

THE ASSESSMENT OF SPECIAL EDUCATIONAL NEEDS IN SCOTLAND - RETROSPECT AND PROSPECT

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SYNOPSIS

This article charts how the assessment of special educational needs has been carried out since 1980. It addresses a number of contentious areas, some of which are being examined by legislators in the Scottish Parliament and Executive. The article begins by attempting to provide a framework to clarify the terminology surrounding Special Educational Needs (SEN). There follows an argument that the abolition of categorisation of children by handicap resulted in a conceptual vacuum which caused difficulties for local authorities in managing access to special provision. This problem is linked to the concern regarding the criteria used to determine the opening of Records of Needs. The article describes how particular approaches to categorisation of provision and the replacement of the term "Needs" with "Entitlement" may help resolve some of the current difficulties. It concludes with the suggestion that any replacement legislation should be simple and enabling rather than prescriptive.

INTRODUCTION

When the Warnock report on Special Educational Needs (Department of Education and Science, 1978) was published, it created a landmark in the organisation of special education in the UK. The legislation which followed in Scotland and England has now been in use with minor amendment for nearly 20 years. The area discussed in this paper is an unusual one in Scottish education. It is difficult to name another area of professional practice which is covered by legislation so prescriptive that it stipulates such details as contents and timings of letters between parties and has, at its heart, a proforma, the Record of Special Educational Needs, whose page headings and structure are fixed by statute. It is this level of prescription, thoroughly supervised by HMI during routine school inspections, which requires detailed analysis of its provisions for an understanding of where we are now and where we might go in the future.

It is worth recalling the features of the previous handicap model which preceded Warnock's SEN model. The system of ascertainment for special education had been based on categories of handicap - physical or psychological disabilities which were deemed to necessitate special education, usually in separate special schools. This system came under attack for a number of reasons, two of which are relevant to the current discussion. Firstly, there was the assumption of a direct link between a particular medical or quasi-medical diagnosis and automatic placement in a particular special provision. This was believed by Warnock to take insufficient account of individual differences in children's educational requirements. Secondly, the categories of handicap effectively labelled some children and thus stigmatised them. Labelling emphasised their differences from normal children and this distinction was needed to justify segregationist practice in provision of schooling. The Warnock proposals aimed to introduce educational provision based on educational requirements and to break the rigid distinction between normal and handicapped. There were two key proposals. The first proposal was to abolish categories of handicap and to replace them with the concept of special educational needs. The Warnock Committee believed that introducing the concept of SEN was sufficient to mark a shift from considerations of *within child* factors to *within environment*¹ factors. Since the number of children affected by modifications to provision was much greater than the number of children

deemed handicapped, this proposal implied a considerable widening of the concept of special education. The second proposal followed from a concern to ensure that the widening of the scope of special education did not result in the most needy children being overlooked. Therefore they proposed the procedure of Records of Needs for some children (called Statements in England and Wales). The committee recognised that their two aims (widening scope without losing focus on individuals) were in conflict and felt that Recording/statementing was a fair compromise. However, the working through of the proposals into law ensured that there would continue to be a legal boundary between two kinds of children. Although we were to no longer have the distinction between the handicapped and the rest, nonetheless we were still to have the distinction between the recorded and the rest.

In the following years, the report itself, as well as the subsequent legislative frameworks, have been subjected to a variety of critiques e.g. the philosophical (Gavine, 1985), the sociological (Tomlinson, 1982), the practical (Wood, 1994), culminating, perhaps, in that delivered by the baroness herself (Warnock, 1993). She noted that the whole enterprise had become corrupted by becoming a battleground for resources between parents and authorities and that the systems of assessment were themselves absorbing too much of the available resources.

BOTH SIDES OF NEEDS

The word *need* is a very commonly used word and people using it in the context of special education, be they professionals or parents, tend to use the term in a common-sense way. One way of defining need is that the concept distinguishes between an undesirable situation in the present and the change we believe to be necessary in the future (eg. If I am sick in the present, I need medicine so I may be well in the future).

Unfortunately, this common sense meaning of the term does not unambiguously distinguish between *within child* and *within environment* meanings, one of Warnock's aims.

