Research Report No 248

Decision-Making and Provision within the Framework of the SEN Code of Practice

Alan Dyson & Alan Millward
with
Deanne Crowther, John Elliott and Ian Hall

Special Needs Research Centre
University of Newcastle

Acknowledgements

Contents

Deleted: -

Decision-Making and Provision within the Framework of the SEN Code of Practice (1994 or 2001)

Executive Summary

1. The project

This report presents the findings of a research project commissioned by the DfEE and undertaken by the Special Needs Research Centre in the Department of Education, University of Newcastle upon Tyne. The research took place over the period April 1999 – March 2000 and formed part of the DfEE's review of the *Code of Practice on the Identification and Assessment of Special Educational Needs* ('the 1994 Code') (DFE, 1994). This has subsequently led to the production of a draft revision of the Code (DfES, 2001).

The project had three broad aims:

- to examine the threshold criteria currently being used by schools and Local Education Authorities (LEAs) for placing pupils at stages 2 and above of the Code of Practice (1994);

- to establish the range of provision being made for pupils with similar needs at each of the stages;

- to use the data from 1 and 2 to inform the development of draft guidance on threshold criteria and appropriate forms of action within the framework of the Code of Practice (2001).

To address these aims it was necessary to pursue two agendas, firstly to collect appropriate data by following a traditional research brief and secondly to engage in a development process to generate the actual threshold criteria.

The investigation that is reported here was conducted over a series of phases:

Phase 1: A national questionnaire survey of LEAs to elicit information on the nature and extent of guidance available to schools.

Phase 2: Interviews with key informants to elicit the detail regarding the operation of the 1994 Code in a sample of LEAs identified from phase 1.

Phase 3: Case studies in effective practice schools identified by the LEAs from phase 2 to establish how the mechanics of the school-based stages operated, supplemented by interviews with specialist LEA support service personnel to elicit additional information on provision for pupils with low-incidence special educational needs (SEN).

Phase 4: A series of workshops for professionals and parents held in regional centres, together with other development activities to field test emerging ideas and models of what might constitute appropriate guidance.

Phase 5: Consultation on the draft guidance with a reference group representing a wide range of experience in the field of SEN.

2. LEA criteria

Almost all LEAs had produced guidance of some sort relating to the operation of the 1994 Code's staged procedures and some had produced detailed and explicit criteria, particularly for the stage 4 threshold. However, these tended to be specified less in terms of pupils' characteristics and difficulties alone, than in terms of a complex mixture of pupils' attainments and rates of progress, action to be taken by schools and evidence to be provided by schools. Moreover, even the most explicit sets of criteria required that judgements be made about the weighting of different pieces of evidence in different cases. Such criteria, therefore, do not make it possible for placement at a particular stage or particular forms and levels of provision to be 'read off' from pupils' characteristics. At best, they encourage a full and sensitive situational analysis of the child's difficulties. They are, however less clear and transparent than they might initially appear to be. They also tend to function as mechanisms for setting 'cut off' points to pupils' assessment and provision rather than as means of offering them guarantees.

3. LEA interviews

Interviews with senior LEA officers revealed considerable variation between LEAs as to how the 1994 Code's staged procedures were interpreted and operated. This means that the local context created by LEA policy and practice outweighs to some extent the national framework established by the 1994 Code.

However, three broad LEA approaches emerged. LEAs can:

- delegate resources and responsibilities to schools within high-quality decision-making structures;

- manage the decision-making process by formulating explicit criteria and standard practices (e.g. in the allocation of resources);

- retain control of the key elements of decision-making and resourcing themselves without standardising or explicating their practices.

It is also evident that the LEA has somewhat contradictory roles within the 1994 Code – identifying and meeting need on the one hand, and controlling access to resources for meeting need on the other. In broad terms, LEAs manage this dilemma by dividing the identification and provision role from the controlling role and allocating the former very largely to schools. There is a tendency in each of the LEAs for the school to identify pupils with SEN and to make a case to the LEA (or its services) for additional resources to meet those needs. This means that it is the task of the LEA to receive and filter those requests and, in so doing, to control access to resources.

This pattern can be highly effective in meeting pupils' SEN, provided that schools make wise decisions and/or that LEAs monitor their decisions carefully. However, the danger is that, if LEAs were to focus on the controlling role too exclusively at the same time as schools had poor identification procedures and ineffective forms of provision, many children's SEN might not be met.

4. The SENCO interviews

Interviews with special educational needs co-ordinators (SENCOs) revealed considerable variation in decision-making and provision at school level. However, it is possible to identify an underlying approach which holds well across different school contexts:

- Decision-making is based less on explicit criteria than on broad notions of teacher concern about lack of progress.

- These 'broad notions' apply across the 1994 Code stages, with a cumulative growth of concern as pupils experience difficulties for longer and interventions prove unsuccessful through successive stages.

- Provision at each stage constitutes a (possibly limited) enhancement of what has already been provided at the previous stage.

This pattern is in line with the 1994 Code's recommendations, and may be effective in meeting pupils' needs. However, it indicates an essentially reactive approach that depends on evidence becoming available of pupil failure. This failure is then responded to by an enhancement of provision which may be relatively small-scale and which is increased only if that in turn fails.

The approach also gives rise to other concerns:
- There is little evidence of clear and explicit criteria to guide SENCOs' decision-making.
- The respective approaches of schools and LEAs seem to create a contest between them over the control of resources
- SEN provision seems to be somewhat formulaic, despite rhetoric of individualisation; it is not clear how closely provision is tailored to meet individual need.

5. An emerging framework

The level of local variation suggests that tightly prescriptive national guidance on the operation of the 1994 Code's staged procedures would not currently be viable. Neither would guidance based closely on the stages, given that these stages are interpreted very differently in different contexts.

However, it was possible to identify four broad 'areas' in which provision is commonly made, and within each of which it could be enhanced and intensified. They were:
- Assessment and planning
- Grouping for teaching purposes
- Human resources
- Curriculum and teaching methods

In trialing this framework with schools, they found it relatively straightforward to locate all of their provision for pupils with SEN under one or other of these broad headings and to set out how they might enhance each area to meet increasing levels of need. However, even within this framework, the sorts of special needs provision routinely identified by schools and LEAs takes for granted a much more substantial

body of provision to which it is itself simply an addition. An important principle in specifying thresholds and levels of special educational needs provision, therefore, is that it has to be accompanied by a consideration of how 'ordinary' teaching and provision might complement anything additional that is provided for pupils or, indeed, might be extended so that additional provision becomes unnecessary. In this respect, the statement on inclusion in the National Curriculum 2000 documentation seems to be particularly helpful.

6. Underlying issues

A series of issues relating to the 1994 Code's staged procedures emerge from this study. They are:

- The 1994 Code has successfully established common terminology and, to a certain extent, common procedures across schools and LEAs. It may well have resulted in pupils' needs being met more effectively than would otherwise be the case.

- However, the 1994 Code has *not* established common practices, common forms and levels of provision or common understandings about levels of SEN. It does not, therefore, offer guarantees of equitable treatment.

- The 1994 Code's approach to ensuring consistency and equity has been to try to bring about some procedural consistency across schools and LEAs through the staged procedure. These procedures offer opportunities for practices to arise, which have little to do with meeting pupils' needs, but are concerned, particularly, with contests around resourcing.

- The *procedural* approach of the 1994 Code means that it can appear to be working effectively whilst underlying *educational* issues are left unaddressed. What results is a sort of 'semi-detached' form of special needs provision – semi-detached, that is, both from the 'ordinary' provision being made in mainstream classrooms and from any thorough appraisal of pupils' educational needs.

Any further development of the 1994 Code or guidance related to it, therefore, should be concerned with the *educational* principles of special needs provision as well as with *procedural* issues. In other words, it has to be concerned with *how* pupils are taught, with how effective provision can be developed - in the context of mainstream schools and classrooms for most pupils - and with how the progress of pupils with special educational needs can be ensured. In the light of these comments, the draft

revision of the Code and the guidance on thresholds to which this investigation contributed seem like a step in the right direction. In the event, further to consultation on the draft Code of Practice and the guidance on thresholds in June 2000, the DfES decided to incorporate some of the essentials of this work into the Special Educational Needs Code of Practice 2001 and the SEN Toolkit 2001.

1. INTRODUCTION

This report presents the findings of a research project commissioned by the DfEE and undertaken by the Special Needs Research Centre in the Department of Education, University of Newcastle upon Tyne. The research took place over the period April 1999 – March 2000 and formed part of the DfEE's review of the *Code of Practice on the Identification and Assessment of Special Educational Needs* ('the 1994 Code') (DFE, 1994). Such a review had been signalled in the special educational needs (SEN) Green Paper (DfEE, 1997), the Programme of Action (DfEE, 1998) and has subsequently led to the production of the Special Educational Needs Code of Practice 2001 and the SEN Toolkit 2001.

1.1 Background

The Code of Practice 1994 sets out practical guidance to schools and local education authorities (LEAs) on their responsibilities towards children with special educational needs (SEN). In particular, the Code of Practice 1994 seeks to establish a clear and consistent set of procedures for identifying, assessing and meeting SEN in the form of a 'staged' model. Office for Standards in Education (Ofsted) evaluations of the impact of the Code of Practice 1994 suggested that this model was indeed beginning to produce the desired clarity and hence to improve provision for pupils with SEN (Ofsted, 1996, 1997, 1999). However, a number of problems remained, including:

- considerable variation between schools in the criteria used for placing pupils at stages 1 – 3 of the Code of Practice 1994;
- mismatch between school-produced and LEA-recommended criteria for placing pupils at the stages of the Code of Practice 1994, with particular problems at stage 3;
- lack of availability of specialist support at stage 3 in some LEAs, leading to the absence of any distinctive features of that stage and an increased pressure for referral at stage 4;
- persistent problems in the management of Individual Education Plans (IEPs) related, in part, to the numbers of pupils placed at stage 2 and above; and

- a tendency in some schools to use the individualised strategies of the Code of Practice 1994 in isolation from basic school approaches to discipline or literacy (particularly the Literacy Hour).

To these problems can be added the considerable variations between LEAs as to the proportions of pupils who receive statements (DfEE, 1999). Moreover, other research has identified a further series of issues: the frequency of disputes between schools, LEAs and parents as to whether particular children should receive statements and what level of provision they should receive; the sense in some quarters that identification and assessment are resource-led rather than needs-led; the rise in the number of children identified as having SEN and the constant upward pressure on statements; and the wide variations in the forms of provision made by schools for pupils at the same stage (see, for instance, Croll & Moses, 2000, for a recent systematic review of the situation in primary schools). What is apparent, therefore, is that, although the Code of Practice 1994 has produced a more orderly situation in schools' special needs provision, it has by no means created a situation where procedures and provision are entirely transparent or consistent across the country.

Part of the reason for this is that the Code of Practice 1994, whilst offering considerable *procedural* guidance, had less to say about how particular patterns and levels of SEN are to be matched either to placement on the stages or to the provision that is to be made at each of those stages. This has the advantage of leaving considerable scope for decisions to be made locally in the light of individual circumstances, but makes it correspondingly less likely that those decisions will be comparable in similar cases across different schools and LEAs. This inevitably raises issues to do with the equity of the decisions that are made and the effectiveness and efficiency of widely different decisions made in similar cases.

In response to this situation, therefore, the Government announced its intention to issue additional guidance to accompany the proposed revision of the Code of Practice 1994. The guidance was to have two principal foci:
- to establish *thresholds* to be used by schools and LEAs in taking different forms of action (i.e. *School Action*, *School Action Plus*, statutory assessment and the

issuing of a statement) - as envisaged in the consultation draft of the Code of Practice 2001*;*

- to provide advice on the range of provision that was deemed acceptable in meeting different levels of SEN.

By issuing such guidance, it was anticipated that many of the concerns regarding the operation of the Code of Practice 1994 would be addressed and that there would be greater transparency in the ways that schools and LEAs operated.

It was in this context that the investigation that is reported here was commissioned by the DfEE.

1.2 Aims of the project

The project had three broad aims:

1. to examine the threshold criteria currently being used by schools and LEAs for placing pupils at stages 2 and above of the Code of Practice 1994;

2. to establish the range of provision being made for pupils with similar needs at each of the stages;

3. to use the data from 1 and 2 to inform the development of draft guidance on threshold criteria and appropriate forms of action within the framework of the SEN Code of Practice 2001.

It is important to note that, in the light of these aims, this was both a research and a development project. The research aspect was concerned with mapping current practice; the development aspect was concerned with producing guidance which would indicate desirable practice in a way that schools, LEAs and other stakeholders would find useful and usable. In the event, there was considerable overlap between these two aspects. On the one hand, the mapping of current practice tended to be pursued in ways, and only to the extent that it informed the development of the guidance; on the other hand, development activities frequently generated further evidence on current practice.

Moreover, the aims of the project also determined its scope. The guidance was designed to accompany the 2001 Code in which *School Action* and *School Action Plus* are approximately equivalent to stages 2 and 3 in the 1994 Code but where there is no

equivalent to stage 1. We made no attempt, therefore, to map decision-making or provision at stage 1. Similarly, the guidance is concerned with the *thresholds* at which *School Action*, *School Action Plus* and statutory assessment become appropriate. We made no attempt, therefore, to map the range of SEN or provision to meet that need *beyond* the statutory assessment threshold – in other words, the more severe forms of SEN. This also meant that we were able to focus on decision-making and provision in mainstream rather than special schools. Finally, our principal concern was with the detail of decision-making and provision at the various stages of the 1994 Code. We did not, therefore, attempt systematically to investigate the pattern and overall coherence of special needs policy and practice in particular schools and LEAs.

The findings from this project are of considerable interest and it is for this reason that they are now being placed in the public domain. However, the limits of the investigation should be borne in mind and they should be treated as *indicative* of the principal features of, and key issues within, current practice. They do not claim to represent an exhaustive and systematically-researched account of that practice.

This report details the research strategy employed in the course of completing the project, presents an analysis of the data and discusses a number of issues and themes which emerged in the course of the investigation. The draft guidance itself was used by DfEE in the production of the draft *SEN Thresholds* document issued for consultation alongside the draft revised Code (DfEE, 2000).

1.3 Methods

The investigation that is reported here was conducted over a series of phases:

Phase 1: A national questionnaire survey of LEAs to elicit information on the nature and extent of guidance available to schools.

Phase 2: Interviews with key informants to elicit the detail regarding the operation of the 1994 *Code* in a sample of LEAs identified from phase 1.

Phase 3: Case studies in effective practice schools identified by the LEAs from phase 2 to establish how the mechanics of the school-based stages operated, supplemented by interviews with specialist LEA support service personnel to elicit additional information on provision for pupils with low-incidence special educational needs;.

Phase 4: A series of workshops for professionals and parents held in regional centres together with other development activities to field test emerging ideas and models of what might constitute appropriate guidance.

Phase 5: Consultation on the draft guidance with a reference group representing a wide range of experience in the field of special educational needs.

The remainder of this report presents the findings from each phase of the investigation in turn. Chapter 2 reports the survey of LEAs (phase 1). Chapter 3 reports the interviews with LEA officers in phase 2. Chapter 4 reports the school case studies from phase 3. Chapter 5 reports the outcomes of the interviews with specialists in phase 3 and the developmental activities undertaken in phases 4 and 5.

2. THE LEA SURVEY

Although there have been recent changes in their role, LEAs continue to have a crucial part to play in the management of special educational needs provision. In particular, they have a significant impact on decision-making with regard to placing children on the stages of the 1994 Code and the provision made at each stage. They can make this impact in three ways:

- *through direct control*, notably at stages 4 and 5 where decisions about placement and provision are in the hands of the LEA;

- *through guidance* intended to inform schools' decisions at the 'school-based' stages of the 1994 Code (i.e. stages 1-3)

- *through creating a context for schools' decision-making* in terms of:
- arrangements for access to support services at stage 3;
- the delegation of funding to schools for pupils with SEN; and
- the use of places in special schools and in specially-resourced mainstream schools.

The impact of some of these factors is obvious and straightforward. For instance, in an authority which has traditionally issued a large number of statements, a greater proportion of pupils will be at stages 4 and 5 than in an authority where fewer statements have been issued. In other cases, the impact might be more subtle and uncertain. In an authority with easily-accessed special needs support services, more pupils *might* be at stage 3 than in an authority where resources had been delegated to schools and there were few central support services. Similarly, in an authority with a large number of specially-resourced mainstream schools and/or a high level of delegation to schools, more pupils *might* have their needs met at the school-based stages than in authorities with less delegation or a more traditional pattern of special schooling.

It was therefore important to investigate the nature and impact of the LEA context on decision-making and provision. We began this exploration in two ways:

1. We devised a brief questionnaire to identify key features of LEAs' SEN policies that were likely to impact on decision-making and provision. These included patterns of special schools and resourced mainstream schools, levels of statements, and levels of delegation (see Appendix 1). We sent the questionnaire

to all Chief Education Officers (CEOs) with a covering letter explaining the nature of the Project and a request that the questionnaire be completed by a senior officer with detailed knowledge of the LEA's special education policy.

2. We also requested CEOs (or their nominated officers) to provide us with a copy of any LEA documentation relating to placement and provision on the 1994 Code stages – particularly criteria for statutory assessments and guidance documents produced for schools.

2.1 Response rate

In total 160 questionnaires and requests for information were dispatched. A follow-up letter was sent to those LEAs which had not responded to the initial request, followed by a telephone call if no response was then forthcoming. As a result of this:

- A total of 118 questionnaires were received representing a response rate of 74%. This was in excess of that originally projected and suggested a considerable interest on the part of LEAs in the project.

- Of the 118 LEAs that returned questionnaires 91 (77%) provided copies of the guidance materials they had prepared.

- Of the 91 who sent copies of their materials for schools, the majority provided written criteria relating only to the process of statutory assessment at stages 4 and 5 of the 1994 Code. A small number of LEAs provided these criteria and also guidance on the school based stages.

2.2 LEA guidance: strategy for analysis

LEA criteria for statutory assessment were analysed by means of a simple matrix structure (see Appendix 2). The first dimension of the matrix was formed by eight 'types' of special educational need set out in DfEE's original research specification. The second dimension consisted of categories of criteria that were derived in the following way. A small sample (n=20) of the LEA criteria were analysed independently by three members of the research team and categories were derived inductively. These sets of categories were compared and a composite set of some 14 general categories was agreed, each of which was further sub-divided. For example, the general category of 'Achievement' was used to code all examples of where LEAs required any form of attainment information prior to a statutory assessment. This

category was then further sub-divided to take account of the different forms of attainment information that were required. In this case the most frequently occurring types of information which emerged were National Curriculum (NC) tests and centile rankings.

This matrix was then used to re-analyse the original sample of 20 criteria together with 30 further sets of criteria. Amendments (in the form of further sub-divisions) were made in response to this analysis. As this analysis progressed, stable patterns began to emerge which were not changed by the inclusion of new sets of criteria. The remaining sets of criteria, therefore, were reviewed in less detail to check that none of them embodied a significantly different approach.

2.3 LEA criteria – findings

General and specific criteria

Criteria fell into two broad types: 'general' criteria which applied to all forms of special educational need and 'specific' criteria which applied only to one type of special educational need. The majority of LEAs (58%) produced both general and specific criteria. About a third (34%) produced just specific criteria and 8% only produced general criteria.

