 Act, in the era of tightening local authority budgets, has that been the right time to introduce the 2014 reforms?

Brian Lamb OBE: In other words, was the Act properly resourced? I think we could always ask for more money. It was clearly introduced in the teeth of a recession and local authorities coming under increasing pressure. I know the Government will say the school budget has been maintained or increased, but given the pressures on schools, it has not been increased at a level that would address what the schools need to do this properly.

I would never have argued, however, for it to be delayed, in the sense that this was a process that was started in 2005 with your report, the two Select Committee reports and mine. There was a momentum behind its being introduced, and if it had not been introduced, we would have lost the momentum and possibly even lost the space for the legislation to introduce it. Could it have been better resourced? Yes.

Stephen Kingdom: The wider environment in which the legislation was introduced was the hardest and worst time to do it, but the alternative of not doing it would have been even worse.

Q36 **Chair:** And £6,000 per pupil: is that enough?



Brian Lamb OBE: I wish it was even that, because the whole way the delegated budget works, although we talk about this notional £6,000 per pupil, that is massively confusing for parents, who often think, therefore, “My individual child at SEN support level has an entitlement to £6,000 of support”, and of course that is not true. If every child at SEN support got £6,000, the school budget for SEN would be bust. Schools do need more money delegated to them for SEN support and we need to look at something—we have the mechanism for pupil premium where schools get additional money for what they do around that, but schools do not get additional money for when they need to invest in children with SEN beyond their delegated budget. We need to align the needs of children in schools with the actual budget a school gets.

Q37 **Chair:** Should there be a special needs premium, as such, on top of—

Brian Lamb OBE: Something like it would be very welcome, yes.

Ian Mearns: Just for the record, in answer to your question, people in the public gallery were shaking their heads vigorously.

Q38 **Chair:** Very briefly, if we could ask the last question, something like only 16% of parents and young people, according to you, said they were offered the option of taking up a personal budget, and apparently the uptake is quite low and some local authorities are not offering it and so on and so forth. How do we change that? That was a very exciting part of the reforms, potentially.

Brian Lamb OBE: How do we change it? They are so complex to arrange and so difficult to work out how they would be used.

Q39 **Chair:** Is there a requirement on every local authority to offer them?

Brian Lamb OBE: Yes. As part of the discussion around an education, health and care plan, local authorities are supposed to discuss with parents whether it would be appropriate in relation to provision they are suggesting for there to be a personal budget and to talk them through the options to do that.

Q40 **Chair:** Some are not, though?

Brian Lamb OBE: No.

Q41 **Chair:** What are the measures one can take? Are there any in force?

Brian Lamb OBE: Parents need to be made more aware of the option to have personal budgets. They need to be well supported to exercise those because often they are complex to do. There needs to be less regulation. I forget, but there were something like 10 pages of regulation, were there not, governing the use of personal budgets? They are overly complex.

Q42 **Chair:** Did you envisage there would be more parents taking it up?



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Stephen Kingdom: The Government's position changed over time. It was a big part of the Green Paper. As the focus went to making sure the plans really met what parents wanted, whether a personal budget was necessary as a way to deliver that in terms of real engagement with parents and whether the plan is delivered in the sense that they need, it may be that the personal budget is not that important to them. It has to be a personal choice, though. It has to be appropriate for those parents.

Chair: No, of course, but if it is not available, it is not working. Could I thank you all very, very much? I am sorry about the lifts. I experience them every day. I have a problem with my legs and the lifts do not work where I work either. I really appreciate both what you have done for special educational needs but also your time today. Thank you.