To illustrate, it may be helpful to conceptualise how the practice of assessing a child's SENs has evolved as a matching process. On the one hand, we have a child with all his strengths and weaknesses, his previous learning and his inherent difficulties as a result of the process of development in all its causes and routes. On the other, we have the educational environment with its significant features; e.g. the curriculum taught and how it is accessed, the level of teacher support, the use of technological aids, the social setting etc. Many of these features are modifiable in principle and such modifications become the basis of special educational provision.

The essence of educational assessment is to achieve the optimum match between the two as they interact. Describing this interaction is no easy task, as Dewey (Dewey, 1902) realised.

“The fundamental factors in the educative process are an immature, undeveloped being; and certain social aims, meanings, values incarnate in the mature experience of the adult. The educative process is the due interaction of these forces. Such a conception of each in relation to the other as facilitates completest and freest interaction is the essence of educational theory.

But here comes the effort of thought. It is easier to see the conditions in their separateness, to insist upon one at the expense of the other, to make antagonists of them, than to discover a reality to which each belongs. (Seeing them as separate leads to)... a really serious practical problem — that of interaction — being transformed into an unreal, hence insoluble, theoretic problem.”

The force of the Warnock recommendations was an attempt to shift the

conceptualisation away from the *within child* side of the match to the *within environment* side. Part of the subsequent difficulty has arisen because the concept of needs can be, and very often is, used with a *within child* meaning as well as a *within environment* meaning. Consider the following statements that could be made about a particular child.

- Child needs to learn his sounds
- Child needs to be taught to read using phonics
- Child needs daily learning support
- Child's school needs additional learning support time

Although all of the above statements describe, in some sense, the child's needs, the first statement is clearly a *within child* need. As we move down through the statements, they shift their focus away from the child and towards the educational environment.

In fact, each of the above *needs-statements* can be labelled in a common sense, yet more unambiguous way. The first is commonly known as an educational *aim*, the second an educational *method*; the third for convenience will be called a statement of educational *provision*; and the fourth can be described as an educational *resource*. A complete assessment of SENs requires all of these elements. Thus, some difficulty in learning gives rise to special aims for the child. These aims require a teaching methodology in order to be realised. The school must make educational provision available to deliver the teaching methodology and finally, the school needs to have resources (staff and materials) which are deployed so as to make the provision available. The final term, resources, can be seen as a school need rather than a pupil need. The concept of *child needs*, therefore is a general term describing the overall match and consisting of aims, methods and provision - elements which are both *within child* and *within environment*. It therefore surely follows that the Warnock Report, by stating that the concept of needs marked a shift from *within child* to *within environment* was, at best, only partially correct.

The confusion over the use of the term *needs* goes deeper than this, however. There has been a tendency in the defining documents to imply that needs are synonymous with learning difficulty. For example, the Scottish legislation describes three types of special educational need – pronounced, specific and complex; three terms drawn from descriptions of *within child* learning difficulty. It does not make sense to imply, as the legislation does, that specific learning difficulties imply specific needs, pronounced learning difficulty implies pronounced needs and so on. A child with specific learning difficulties may require complex educational provision.

Further examples of this confusion may be cited. The first evaluation of the implementation of the Record of Needs (Thomson, Riddell and Dyer, 1989) used *within child* definitions to organise the data – for example “Needs arising from hearing difficulties”, “Needs arising from language impairment” etc. In so doing, they were no doubt reflecting the professional practice in the field at that time. However, the practice persists in H.M.I. reports which describe “Pupils with physical needs” (HMI, 2000), which really means, “Pupils with physical difficulties”.

The purposes of the various sections of Records of Needs cause confusion. Current Scottish Office advice on assessment for Records of Needs, circular 4/96, (Scottish Office, 1996) gives insufficient guidance regarding how the required contents of Section IV (Statement of Special Educational Needs) relates to the other sections.

IMPLICATIONS FOR PRACTICE OF BOTH SIDES OF NEEDS

There are a number of ways in which difficulties can result from confusion over the interpretation of needs. For example, the ambiguity regarding whether needs are

about children or about resources has led to conflict between the professionals with a central role in the assessment process and the managers and budget-holders of local authority education services. Managers were unhappy with needs statements made by professionals which appeared to pre-empt their decision making. They believed professionals were exceeding their brief by making recommendations which strayed into resource questions. However, an understanding of the various elements of needs as described above may help to clarify professional boundaries. The assessing professionals' remit extends from assessing learning difficulty to suggesting aims, methods and provision. However, it is the remit of the managers to decide how to deploy resources in order to make provision available. It follows that there is an overlap of responsibility regarding statements of provision - it is the point of communication between assessors of needs and the managers of provision. In order to make this communication as fruitful as possible, it is very helpful if a common language is used by all assessors and managers in an authority regarding provision-statements. In turn this itself requires some organising framework.