Lack of progress

Where LEAs specified general criteria, the notion of 'failure to make progress' tended to be central. In a few cases, criteria specified a measure of (low) progress over time. For the most part, however, current low levels of performance acted as a proxy for lack of progress. LEAs adopted a range of practices in specifying criteria for lack of progress in this sense. For obvious reasons, it was easier to set measurable criteria in terms of academic attainment than in terms of, say, social and emotional development. In some cases, attainment 'cut-off' points were specified, either in terms of single curriculum areas - such as, "working at the 2nd centile in Maths" – or in terms of a number of curriculum areas – such as, "will have standardised scores in two or more of the following areas placing them below the second centile…". In other cases, the assessment of progress was more ipsative, in terms, for instance, of a failure to meet IEP targets or to make the progress anticipated by teachers or parents.

Commonly, LEAs also required evidence that low levels of progress had occurred despite appropriate action having been taken by schools to increase these levels.

Specific criteria

1. *General learning difficulty*. Lack of progress in academic areas was the most common criterion in respect of general learning difficulties (88% of the sampled set of criteria.). The most common indicator of lack of progress was performance in NC assessment tests (77%). Typically, LEAs would ask for evidence that a pupil's performance in these assessments was below the lowest level of the nationally-expected range for their age. The next most common indicator was in terms of age related norm referenced tests. Where LEAs used centiles, evidence of performance at or below the 2nd centile was the commonest cut-off point at the stage 4 threshold. Failure to meet IEP targets was a criterion set by 44% of the LEAs sampled.

2. *Specific learning difficulty*. The criteria for this type of difficulty were more complex than for general learning difficulty. However, at the core of these was again evidence of a 'lack of progress' in academic areas (80% of the criteria sampled). However, 'lack of progress' was linked to notions of 'discrepancy' with 56% of the criteria asking for evidence of achievement linked to some notion of 'potential', or evidence of an 'uneven profile of sub-skills' (40%) of the sample. Some 48% of the criteria sampled also asked for evidence of a 'failure to meet IEP targets' and 30% referred to 'teacher judgement'.

3. *Emotional and behavioural difficulties.* Not surprisingly, indicators of lack of progress for this population related more to personal and social development than to academic progress. Given the enormous difficulty in devising measurable indicators, a wide range of criteria was used by LEAs. The most frequently used indicator was the impact (usually the failure) of previous provision. Some 80% of the criteria sample demanded evidence of this type; this was usually linked to teacher judgement (40%) often mediated by the use of IEP reviews (54%). A similar percentage of the criteria (54%) also asked for evidence that parents were expressing a concern about lack of progress.

4. *Physical and medical difficulties.* The most common criterion in respect of these types of difficulty was difficulty in accessing the curriculum (74%). However, failure to make progress in the area of self-help skills was specified in (62%) of the criteria. Evidence of emotional problems and poorly-developed social skills was required in (44%) of the criteria sampled.

5. *Visual and hearing impairment.* For the purpose of this study, these two types of SEN are treated as one because of the very substantial overlap in the criteria specified by LEAs. Difficulties in accessing the curriculum was the most common criterion. This was specified by 70% of the criteria sampled in respect of visual impairment and by 64% in respect of hearing impairment. Although measurable levels of hearing loss and visual impairment were referred to in some sets of criteria, they tended to be seen as contextual information rather than as 'cut-off' points in their own right.

6. *Speech and language difficulties.* Delays in or failure to make progress in language functioning was the key requirement in this area of special educational need. Some 70% of the criteria sampled requiring evidence of this form.

7. *Autistic spectrum disorders.* There was surprisingly little detail in many of the criteria sampled for this area of special need. In fact only 34% of the criteria sampled had a separate section on autism. Most of these criteria (82%) made reference to relationship problems and, in particular the restriction of pupils' social interactions.

Stage 4 criteria and the decision to issue statements

Although LEA criteria are often referred to loosely as 'statementing criteria', those in our sample did not have this function. Rather, they were criteria for determining which pupils were and were not eligible for a statutory assessment at stage 4. The decision whether or not to issue a statement was dependent on the outcomes of the assessment and was not formally governed by written criteria – though in our interviews with LEA officers we were told that decisions were, in practice, guided by those criteria and we also encountered one LEA which claimed to be in the process of

producing explicit stage 5 criteria. However, meeting the criteria for a statutory assessment did not operate as a formal *guarantee* that a statement would be issued.

Indeed, *prima facie* evidence that a pupil met the written criteria for statutory assessment did not *in itself* always guarantee that a statutory assessment would follow. As some sets of criteria made clear and as our subsequent interviews confirmed, a case had to be made to a senior professional (such as an educational psychologist) or to a 'panel' in respect of each pupil who appeared to meet the criteria – the assumption being that some *prima facie* cases would not, in fact, proceed to assessment. In an important sense, therefore, many LEA criteria operate less as a means of guaranteeing interventions to particular pupils than as means of establishing cut-off points beyond which pupils will *not* be considered for such interventions.

Issues in LEA criteria

This last point raises issues about the nature and purpose of LEA criteria. In practice, they tended to be specified in terms of a complex mixture of pupils' attainments, rates of progress and difficulties, action taken by schools and evidence to be provided by schools. One typical set, for instance, demanded that schools should provide evidence that some or all of the following were the case:

- the school had taken appropriate action at stages 1 and 2 and had involved external professionals at stage 3;
- at least two stage 3 reviews had passed;
- parents had been involved appropriately;
- all the pupil's difficulties had been investigated appropriately and staff had been informed about them;
- the pupil's difficulties impaired their access to the curriculum, classroom activities and other aspects of school life;
- the pupil's difficulties called for provision not expected to be available in a mainstream school; and
- the pupils' performance fell below a series of specified cut-off levels in core curriculum areas.

It is apparent that criteria such as these relate both to pupils' *characteristics* (particularly their attainments) and to *procedures* (such as teaching interventions and the provision of adequate evidence) which schools are required to follow

11

appropriately. It is also apparent that judgements have to be made about the weighting of different pieces of evidence in different cases. It is not the case, therefore, that such criteria make it possible for placement at a particular stage or particular forms and levels of provision to be 'read off' from pupils' characteristics. Moreover, the mixed nature of LEA criteria means that there is often no hard and fast distinction between criteria *per se* and guidance as to appropriate procedures and practices. Some LEAs which did not have what we would regard as criteria have, in fact, produced very detailed procedural and other guidance, whilst the very detailed criteria documents produced by other LEAs also contain substantial elements of guidance ('Forestshire' and 'Glassborough' in the next chapter are good examples respectively of these two approaches).

The strength of such criteria is that they encourage a full and sensitive situational analysis of the child's difficulties, in line with the principles of the 1994 Code and, indeed, of the Warnock Report (DES, 1978). They do, however, have two weaknesses. First, they are far less clear and transparent than they might initially appear to be. In particular, they leave considerable scope for the exercise of professional judgement. Second, they interpose both that professional judgement and procedural considerations between the child's characteristics and any provision that might be made in response to those characteristics. They create the distinct possibility, therefore, that children who might benefit from statutory assessment and the additional provision to which it might lead could be denied access to it for reasons not related to their own difficulties.

When to this is added the function of criteria as mechanisms for excluding pupils from assessment and provision rather than for offering them guarantees, their ambiguous nature becomes clear. Certainly, they make it easier for LEAs to carry out their very necessary role of rationing access to inevitably limited resources (in the form of professional time demanded by assessment and any provision to which assessment might lead). They also enable LEAs to place some necessary pressure on schools to use their own resources to the full in meeting pupils' SEN. However, they are less effective than may appear to be the case in enabling pupils' genuine difficulties to be matched transparently and unequivocally to appropriate levels of provision. In our fieldwork in schools, we were told repeatedly that LEAs were

deliberately obstructing the access of pupils to provision which, in the school's opinion, they needed. Whether this is actually the case or not, LEA criteria offer an instrument which is well capable of serving this purpose should an LEA choose to use it in this way.

2.4 Questionnaire to LEAs: analysis and discussion

The questionnaire (Appendix 1) asked for general information about the LEA and also for specific details about the current level of statements, percentage of pupils in special schools and levels of delegation. This information was used for two purposes: to provide contextual background against which the nature of any guidance which had been issued might be understood, and to select a small, representative sample of LEAs for the next stage of the research. Given the considerable variation between LEAs in many aspects of policy, practice and context, the notion of a fully 'representative' sample is problematic. However, two aspects of LEA special needs policy - the number of statements and level of delegation – seem likely to be important in the operation of the 1994 Code's staged procedures. The former directly affects the proportion of pupils at stages 4 and 5; the latter may more indirectly affect the proportion of pupils whose needs are met at the school-based stages and, particularly, at stages 1 and 2. By regarding these two aspects of policy as intersecting dimensions it is possible to create a four-cell sampling frame within which all LEAs could be located in order to identify a smaller sample for further study. The four cells are illustrated below in Table 1.

Table 1. The LEA sampling frame

High statementing High delegating	Low statementing High delegating
High statementing Low delegating	Low statementing Low delegating

However, we were also aware that, as far as possible, account should also be taken of other factors which might influence practice. Amongst these factors were: 'type' of LEA (shire, unitary, metropolitan, London borough etc.); proportion of pupils identified as having SEN; and level of social deprivation. The introductory section of

the questionnaire was, therefore, designed to elicit information on these factors so that the final sample of LEAs could, at least, reflect the range of variation in regard to these factors.

The questionnaire was divided into four sections. Responses from each section will be presented in turn.

2.4.1 Designation of LEAs responding to the questionnaire

LEAs were asked to designate themselves in accordance with the prevailing local government typology. The breakdown is displayed below as Figure 1.

Figure 1: LEA designation
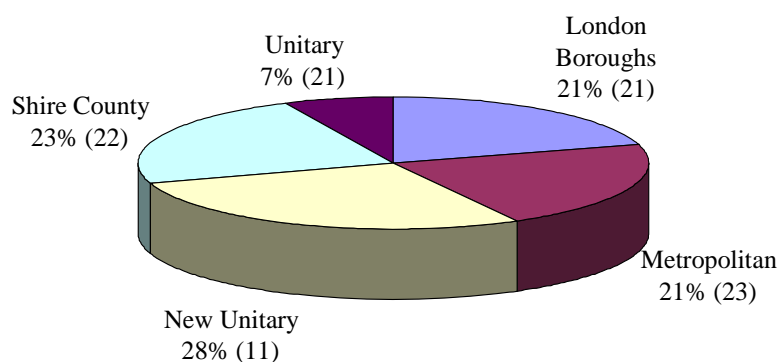
(Bracketed figures show national percentages of LEA types)

From the above it can be seen that the sample reflected in broad terms the national pattern of LEA types. Although there was somewhat of an under-representation of unitary LEAs and an over-representation of new unitary LEAs, this seems unlikely to skew the data in any systematic way.

2.4.2 Percentage of pupils eligible for free school meals

Further contextual information on LEAs was sought in the form of data on the percentage of their pupils eligible for free school meals. This figure is widely used (e.g. in delegating budgets to schools) as a proxy for social deprivation. Although by no means unproblematic as such, there is some correlation between entitlement to free school meals and the incidence of SEN (Dyson, Lin and Millward 1997). LEAs were, therefore, categorised as having either high or low levels of social deprivation depending on whether on not they fell above or below the computed mean. Table 2, below, provides a general picture of the data obtained from this question.

Table 2. Percentage of pupils eligible for Free School Meals

	Survey	**National**
Mean	18.6%	20.2%
Range	4.3% - 40.2%	4.3% - 54.7%

We can see from the above table that the LEAs did not include those with the highest percentage of pupils eligible for free school meals. This may reflect the relatively low return from unitary LEAs (see Figure 1). Although this does undermine the representativeness of the overall sample somewhat this is not considered as significant given that only ten LEAs are listed in the national data as having a higher percentage of pupils eligible for free school meals than those in our sample.

2.4.3 Special needs statements and placement

As indicated above information was sought on the number of statements in the LEAs as one of the key determinants influencing the operation of the 2001 Code. Inter-quartile ranges were generated from the total sample and used to decide whether LEAs had either a high or low level of statements. The levels of statements in the LEAs ranged from 0.71% to 5.0% with a mean of 3.0%. Although the LEA with the lowest level of statements is missing from our sample, this range is close to that suggested by national data (DfEE, 1999).

Information was also elicited on the proportion of pupils placed in special schools and on the proportion of non-statemented pupils with SEN in mainstream schools in each LEA. The means of 1.6% and 17.4% respectively compare with equivalent national

figures of 1.2% and 18.1% (based on DfEE, 1999). The differences *may* represent some systematic skewing of our sample or may simply reflect different sources of information (i.e. LEA self-reports rather than annual school census and the SEN2 survey), different points of data collection (mid- rather than early-1999) and different forms of computation (i.e. calculating means on the basis of LEA percentages as opposed to overall pupil population numbers). In either case, the findings of this essentially qualitative study seem unlikely to be compromised by such differences.

2.4.4 Levels of delegation

To elicit information about levels of delegation of resources for pupils with SEN, LEAs were asked to respond to a series of statements regarding their policy in this respect (Appendix 1). The responses indicated very complex patterns of delegation, devolution and retention which cannot easily be categorised. Nonetheless, as a rough-and-ready means of identifying relatively 'high' and relatively 'low' delegating LEAs, responses to each question were given a weighting so that an overall 'delegation score' could be calculated for each LEA. This method would not, of course, be appropriate in a thoroughgoing study of resourcing policies, but is adequate for our more limited purpose of ensuring that a range of approaches to delegation was represented in our final sample.

2.5 Selection of the sample LEAs

In the light of the information on the levels of statements and levels of delegation, treated as described above, LEAs were allocated to one of the four cells in Table 1. On the basis of this allocation and after taking into account the other contextual factors outlined above, a short-list of LEAs for possible inclusion in the next phase of the research was drawn up for consideration by the project steering group. The group suggested amendments to ensure that a wide range of approaches to SEN policy was represented and a final sample of eight LEAs was agreed. The following table identifies these LEAs by their designation and in relation to their policy regarding statements and delegation.

Table 3. The LEA sample

Name	Designations	Descriptor	%FSM
Fernshire	Shire	High statementing/low delegating	10.1%
Borderland	Shire	High statementing/low delegating	15.25%
Riverborough	Metro	High statementing/low delegating	26.6%
Bridgeborough	Ldn. Boro	Low statementing/high delegating	46.0%
Forestshire	Shire	Low statementing/high delegating	16.0%
Glassborough	Metro	Low statementing/low delegating	15.0%
Chalkshire	Shire	High statementing/high delegating	15.6%
Carville	New Unitary	High statementing/high delegating	27.3

The range of LEA features that might potentially be relevant to SEN decision-making is considerable. A sample selected by the methods described above, therefore, should be regarded as *reflective* of that range rather than representative in the fullest sense. For the purposes of the investigation, however, the sampling technique was adequate to ensure that findings were not inadvertently skewed towards one or other set of features and were likely to be generalisable across a range of LEA contexts.

3. LEA INTERVIEWS

Chief Education Officers in each of the eight LEAs in our sample were approached and asked whether they wished to participate and if so to nominate the most appropriate officer able to provide an overview of special educational needs policy and the detail of decision-making within the framework of the 1994 Code in their LEA. All the identified LEAs agreed to participate and a series of interviews was arranged with nominated officers. In most cases the interview was conducted with a single senior officer; in some LEAs two individuals were nominated.

The interviews had the following aims:

- to explore in more detail some of the issues emerging from the guidance they issued to schools and, in particular, the nature of and rationale for criteria for statements and provision at LEA level;
- to elicit information on any particular contextual factors which might influence the way the 1994 Code was implemented and in particular the LEA's views of the range of needs to be met and the types of provision available;
- to identify a sample of schools where, in the opinion of the officer, the 1994 Code was being effectively implemented and to explore whether the nominated schools were typical of the range of practice and provision in the authority as a whole.

Interviews followed a semi-structured schedule (Appendix 3). They were tape-recorded where the interviewee agreed and detailed field notes were taken which were then checked and amended against the recording.

Frequently, our principal interviewee provided us with documentation over and above that which we had already collected and/or referred us on to other colleagues who could provide us with more specialist information. Moreover, in order to supplement our understanding of both LEA and school policy in respect of pupils with low-incidence SEN, we subsequently interviewed heads of specialist services (for further details, see chapter 5).

Although this chapter is principally concerned with reporting the outcomes of our main interviews, we have added supplementary information from these other sources where appropriate.

3.1 Contextual information

LEA representatives were asked a series of questions relating to their views of the 1994 Code, their 'philosophy' of SEN, their funding of SEN provision in mainstream schools and their views as to how schools should use these funds. These questions were designed principally to elicit contextual information rather than as a thorough exploration of local authority policy, so it is not wise to interpret the responses too heavily. Nonetheless, a number of interesting themes emerge.

The first is that, where LEAs reported their policy to be built on some sort of philosophical foundation, that foundation tended to be in the form of a commitment to developing greater inclusion. Some respondents spoke of a "strong move" in this direction (Forestshire), or of being "very positive" with a "strong commitment" (Carville). For others, however, the commitment was qualified by reference to "the normal constraints that apply" (Borderland), or the need for "a gentle reorganisation" (Riverborough), or a "pragmatic" approach (Fernshire).

Not surprisingly, any commitment to inclusion for these LEAs was not a matter of 'pure' ideology; it had to be translated into practical action in a context that was characterised in some cases by significant difficulties. These were most evident in Borderland which had experienced serious budgetary problems, with the result that it had gone through a period where it was unable to fund any significant level of service provision for pupils with SEN in mainstream schools. However, other LEAs were also experiencing problems. Chalkshire, for instance, had moved down the road of delegating funding for provision at the school-based stages of the 1994 Code to schools, in the expectation that this would reduce the demand for statements. This policy, however, had not worked, the number of statements issued had risen above the national average and the LEA now had to develop a new funding formula. Fernshire likewise was struggling with rising numbers of statements, alongside a heritage of considerable variation in practice across the authority due to its previously area-based administration. Carville on the other hand was a new unitary authority, still in the

process of formalising its procedures and still, for instance, in the process of developing and issuing guidance on SEN policy to its schools.

Within this context, the management of the staged procedures of the 1994 Code had a role to play not only as a means of realising the LEA's 'philosophy' but also as a means of addressing some pressing practical problems – notably the management of the SEN budget. As one LEA representative (Glassborough's) put it to us, *"The Code has been a mechanism of controlling access to resources"*. This was doubly important because, so far as we could determine from their responses and the documentation we examined, LEAs had not prescribed (and may not have been in a position to prescribe) to schools how they should use the resources delegated to them for SEN provision. Even in Borderland, for instance, where finances were a major problem, there was no attempt to specify a SEN element in schools' budgets or to monitor its use. Indeed, the LEA was in something of a 'Catch 22' situation: because it had no money for SEN services, it could not monitor schools' use of their delegated budgets; because it could not monitor schools' budgets, it was prey to increasing demand from schools which drained its funds even further.

By no means all of the LEAs were in this parlous state, but it was noticeable that the principal means of control seemed to be by managing the *demand* for additional resources rather than the *use* of either those resources or resources already delegated to schools. We therefore asked respondents two further questions: about the LEA's overall approach to the criteria for the stages of the 1994 Code and about whether it had formulated any views on the provision schools should make at each stage.