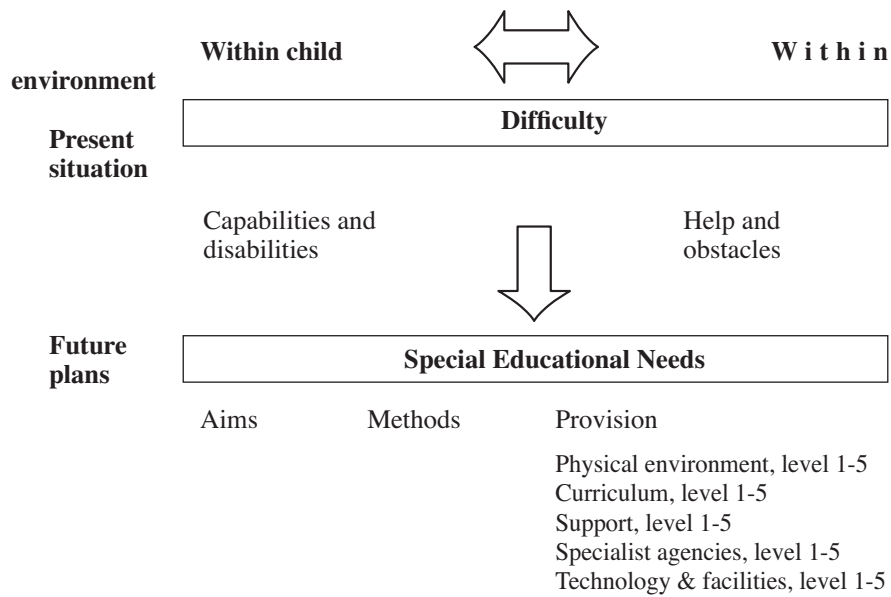
The earliest attempt to establish a framework of provision-statements was developed in London (Inner London Education Authority, 1985) and further elaborated by that report's principal author (Fish, 1989). This framework made a distinction between dimensions and levels of special educational provision. Sixteen dimensions were identified by Fish, the main ones being:

- physical environment.
- curriculum taught and how it is accessed,
- level of teacher support
- use of technological aids
- involvement of specialised support agencies

The Fish framework has been simplified and recommended for use within the Scottish Record of Needs process (Thomson, Stewart and Ward, 1996). The Thomson model is a matrix comprising six dimensions, the first five of which are listed above². For each dimension there is a scale of five levels. Level 1 describes how that dimension is manifest in a mainstream class, with no special modifications. Level 2 dimensions describe a minimal modification to the general provision and so on through to level 5 which describes the most extreme deviation from mainstream provision available to children in that local authority. Many local authorities have developed this idea by creating *item banks* consisting of all the provision-statements which experience has shown to be necessary to be able to describe the needs of all children in their area. In practice of course, there may not be exactly five levels for each dimension and the various provision statements may not be easily categorised into levels representing equivalent degrees of intervention. Nevertheless, in working out such a system at local authority level, the SEN community in that area is enabled to develop the common language and understanding which is necessary for fruitful multi-professional working.

The argument so far can be represented by Figure 1. It attempts to encapsulate the entirety of what must be described in any comprehensive assessment of special educational needs. In the remainder of this article, the term *needs* will be used to refer to this combination of aims, methods and provision.

Figure 1



CATEGORIES OF HANDICAP VS. CATEGORIES OF PROVISION

The conceptualisation of needs, based on the framework outlined above, allows some purchase to be made on a second problematic consequence of Warnock's proposals.

It will be recalled that the Warnock report recommended the abolition of *categories of handicap*. This suggestion was welcomed by those in the SEN community who were keen to see the removal of stigmatising labels. However, the move was not entirely successful. As has been noted above, professionals working in SEN found difficulty in relinquishing their familiar categories of handicap, often merely using the word need in place of handicap or learning difficulty. A coherent alternative structure has not been easy to discern. However, perhaps it is reasonable and logical to suppose that, if the intention is to transform the system from one based on handicap to one based on need, then any categorisation necessary might be based on categories of provision. Why has this not happened to any degree?

Perhaps the reason is that categorisation as a practice came to have, pre-Warnock, mainly pejorative connotations, linking it with labelling - a practice which highlights *within child* difficulty and is potentially stigmatising. Following the Education Act, which abolished categories of handicap, it could be argued that it was the idea of *categories* which disappeared but that the idea of *handicap* survived with a modified terminology. However, by rehabilitating the idea of categories, but applying them to provision rather than children, the way is open for local education authorities to manage their provision in a more transparent and accountable way.

Since 1993, the City of Coventry has been developing this idea (Muncey and Palmer, 1995). More recently, one education department in Scotland has categorised all of the special provision under its management. The author is employed by this Council and has assisted with this process.

Dundee is a medium-sized city authority with a number of *resourced locations*. These are schools which contain educational provision beyond that available in schools generally in the city. There is one special school catering for a wide range of needs, numerous resources attached to particular mainstream schools and a number of off-site units. Although the heads of the schools hosting the resourced locations

are responsible for day-to-day management of the location, access to them is through the central management of the authority. All mainstream schools also have a support for learning resource, deployed on the basis of school roll, adjusted using a socio-economic indicator. Access to this latter resource for pupils with lower level needs is at the discretion of the school management.

Each resourced location, as well as mainstream support for learning, has a descriptor which describes the provision made available in that location. All the descriptors have a common format; they use the dimensions and levels of need from the Thomson matrix to create a number of descriptive statements. The makeup of these descriptors was arrived at through discussion between the authority officers and the senior teachers of the host schools. However, there was a sufficiently strong central direction to ensure that:

- locations catering for similar needs do make similar provision, which is described, in the same terms
- locations catering for different needs are clearly differentiated through the critical dimensions of the descriptors
- the descriptor statements link unambiguously to items in the item bank from which assessors draw to describe children's needs.

The result of this process is a catalogue of resourced locations, which at the time of writing, ran to 23 descriptors, applied variously to 30 out of the 50 schools in the city.

Parallel discussions with the Educational Psychology Service resulted in an agreed item bank of provision statements which could be drawn on by educational psychologists to describe the needs of individual children. These were also based on the same set of dimensions and levels

This infrastructure, comprising an item bank of provision statements used to describe children's' needs and a catalogue of locations described in complementary terms, is available to all professionals in the authority and enables a match between child and resource to be achieved. Once each child's assessment of needs has been agreed with their parents, the authority can use the descriptors to establish a match between needs and resource availability or places within resourced locations.

Furthermore, the idea of match between needs and resources can be applied at the authority level as well as at the level of the individual child. A database of SENs is used to record the outcomes of individual assessments. The first field contains a code standing for the type of resourced location that the assessment concluded was the best fit for the child. The second field contains the corresponding code for the resourced location, if any, which is actually provided. In most cases they should be the same. However, in cases where the match is not sufficiently close, a third field is checked to indicate a discrepancy between needs and location.

The organisation of data in this way allows an audit of need across the whole city to be completed. Geographical areas and development of patterns through the year groups can be plotted and fed into policy and planning. The education department can subsequently identify gaps in provision and consult with professional and parent groups about adding to its catalogue of resourced locations. Obtaining agreement about proposals in a democratic manner is a far from easy task but a framework such as the one described here contributes to making it more manageable.

Of considerable significance is the use that can be made of the discrepancy field. It can be used to highlight areas of need where there might be shortfall or inappropriateness of provision. The discrepancy rate can be used as an ongoing performance indicator of the effectiveness of the authority's special education system as a whole. At present, in Scotland, the only performance indicator in the field of

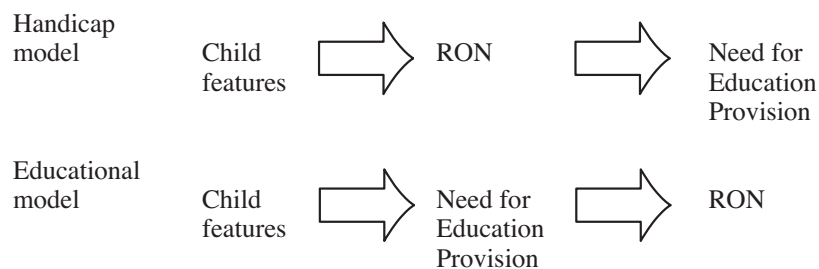
SENs is the time taken to complete a Record of Needs. While it is undoubtedly correct that parents and children should not experience undue delays in receiving relevant papers, it is surely the case that the core indicator of the performance of the system is the degree to which the authority, as a whole, matches the special needs of the population to the special provision it has determined to make.