When the responses were set in the context of LEA documentation and what respondents had to say about the provision schools should be making, some interesting patterns emerged. Not surprisingly, given what we have said above, LEAs tended to rely more on developing criteria for the stages of the 1994 Code than on specifying the provision which schools should make. Certainly, there was an expectation that schools would have used their own resources appropriately before seeking additional resourcing – an expectation which tended to be communicated through training events and through the work of educational psychologists (EPs) and

other support services. However, even LEAs with very detailed guidance documents stopped short of *prescribing* the sort of provision which schools should be making.

3.2 The stages of the 1994 Code: LEA views on criteria and provision

Interviewees were asked specifically about the extent to which they had developed additional criteria to support the implementation of the 1994 Code and whether or not they had produced guidance on levels of provision that schools might make. Only two LEAs (Chalkshire and Riverborough) indicated that they had provided any form of guidance to schools on the levels of provision that might be expected at the school-based stages. Even where available this guidance was of a rather general nature.

Their responses regarding the formulation of criteria are presented in Table 4[1] below.

Table 4. LEA views on criteria

LEAs	LEAs' VIEWS ON CRITERIA FOR THE STAGES OF THE 1994 CODE
Forestshire	Expect schools to follow 1994 Code, but no additional written criteria are provided
Glassborough	Have produced detailed guidance for the purposes of uniformity across schools
Bridgeborough	Expect schools to implement 1994 Code in the light of detailed LEA guidance
Carville	In the process of producing guidance
Chalkshire	Have produced indicative guidance based on recommendations of EPs and Learning Support Service
Fernshire	Have produced guidance developed by EPs and specialist teachers
Borderland	Threshold criteria from 1994 Code are adapted to meet local conditions
Riverborough	Have produced no written criteria for stages 1-2 but advice available from services; written criteria for stage 3, 4 and 5 only

LEAs were much less reluctant to exert an influence on how schools made their decisions about placing pupils on the stages of the 1994 Code than to specify

---

[1]Here and elsewhere in the report, we present responses in tabular form for ease of comparison between different LEAs and (in later chapters) schools. It is important to remember that the tables present *responses* to the questions asked (summarised as necessary) rather than comprehensive *statements* of the practice and policy in that particular LEA or school.

provision. However, they did this in different ways. Forestshire, for instance, had no explicit, published criteria. In this authority with high levels of delegation and relatively low numbers of statements, such decisions were seen as matters for the school rather than the LEA. However, this did not mean that the LEA simply abdicated responsibility. Rather, it had set up an elaborate system of school clusters and area resourcing panels which were responsible for decision-making and which operated on the basis of intensive guidance and training from the LEA as to how they should proceed. Since these levels operated with delegated budgets which could be accessed without having recourse to the procedure for issuing statements, the LEA could hand substantial elements of decision-making over to practitioners in and around schools without risking an explosion in the numbers of pupils with statements.

On the other hand, authorities such as Fernshire, Glassborough, Bridgeborough and Chalkshire prefer to operate with explicit, published criteria (and Carville was about to join them in this at the time of our interviews). In some cases – Glassborough being the most obvious – these criteria were highly detailed and focused not only on the procedures schools were expected to follow but also on the characteristics of pupils. Indeed, Glassborough's criteria specify centile rankings associated with stages 3 and above.

A third approach was represented by Borderland and Riverborough. Like Forestshire, the authorities stopped short of issuing detailed, explicit criteria. However, unlike Forestshire, there was no view that SEN decision-making should be delegated substantially to schools. Rather, they determined access to support services (to some extent) and to statutory assessments and statements (to a considerable extent) through decision-making processes which schools did not control and which operated on criteria to which schools were not privy.

In the case of Forestshire, there is little doubt that its approach to the staged procedure in this sense was part of an overall policy which also placed it in our 'low statementing/high delegating' group. It is also the case that the remaining high-delegating authorities (Bridgeborough, Glassborough, Chalkshire and Carville) had – or were developing – explicit criteria, whilst the two other authorities without detailed criteria (Borderland and Riverborough) were also low-delegating authorities with

relatively high numbers of statements. To some extent, therefore, it is possible to indicate three models which underpin these approaches:

- high delegation of resources managed through sophisticated local decision-making structures;
- high delegation of resource managed through detailed and explicit criteria;
- low delegation of resource with decision-making remaining in the hands of LEA personnel.

However, the reality 'on the ground' is by no means as neat as these models might suggest. Not only does each authority have a different history of policy and practice and a different pattern of current difficulties, but the development (or otherwise) of criteria is not always undertaken at the same time or by the same people as the development of other aspects of SEN policy. Even Forestshire, for instance, had had a working group which had attempted to develop criteria and acknowledged that its support services might well operate their own internal criteria.

What it is safe to say, however, is that authorities have a responsibility for managing finite resources in a rational and equitable way. For whatever reasons, they are unwilling or unable to do this by specifying the provision schools should make and therefore they find themselves inevitably involved in managing the (real or potential) demand for additional resources over and above those already delegated to schools. Whether through coherent policy-making or a more complex process, an approach therefore emerges to the way in which decision-making around the staged procedures of the 1994 Code is undertaken. It is beyond the scope of this study to determine which, if any, of these different approaches results in the most effective management of resources. Perhaps more important, it is also beyond the scope of the study to determine how far these approaches actually result in pupils' needs being identified and met and how far the management of resources is in tension with this other imperative.

3.3 The detailed operation of the staged procedure

Following this general overview, interviewees were then asked to focus on each stage of the 1994 Code in turn and describe in detail what role if any the LEA played in decisions about placement and provision. Given what was anticipated to be a long and complex process, the interviewer followed the procedure of asking respondents to begin by describing the situation as it related to general learning difficulties - the largest group of pupils with SEN. Once this had been completed, they were then asked to highlight any significant differences that might apply to any of the other special needs groups. Our presentation and analysis of results adopts the same procedure, with the situation for general learning difficulties being described in detail and any variations as they might relate to other groups being noted separately.

3.4 The role of the LEA at stage 2

For the most part, both placement and provision at stage 2 are, as one might expect, seen largely as the preserve of schools rather than of the LEA and its services. Respondents indicated that the IEP process, managed by the SENCO, was the basis for decision-making and provision at this stage. However, there are differences in terms of the extent to which LEA services become involved. The 1994 Code is clear in the expectation that the *formal* involvement of LEA service personnel in an individual case takes place at stage 3. However, in some of the LEAs in the sample (Glassborough, Carville, Chalkshire and Riverborough) there was something of a grey area in this respect, as there was the potential for schools to consult with these services prior to making a decision about placement. The extent to which 'consultation' constituted 'involvement' and 'involvement' could be regarded as an additional 'resource' is a matter of some speculation and it was clear in the subsequent interviews with schools that practice varied. In some schools, our later interviews suggested, services took an active role at stage 2, perhaps extending to assessment or even to some limited teaching. This was most prevalent in those LEAs where central services provided an allocation of time to schools based on some notional formula. Where (as, for instance, in Riverborough) this allocation of time was relatively substantial, it seems to have led schools to regard support service personnel as quasi-members of staff and therefore to regard their interventions as taking place at stage 2.

Bridgeborough was somewhat more proactive than other LEAs in having a moderation panel in place to review the decisions being made by schools about placement at stage 2 in the light of the criteria published by the LEA. Riverborough also monitored the decisions of schools, although the process was conducted by the LEA services as opposed to a moderation panel.

Both our main interviews and our subsequent interviews with specialists suggested that the pattern of limited LEA involvement in decisions over placement of pupils with general learning difficulties at stage 2 was even more marked for other forms of special needs. Where pupils had more severe needs – for instance in the areas of sensory, physical or learning difficulties - these had usually been identified prior to pupils entering the education system. Where these needs emerged once the pupil entered school it was usually the case that 'fast-track' procedures were in place to ensure that access was available to the highest levels of support deemed necessary. In either case, pupils were unlikely to be placed or remain for any period of time at stage 2 and the issue of LEA involvement did not, therefore, arise. Even where pupils were formally at stage 2, LEA services were typically able to offer advice and to provide equipment and materials as a means of supporting pupils whilst more formal assessments and decisions about provision were being made.

In the case of emotional and behavioural difficulties (EBD) the situation was predictably more complex. These pupils also were likely to be 'fast-tracked' through the stages. However, LEAs were more ambivalent about this process than in the case of pupils with sensory impairments and other low-incidence special needs. On the one hand, they expected that schools would make full use of their own resources at stage 2 before calling on additional LEA support. However, they were also aware that increasingly schools were tending to have a lower tolerance of pupils with these types of problems resulting in a quicker recourse to the staged procedure. Many of the LEAs tacitly acknowledged that this 'fast tracking' of EBD pupils reflected the fact that schools had often exhausted their own, often limited expertise and, indeed, patience, in responding to the needs of these pupils. 'Fast-tracking' represented therefore the only available means that schools had of accessing any additional resources to meet the needs of this often problematic group of pupils.

3.5 LEA expectations of schools at stage 2

Not surprisingly, given what we have said above, LEAs tended to see decision-making at stage 2 as a matter for the school rather than the LEA. However, they did seek to influence schools' decisions in a number of ways. Forestshire, although having no formal guidance, did provide a considerable amount of documentation and training opportunities for schools. It was suggested that this material provided support for schools' decision-making processes and that the training was a means of reinforcing consistency between schools. Borderland made reference to schools operating autonomously, but with access to support services if additional advice or guidance were needed. Riverborough, interestingly, was more specific in identifying a lack of progress as being the trigger they expected schools to use when considering placement at stage 2.

The issue of provision was likewise approached somewhat tentatively. Where there was a view about levels of provision it appeared as though this was most likely to be communicated indirectly through programmes of SENCO training or through the presence of support services in the schools. Bridgeborough made reference to the role of its monitoring panel who would review the action and, by implication, the provision that had been made at stage 2 before agreeing to a placement at the next stage. Forestshire and Carville also described their role as one of indirect influence through their programmes of training and the influence of their service teams in schools.

However, in Fernshire it was pointed out that schools would increasingly be held accountable for the way they spent their SEN budgets which would ultimately impact on levels of provision. Similarly, Chalkshire, a high delegating LEA, was prepared to give schools direct indicators of the levels of provision that might be expected at stage 2, although these were couched in terms of suggestions rather than requirements. They suggested that a school might be expected to provide up to an extra hour of support from a teacher and/or up to three hours from an LSA.

It should also be noted that, where LEAs had procedural criteria in place at the stage 4 threshold (see previous chapter), a 'trickle-down' effect might be anticipated without LEAs needing to issue formal guidance at the earlier stages. In other words, unless

schools made provision at stage 2 (and above) which their LEAs thought appropriate, requests for statutory assessment were likely to be rejected.

3.6 The role of the LEA at stage 3

Inevitably, the processes at stage 3 are more complex than those at stage 2 because of the involvement of the LEA and, in particular, of a range of LEA services. In order to unpack these complexities, we asked a series of questions about the role of the LEA in decision-making and the additional resources triggered at stage 3. Responses are presented in Table 5.

Table 5. Role of the LEA in placement and additional resources at Stage 3

LEA	ROLE OF LEA IN PLACEMENT ON STAGE 3	ADDITIONAL RESOURCES TRIGGERED AT STAGE 3
Forestshire	LEA services and schools decide in liaison	Extra cash from mainstream support group to pay for LSA or teacher time if bid made by the SENCO
Glassborough	LEA criteria are used together with evidence of stage 2 interventions and possible LSS and EP involvement	Child moves to a stage 3+ after SEN panel report. One hour forty-five minutes each week from LSS or BSS for period of 1 year
Bridgeborough	LEA criteria are in place. Schools expected to provide evidence of interventions at stage 1 and 2. Other agencies would become involved	£1000 p.a. for a child on stage 3. Child keeps this provision even if it moves up to stage 4 and 5
Carville	No specific LEA role. Schools make decision alone	No more resources from LEA beyond advice and support from LSS or BSS. Often no more than assessment
Chalkshire	No formal LEA role although schools may seek advice from EP and other agencies	1 hour each week LSS support funded by LEA
Fernshire	School and support service make a negotiated decision	Nothing triggered by stage 3 as such, but schools already have an allocation of support service and EP time
Borderland	LEA services - especially the EP - review individual cases with schools	Advice from the EP
Riverborough	LEA services confirm decisions, however, schools can place pupil on this stage	LSS support or resources. May be EP involvement

In order to explore further the involvement of the LEA at stage 3, we also asked about the particular role of LEA services in decision-making and the actual provision they made. Although there is some overlap in the responses to these questions with those presented above there are sufficient interesting differences for this information to be presented separately. The responses are displayed in Table 6.

Table 6. Role and provision of LEA services at Stage 3

LEA	ROLE OF SERVICES IN PLACEMENT AT STAGE 3	WHAT PROVISION DO SERVICES MAKE AT STAGE 3?
Forestshire	Services must be involved if stage 3 is to trigger resources	Services provide advisory support and monitoring of progress
Glassborough	LSS must be involved in placement at 3+; EP may be involved	Services provide individual tuition, or small group work, (usually on a time-limited basis). Provision from LSS and BSS 1hour and 40 minutes each week 1-1 or small group work.
Bridgeborough	EP likely to be involved and other services if they have worked with the pupil	EP guidance for stage 3
Carville	Services may provide assessment and undertake classroom observations	Further assessment and observation as necessary
Chalkshire	Support services are expected to be consulted but no explicit criteria requiring this	1 hour per week LSS funded by LEA
Fernshire	Placement negotiated between school and individual support service members	No definite view as to service provision at this stage
Borderland	Services mainly via the EP provide limited advice and training	Mainly advice
Riverborough	EP or LSS make decisions about placement	Provision decided on a case-by-case basis but is most likely to involve EP intervention

The first point to make about these responses is that the pattern of decision-making and provision at stage 3 is extremely complex, with considerable variation between LEAs. In some authorities (Glassborough, for instance), there is a clear relationship between a semi-formal process for placing a pupil at stage 3 and an allocation of additional teaching time. In other authorities (Bridgeborough, for instance) a similarly

formal assessment process yields funding rather than personnel. In Fernshire, on the other hand, the decision to place a pupil at stage 3 arises out of a less formal negotiation at school level and brings no additional resources (though support service time is already allocated to the school in other ways). It may be that the very different processes and practices represented here are equally effective, but the variation is nonetheless striking.

Despite this variation, however, it is equally striking that stage 3 resourcing *in itself* nowhere amounts to a substantial addition to provision already available at stage 2. At most, it brings less than 2 hours of additional teaching time or its financial equivalent. Not surprisingly, therefore, a recurrent theme in responses was the extent to which the role of LEA services was focused on assessment, advice and (in some cases) monitoring rather than on providing direct tuition and support to pupils. This raises issues about both the capacity of schools to utilise this sort of input to develop provision which continues to be made substantially from within their own resources and also about the capacity of LEA services to promote this sort of development effectively.

Beyond these broad themes, it is also possible to see some distinctive patterns of decision-making and provision at stage 3. The key issue at this stage appears to be the extent to which placement triggers the release of additional resources to the school. In some authorities, this is clearly the case. In Bridgeborough and Glassborough, for instance, placement releases £1000 and over one hour's teaching time respectively. This means that placement has clear resource implications for the LEA and its services and therefore the decision-making process is relatively formal. In both cases, LEA services are involved in the decision and, we were told, the school is required to make a case for placement at stage 3 which has to be formally reviewed by a panel or support service team. Something similar is in operation in Forestshire and Chalkshire in that placement at stage 3 triggers additional resources and is therefore governed by some more or less formal assessment process.

One implication of this approach is that a significant threshold is created at the entry to stage 3. Movement across this threshold is not something that can be determined by the school alone and the process may take some time. What seems to happen,

29

therefore, is that a sort of 'pre-stage 3' is created, populated by pupils who are waiting to cross the threshold, or who are (in their schools' view) struggling at stage 2 but have not been successful in moving to the higher stage. This situation is acknowledged formally in Glassborough where there is a distinction between 'stage 3' and 'stage 3+' (with the latter bringing the additional resources) and less formally in other authorities.

The alternative approach, represented by Carville and Fernshire, for instance, manages access to resources at stage 3 in a somewhat different manner. Here, the resources which support provision at stage 3 are allocated to schools independently of any assessment of individual pupils – for instance, in the form of a block of Learning Support Service (LSS) or EP time. Placing more pupils at stage 3, therefore, does not in itself trigger additional resources for the school. Instead, a negotiation takes place between the school and the service (typically the individual service member allocated to the school) as to how the allocated time can best be used. Something similar happens in Borderland except that here there is minimal service time to allocate.

Within this approach, the threshold for entry to stage 3 is in some senses lower, in that there may well be a less formal assessment process and more flexibility in which pupils are accepted and which are not. Nonetheless, the available resource is not necessarily any greater and there may well still be hard decisions to make about which pupils receive additional provision and which do not.

It is also important not to overlook the complexity which lies beneath these broad approaches. Riverborough is a case in point. Here, stage 3 operates along the lines of the second approach for pupils with general learning difficulties. Schools are allocated a block of LSS and EP time without needing to identify specific pupils who will receive additional provision at stage 3. Indeed, LSS teachers are regarded as working at stage 2. Movement to stage 3 brings additional intervention from the EP and is negotiated between EP and SENCO. However, for pupils with other types of SEN, a process closer to the first approach is activated. The school has to alert the EP and the specialist teams in the LSS to these pupils. The latter then carry out a further assessment of the pupil and take their findings back to an LSS panel which decides

whether or not to accept the case. If the pupil is accepted, direct intervention from the specialist teams follows.

This in turn should alert us to some important differences between the process for pupils with general learning difficulties and that which obtains for other types of special educational need. We found, from both our main interviews and interviews with specialists, two principal differences across all authorities. The first was that there is more likely to be a specialist service to which schools can turn – though possibly for advice rather than provision. The second was that access to this service, and particularly to direct provision from the service, is much more likely (as in Riverborough) to be by individual assessment than by formula allocation.

Beyond this, the picture is complex. First, and most obvious, LEAs have different levels of centrally provided support services to deploy at stage 3. Second, the level of provision also reflects the perceived 'seriousness' of individual cases. For example, a young child found to have a sensory impairment is likely to receive a higher level of support than an older child whose condition is perceived as stable, although both pupils may well appear at stage 3. The interaction between the 'stability' and 'severity' of cases appears to be a crucial if not always explicit determinant of the level of provision that is made. Third, different 'types' of special needs generate different levels of provision. The pattern for each type is therefore explained in turn below:

Sensory Impairment

LEA provision for pupils with both hearing and visual impairments were broadly comparable. Any additional provision arising from a placement on stage 3 usually involved a combination of intermittent support from peripatetic services, in-class support from an LSA and access to materials and equipment. The actual cocktail of additional provision which evolved from these sources varied according to the LEA and the individual case. Where conditions were perceived as stable and the pupil was regarded as making progress, the additional provision might amount to little more than a termly visit from a specialist teacher. If the case was viewed as more complex and there was a consensus that a higher level of provision was demanded, the package of provision might well be increased to weekly visits from a specialist teacher and regular in-class support from an LSA.

Emotional and Behavioural Difficulties

The interaction between severity and stability can be seen as a crucial determinant of provision for pupils with emotional and behavioural difficulties. A case presenting as severe and unstable might well release a considerable resource, amounting, in the most extreme cases, to the provision of a full-time LSA. Often this level of resource would be time-limited on the assumption that some stability would be achieved and the need for full-time support would diminish. In stable cases, the level of support might well amount to no more than a weekly review visit from a teacher from the Behaviour Support Service.

Speech and Language Difficulties

Many of the LEAs reported that, for pupils with speech and language difficulties, they were faced with a problem of making the optimum use of what were often very scarce resources. As a result the patterns of provision varied somewhat. Forestshire, for example, did not maintain a specialist support service, as it was presumed that schools would use their delegated budgets to buy in, when appropriate, the specialist services maintained by the Health Service. In Chalkshire, although the LEA did maintain a specialist service, it was acknowledged that this was severely stretched and schools usually accessed specialist resources through the Health Service. In both LEAs the actual input at stage 3 was determined on a case-by-case basis, only rarely involved direct teaching from a specialist teacher and more usually comprised the provision of resources, training programmes and assistance in drawing-up an IEP. In Bridgeborough on the other hand, schools were allocated a block of dedicated time of six consecutive visits from a therapist for half a term. This time was used flexibly to undertake assessments, train staff and develop resources. Once this allocation had been used, the schools received no further input for a term, after which the pattern was repeated.

Specific Learning Difficulties

As in the case of speech and language difficulties practice varied between the LEAs over the level and type of provision made for pupils with specific learning difficulties. Characteristically, provision for these pupils involved additional in-class support or tuition on a one-to one basis or as part of a small group. One of the key differences

was the extent to which any extra provision was delivered by specialist teachers or LSAs. In Glassborough, for example, a placement at stage 3 would result in involvement of a specialist teacher, whereas in Forestshire provision would be more likely to be made through an LSA. The actual amounts of additional support varied, reflecting the severity of individual cases and the degree to which it was considered that any specific difficulty was accompanied by other SEN.

3.7 LEA expectations of schools at stage 3

Given that provision by schools themselves continues to be central at stage 3, LEA representatives were asked about their views as to what schools should in fact be providing at this stage. Most felt that the level of input from schools was essentially a decision for the schools themselves. Predominantly, where LEAs did seek to influence the provision the schools made, they did so by using their services (primarily their educational psychologists) to advise schools on appropriate levels of provision. There was also an emphasis in some LEAs - notably Forestshire - on the importance of the training they provided for their SENCOs as a means of offering guidance on appropriate provision.

It may well be that the contacts between LEA services and schools are, in fact, very influential on the sorts of provision which schools make. Nonetheless, the dominant view that these matters are essentially for schools themselves leaves open the possibility that LEAs are expecting schools to take the lead in provision because of the limited inputs they themselves can make, whilst schools expect LEA services to take the lead because that is where they see the additional resources and expertise as residing.

3.8 Initiating a statutory assessment at stage 4

Stage 4 of the 1994 Code marks the statutory involvement of the LEA. Nominated representatives of the LEA were asked to describe the ways in which a statutory assessment could be initiated and explain the role, if any, of their services in this process. A general overview of the responses to these questions is displayed below in Table 7.

Table 7. Process for initiating a statutory assessment

LEAs	PROCESS FOR INITIATING A STATUTORY ASSESSMENT
Forestshire	Schools make referral through EP; EP and casework officer make decision based on evidence supplied by schools
Glassborough	Schools request stage 4 assessment through SEN panel. Schools must provide evidence of EP and LSS involvement and school based interventions at previous stages
Bridgeborough	Schools make referral. EP, LSS and BSS must be aware of the case. Moderation panel reviews cases.
Carville	Schools make a case for referral on basis of evidence which is then passed to a moderation panel
Chalkshire	Schools collect information and pass this to a panel which includes EP involvement.
Fernshire	School has to make a case using evidence from tests and LEA criteria. Case reviewed by Student Assessment Service. If any dispute, case reviewed by a moderation panel.
Borderland	Schools refer and the EP takes key role at this stage with further assessments and tests
Riverborough	Decision jointly by head teacher, LEA services and EP at stage 3 review to request a referral

With the exceptions of Borderland and Riverborough, the onus for requesting a referral for a statutory assessment lies mainly with the schools. In Riverborough, the decision is made jointly between the headteacher and LEA services in the course of a stage 3 review while in Borderland the EP appears to take a pivotal role in deciding if a formal assessment should be made. The overall implication from the above table is that the LEA by and large acts as a filter considering requests made by schools rather than proactively seeking out pupils who might need statutory assessment.

In Forestshire, an LEA with a very low rate of pupils with statements and where a statement confirms placement rather than releasing additional provision, the filtering process is in the hands of a casework officer working with an EP. Elsewhere, moderation panels have a central role to play in ensuring that the filtering process operates in a consistent manner. In most cases, schools are required to present a case for a referral to the panel based around evidence collected from a variety of sources and demonstrating that appropriate interventions have been undertaken at previous

stages. This requirement acts as a safeguard for those LEAs where additional resources are linked to a statutory assessment as it prevents the panels' being inundated with requests for referrals from schools who have not systematically followed the staged procedure.

3.9 Criteria for statutory assessment

Responses to questions about the relative importance of criteria used for deciding to make a statutory assessment are summarised in Table 8 below.

Table 8. LEA criteria for statutory assessment

LEAs	CRITERIA USED TO DETERMINE WHETHER AN ASSESSMENT SHOULD TAKE PLACE	MOST IMPORTANT/DECISIVE CRITERIA
Forestshire	No published criteria. Only children with severe and complex problems in special settings will get a statement	N/A.
Glassborough	LEA criteria should be followed for this stage	Centile indicators; otherwise schools have to provide powerful alternative evidence
Bridgeborough	LEA criteria are used to determine whether to assess together with NC levels and information from IEP reviews	A combination of the number of years behind chronological age and the NC levels published in LEA criteria
Carville	Evidence from school that pupil has severe and complex problems, reviewed by moderating panel	Report from support services; evidence that parents have been consulted; evidence from previous IEPs
Chalkshire	LEA criteria	Lack of progress at stage 3 is key indicator; centiles also used. If child is around 1st/2nd centile, this is very influential.
Fernshire	Published criteria are used as yardstick to judge each individual case	Although criteria are available, it is case law that operates in practice, based on a shared understanding by schools
Borderland	Lack of progress, teacher concern and poor attainments in literacy and numeracy	Evidence that a child's problems are sufficiently severe and complex
Riverborough	Progress made by child, contextual factors, child's perceptions of the situation	Two reviews at stage 3; comprehensive stage 3 IEP and evidence of lack of progress

There seem to be two principal differences in the way LEAs set about the management of the stage 4 threshold. The first is a marked difference between Forestshire and the other LEAs. For the majority, the issuing of a statement typically implies the release of additional resources. The statutory assessment process, therefore, becomes an important means of controlling access to these resources. In Forestshire, however, funds have already been substantially devolved at earlier stages and the statement is significant only in a small minority of cases where it confirms special placement. There is, therefore, less need for formal published criteria in Forestshire to control access to resources.

The other principal difference is between those other LEAs which have no explicit criteria and the remainder which do. Riverborough, for instance, like Forestshire, has no published criteria, but for somewhat different reasons. Placement at stage 3 already involves a good deal of specialist assessment, including, for some types of special educational need, scrutiny by a review panel. The implication is that this process is able to control the demand for assessment without the need for explicit criteria. Borderland adopts a similar approach. It makes use of the broad criterion of 'lack of progress', but relies heavily on the knowledge of individual cases which results from the close involvement of the EP service in decision-making at stage 3. In Carville, there are (currently) no published criteria and schools have to demonstrate to a multi-agency panel that the needs of a pupil are so complex or severe that a statutory assessment is the most appropriate way to proceed. In reviewing cases the panel take most account of evidence from IEP reviews and reports from support services.

3.10 Criteria for statements and resultant provision

When asked about the criteria they used in deciding whether or not to issue a statement it is clear that in line with our findings from the national sample of LEA criteria (see chapter 2), there is a distinction in these LEAs between the apparently explicit nature (in many cases) of stage 4 criteria and the flexibility which LEAs retain to make decisions about whether or not to issue a statement. In some cases (such as Glassborough and Fernshire, for instance) there is an attempt to inform these decisions through specific guidance or explicit reference to stage 4 criteria. Similarly, some LEAs try to introduce an element of moderation into their decision-making by locating responsibility with a panel rather than with one or two individuals. However,

it is noticeable that no LEA is prepared to bind itself absolutely by its published criteria. Even Glassborough expects its panel to operate flexibly and not be bound by 'centiles'. On the one hand, of course, this permits the LEA to take into account both individual circumstances and local factors in coming to decisions. On the other, it means that the decision-making process is necessarily less than totally transparent. These differences are displayed below in Table 9.

Table 9. Criteria used in deciding to proceed to a statutory assessment and to issue a statement

LEAs	CRITERIA USED IN DECIDING TO ISSUE A STATEMENT	MOST IMPORTANT/ DECISIVE CRITERIA
Forestshire	No explicit criteria. EP collects data and drafts statement. LEA decision	N/A
Glassborough	Very explicit guidance to be used by SEN panel	Yardstick is centiles although the panel can be flexible
Bridgeborough	Look at individual case and make decision	Levels of available funding for SEN
Carville	Multi-disciplinary assessment of evidence and then panel makes decision	N/A
Chalkshire	No criteria for stage 5. Rely on stage 4 advice. Weekly panel involving EP, school reps and LEA officers to discuss evidence on cases	Stage 4 is vital. Centiles are decisive
Fernshire	Based on available evidence and judged against published stage 4 criteria	Published (stage 4) criteria
Borderland	Quantitative and qualitative evidence is gathered on the case and is then related to the Code of Practice 1994	No fixed criteria. Child's problems sufficiently complex and severe
Riverborough	No cut off points. Case evidence is assessed by an officer with psychological advice.	Decision may be based on child's progress, test results, whether the child is happy or not

In following up these issues, we asked LEAs about the additional resources a statement would typically release for pupils with general learning difficulties and with other types of special educational need. Their responses are presented in Tables 10 and 11 respectively.

Table 10. Additional resources for statements (general learning difficulties)

LEAs	ADDITIONAL RESOURCES AT STAGE 5?
Forestshire	Nothing extra as no central cash for statements
Glassborough	One hour 40 minutes teacher time per week from p/t LSS teacher (mainly for literacy in 1:1 or small groups) but may be LSA in some cases, for approx. 4 hours per week. Weekly visit from LST in advice role
Bridgeborough	In primary 10 hours LSA time (sometimes 30hrs). School decides how to use. In secondary three hours LST time use determined by school
Carville	Funding is devolved to the school which then uses it for mainly LSA (or LST) time
Chalkshire	Generally, additional LSA hours. LEA pays, school hires
Fernshire	Generally, additional LSA hours
Borderland	Amount of time is decided for LSA or LST. There is no fixed formula. Support is based on what schools already have. Degree of support is influenced by problems child is presenting
Riverborough	Nothing extra. Statement protects what child has already. At annual review if child hasn't made progress with provision, may be placed in a base. However, all statemented pupils have a minimum 3 hrs support made-up of LSA or LST time

The responses here are as complex as one might expect, given the diversity of needs which tend to elicit statements and the diversity of policy and practice across LEAs. However, there are some interesting themes in these responses. There is, for instance, a tendency for LEAs to rely heavily on LSA support as a major form of provision for children with statements. Despite the individualisation of provision in some cases, moreover, this is also linked to a tendency to allocate resources on a formulaic basis – in terms, in other words, of a set amount of support time or devolved funding. Once resources are allocated in this way, it is often left to schools to decide how to use those resources most effectively.

Table 11. Additional resources for other types of special educational need

LEAs	OTHER MAJOR TYPES OF SEN
Forestshire	No significant differences from provision established at stage 3 other than variations in involvement of appropriate specialist staff. Majority of low incidence pupils in LEA provision.
Glassborough	Provision allocated on an individual basis in line with general LEA guidance. Confirms and secures stage 3 provision
Bridgeborough	Provision very similar to GLD though discretion to respond to particular needs as a result of specialist advice/recommendation. An interim 20 hours LSA time may be available as measure to prevent child being excluded from school. Otherwise five hours of support time.
Carville	Funding is attached to a statement and devolved to the school. Funding allocated on basis of categories. Usually used to buy additional support
Chalkshire	Significant delegation of funding to schools means it is difficult to give precise account of what happens at individual level. The system does fund for particular categories of SEN so for example 'low incidence' (& EBD) would generally expect to have an additional 5 hrs LSA time
Fernshire	Provision based on individual needs. This has produced a considerable range of provision and has led the LEA to review its practices. A VI pupil would expect a minimum of 10 hours LSA support
Borderland	There is no fixed formula but depends on individual need, for example, in the case of VI pupil may get extra in-class support or move to VI base.
Riverborough	Additional provision related to type of SEN. Statement may leads to placement in special provision. VI pupils may have to leave area for special provision. In general terms there will be an increase in the stage 3 provision depending on individual need.

There also appears to be a 'stage 3' factor at work in the allocation of resources. In other words, the provision made through the statement is a combination of what is already available at stage 3 with some form of 'top-up' at stage 5. In the case, therefore, of an authority such as Forestshire, which delegates heavily at the school-based stages, or Riverborough, which provides substantial support at these stages, few if any additional resources are available at stage 5. In both of these cases, therefore, the real step-change in provision is not between stage 3 and stage 5, but between mainstream school provision, which is much the same at either stage, and transfer to some form of special placement when mainstream provision proves inadequate.

There is a suggestion in this picture that LEAs see themselves as providing resources to schools to enable them to educate pupils with statements, but not as determining the nature of provision for individual pupils in any great detail. It may be, of course, that some of these LEAs offer considerable guidance to schools and/or have well-developed monitoring procedures which enable them to ensure that provision for pupils meets their individual needs. However, for some pupils in some LEAs, the level of resources provided by the LEA and the precise form of provision made by the school does not appear to be based on any detailed consideration of individual need. If nothing else, this begs the question about the purpose of time-consuming and resource-intensive statutory assessments for such pupils.

3.11 Views on guidance materials

In the final section of the interview with LEA officers, views were elicited on the type of guidance they would find most useful in supporting their implementation of the Code of Practice 2001. Responses are displayed in Table 12.

Table 12. Preference for type of guidance

LEAs	WHAT GUIDANCE WOULD BE OF MOST USE TO YOU
Forestshire	Simplified stages and specified provision for those stages but allowing flexibility. Like to see guidance on transfer (KS2-3, prim-sec) i.e. transition where there is a move to another school
Glassborough	Overt criteria explicit for schools. Specify provision for each major form of SEN plus develop model of SENCO skills to include guidance for skills needed for more specific SEN, e.g. autism
Bridgeborough	Framework for hours per week for each form of SEN and examples of good practice.
Carville	Guidance on funding mechanisms and accountability for delegated funds
Chalkshire	Early years guidance and nursery provision. Clarify guidance on when parents can appeal to Tribunal. Criteria for ending statementing urgently needed.
Fernshire	Specific but not prescriptive due to differences between LEAs. A common framework
Borderland	Guidance that reflects the reality of youngsters being adrift from their peer group plus guidance on nature and complexity of SpLD
Riverborough	It might be beneficial to have criteria but government and authorities might not be fully prepared for the consequences of such criteria

The responses highlight a number of concerns and apparent ambiguities. For many LEAs there appears to be a genuine struggle in reconciling a desire for a degree of specificity with an acknowledgement of the differences that exist at the level of pupils, schools and LEAs which call for flexibility. This struggle is lessened to some extent, however, by the fact that specificity and flexibility apply to different audiences. One way of interpreting the above would be to suggest that from an LEA perspective there is a feeling that there should be a degree of specificity in any guidance as it relates to the responsibilities of schools. However, LEAs appear to believe that they should have a greater level of operational flexibility when it comes to their own responsibilities and actions.

What was clear was that there was little appetite for highly prescriptive guidance applying to all partners in making special needs provision. LEAs differed in their views over the level of specificity that should be included to cover certain aspects of the operation of the Code. While Forestshire, Riverborough and Carville were quite clear about preferring flexibility the remaining LEAs felt there was a need for it to be specific in areas such as defining the roles of head teacher and SENCO. This appeared to be line with a generally held concern that prescriptive guidance would result in children being 'fitted to the criteria'. However as this issue was further explored it became clear that LEAs held very different views about where guidance should be more or less specific. As an illustration of this in Table 13 below we display some of the views expressed on this matter.

Clearly the diversity of opinion represented in Table 13 creates a number of dilemmas in producing guidance. Guidance which is too specific may be unworkable in some LEAs and guidance which is too general might be regarded as being insufficiently directive to achieve a level of consistency.

Table 13. Views on general guidance

LEAS	WOULD A GENERAL SET OF GUIDELINES BE HELPFUL TO YOU?
Forestshire	Need for early years guidance related to nursery grant. Partnerships and LEA strategies need to link. Guidance on FE taking on/responding to statemented needs
Glassborough	Should not be too general
Bridgeborough	Not too general. Provision for particular range of needs
Carville	Would like Code or guidance to reflect current DfEE initiatives on exclusion and behaviour. National guidance should at least advise a review of curriculum for pupils at point where considering stage 2.
Chalkshire	Try to match Code with classroom scene. Code relates to individuals while classroom work is directed towards group needs
Fernshire	Case studies would be useful. Criteria that relate to specific characteristics of forms of SEN and also levels of provision
Borderland	Guidance for teachers in terms of what they should be expected to do in terms of differentiating the curriculum. The LEA expects schools to have exhausted a range of approaches and opportunities that are available to them. If there were national criteria this LEA would not be able to meet them.
Riverborough	The child's needs should be met that should be the main aim rather than fixed criteria. A low key personal touch rather than hard bureaucracy

3.12 Commentary

In addition to the detailed comments made throughout this chapter, two overarching themes emerge from this review of the LEA role in decision-making about placement and provision within the framework of the Code of Practice 1994.

3.12.1 LEA patterns and models

At various points in this chapter, we have tried to indicate how the different approaches in our eight LEAs to different aspects of the 1994 Code's staged procedures might be grouped together. The question which arises, therefore, is whether there are any overarching patterns or models which can be identified across all aspects of their management of those procedures. Certainly, there are some regularities, though the range of local variations makes it difficult to put it any stronger than this. The three approaches identified in 3.2 above seem to run through many of our LEAs' responses. In simple terms, LEAs can:

• delegate resources and responsibilities for schools within high-quality decision-making structures;

- manage the decision-making process by formulating explicit criteria and standard practices (e.g. in the allocation of resources);
- retain control of the key elements of decision-making and resourcing themselves without standardising or explicating their practices.

These may not be mutually exclusive options between which LEAs must choose; in reality, LEA practices seem to be weighted towards one or other of these, but may well contain elements of the others. Nonetheless, they may prove to be useful 'ideal types' against which actual approaches can be evaluated.

3.12.2 The relative impacts of the LEA and of the 1994 Code

Perhaps the most striking feature of this picture of decision-making is its sheer complexity. The decisions about placement on the 1994 Code stages and the provision that is made at each of those stages arise out of the interaction of LEA management style, levels of delegation, patterns of central service provision, the history and current difficulties of each LEA and local decision-making procedures, to say nothing of the variations that arise at individual school and pupil level. The consequence is that it is likely to be extremely difficult to predict across LEAs how a given level of special educational need might be met in terms of placement at the 1994 Code's stages or provision made at those stages.