While recognising the impetus for minimising labelling, it is the contention of this paper that categorisation can be usefully and ethically applied to educational provision. It might be argued that there remains the potential to use categories of provision in a way that effectively labels children in a new way. However, this need not necessarily occur if assessment is carried out by matching the individuality of the child to the various categories of educational provision that a local authority has to offer. Categories of provision, whether implicit or explicit, reflect the way the educational world is divided in many (but perhaps not all) local authorities and thus relate directly to the practical choices which schools and authorities must make in order to make the most effective and efficient deployment of resources. By making these categories explicit, the system can be rendered more transparent and accountable.

CRITERIA FOR OPENING RECORDS OF NEEDS

The most prominent aspect of current legislation is that of the Records of Needs – a process which involves selecting a group of children to be recorded. The consequence of the unresolved issue of whether needs are about the child or the provision has led to parallel confusion regarding the criteria for opening Records – should the criteria for recording be based on within-child or within-provision considerations. It is clear that selecting children on the basis of within-child factors such as severity of learning difficulty effectively maintains the discredited handicap model. What is not so clear is what the implications are of making recording dependent on provision (the educational model). The Scottish Office commissioned research on this issue (Thomson, 1996) which came down in favour of the educational model. That is, Records of Needs would be opened for children whose need for provision was beyond that normally available in mainstream schools in their locality. It may clarify the distinction being made here to express it figuratively as follows:

Figure 2



Adopting the educational model helps local authorities to develop some clarity in their approach. However, it gives rise to a number of further issues to be faced.

- 1 Thomson's research did not extend to recommending how authorities were to establish which children had needs which called for resources beyond those normally available – and hence, appropriate for recording.
- 2 It should be remembered that, in Scotland, local authorities have discretion in the deployment of resources to schools. A resource for the purpose of serving

needs which may be normally available in all mainstream schools in one authority may be concentrated in a small number of schools in a neighbouring authority. There may be good grounds on the basis of effectiveness and efficiency why this should be so. It follows that a child moving between these two hypothetical authorities would be eligible for recording in one authority but not the other. Therefore, there can be no national criteria for recording needs.

- 3 There are consequent difficulties for any system of appeals. Currently, HMI's with a background in special education advise the Secretary of State on appeals from parents against refusal by a local authority to open a Record of Needs. It is not clear whether these appeals are treated on a within-child basis (which would be required in order to establish national criteria) or a within-provision basis (which would need to pay heed to local criteria).
- 4 A further difficulty that may arise was signalled by the Scottish Office in a note of concern inserted into the Interchange document used to disseminate the Thomson research. A fear was implied that local authorities might use the freedom to record by provision, not on the basis of *provision needed* but on *provision delivered*. If this happened, authorities would be circumventing their obligations and neutralising the protection for children which was the intention of the Record of Needs in the first place.

Local authorities might respond to this challenge by stating that they would be only too pleased to Record by need if only they had sufficient resources to do so - resources which are controlled by central government. The conflict over resources is at the heart of many of the critiques of the current legislation (Warnock, 1993)

It is difficult to conceive how this conflict can be resolved while individual needs remain the organising concept. This is because the assessment of each child does so without, as far as the legislation is concerned, taking into account the overall levels of resource available in the local context.

- 5 The final difficulty to be raised here involves the way in which we use the word *needs* to imply a potential benefit. We need something because, in getting it, a benefit is obtained. What benefit accrues to a child as a result of special education provision? There is no doubt that it is valued by many children, their parents and by society at large. However, obtaining evidence for additional gains in outcomes for special education over mainstream education is another matter. In fact, there is very little evidence of benefits of this sort (Department for Education and Employment, 1998). If benefit is difficult to prove for a particular provision, how is it possible to say that a child needs it? (for further discussion of this point, see Gavine, 1985). However, the government's target-setting initiative does potentially provide a mechanism for demonstrating benefit in the future.