It is clear, therefore, that the impact of the LEA context on special needs decision-making is significant. This may not be surprising at stages 4 and 5, but it is notable that this impact is also felt substantially at stage 3 and, to a lesser extent, at stage 2. The corollary of this is that the impact of the SEN Code of Practice 1994 on decision-making is somewhat less than might have been predicted. Certainly, the 1994 Code provides a common terminology of 'stages', a common expectation that schools will take action to meet SEN out of their own resources in the first instance, and a further expectation that some form of external involvement will precede a request for statutory assessment in most cases. Given the lack of any apparent consistency across schools and LEAs prior to the introduction of the 1994 Code, these may be seen as major achievements.

However, it is not at all clear that the 1994 Code provides much beyond this. In particular, it is not clear that the 1994 Code offers any real guarantees of equity in the sense of pupils with similar levels of need receiving similar levels of provision. There is nothing in the 1994 Code which diminishes the essentially local nature of decisions about stage placement and provision. Moreover, the apparent commonality of terminology introduced by the 1994 Code is somewhat misleading. Since placement and provision at the 1994 Code stages mean different things in different contexts, the shared labels actually conceal a very considerable range of variation.

This scope for local decision-making of course, has historically been a key feature of the English education system in general and of special needs education in particular. The flexibilities beneath the framework of the 1994 Code, therefore, may be entirely desirable. However, it does emphasise the fact that any quality control of decision-making about placement and provision cannot come from that framework alone. It has to take the form of monitoring the outcomes of those decisions through, for instance, annual reviews and Ofsted inspections. Whether these monitoring procedures are sufficiently robust is an issue which is beyond the scope of this report.

3.12.3 LEAs and the control of resources

It is evident that the LEA has somewhat contradictory roles. On the one hand, the LEA is responsible for ensuring that pupils have their needs identified and met. It therefore issues guidance to schools, provides them with resources to meet pupils' needs and deploys its own specialist services to assess, advise and/or teach. On the other hand the resources available to the LEA for special needs provision are strictly limited and it is responsible, in the interests of all pupils, for ensuring that those resources are managed effectively. In a situation where the demand for special needs resources exceeds supply, this in effect means that it is responsible for controlling access to those resources.

Although the LEAs in the sample operate in very different ways in many respects, there is a consistent pattern in their resolution of the dilemmas created by this dual role. It seems that, in broad terms at least they divide the identification and provision role from the controlling role and allocate the former very largely to schools. In each of the LEAs, therefore, it is the role of the school to identify pupils with SEN and to

44

make a case to the LEA (or its services) for additional resources to meet those needs. This means that it is the task of the LEA to receive and filter those requests and, in so doing, to control access to resources.

This pattern is clear in two aspects of decision-making. Most obviously, the stage 4 procedures take the form of a review of cases made, for the most part, by schools – a pattern which is echoed at stage 3, though usually through less formal procedures. However, it is also evident in the use of delegation across these LEAs. In all LEAs at stage 2 and in some up to and including stage 5, the LEA delegates resources and decisions about how to use those resources to schools. Effectively, therefore, responsibility for identification and provision is passed over to the school, leaving the LEA with the role of controlling access to any *additional* resources that the school might request.

This pattern is so common that there is a tendency for it to be taken for granted, not least because the 1994 Code's procedures seem to support it so clearly. It is also, of course, entirely possible for this pattern to be highly effective in meeting pupils' SEN, provided that schools make wise decisions and/or that LEAs monitor their decisions carefully. This separation of roles, however, does mean that one possibility for LEAs to guarantee effectiveness and equity in special needs education is rarely taken up. The danger, of course, is that, if LEAs were to focus on the controlling role too exclusively at the same time as schools had poor identification procedures and ineffective forms of provision, many children's SEN might not be met.

4. SCHOOL INTERVIEWS

4.1 Sample and methods

In order to explore schools' use of the 1994 Code's staged procedures in more detail, LEAs were asked to nominate up to 12 mainstream schools each where there was *prima facie* evidence that those procedures were well managed. They were asked, so far as possible, to weight their nominations in favour of primary schools and to cover a range of the types of SEN provision (e.g. with or without special unit) and approaches to special needs provision (e.g. highly inclusive, 'traditional remedial') in their authority areas. The intention was that the research team would select between five and ten schools from each authority for further study in order to sample as wide a range of contexts and approaches as possible. This method deliberately skewed the sample towards well-organised schools since the ultimate aim was to produce *guidance* on the use of the staged procedures rather than simply an account of how they are used *typically*. It is important to bear this distinction in mind, therefore, when reading this chapter.

An interview schedule was developed through piloting exercises in three schools drawn from outside the sample LEAs. In the event, this schedule continued to develop through the research process. The initial version was semi-structured. However, as further interviews were undertaken and particular responses to questions began to recur, it became possible to produce the more structured version presented in Appendix 4. This development was necessary because, as we shall see, SENCOs often struggled to set out clearly their approaches to the different aspects of the staged procedures. The greater degree of structure, therefore, made it possible to probe these approaches more effectively.

The original intention was to study a similar number of schools from each of the eight LEAs. In the event, two developments caused a change of plan. First, similar patterns of responses began to be elicited from different schools across different authorities and it became clear that further interviews were not adding substantially to our understanding of schools' approaches. Second, despite our efforts to identify schools with significant populations of pupils with low as well as high-incidence SEN, the

latter (particularly pupils with general learning difficulties) predominated in our sample. Given that this was a research and *development* project, therefore, rather than a research-only project, it made sense to shift our effort away from further school studies towards interviews with low-incidence specialists in LEAs.

The final sample consequently comprises some 37 school-level interviews across 8 LEAs broken down as follows:

Table 14. School sample

Type of LEA	Primary	Secondary
High statementing, Low delegating (Fernshire, Borderland, Riverborough)	12	6
High statementing, high delegating (Chalkshire, Carville)	4	3
Low statementing, low delegating (Glassborough)	2	1
Low statementing, high delegating (Forestshire, Bridgeborough)	6	3
TOTAL	**24**	**13**

Interviews were undertaken with the SENCO (or equivalent) who was able to give an overview of the school's SEN policy and practices. As with the LEA interviews in the previous chapter, questions were asked on a stage-by-stage basis and responses are reported in the same way. This is in line with our aim of eliciting information on criteria and provision at each stage, but inevitably makes it more difficult to understand the overall pattern of individual schools' responses (which was not our prime concern). Further contextual information about the sample schools, however, was collected through a brief written questionnaire (Appendix 5) completed before the interviews and is presented as Appendix 6.

4.2 Schools' use of the Code of Practice 1994 to fulfil their SEN aims

Responses to questions about how schools used the 1994 Code suggested that almost three quarters (73%) of the SENCOs viewed it as providing a *general* framework within which the school's SEN policy was operationalised. This suggests that most SENCOs have a good operational knowledge of the 1994 Code and use it as a reference point to support their decision-making, but do not – or are not able to – use it as a detailed decision-making guide. Further comments suggested that SENCOs operated stages 1 and 2 with a degree of flexibility. However, at the point where the LEA was likely to be involved (stage 3) and there was an issue over access to additional resources, they were more likely to adhere strictly to any LEA guidelines. Two comments from SENCOs, both from LEAs which we had categorised as low delegating, summed up this situation. One commented:

"The Code is stuck to as it's the only way to get any resources".

The other more laconically reflected:

"If we could get all of the SEN pupils statemented then we would".

However, not all of the SENCOs thought of the 1994 Code simply as a procedural device for releasing resources. As one commented:

"The child is first and then we fit the Code around the child".

Another SENCO expressed similar sentiments in a somewhat different manner noting:

"We do all of the 'musts' in the Code and interpret flexibly the 'shoulds'".

Indeed, over a third of the SENCOs (35%) reported that they had found the 1994 Code useful in so far as it helped to raise the awareness and profile of SEN in the school and thus made their role somewhat easier. As one SENCO commented, pointing to the legal force of the 1994 Code*:*

"It makes staff face up to SEN in terms of determining responsibilities".

43 LEA guidance

When asked about the extent of LEA guidance on the interpretation of the 1994 Code and its impact on their practice, all respondents with the exception of one SENCO indicated that their LEAs had provided some form of guidance on implementing the 1994 Code. In following up the one negative response with the LEA, it was suggested

that the response was the result of an on-going dispute between the school and the LEA over the level of support provided for pupils with SEN.

Most of the SENCOs expressed the opinion that the guidance produced by the LEA was adequate in that it provided them with the level of detail they required, but that there was a need (see below) for a more user-friendly document for internal use within the school. When respondents were asked about the extent to which such guidance was closely followed the common response again was that, where guidance is linked to resources, SENCOs would strictly adhere to it, but when there are no resource implications they feel able to operate more flexibly. Interestingly, two SENCOs - one of whom was the SENCO whose school was in dispute with the LEA - suggested that they did not follow the guidance at all. The other informed us that she had only recently been appointed and had as yet not been made fully aware of any guidance which the LEA may have issued. This latter response, however, indicates the problem of ensuring consistency in the implementation of the 1994 Code in the face of the natural turnover of SENCOs.

Respondents were more-or-less equally divided in their responses to the question of whether their LEAs had produced guidance on resource-utilisation. When asked to expand on this further some SENCOs felt that the availability of such guidance was especially useful in demonstrating to parents that the school has provided an appropriate level of resources for the needs of their child. The others saw guidance as a means of monitoring the work of schools with opinion divided as to whether this was a form of surveillance or a legitimate means of monitoring the effectiveness of the school's policies.

We found the reporting by the SENCOs of the existence of guidance on the use of resources somewhat at odds with the views of the LEAs, who implied that how schools used resources was largely a matter for the schools themselves. There is always a potential for confusion between resources attached to statements or provision from the LEA at stage 3 and the often somewhat limited resources available at the earlier stages of the 1994 Code. It may also be that LEAs, through training events for SENCOs, were communicating a view as to how resources should be used

49

at stages 1 and 2 without formally expressing this in written guidance and/or that their *procedural* guidance had significant implications for resource-utilisation.

Further questioning indicated that LEAs had indeed employed a number of mechanisms where they had no formal guidance to convey a 'view' as to how the 1994 Code should be operated and how resources should be used. LEAs had established regular SENCO conferences to discuss school and LEA views, or had opted for more formal training courses delivered either by LEA services or in conjunction with providers in higher education. One SENCO suggested that this approach reflected the declining influence of LEAs over schools and that regular conferences and courses were a means of retaining control, or at least of increasing the pressure on schools to keep pupils at the school-based stages.

4.4 School-produced criteria and guidance

Some 60% of the SENCOs reported that they had produced their own criteria for the stages of the 1994 Code. Given the availability of formal and informal guidance from LEAs, the responses to this question may appear surprising. However, it tended to be the case that, where schools had developed their own criteria, they had done so as a means of providing a slimmer and more accessible version of LEA guidance for use with staff. When we examined copies of this guidance it was clear that they consisted of a set of guidelines for staff to help them with assessments and dealing with special needs issues, whilst informing them of their responsibilities. Some SENCOs commented that, in producing their own guidance, they had followed that provided by the LEA but modified it in accordance with their own views of what their staff 'needed to know'.

Examples of the guidance produced by schools varied. For example, one secondary school had produced a very simple criterion to determine placement on stage 3:

> Reading tests are used in the child's first week in the school. If the pupils are at a reading age of 8 or below and do not have English as a second language problems then they will go onto stage 3 automatically.

Elsewhere, the guidance comprised a combination of criteria for placement at the 1994 Codes stages derived from the 1994 Code itself together with *post hoc* justifications of the placement and provision decisions that the SENCO had made in

respect of particular pupils. In one junior school, for instance, the guidance consisted of an individual folder for each class, with a colour-coded system for the stages of the 1994 Code and advice for teachers, parents and support staff on all pupils in the class with SEN. In a secondary school, the equivalent guidance combined scores from a range of assessments with data from their behaviour management programme to provide information and advice for staff, together with indications of how any additional resources had been allocated. In all these cases it appeared as though SENCOs were attempting to generate consistency in responses to individual pupils and to offer a rationale for the decisions they had made. Such school-produced documentation also made clear the extent to which, even in LEAs with detailed and explicit criteria, there was a need for school-level interpretation.

Where schools had no criteria of their own, they were asked why this was the case. The rationale offered by SENCOs tended to be that a more individualised approach was necessary. This inevitably reinforced the role of the SENCO as the sole arbiter of the decision-making process. It was noticeable in discussion that, for these SENCOs, considerable value was attached to developing a cocktail of assessments of their own choosing for each case. The absence of guidance from LEAs appeared to give SENCOs more scope to operate in this way.

In some schools an alternative strategy was in place. This generally consisted of the SENCO's issuing a written communication at the start of each term detailing those pupils on the various stages of the 1994 Code and providing a 'pen-portrait' of each child's special needs in the form of descriptors which staff would then be able to use if they were concerned about other pupils. Again, this emphasises the need felt at school level for some sort of a framework of guidance – but one that allowed considerable flexibility for local interpretation.

4.5 Decision-making about placement at stage 2

Following this general overview, SENCOs were invited in much the same way as LEA officers had been to describe the situation regarding placement and provision for each of the stages. As with the interviews with LEA officers, their responses suggested that, although the LEA does not make placement decisions at stage 2, it nonetheless often has a role in guiding and influencing the decisions that schools

themselves make. This role is most commonly carried out by providing criteria for schools. Almost a third of the schools reported that they also receive advice from LEA services for stage 2 pupils, usually from the Learning Support Service or EP and generally on an informal basis. Some services only become involved at this stage if the schools or parents request that they do so. One of the 3 schools which received more formal case-by-case guidance of this kind did so for general learning difficulty pupils, one for specific learning difficulty pupils and one for pupils with emotional and behavioural difficulties.

4.6 School criteria at stage 2

SENCOs were asked to describe in more detail the criteria they took into account when considering placing pupils at stage 2 with three of the principal types of special needs - general learning difficulties, emotional and behavioural difficulties and specific learning difficulties. A number of interesting factors emerged. These are displayed in Table 15 below.

Table 15. When you are considering suggesting whether or not to place a pupil with this type of SEN at stage 2 of the 1994 Code, which criteria are you likely to consider?

	GLD		EBD		SpLD	
Criteria	N	%	N	%	N	%
a) Teacher concern	20	77%	4	80%	4	67%
b) Lack of progress	21	81%	4	80%	2	33%
c) Low attainment	6	23%	1	20%	1	17%
d) Gap between Peers	3	12%	0	-	1	17%
e) IEP targets	3	12%	1	20%	1	17%
f) Poor attendance	1	4%	0	-	0	-
g) Parent concern	14	54%	2	40%	2	33%
h) Pupil concern	7	27%	0	-	0	-
i) Progression to stage 5	0	-	0	-	0	-
j) Increase in the level of resources/expertise needed	1	4%	0	-	0	-

Some caution is needed in comparing these figures due to the fact that there are 26 schools reporting on GLD pupils compared to 5 schools reporting on EBD pupils and 6 on SpLD pupils.

By far the most important factors were teacher concern and lack of progress, with parental concern also an important consideration. In exploring these issues with SENCOs it was evident that the first two factors were generally regarded as essential conditions required for placement on stage 2. Indeed most SENCOs elided these

criteria so that it was teacher concern about a 'lack of progress' which prompted them to consider such placement.

In order to explore this process further, SENCOs were invited to discuss the *evidence* that they would draw upon in considering placement at stage 2. Their responses are presented in Table 16.

Table 16. Is there any other evidence that you would use?

	GLD		EBD		SpLD	
Evidence	N	%	N	%	N	%
a) Teacher judgements	9	35%	3	60%	3	50%
b) Test scores	20	77%	2	40%	4	67%
c) NC test level	9	35%	1	20%	1	17%
d) Classroom observations	10	38%	2	40%	2	33%
e) Performance in relation to meeting IEP targets	4	15%	1	20%	0	-
f) Length of time at previous stage	9	35%	2	40%	1	17%
g) IEP reviews	2	8%	0	-	0	-
h) Parent account	5	19%	0	-	0	-
i) Pupil account	1	4%	0	-	0	-
j) Previous pupil profiles	3	12%	0	-	2	33%

Although the pattern is more complex here, it is again possible to discern certain patterns. Crucially, SENCOs appear to establish concerns about lack of progress in terms of a combination of data from test scores and the intuitive professional judgements of their colleagues. For pupils with EBD, SENCOs place more emphasis on the judgement of their colleagues, but for general learning difficulties they are likely to have greater recourse to data from test scores. For specific learning difficulties, SENCOs are almost equally divided over the emphasis they would give to each. Weighting is also given to the length of time spent on stage 1. In cases of pupils with EBD there is a reasonable concern that, if previous action is not proving effective, there is a need for additional steps to be taken quickly to respond to the needs of potentially the most problematic pupils in school.

It is worth noting that the elision which took place between 'teacher concern' and 'lack of progress' was also evident in general terms between 'criteria' and 'evidence'. A distinction was made between these two on the assumption that SENCOs would

operate with a set of clear criteria for placement (such as low attainment, or lack of access to the curriculum) and would then call upon a range of evidence in each individual case to determine whether those criteria had been met. In practice, most SENCOs found it extremely difficult to disentangle the notion of evidence from the notion of criteria, just as they found it difficult to separate teacher concern from lack of progress.

To a certain extent, this difficulty reflects the subtlety of the distinction they were being required to make. However, it also indicates the nature of the decision-making process as it was understood by SENCOs. By and large, they did not have discrete, clear criteria that they were able to apply in all cases and that would be supported by independently collected evidence. Rather, they made case-by-case decisions by weighing up a wide range of factors. These factors included the pupil's attainments, the extent of any concern expressed by teachers and parents, the lack of any apparent response to current interventions and so on. SENCOs were, therefore, able to identify some very broad *principles* governing their decision-making in terms of 'teacher concern' and 'lack of progress', but were, for the most part, unable to operationalise these at the level of detailed criteria and supporting evidence. We shall say more on the implications of this form of decision-making in our discussion of responses to the questions about the nature of the decision-making process in schools.

4.7 Decision-making processes at stage 2

The most common pattern appears to be that class or subject teachers raise their concerns about the lack of progress of certain pupils with the SENCO, who then initiates a course of action to determine whether consideration leads to a stage 2 placement. The decision-making process typically involves a range of staff rather than the SENCO acting alone. In most cases, the SENCO appears to consult with class and/or subject teacher and, if available, other members of the SEN team. This process of consultation may also extend to the LSA and head teacher or other member of the senior management team. All of the schools who involved parents in the decision-making process also made use of meetings between the SENCO and other relevant staff. Several SENCOs mentioned the importance they attached to the observations of LSAs or support teachers whose views were usually combined with a review of the

pupil's progress and work record. The general pattern of responses is displayed below as Table 17.

Table 17. What process do you follow in coming to a decision about placement?

	GLD		EBD		SpLD	
Process	N	%	N	%	N	%
a. SENCO decides alone	1	4%	0	-	0	-
b. SENCO decides after consultation with internal staff	25	96%	5	100%	6	100%
c. SENCO decides after consultation with external staff	1	4%	0	-	0	-
d. Parents are also involved	11	42%	1	20%	1	17%

It is, however, apparent that there was considerable elision between SENCOs' responses to questions about the decision-making process and their responses to questions about criteria and evidence. For example, questions about criteria and evidence sometimes elicited responses in terms of a 'review of every class in turn during the first term', or a meeting to 'talk about the pupils who are causing us concern'. Indeed, the extent of elision in SENCOs' responses made the interview process both lengthy and highly problematic, since SENCOs clearly found it extremely difficult to disaggregate the different elements of decision-making for the purpose of explaining them to the research team.