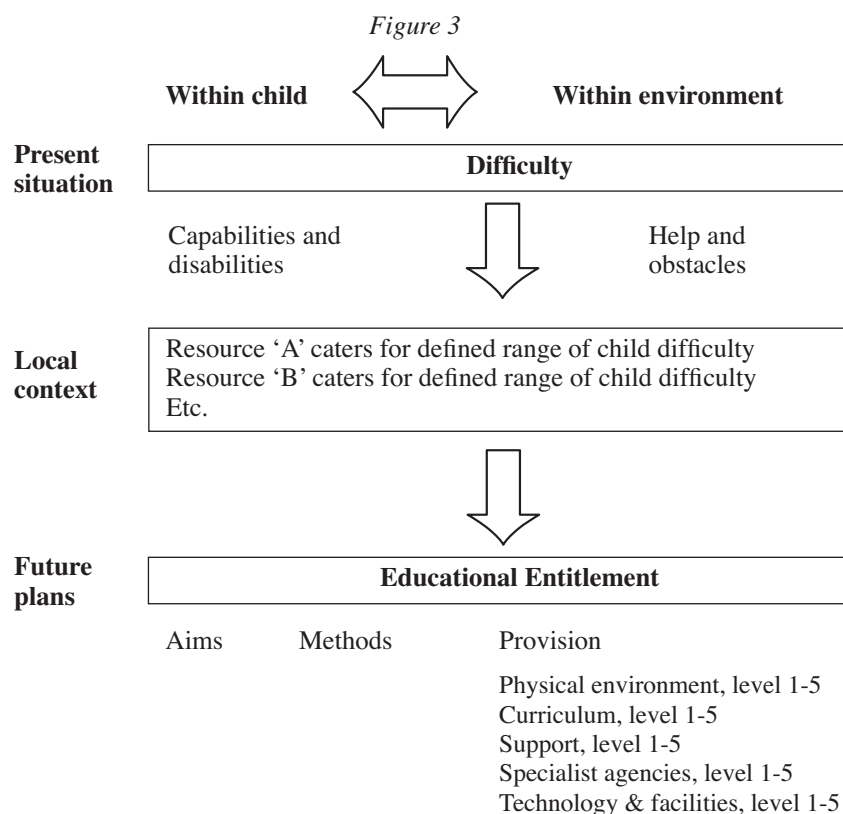
It has been suggested (ASPEP, 1998) that some of these issues may be resolved if we consider that the concept of *needs* can be replaced with that of *entitlement*. This would mean that a child is entitled to a particular type of resource if other children with similar difficulty have been deemed to be entitled to it. The remainder of this section examines this proposal.

- 1 In contrast to needs, the concept of entitlement is a normative one – the merit of an individual child's case is established by comparison with other children. This distinguishes it from common-sense understanding of individual needs,

which are just that – individual and established without reference to any other children. Interpretation of needs in this normative way would be useful to local authorities that have to operate policies for children that are fair to all. In order to safeguard children’s rights they would be obliged to demonstrate that their assessment of a particular child’s entitlement is competent (by having an assessment system which conforms to accepted practice) and fair (that the child under consideration is being treated similarly to other similar children in the authority). Such a system could operate against the background of current legislation that obliges authorities to make available adequate special educational provision. Adequacy has both a qualitative and quantitative aspect. The *quantity* of provision which is deemed adequate is a political and economic question which is effectively answered by the level of grant given to local authorities for this purpose: while the *quality* of provision is currently subject to an increasing number of quality control measures.

- 2 Decisions about entitlement would be able to operate against the background of local policy and practice. The needs of individual children would be judged in relation to the range of responses that an authority has at its disposal. Conversely, allowing individual recorded needs to determine the provision for each child can lead to a fragmented and inefficient use of resources. (Warnock, 1993).
- 3 The use of entitlement deals with the Scottish Office reservations to the Thomson report cited above. A child would be entitled to a provision if his difficulties and circumstances were similar to those children for whom the authority already makes available a particular provision. This entitlement would exist whether or not the authority has the capacity to fulfil its obligation at that time.
- 4 The appeals system could be revised and streamlined. For example, the national component could be confined to examining that an authority’s assessment system was operated competently and fairly but would not rule on entitlement in individual cases which could be left to authority level processes, perhaps similar to placing request appeals.
- 5 The concept of entitlement, unlike needs, is not connected to the idea of benefit. A child can be entitled to something even if its benefits are unclear. This should not be taken to imply that the issue of benefit is unimportant. Rather that it might be best addressed through other means; for example, target-setting.