This seems to reinforce the suggestion that SENCO decision-making is a complex and by no means fully explicated process. In this, it parallels LEA decision-making at stages 4 and 5 where there are similar elisions between 'criteria' and 'guidance' and a similarly unexplicated process of case-by-case judgement exercised, typically, by a professional panel. At its best, the process in school takes the form of a collaborative exploration by SENCO, teachers and parents of their concerns about particular pupils informed by general notions of what the pupil should be achieving, but without any attempt to apply arbitrary 'cut-off' points in the manner of some LEA sets of criteria. The dangers of this process, however, are obvious. The prominent role played both by 'teacher concern' as a criterion and by consultations with teachers as an essential part of the process means that there is a strong possibility that those pupils who come most often and forcefully to the attention of their class and subject teachers will be the ones

most likely to be placed on stage 2. In the absence of any clear notions of evidence or any detailed criteria, it is far from certain that these will necessarily be the pupils with the greatest levels of special educational need.

Although the purpose of the project was not to evaluate schools' decision-making processes as such, the differing extent to which these dangers were realised often became apparent. In some schools, for instance, the process very much took the form of a more-or-less direct response by the SENCO to the expressed concerns of her/his colleagues. In other schools, however, it was clear that there was a more formal moderation procedure in the sense that those concerns were set alongside a range of 'objective' evidence (assessment results, observations and so on) and there was an attempt to develop some sort of 'case law' within generalised principles, if not quite to develop detailed criteria as such. This latter sort of process seemed, on the face of it, much more likely to deliver rational and equitable decisions.

4.8 Provision at stage 2
In exploring the extent of the provision associated with placement on stage 2 we tried not only to establish what was available, but also to clarify how it differed from that which had been available at the previous stage.

It is worth pointing out that SENCOs sometimes found it difficult, both here and elsewhere in the interview, to talk in terms of 'typical' levels of provision for 'typical' pupils. In the pilot interviews particularly, where we asked SENCOs to focus on one 'typical' pupil, they found it extremely difficult not to be drawn into the detailed differences between this pupil and others. In a sense, this is a heartening confirmation of SENCOs' commitment to an individualised approach. However, it also begs the question as to how far some of them are able (or are enabled) to think at a more strategic level about provision.

Nonetheless, we were able to detect three levels of provision which characterised stage 2 and distinguished it from the previous stage:

- One of the main differences related to the setting out of objectives or targets in an IEP. Although not required in the 1994 Code some schools had what they

referred to as IEPs in place at stage 1. In these schools, SENCOs would initially describe changes in provision as arising from a change in the way IEP targets were set. Usually this meant that targets were more sharply focused or precise. In schools which introduced an IEP at stage 2, provision was, not surprisingly, focused around the targets which were drawn up once a decision had been made to place a child at this stage.

- The second characteristic related to the use of *additional human resources*, usually in the form of time from a LSA. Over half of the schools commented that support from LSAs was only introduced at stage 2. This might involve one-to-one tuition or, more commonly, the placement of a pupil within a small group for tuition from the LSA. Most frequently, this withdrawal work was for additional support in literacy. Many of these schools commented that the only additional adult support at stage 1 was in the form of parental or volunteer help.

- The final characteristic was referred to as additional *differentiation* in the work provided to pupils, usually guided by the IEP targets.

To establish the extent of the difference between this provision and that made at stage 1, SENCOs were asked to comment as to whether they regarded the difference as significant. 'Significant' in this context was explained to interviewees in terms of an increased likelihood of enabling the pupil to learn effectively. An overview of the responses is provided in Table 18.

Table 18. In your opinion, is this difference in provision between stage 1 and stage 2 significant?

	GLD		EBD		SpLD	
	N	%	N	%	N	%
Yes	16	62%	3	60%	5	83%
No	8	31%	1	20%	0	-

Most of the SENCOs felt that the difference in provision between the two stages was significant - particularly for pupils with specific learning difficulties (83%). Commonly, SENCOs referred to changes in adult support (personnel involved, amount of support, and type of support) as the major difference. Some SENCOs also

felt that there was an increase in staff awareness, more input from the SEN team and an increase in the contact with parents at stage 2. Several noted the difference in IEPs at stage 2 – notably, the more specific/targeting and six monthly reviews. Some SENCOs, however, whilst recognising that there may be differences, particularly in the levels of support available, did not think that the difference was significant. One SENCO commented that the pupil may get the same provision at stage 1 as they do at stage 5 - it depended on what the school could provide.

4.9 The review process

Some variation was noted in responses to questions about how placements at stage 2 were reviewed. Most commonly, IEPs were reviewed biannually. Some schools conducted termly reviews and a smaller proportion of schools operated on a more *ad hoc* basis, suggesting to interviewers that they worked on a 'day-by-day or week-by-week basis'. Some schools reported that they conducted their reviews in accordance with the schedule of parents' evenings or at open days.

The actual mechanics of the reviews varied somewhat. The majority of schools reviewed the IEPs of pupils with general learning difficulties and specific learning difficulties by convening meetings. These tended to be informal, involving the SENCO and the pupil's class/subject teacher plus any other relevant members of staff (e.g. LSA or support staff). The majority of these schools commented that they also invited parents to these meetings. Two schools pointed out that they also invited pupils.

For pupils with EBD, however, the practice was more varied. On the basis of the responses, SENCOs relied either on meetings or on the completion of printed proformas circulated to staff. The use of proformas probably reflects the need for a more immediate response than would be possible if decision-making relied on the arrangement of a meeting. This emphasises again the degree to which in the case of pupils with EBD 'fast-tracking' procedures were in place to ensure that when available, additional resources were accessed as quickly as possible. Moreover, the review process for all pupils with SEN seems once again to depend heavily on teacher judgement exercised through joint decision-making.

4.10 LEA involvement at stage 2

The responses to questions about LEA involvement at stage 2 were broadly in line with the pattern reported by LEAs in the previous chapter. Where LEA involvement was reported, it was clear that this took place on an informal basis and was commonest in primary schools. Usually the involvement took the form of advice, but in some cases it did involve some form of pupil assessment or staff training. It is clear that educational psychologists and the learning support service have the most involvement with schools at this stage. It is worth noting, however, that schools reported that they had received support from the speech therapy service on a more formal basis, when needed. Two schools commented that, whilst they could contact the behaviour support service for advice at stage 2, they had to buy in any support that they require from this service.

4.11 School criteria at stage 3

Having dealt with stage 2, a similar approach was adopted with the other stages. SENCOs were asked to describe the criteria they used when considering placing pupils on stage, the procedures they followed and the provision that was forthcoming. Where possible, data from these questions is again presented in tabular form.

Table 19. When you are considering suggesting whether or not to place a pupil with this type of SEN at stage 3 of the 1994 Code, which criteria are you likely to consider?

	GLD		EBD		SpLD	
Criteria	**N**	**%**	**N**	**%**	**N**	**%**
a) Teacher concern	19	73%	2	40%	0	-
b) Lack of progress	15	58%	2	40%	3	50%
c) Low attainment	4	15%	0	-	1	17%
d) Gap between pupil & peers	4	15%	0	-	0	-
e) IEP targets	7	27%	2	40%	1	17%
f) Poor attendance	2	8%	0	-	0	-
g) Parent concern	17	65%	1	20%	0	-
h) Pupil concern	6	23%	0	-	0	-
i) Progression to stage 5	1	4%	0	-	0	-
j) Increase in the level of resources/expertise needed	11	42%	3	60%	3	50%

Some caution is needed in comparing these figures due to the fact that there are 26 schools reporting on GLD pupils compared to 5 schools reporting on EBD pupils and 6 on SpLD pupils.

Although there are some variations in the pattern established for placement on stage 2, SENCOs continue to rely heavily on a notion of concern about a lack of progress. For pupils with general learning difficulties, what is most noticeable is the increased significance of parental concern. It appears that, as parents become aware of their child's lack of progress, they are more likely to express their concerns to the school. This may well reflect the involvement of parents in the drawing up the IEP, or at least their notification of its production. Once alerted, many parents may well take a closer interest in the progress of their child and seek additional provision if they are not satisfied with progress. If these concerns are endorsed by professional opinion in the school, there would appear to be an increased chance of the pupil's being placed on stage 3.

For pupils with EBD, most of the respondents reported that they would request a move to stage 3 when they felt that they needed more support from the LEA or a level of external agency involvement. This may well reflect the 'fast-tracking' policy referred to above, which may be the result of many schools feeling that they exhaust their repertoire of resources to deal with these pupils more quickly than in the case of

pupils with general learning difficulties. It was, indeed, reported by some SENCOs that, with certain difficulties and in cases where schools believed that the only way they could respond to a pupil's needs was by accessing external resources, placement on stage 3 was part of a 'rapid response' tactic. In such cases, stage 2 was often little more than a token paper exercise. However, concerns about lack of progress and a failure to meet targets are also significant factors for SENCOs when reviewing pupils with EBD.

A similar pattern can be observed in connection with pupils with specific learning difficulties where again SENCOs looked to stage 3 as a means of accessing 'expertise' which they felt they did not possess.

Table 20. Is there any other evidence that you would use?

	GLD		EBD		SpLD	
Evidence	**N**	**%**	**N**	**%**	**N**	**%**
a) Teacher judgements	8	31%	2	40%	1	17%
b) Test scores	20	77%	1	20%	0	-
c) NC test levels	5	19%	0	-	0	-
d) Classroom observations	9	35%	2	40%	0	-
e) Performance in relation to meeting IEP targets	8	31%	1	20%	0	-
f) Length of time at previous stage	9	35%	1	20%	0	-
g) IEP reviews	14	54%	0	-	0	-
h) Parent account	6	23%	0	-	0	-
i) Pupil account	2	8%	0	-	0	-
j) Previous pupil profiles	1	4%	1	20%	0	-

Some caution is needed in comparing these figures due to the fact that there are 5 schools responding for EBD pupils and 6 for SpLD compared to 26 responding for GLD pupils.

As at stage 2, when SENCOs were asked about the evidence they would draw upon (Table 20), they had some difficulty disentangling the notions of 'criteria' and 'evidence'. However, no single form of evidence appeared as overwhelmingly significant for SENCOs in making decisions about a placement on stage 3. SENCOs weighed up a range of factors in addition to the concern about lack of progress – the most important being their own judgement on the basis of their observation of the pupil, or the pupil's responses to IEP targets. In the case of pupils with EBD, SENCOs reported that where they were concerned about the safety of others (peers or

staff), this would be a significant consideration. Some schools reported that this was also age-related in that they were concerned that, as pupils got older, they were likely to present a greater level of difficulty. In one school, this concern manifested itself in an actual structural feature with such pupils being moved to stage 3 once they began Year 4.

The responses from SENCOs suggested that the most important reasons for placing a pupil with general learning difficulties on stage 3 were a combination of the judgement of the SENCO and the belief that the school could not make any further progress with the pupil unless there were additional resources from the LEA. For pupils with EBD, a similar process was involved although the impact of the pupil on others – in terms of safety and classroom disruption - were also important.

There is, of course, a parallel between the *de facto* criteria for placement at stage 2 and those employed at stage 3. In the former case, class teachers are concerned that they cannot enable the pupil to make any further progress without additional human, material or intellectual resources from the SENCO. In the latter case, the SENCO is concerned that the school as a whole cannot enable the pupil to make further progress without additional resources from LEA services. This pattern is, of course, very much in line with the procedures recommended by the 1994 Code and, at its best, facilitates a sensitive assessment of the pupils' needs on the basis of his/her responses to classroom- and school-based interventions. However, there would appear to be some dangers, both in terms of an expectation that one set of interventions has to fail before another, more appropriate set can be called into play and in terms of the perverse incentives for class teachers and schools to over-state their inability to cope with pupils in order to access additional support.

4.12 Decision-making processes at stage 3

The responses to this question, displayed in Table 21 below, make it clear that, as at stage 2, considerable importance is attached to meetings with relevant school staff before any formal decision is made to decide on placements for pupils. The staff most commonly involved in the decision-making process were the SENCO and the child's class/subject teachers. A number of the schools also involved parents in the meetings, or at least brought in parents to discuss the outcomes of the meetings. Senior

management, head teachers and school support teachers and assistants were also involved in certain cases. The SENCO often consults with any relevant external support staff in particular in order to access their assessments. (The role of external services, however, is explored more fully in the next section).

Table 21. What process do you follow in coming to a decision in school to propose that a pupil should move to stage 3?

	GLD		EBD		SpLD	
Process	N	%	N	%	N	%
a. SENCO decides alone	1	4%	0	-	0	-
b. SENCO decides after consultation with internal staff	22	85%	5	100%	6	100%
c. SENCO decides after consultation with external staff	12	46%	2	40%	0	-
d. Parents are also involved	11	42%	1	20%	0	-

4.13 The role of the LEA and its services in decision-making at stage 3

Given that stage 3 implies the involvement of external services in making provision, it is not surprising that the LEA is also involved in the decision to place pupils at that stage. The principal ways in which LEAs and their services are involved are displayed in Table 22 below.

Table 22. What is the role of the LEA and its services in placing pupils at Stage 3?

	GLD		EBD		SpLD	
Role	N	%	N	%	N	%
a. Further assessment and review	16	62%	2	40%	4	67%
b. Sets criteria for school to meet	4	15%	0	-	0	-
c. Refers to moderation panel	9	35%	1	20%	2	33%
d. Other	0	-	1	20%	0	-

Typically, the school proposes pupils who it feels should be placed at stage 3 to the LEA services, (usually a learning support service member or EP), and the services review the available evidence, often supplementing it through an additional assessment. In some cases, the service member needs to take the case back to an LEA panel or head of service for a decision. Alternatively, service members may have

considerable autonomy in decision-making, though they have a finite amount of time to give to the school and therefore can only accept a limited number of cases. Some schools, therefore, commented that they may restrict the number of referrals as they may have other issues that need discussing with the EP during their allocated time. In some instances, the schools make the decision to place a pupil at stage 3 and justify this placement at a later date to the LEA, usually at an annual monitoring meeting.

One interesting example of a moderation panel in action was reported by a SENCO in respect of pupils with EBD. He reported that the LEA's moderating process for such pupils consisted of the Principal Educational Psychologist (PEP) and an external head teacher visiting a sample of schools each year to look at the SEN register, IEPs, and any other relevant data on pupils at stage 3. The head teachers acting as moderators are nominated by their peers. The moderators consider whether the school has pupils at stage 3 who perhaps would be better placed at stage 2, and advises the LEA accordingly. These pupils might be allowed to stay at stage 3 but without any additional LEA funding. The school commented that generally the sample of schools that is selected by the PEP is based on random selection and on those schools with high numbers of pupils at stage 3. This process, of course, reflects the understandable concern of LEAs, noted throughout this report, with using the 1994 Code's procedures to control access to resources. Whether at the same time it produces more effective provision for pupils is a moot point.

The division of responsibility between schools and LEAs is displayed in Table 23 , below.

Table 23. How is the responsibility to place a pupil at stage 3 divided between school and LEA?

	GLD		EBD		SpLD	
Responsibility	**N**	**%**	**N**	**%**	**N**	**%**
a. SENCO (school) propose - LEA services (e.g. EP) arbitrate	14	54%	2	40%	4	67%
b. SENCO (school) propose - moderated by Panel	9	35%	1	20%	2	33%
c. Other	0	-	1	20%	0	-

Given the key role played by the LEA at this stage, it was interesting to note that, whilst schools in some authorities had a clear view as to the nature of the criteria used by LEAs and their services, others did not. As one SENCO in an LEA with a panel system put it, "the panel is a total mystery". Several schools described the criteria as a tick-list of evidence which includes the use of IEPs, prior involvement of LEA services, involvement of parents and test results. Some SENCOs thought that the LEA's criteria were based on the needs of the pupil in question over and above the needs of others in the school and whether or not in-class support would have any impact on this pupil's progress.

In the case of pupils with specific learning difficulties, one school was able to produce the LEA's guidance document which states that the pupil must have received input from the EP and that the pupil is functioning at or below 5th centile in language, reading and spelling. However, such clarity was rare. Given that by no means all LEAs have explicit criteria at this stage, this situation is not altogether surprising, though it does inevitably open up the possibility for misunderstandings between SENCOs who feel that pupils need additional provision and LEA personnel who feel that they do not quite meet the (possibly implicit) criteria by which they are operating.

4.14 Provision at stage 3

An overview of the additional support reported by SENCOs as arising from a placement on stage 3 is presented in Table 24 below.

Table 24. Additional LEA resources or services due to placing a pupil at stage 3

	GLD		EBD		SpLD	
	N	%	N	%	N	%
a) Assessment	14	54%	1	20%	2	33%
b) Improved IEP	6	23%	1	20%	1	17%
c) Advice only	14	54%	1	20%	2	33%
d) Additional support	7	27%	1	20%	2	33%
e) Resources	7	27%	3	60%	4	67%
f) Other	0	-	1	20%	0	-

Although stage 3 is characterised by the involvement of external services, it does not necessarily follow that those services will always be involved in tuition or other forms of direct pupil support. In the case of pupils with general learning difficulties in

particular, it is much more likely that the school will receive advice, assessment and, possibly, assistance in developing the IEP. Where tangible resources are provided, these are as likely to take the form of teaching materials as of additional teaching support.

In the case of pupils with EBD or SpLD at stage 3, the majority of schools receive additional resources which are usually in the form of funding or personnel. A number of schools receive a mixture of EP assessment and extra support hours. The support is usually from the learning support service and varies from 40 minutes to between 4 and 5 hours per week for one-to-one or small group work. Some schools reported that they receive funding (which varied from approximately £1200 to £1350) that the school can spend as they choose but may later have to justify at a formal review. Schools commented that they generally buy more staff with the funding, either in the form of LSS or extra support service time. In the case of pupils with EBD, advice or assessment sometimes results in a referral to a pupil referral unit.

Where additional resources were available, they enabled schools to construct a 'package' of provision for pupils. SENCOs were asked, therefore, what this package typically might look like. The majority of schools reported that the package would be based around an IEP. Teachers from the LSS involved with a pupil may write, or help the school to write these. The majority of schools likewise reported that pupils with general learning difficulties at stage 3 would typically receive in-class support from an LSA, particularly for numeracy and literacy. This may be a mixture of one-to-one and small group support (up to 6 per group). In some cases the pupil may be 'attached' to a statemented pupil in order to access their allocated support time. In primary schools, pupils would receive support from the class-based LSA or helper during literacy and numeracy hour, whereas in secondary schools the SENCO may withdraw the pupil for a period of time. As at stage 2, there are variations in the reported levels of support depending on the school/LEA resources and the pupil's needs.

The 'typical' support for an EBD pupil appears to extend to around three hours via a mix of in-class and withdrawal support. Pupils generally receive one-to-one support from a learning support teacher or LSA, but they may also work in small groups for

some subjects. Some pupils also receive limited input from the Behaviour Support Service.

The level of 'typical' support for pupils with specific learning difficulties is also approximately three hours per week, usually from an LSA. The support is predominantly targeted at literacy, either in small groups or on a one-to-one basis. Primary pupils often receive additional support from classroom LSAs during the Literacy Hour.

SENCOs were asked if this provision was significantly different from that which could be made at stage 2. In respect of IEPs particularly, almost 60% of schools felt that there was indeed a difference. Generally, they felt that the IEP was refined at stage 3, partly due to additional input from LEA service staff. Approximately a quarter of the schools, however, did not feel that there was any change between the stages.