To summarise – the shift from a *needs* based model to an *entitlement* based one represents a shift from a system wherein decisions are made about individuals, apparently without recourse to any consideration of local circumstances to one where it is explicitly recognised that the allocation of educational provision takes place in the best interests of the child but acting within a context. At present the context is both national, in terms of setting a limit on the quantity of provision; and local in regard to how the provision is deployed to ensure efficiency and effectiveness. These considerations allow our diagrammatic representation to be modified as follows.



SENS WHICH ARE NOT RECORDED

One of the most telling critiques of the post-Warnock legislation has been that the recording and statementing procedures take up too much attention and consumes too much of the available SEN resources. This was in direct opposition to the stated intention of the Warnock report, which had the aim of broadening the application of special education to up to 20% of the population. In England and Wales, all schools and local authorities follow a Code of Practice (Department for Education, 1994). A central component of best practice is the idea of stages of assessment and intervention for SENs. Stage 1 represents the level of assessment and intervention that can be achieved by a class teacher working alone. Stage 2 assessment and intervention requires school's support-for-learning staff to contribute. Stage 3 requires a multidisciplinary response and the drawing up of an Individual Education Plan and higher levels cause the assessment to enter the statementing process (these stages are under review in England at present). The system of staged assessment and intervention is a useful response to the contradictory pressures of statementing a tiny number of children and also requiring the system to be responsive to the much larger number of children who have special educational needs.³

NEW LEGISLATION?

At the time of writing, the Scottish Parliament and Executive are examining the need for further legislation in the area of special education. The continued existence of the Record of Needs has again been called into question and the executive is reported to be listening to these calls, particularly the arguments related to what is seen as the excessive bureaucracy of current procedures (Times Educational Supplement

Scotland, 2000). An early contributor to the debate has been the body representing Scotland's Principal Educational Psychologists (Association of Scottish Principal Educational Psychologists, 1999). In arguing the case for new legislation, they assert that much of the procedure introduced by the 1980 Act has been overtaken by best-practice and by developments in society such as the Children (Scotland) Act. The author is in sympathy with these sentiments, but with two caveats.

The first caveat concerns the role of legislation. It could be argued that one of the reasons for the continuing difficulties with the current legislation and also the reason that it is necessary to continue to analyse the detail of the Warnock report more than 20 years after its publication, is precisely because an over-prescriptive piece of legislation was enacted, based on the details of a report. New legislation can be disruptive. It can cause planning blight; it can destroy or undermine professionals' confidence in existing procedures and it is costly to re-educate professionals. If the legislation is detailed, it will take longer to come to fruition and will more likely be out-of-date by the time it is enacted. The tradition of Scottish educational development is dissemination, encouragement and support with guidelines rather than legislation. The legislators departed from this practice in 1980. It has thus been more difficult to adapt the system according to changing understandings and requirements.

The second caveat concerns the fate of the Record of Needs. There will continue to be a need for local authorities to take an overview of the most needy children's educational provision and some form of documentation system will continue to be required for this process. Simply abolishing the Record runs the risk of creating a policy and practice vacuum unless authorities have an infrastructure which allows assessments and entitlements to be properly processed. Practice in this area should be improved and perhaps be brought under a national framework. Legislation itself cannot achieve this. Development of practice requires a great deal of work 'on the ground' with authorities and professionals communicating with each other and with parents, working towards a common understanding of the enterprise in which they are jointly engaged

CONCLUSION

The special needs legislation that followed the Warnock report was partially successful in changing the focus towards the educational environment. However, due to its inherent weaknesses and also to subsequent developments in the socio-political climate, current legislation and practice is in need of an overhaul. New legislation in the field of special education would benefit from being simple and enabling, with emphasis given to assisting local authorities to develop special education planning, resourcing and allocation systems which are effective, efficient, transparent and fair.

NOTES

- 1 The term *environment* refers to the educational, i.e. school, environment.
- 2 The sixth dimension, "Mode of Communication" has a different structure and is only needed in a minority of cases.
- 3 These stages of assessment and intervention should not be confused with the stages of assessment in the EPSN document (HM Inspectors of Schools, 1994). The latter describes the series of steps necessary to carry out an assessment for a Record of Needs.

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