Over 60% of schools thought that there was a difference in the other forms of provision that pupils received at stage 3 compared to the previous stage. In most cases there were tangible additions to provision, generally in the form of more advice and/or support from LEA services. Where support was provided, the majority was from LSAs, sometimes employed by the LSS. However, pupils also tend to receive more one-to-one or individual support rather than group work and educational psychologists have more input at this stage, especially in assessments. Schools also commented that they tended to have more contact with parents at this stage than at stage 2.

This is generally a positive picture in the sense that many schools are able to point to a stage 3 which constitutes a qualitative and quantitative enhancement of provision. However, it is worth bearing in mind that over 40% of schools were not able to identify any such enhancement. Even where there was a change, it might take the form of assessment and advice, begging the question as to whether the school would have the human resources and expertise to implement that advice effectively.

4.15 Review processes at stage 3

As at stage 2, descriptions of the review process varied from school to school. The most common response was that IEPs are reviewed termly (35%) with twice yearly being the second most common response (22%). Other schools sometimes reviewed IEPs half-termly, annually or as and when needed. Not surprisingly the SENCO was involved in the majority of reviews, sometimes in formal or informal meetings with other interested parties. The SENCO often collects relevant data from staff, including tests, reports on child's progress etc., prior to the meeting.

Class/subject teachers are likely to be involved in this review, as are relevant support/LEA personnel. A few schools have whole staff discussions. Parents are sometimes involved in the meetings and in other cases they are consulted after the relevant staff have met. One school has the first and last term reviews in each year with the parents and the second term review without. Again, however, the dominant impression is of a reliance on professional judgement exercised through collaborative decision-making.

4.16 Criteria at stage 4

The factors which lead SENCOs to press for a statutory assessment at stage 4 are, by and large, similar to those which persuade them to place pupils on the earlier stages of the 1994 Code – that is, 'teacher concern' about 'lack of progress' (see Table 25 below). Indeed, SENCOs found it very difficult to identify any *qualitative* difference between the criteria for the different stages. The principal difference between pupils at stage 4 and those at stage 2, therefore, is simply that the former have been failing to make progress for longer and have failed to respond to a more protracted series of school and service interventions. Indeed, this temporal dimension is explicit in many LEAs where the passage of a number of IEP reviews (usually two) without significant progress constitutes one of the criteria for moving to the next stage. In principle, this ensures that pupils are not prematurely labelled and that schools are encouraged to use their delegated resources to the full before calling for additional resources. However, there is a real danger that pupils will fail for too long with inappropriate provision before steps are taken to rectify the situation – particularly if the processes leading to statutory assessment and the assessment process itself are protracted.

Table 25. When you are considering whether or not to request a statutory assessment for pupils with this type of SEN, which criteria are you likely to consider?

	GLD		EBD		SpLD	
Criteria	N	%	N	%	N	%
a) Teacher concern	18	69%	3	60%	2	33%
b) Lack of progress	15	58%	3	60%	1	17%
c) Low attainment	4	15%	0	-	0	-
d) Gap between Peers	2	8%	0	-	0	-
e) IEP targets	7	27%	1	20%	0	-
f) Poor attendance	1	4%	0	-	0	-
g) Parent concern	15	58%	2	40%	2	33%
h) Pupil concern	5	19%	0	-	0	-
i) Progression to stage 5	3	12%	0	-	0	-
j) Increase in the level of resources/expertise needed	7	27%	1	20%	1	17%

As before, SENCOs were asked about the weighting given to different types of evidence. This data is displayed in Table 26.

Table 26. Is there any other evidence that you would use?

	GLD		EBD		SpLD	
Evidence	N	%	N	%	N	%
a) Teacher judgements	9	35%	2	40%	1	17%
b) Test scores	17	65%	1	20%	3	50%
c) NC test level	4	15%	1	20%	1	17%
d) Classroom observations	9	35%	2	40%	0	-
e) Performance in relation to IEP targets	6	23%	1	20%	0	-
f) Length of time at previous stage	9	35%	1	20%	1	17%
g) IEP reviews	14	54%	2	40%	0	-
h) Parent account	3	12%	1	20%	0	-
i) Pupil account	1	4%	1	20%	0	-
j) Previous pupil profiles	5	19%	0	-	1	17%

Some caution is needed in comparing these figures due to the fact that there are 26 schools reporting on GLD pupils compared to 5 schools reporting on EBD pupils and 6 on SpLD pupils.

Given the key role played by the LEA at stage 4, it is not surprising that the EP's judgement becomes a major factor which many schools feel they now have to take into account. Schools tend to see themselves, therefore, as having to amass a range of evidence - test scores, IEP reviews, teacher observations and any LEA service reports - in order to present a strong case to the EP and/or to any LEA panel. A few schools,

however, do not refer children for statutory assessment, as they are located in authorities where a statement does not bring additional funding. As one respondent commented:

> *"The LEA has an inclusion policy which involves consultation meetings and advice at stage 3. The LEA's policy to reduce the level of statements means that the school receives funding for LSA support starting at stage 2 and LEA advice at stage 3".*

4.17 Decision-making processes at stage 4

Not surprisingly, SENCOs reported the decision-making process as involving them in amassing information in order to create a portfolio on the child which they can pass on to the EP and LEA. This includes, for instance, test scores, evidence of parental and teacher concerns and evidence of lack of progress in the curriculum. The EP seems to be involved in many of the meetings that schools hold at this point to discuss pupils' progress. Relevant LSS staff, parents and class/subject teachers are also sometimes involved and parents can become major driving forces in the push towards statutory assessment. The EP and/or external services involved with the pupil also produce a report for the LEA.

When asked how the final decision was arrived at and what criteria were used by the LEA in reaching its decision, SENCOs confessed to being somewhat uncertain. Over half of the schools visited were not aware of the LEA's criteria for making statutory assessment decisions, though they were familiar with the sorts of evidence routinely demanded of them by their LEAs. Some of the schools, which claimed that they were aware of the criteria, nonetheless could go little further than saying that the decision was based on professional judgement and 'some form of LEA criteria'. In some cases, SENCOs had been given the criteria at professional development sessions. One believed that the LEA had declared itself to be using the following criteria: *'decisions about pupils with specific learning difficulties are based on number on roll, EBD decisions are based on free school meals and GLD decisions are based on CAT Test results'*. Schools were equally uncertain as to who made the decision. A number referred to a 'panel', while others thought that the EP alone makes the final decision. There was a sense that parents could sometimes influence the decision through the appeals process.

When we reported these findings to LEA officers, some of them expressed surprise at this level of uncertainty, particularly where the LEA had explicit criteria and/or had invested heavily in training. However, it may be that the multi-dimensional nature of LEA criteria and, in particular, the scope which even the most explicit criteria left for 'professional judgement' lay behind at least some of this uncertainty.

4.18 Resources and provision at stage 4

Not surprisingly, the overwhelming majority of schools (all bar one) do not receive any additional resources at this stage since it is primarily concerned with assessment. However, one school reported that it receives an additional 20 hours per week LSA interim support for a pupil with attendance problems.

The lack of additional resources is not necessarily a problem, provided that access to stage 4 and the assessment process itself are speedy. However, since the *de facto* criterion applied by most schools in moving towards a statutory assessment is that the pupil is failing to make progress despite the provision currently being made, the consequences of any significant delays are obvious.

4.19 Criteria at stage 5

Moving on to stage 5, SENCOs were asked about whether they were aware of the LEA's criteria for issuing statements. Several schools commented that the LEA had published their decision-making criteria, though by this they almost certainly meant criteria for statutory assessment rather than those for issuing a statement. Other schools guessed that the decisions were based on the information amassed by schools and/or agencies. However, over two thirds (68%) of the schools were not aware of the criteria used by their LEA for making decisions about the issuing of a statement.

4.20 Additional resources and services resulting from a statement

When asked about resources at this stage, almost all of the schools reported that they receive additional adult support for pupils with a statement. In the majority of the LEAs, this appears to be in the form of additional funding to employ LSAs, though some schools commented that the funding would not cover the costs of training the LSAs thus employed. Across the LEAs, the adult support (or funding equivalent) for

pupils with general learning difficulties varied from approximately 1.5 hours per week to full-time support in the most severe cases. The typical level of support appeared to be between 4 and 10 hours. Some authorities offered a 'trade-off' between LSA support and learning support teacher support. Schools in these authorities might choose to trade four LSA hours for two LST hours.

Schools reported that the typical support available for pupils with EBD varied from 3-5 hours LST or 10-15 hours LSA time. In some cases, EBD pupils receive full-time support, usually from LSAs. In respect of pupils with specific learning difficulties, responses were more varied. Some schools commented that *'pupils may not get anything additional to what the school is already providing,'* whilst the others said that they would expect something from the LEA but were unable to quantify it. Some 14% of the schools reported that they receive additional equipment from the LEA. This is often for pupils with specific learning difficulties or sensory impairments.

When asked about the provision which pupils would typically receive on the basis of any additional resources, SENCOs typically reported that the resources made available through the statement are combined with those already available at stage 3 to create a 'package' of provision for individual pupils. In general, that package is based on making adult support available for some or all of the curriculum, together with specialist tuition where possible, particularly in literacy. However, SENCOs found it somewhat difficult to talk in general terms about what these packages might look like since they were accustomed to putting them together on a case-by-case basis. There were, therefore, considerable variations within schools depending, for instance, on whether some form of support was already available in the pupil's class, how many other pupils in that class needed or already had support, whether the pupil had any needs over and above their learning difficulties, and so on.

When this in-school variation is added to the different LEA resourcing patterns at stage 5 and the different patterns of service provision at stage 3, a complex and highly variable pattern results. For instance, in one primary school, pupils received one hour per day LSA support individually or in small groups, together with one hour per week from an LST. In another primary school, pupils received precisely double this level of support. In a third, they received no LSA support but they did access two to three

hours of learning support service time. In a fourth, one pupil with learning difficulties was receiving virtually full-time LSA support.

On the one hand, such flexibility indicates the capacity of schools to respond both to individual needs and to local circumstances. On the other, it begs the question as to whether such variations result from a careful assessment of individual pupils or from custom and practice in particular schools and LEAs. At the very least, it seems doubtful whether every one of these different patterns of provision could be equally effective and equally efficient.

4.21 Differences in practice for different types of SEN

Although the focus of questioning throughout was on pupils with general learning difficulties, SENCOs were also asked whether there were differences between practices for these pupils and for pupils with other types of SEN. The majority (68%) responded that there were, and identified the following pattern of differences:

Table 27. Differences in practices at stage 5 for different types of SEN

Types of SEN	Practices are different (N)	%	Fast tracked (N)	%
EBD	19	76%	8	32%
HI	7	28%	2	8%
Physical/medical difficulties	7	28%	3	12%
Autism spectrum disorder	6	24%	4	16%
SpLD	5	20%	0	-
VI	4	16%	1	4%
Speech and language difficulties	3	12%	0	-
GLD	0	-	0	-

Pupils with EBD are those most likely to receive provision which is different from that made for pupils with general learning difficulties. Some schools stated that the basic mixture of LSA and external support may remain the same but that these will be at somewhat higher levels and different services (such as behaviour support services) are likely to be accessed. Schools may also have more involvement with parents of pupils with EBD, there is a greater emphasis on classroom observation and monitoring and reviews may be more regular. Pupils with emotional and behavioural

difficulties are also the most likely group to be fast tracked through the 1994 Code's stages in view of the challenges they present within schools and classrooms.

Other groups are also likely to have distinctive elements within their 'packages' of provision. For instance, pupils with sensory impairments and physical or medical difficulties may well be supplied with various technological aids, have support in using these and may work in an environment that has been adapted to facilitate their access. They are likely to have some limited tuition or monitoring from specialist services, which are also likely to work in an advisory capacity with their class and subject teachers. Pupils with physical or medical difficulties, or with autistic spectrum disorders in the mainstream schools we visited tend to receive higher levels of LSA support than pupils with general learning difficulties. The support might include playtime supervision and PE lessons and might in some cases extend across all or most of their time in school, especially if their needs for personal care or access are high.

As for pupils with general learning difficulties, the range and level of provision is extremely variable. However, for all groups, the availability of additional adult support seems to be the core of provision. In crude terms, as pupils' difficulties become more pronounced, so the level of support (particularly LSA support) which they receive increases until, for some, it extends across the whole of their timetables. No doubt, in many cases, such support is integrated into a carefully planned programme which also embraces IEP targets, specialist tuition, curriculum modification and differentiated approaches from class and subject teachers. However, there must also be some concern as to whether the blanket allocation of adult support as the 'answer' to all forms of special educational needs produces in every case the sort of differentiated response that would seem to be required.

4.22 SENCOs' views on guidance materials

When asked about the sort of guidance on thresholds and provision which would be of greatest use to them, most SENCOs expressed the view that they did indeed feel a need for further guidance. By and large, they did not believe that such guidance should be detailed and prescriptive, on the grounds that, 'you cannot fit everything into neat boxes'. However, SENCOs' views were somewhat complex in this area.

74

About a third of SENCOs were prepared to accept prescriptive guidance if it also brought with it guaranteed resources which would, in their view, make it possible for them to implement it. Some also expressed the need for detailed guidance in certain areas where they experienced uncertainty. One, for instance, reported that they:

> …*would like more prescriptive guidance on: 1) criteria for stages - use NC levels; 2) resources for stages; 3) role of SENCO; 4) criteria to allocate SENCO time in relation to {a} role at each stage and {b} time for numbers of pupils at each stage, e.g. 1 hr per week for each 5 pupils with statements.*

Others wanted more guidance on provision for pupils with EBD, or on inter-agency work, whilst others again wanted guidance to form part of a package of enhanced training and reduced paperwork.

The major complexity, however, was that, whilst SENCOs wanted the freedom to exercise their own professional judgement, they believed that LEAs should be bound by more prescriptive guidance which would compel all of them to make similar levels of provision for pupils with similar levels of need. This is, of course, precisely the opposite of what the LEAs themselves wanted. However, it indicates the extent to which SENCOs appear to feel themselves to be working amidst considerable uncertainty and in a situation where they are vulnerable to decisions made by LEAs which they do not fully understand and cannot in any way influence.

4.23 Commentary

4.23.1 Patterns of provision

In reviewing our LEA interviews, we outlined some 'models' which seemed to underlie the management of the 1994 Code's staged procedures in particular contexts. We have not done so at school level for three reasons. The first is the very practical reason that the focus of our data-collection was on the stages separately rather than on the overall coherence of individual schools' approaches. The second is the very considerable variation which exists between schools. Quite apart from the complex interactions of school decision-making, LEA policy and the practices of different LEA services, SENCOs are accustomed to making decisions on a case-by-case basis in the light of individual circumstances.

The third reason is, to some extent, contradictory to the second. Insofar as there are any regularities within the complex school-level variations, they take the form of a *single* model rather than two or three alternative approaches. Although schools operationalise this model differently in their different circumstances, its principal features remain remarkably consistent. They are as follows:

- Decision-making is based less on explicit criteria than on broad notions of teacher concern about lack of progress. This concern may be validated in terms of 'objective' evidence, but the principal validating mechanism is the collaborative exercise of professional judgement through meetings, review processes and so on.

- These 'broad notions' apply across the 1994 Code stages. There tend not to be different criteria for each stage but, rather, a cumulative concern sharpened by the length of time over which the pupil has failed to make adequate progress and the range of strategies which have failed to remedy this situation.

- In this context, provision at each stage constitutes an enhancement of what has been provided at the previous stage. In broad terms, therefore, stage 2 adds an IEP and (perhaps) some minimal support to what was possible at stage 1; stage 3 adds some specialist assessment, advice and (possibly, though not necessarily) tuition to what was possible at stage 2; and stage 5 adds further assessment and advice together with (possibly) some more extensive support to the package that already exists from the earlier stages.

This pattern is hardly surprising, given that it is that which is embodied in the 1994 Code itself. The most obvious parallel with the practices which emerged from the LEA interviews is that schools appear to operate an essentially reactive approach that depends on evidence becoming available of pupil failure. It then responds to that failure by an enhancement of provision which may be relatively small-scale and which is increased only if that in turn fails. The possibilities of and problems with this approach are dealt with briefly in the final section of this chapter.

4.23.2 The 1994 Code and a rational system of decision-making
The Code of Practice 1994 holds out the prospect of decision-making processes in schools which will be based on good evidence regarding pupils' needs, will ensure a

'staged approach' whereby the school's own resources are used to the full before external resources are called into play and in which a partnership will be established between school and LEA so that each can play a distinctive part in meeting pupils' needs.

To an important degree, this is precisely what emerges from these interviews with SENCOs. They are universally familiar with the notion of a staged approach and, by and large, are able to put together packages of provision at any stage which enhance what it is possible to provide at the previous stage. They have well-established processes for making decisions about placement and provision that avoid arbitrary cut-off points, draw upon a range of evidence, call into play their professional judgement and have the capacity to respond flexibly to pupils' individual needs. These processes, moreover, are operated in progressively closer collaboration with the LEA and its services, so that the SENCO and (particularly) the EP operate in partnership in making decisions about pupils with higher levels of need.

However, some features of our findings are more problematic:

Flexibility or confusion?

The corollary of the flexibility of schools' decision-making and its reliance on 'professional judgement' is that its processes are somewhat opaque and implicit. SENCOs do not, for the most part, operate with clear and detailed criteria in making decisions about placement on the 1994 Code's stages. Rather, they work with somewhat generalised principles which they apply to individual cases by weighing up a range of factors. They find it difficult to specify precisely what these factors are likely to be or how they weight each of these factors in particular cases. The concerns expressed by other teachers appears to play a key part in decision-making, but it is not always clear how far this is balanced by reference to more 'objective' evidence. There is, therefore, considerable scope for somewhat arbitrary and inequitable outcomes.

The LEA-school 'contest'

It is evident that the partnership between schools and LEAs is not a partnership of equals, nor is it entirely voluntary. Put crudely, the LEA controls resources which the school, rightly or wrongly, wishes to access. What ensues is often something of a trial of strength, closer to a war of attrition than to a genuine partnership. Amongst its

more perverse consequences are schools which treat the staged assessment process as no more than a means of triggering the release of resources and LEAs which institute elaborate and repeated assessment processes in order to erect as many barriers as possible around those resources. Certainly, a good deal of energy goes into assembling evidence to make a case to EPs and LEA panels - as opposed, that is, to any more obviously educational use for such evidence – and equally certainly, schools feel themselves to be subject to LEA decisions whose basis they do not fully understand.

Quality and quantity in provision to meet special educational needs
There are also issues around the nature of provision which results from schools' and LEAs' decision-making processes. Many of these are to do with the range of provision which is made across different LEAs, schools and cases. The flexibility noted above produces considerable variations in the provision that is made to meet apparently similar needs in different situations, both in term of the level of provision and its form. What a particular pupil receives will depend on the interaction of a wide range of factors, to do with school organisation and practice, LEA service deployment and LEA policy regarding resourcing statements. Typically, SENCOs find it very difficult to disentangle an underlying 'model' of provision from their decision-making in particular cases, yet it is difficult to believe that every one of the variations across schools can be equally efficient and effective.

Equally, there are concerns about the quality of provision which results from sometimes quite complex decision-making processes. There seems in particular to be a tendency at both LEA and school level for special needs provision to be reduced to additional hours of adult (often LSA) support. Whether this support facilitates individually-appropriate teaching, whether it encourages differentiation and guarantees access, and whether it is effective in enabling pupils to overcome their difficulties is not clear.

Finally, if the 'model' we have identified within the complexities of school-level practice has any validity, it begs questions about the effectiveness of an approach which is essentially reactive and which emphasises minimum levels of intervention. Certainly, this is likely to be a good model for ensuring that resources are not

squandered on inappropriate and unnecessary interventions. However, handled insensitively, it does open the door to significant delays before appropriate levels and forms of provision are deployed.

In the light of these concerns, the notion of 'ambiguity' seems illuminating. In principle, the 1994 Code has created a rational and equitable system for schools' decision-making about special needs education. In practice, it may well have done so in certain situations, but there have to be real doubts about some of the perverse consequences which may ensue in schools and LEAs where the procedures of the 1994 Code are used to pursue ends for which they were not intended. Its effects, therefore, may in practice highly ambiguous.

5. DEVELOPING A GUIDANCE FRAMEWORK

5.1 Development activities

As we indicated in the first chapter, this investigation was both a research *and* a development project. The core of the research element of our work comprised the collection and analysis of LEA criteria, the LEA interviews and the school case studies reported in the preceding chapters. Once these were complete, the strategy pursued by the project changed. The focus shifted from mapping current practice in decision-making to developing and field-testing the sort of guidance that might be offered in future.

The following activities were undertaken in this part of the project:

1. As each school case-study was completed, the SENCO was invited to complete up to 10 profiles of pupils with special educational needs, setting out their learning difficulties and the provision made to overcome those difficulties. Since SENCOs had already devoted a great deal of time to helping this project, it was not appropriate to press them to complete all of these profiles and the pattern of their responses was, in any case, determined to a large extent by the incidence of different types and levels of special educational need in their schools. Nonetheless, some 50 profiles were returned from some 35 SENCOs. These were not analysed in their own right, but they were used to test the robustness of the emerging guidance against particular cases.

2. The majority of pupils with SEN in the case-study schools were regarded as having general learning difficulties or emotional and behavioural difficulties, with some also having specific learning difficulties. Only occasionally did we encounter pupils with lower-incidence SEN. Even then, SENCOs were generally unable to describe typical patterns of provision for types of need which they saw only occasionally and, in any case, our use of general learning difficulties as a baseline in the interview meant that we tended to collect much richer information on that type of difficulty than on any other. The original intention had been to target some schools for case study in which concentrations of pupils with lower-incidence needs might be found – for instance, schools which were specially-

resourced for particular groups. However, not only was this likely to be a time-consuming process, but it was also unlikely to give us a picture of provision outside such specialised settings. On advice from the steering group, therefore, we opted instead to conduct telephone and face-to-face interviews with Heads of Special Needs Support Services and/or Principal Educational Psychologists in our sample LEAs who could give us an overview of provision in their areas. In the event, it proved necessary in some LEAs to interview specialist team leaders as well as heads of service in order to reach the level of detail we needed. For instance, in Riverborough, a single interview sufficed, whereas in Bridgeborough seven interviews were necessary. In total, some 29 interviews of this kind were undertaken. The interview schedule used for this purpose was a version of the full LEA schedule (Appendix 3), though with a focus on one or more types of low-incidence SEN and without the need to ask the introductory contextual questions.

3. These enquiries still left us without detailed information and case studies for some types and levels of special needs, so we conducted three 'targeted' case studies of schools where we knew there to be pupils with special needs of this kind and a further interview with specialist support service managers drawn from outside our case study LEAs. Our studies were based on the SENCO interview schedule, but focussing on particular types of special needs and on the precise information which we lacked.

4. As the guidance framework began to emerge, we trialed versions of it with SENCOs and others in a range of situations. Nine half-day regional workshops were held for parents, primary SENCOs and secondary SENCOs. A set of three workshops was held in each of the North-East, the Midlands and the South-West. In total, approximately 90 SENCOs and 45 parents participated in these events. Further opportunities were taken to work with SENCOs and other teachers involved in special needs work as part of our normal teaching and professional development activities. A further 90 teachers, from North-Eastern authorities, worked with us in this way. Draft versions of the guidance were also sent to readers who included SENCOs, LEA officers and service members, HMI and DfES officials. In some cases, they not only made detailed comments on the text, but also provided supplementary material.

Given that data were collected through each of these strategies in a highly purposive manner and that in many cases we were seeking detailed responses to drafts of the guidance, it is not possible or appropriate to report our findings as we have done for LEA and school interviews or for the analysis of LEA criteria. Nonetheless, there are some themes which are worth placing on the record. These relate to what we found about provision for 'low incidence' SEN, the views of SENCOs and the views of parents. We present these below in the remainder of this section. In section 5.2, we set out the rationale for the thresholds guidance as it emerged from our work and in section 5.3 we draw together some of the underlying issues which have emerged from this investigation.

5.1.1 Provision for 'low-incidence' special educational needs

Much of our data collection in this phase was focused on attempting to understand more fully the decision-making process and resultant provision for pupils with 'low-incidence' SEN. An immediate issue arising from our attempts to secure information from heads of LEA services was the difficulty of doing this in some authorities. It had been anticipated that the necessary information could be collected by means of one interview with a key informant in each LEA. In some LEAs, a Head of Pupil Services or equivalent was indeed able to provide both a general picture of the structure of specialist provision and the detail of how the services operated and the inputs they made. In other LEAs, a head of service could provide a *general* overview but referred the research team to individual heads of specialist teams for the detail of operational practice. In other LEAs, no one individual was able to provide either a general overview or the detail that we required and so it was necessary to interview individual heads of services or EPs to access the information.

Whilst this lack of a central overview may have no implications for the quality of provision 'on the ground', it begs the question of how LEAs where this is the case ensure consistency, effectiveness and efficiency across the range of special educational needs services they provide. Certainly, it confirms what many schools told us incidentally about the extent to which different services in some LEAs operate more-or-less independently of each other in determining their working practices and criteria for involvement. Moreover, our interviews with heads of service and their

equivalents also indicate somewhat different levels of service-provision in the same authority for different types of special educational need. For instance, one LEA which was a high-delegator with few central services for most types of special educational need nonetheless provided a considerably higher level of support for pupils with speech and language difficulties than an LEA in the same region which was, in general terms, a low-delegator with substantial centrally-retained services.

In terms of the actual forms and levels of provision made for different types of special educational need, therefore, it is not surprising that we found the same level of variation through our service interviews that we had in our LEA and SENCO interviews. For pupils with sensory impairments, for instance, there is a broad pattern of general advice and 'arms length' support (as one respondent put it) at stages 1 and 2 with the more severe cases moving straight to stage 3 or to statutory assessment, depending on LEA policy and practice. However, in one LEA, such pupils remain at stage 1 though with the provision they might receive elsewhere at higher stages unless they have learning or other additional difficulties. Similarly, in some LEAs service teams are based centrally and provide outreach, whilst in others they are located in units in mainstream schools.

In general, once specialist services become fully involved (i.e. at stage 3 or 5), initial input tends to be intensive and to focus on assessment and advice regarding the adaptation of environment or materials together with some training of or advice for mainstream school staff. Peripatetic staff will make a direct input to the teaching of the pupil usually on a one-to-one basis to provide tuition and management of equipment. Then depending on the individual case and the resourcing policy of the LEA the specialist will withdraw to a monitoring role, with more use made of LSA support. In LEAs which make use of unit provision, however, specialist staff tend to provide a 'base' and pupils access it on an individual basis.

For pupils with autistic spectrum disorders, there is again some variation in practice. Typically, pupils are identified prior to entry to school, or, alternatively, EPs play a central role in identification and assessment. In some LEAs, there are specialist bases in designated schools, complete with specialist teachers and LSAs. In other LEAs an LSA with a greater or lesser level of training will be deployed to support the pupil in

mainstream school. The amount of support provided, however, is variable depending on the assessed needs of each individual.

Specialist support for pupils with speech and language difficulties can take the form of a Speech and Language Therapist as such or of a jointly qualified teacher-therapist. Typically, it is focussed in Key Stages 1 and 2 and diminishes in the secondary phase where pupils may be recategorised as having learning difficulties and/or may receive LSA support. For pupils of any age placed at levels 1 or 2 of the 1994 Code, the pattern tends to be one of advice from specialists rather than of direct support.

Within this general pattern, there are considerable variations of detail. In one LEA (Bridgeborough), there is no specialist *education* service for speech and language difficulties; instead, services are bought in from a Health Trust. In another (Borderland) there are 10 jointly qualified teachers and speech therapists working mainly with pupils with statements. They will assess at stage 3 but leave any support to LSAs. In Riverborough, up to three hours support is available at stage 3 in primary schools from a specialist speech and language teacher. This can be supplemented at stage 5 by LSA time, though it might also lead to placement in a specialist base. At secondary level, the specialist support is likely to 'tail -off' in favour of LSA support, though if a pupil has a statement then an additional 1.5 hours from a specialist speech and language teacher might be provided.

In Forestshire, as in Bridgeborough, provision is bought in from the Health Service. The detail of provision is determined by clusters of schools working together, so that the stage 2-3 distinction is somewhat blurred. However, there are two units available for pupils with speech and language difficulties (one in a neighbouring LEA but accessed by Forestshire) and parental wishes determine whether pupil goes to unit (with a statement) or stays in mainstream (usually at stage 2 or 3).

A similar pattern is repeated for other types of special educational need. In other words, there are broad regularities in what pupils receive in different LEAs and different schools, but within these there are quite marked variations. In many cases, it is doubtless the case that different forms of provision are actually equivalent to each other in efficiency and effectiveness. To say that there are local variations, therefore,

84

is to say no more than that the education service in this country is locally-administered and that schools enjoy considerable autonomy. However, in other cases, it is not immediately obvious that, say, placement in a unit is equivalent to placement with support in a mainstream class, or that specialist tuition at primary level is equivalent to LSA support at secondary level. Certainly, the degree of local variation makes it extremely difficult to define with precision what a particular stage of the SEN Code of Practice 1994 'looks like' in terms of which needs might be met within it or what form of provision might be made.

5.1.2 The views of SENCOs

A number of issues emerged from the development activities we undertook with SENCOs. These can be summarised briefly in the following way:

1. SENCOs, by and large, felt comfortable with the sort of guidance structure that began to evolve through the development process (see 5.2 below). In particular, although they reported a wide range of strategies they currently had for meeting pupils' special educational needs, and although these varied from school to school, they were able to categorise these in terms of a small number of 'areas' of action. The implication seems to be that, while the surface features of special needs provision are highly variable, its underlying structure remains surprisingly constant across different schools and different forms of special need. In terms of the emerging guidance framework, this meant that it was indeed possible to think of guidance which could be applicable across a range of contexts. In the longer term, however, it means that it ought also to be possible to think about comparing provision from situation to situation (for instance, in terms of its level, cost, effectiveness and so on) despite the context-specific nature of the surface features of such provision.

2. SENCOs were also able to map out special needs provision in their schools in terms of a series of 'increments'. In other words, they were able to show how they would increase the level and intensity of provision to meet increasing levels of need. Again, this suggested that it was possible to think in terms of guidance which might support this 'intensification' process. However, there were three features of this process which were of particular interest.

First, in analysing the provision made by their own and other schools with this framework, SENCOs came to the conclusion that pupils with similar levels of need did not receive comparable provision in different schools and, moreover, that many schools found it difficult to match pupils' needs with appropriate levels of provision. This pointed once again to a dilemma which has surfaced throughout this report: there is a clear need for schools to be able to respond flexibly to local circumstances and individual needs; however, such flexibility can easily conceal inconsistency and inequity.

Second, in many schools the 'increments' by which provision was increased bore only loose relation to the stages of the 1994 Code. In extreme cases, children placed at stages one to five of the 1994 Code were reported as receiving similar levels of provision in their schools. The account which SENCOs offered for this phenomenon was in terms of the wide range of extraneous factors which intervened between the identification of need a provision to meet need on the one hand, and placement on the stages on the other. Such factors, SENCOs reported, included the vagaries of the statutory assessment process and of the processes for allocating support service time to individual cases.

Third, there was some division amongst SENCOs as to whether their own 'increments' of provision were organised in terms of discrete steps, whether matching the 1994 Code stages or not. The majority view was that increases in the level and intensity of provision should be seen less as steps in this sense than as movements along one or more sliding scales. This further explains why the stages of the 1994 Code offer only a rather crude conceptualisation of the way in which provision is organised in schools, with the implication that any guidance framework ought not to emphasise the stages (or their equivalents) too greatly.

3. There was similarly some division amongst SENCOs as to whether they favoured prescriptive guidance or not. As in our case studies, those who favoured prescription tended to be thinking in terms of its impact on LEAs whilst those who argued for non-prescriptive guidance were keen to retain flexibility for themselves.

5.1.3 The views of parents

Given the numbers, diverse experiences and diverse views of parents of children with SEN, our work with a small sample of parents was never intended to be more than a provisional check on the developing guidance, pending a much more systematic consultation exercise to be undertaken by DfEE once our own work was complete. Although our samples, therefore, were by no means representative, it is probably fair to say that the parents we worked with were less interested in the intricacies of school and LEA decision-making than in the extent and effectiveness of the provision which resulted. In particular, their concerns were that the needs of their children – which, to them, were self-evident – should be met rapidly and fully, without the need for protracted decision-making procedures. Whilst many of their concerns lay beyond the scope of our own work, the implication seemed to be that the emerging guidance should avoid, so far as possible, overlaying questions about meeting need with questions about essentially bureaucratic procedures.

5.2 The emerging framework

The guidance on thresholds and provision within the framework of the Code of Practice was always intended to impact on future policy and practice rather than simply to reflect existing practice. It follows that it could not simply be derived from the evidence collected by this project. Moreover, since the guidance was to embody the detail of national policy in this area, the research team's responsibilities could only extend to producing a draft document which was to be handed over to DfEE for further development. Nonetheless, the evidence from this project did seem to yield a number of principles on which guidance might be based:

5.2.1 The non-viability of a prescriptive framework

A prescriptive framework is not viable in the current system of special needs education. Not only are schools and LEAs equally reluctant to be subject to prescription (even if each is happy to see the other more tightly controlled), but the level of variation at LEA, school and individual pupil makes prescription impossible. In the absence of any reliable means of differentiating more effective from less effective forms of provision, it is not possible to rule out any but the more obviously inappropriate of these variations.

5.2.2 The non-viability of the stages as the basis for a framework

Not only is an overly-prescriptive framework non-viable in general, but also so, in particular, is the use of the 1994 Code's stages, at least as the basis of a fixed framework to be used across all LEAs and schools. A central feature of the variation within the system is that the stages of the 1994 Code mean very different things in different contexts. To take the most obvious example, we have seen how pupils with similar types and levels of need in different LEAs and schools may be placed at any stage of the 1994 Code whilst receiving roughly equivalent provision. The staged approach works reasonably well as a *relativistic* framework; in other words, it is a useful means of differentiating levels of provision within the same school or LEA context (though, as we saw above, pupils receiving similar levels of provision can sometimes be placed at different stages even in the same school). However, it is less useful when it is employed across contexts. At most, it denotes some very generalised procedural similarities across those contexts: pupils at stage 2 have IEPs; those at stage 3 have some sort of external service involvement; those at stage 5 have undergone a statutory assessment. However, even these similarities can break down: some pupils at stage 1 have IEPs and some at stage 2 do not; some external services are involved with pupils at stage 2 and some pupils at stage 3 have no such involvement; and while all pupils at stage 5 may have had an assessment, many pupils at stages 3 or below have had similar assessments and now receive higher levels of provision than those with statements. There is, of course, nothing in the 2001 Code's shift away from stages as such that is likely to bring about greater consistency in this respect.

5.2.3 A broad framework for decision-making and provision

Although a highly prescriptive framework does not seem viable, it does nonetheless seem possible to identify some regularities in provision which can serve as the basis for guiding – though not prescribing – decision-making in schools and LEAs. In analysing the data on provision that came from a wide variety of sources, we were able to identify four broad 'areas' in which provision was not only made, but within each of which it could be enhanced and intensified. They were:

- *Assessment and planning* – to include the standard forms of assessment and planning carried out by schools for all their pupils, the additional assessment and

planning carried out (or supervised) by SENCOs, often in connection with IEPs, and the more highly specialised work undertaken by EPs and specialist teachers, culminating in the statutory assessment process.

- *Grouping for teaching purposes* – to include both the variation of grouping arrangements within and close to the mainstream class and the placement of pupils in more specialised groupings in mainstream schools, resourced provisions or special schools.

- *Human resources* – to include the use of LSAs, specialist teachers, volunteers, EPs and any other adults working with pupils with SEN.

- *Curriculum and teaching methods* – to include any form of curriculum modification or differentiation and any use of specialist materials and equipment.

As we indicated above, in trialing this framework with SENCOs, they found it relatively straightforward both to locate all of their provision for pupils with SEN under one or other of these broad headings and to show how they would increase the extent and intensity of provision in each area to meet increasing levels of need.

5.2.4 The 'inclusive curriculum'

The focus of this project is on the provision which schools and LEAs make that is 'additional to' or 'different from' the provision normally made in mainstream classsrooms for the majority of pupils. For the most part, our respondents had little difficulty with these concepts, since they have lain at the heart of special needs decision-making for many years. However, they are, in fact, highly problematic since special needs provision in this sense can only be identified if the 'norm' provided for 'the majority' is itself clearly defined.

What is evident from all of our data is that the sorts of special needs provision routinely identified by schools and LEAs takes for granted a much more substantial body of provision to which it is itself simply an addition. Even for pupils with statements and the higher levels of need, for instance, special needs provision is typically specified in terms of LSA support, perhaps with some classroom equipment, curriculum materials and some limited specialist tuition. Implicit in this is a mainstream classroom in and around which this additional provision can be located

and a class or subject teacher whose efforts are being supplemented by this additional input.

The implicit nature of mainstream provision is both encouraging and troubling from the point of view of ensuring high-quality special needs provision. It is encouraging in that all respondents appear to have been working on the assumption that pupils with SEN could and should be educated in mainstream settings. It is discouraging in that it is only the 'additional' elements of provision which tend to be made explicit in considering how to respond to pupils' SEN. It may well be that schools seeking to make such additional provision have already spent a good deal of time and effort in looking at ways of enhancing 'ordinary' teaching and provision. However, the focus of both our own investigation and of most of the guidance, procedures and practices which we encountered did little to encourage any re-examination of the 'ordinary'. In particular, as we hinted in the previous chapter, there is a distinct possibility that a system which depends on adding relatively small increments of provision only after pupils' difficulties have emerged may end up doing too little too late.

An important principle in specifying thresholds and levels of special educational needs provision, therefore, is that it needs to be accompanied by a consideration of how 'ordinary' teaching and provision might complement anything additional that is provided for pupils or, indeed, might be extended so that additional provision becomes unnecessary. In this respect, the statement on inclusion in the National Curriculum 2000 documentation seems to be particularly helpful in setting out what the 'ordinary' might mean in terms of responding to a wide range of pupil needs.

5.3 Underlying issues

Although the draft guidance and the principles, outlined above, on which it is based are the major outcomes of this project, we have drawn attention throughout this report to a series of issues which our work has uncovered. It might be useful to conclude, therefore, by drawing these together and considering their wider implications.

The Code of Practice 1994 was introduced into a situation where decisions about which pupils should be regarded as having SEN and what form of provision such pupils should receive were almost exclusively a matter for schools and LEAs. By and

large, they were free to act with relatively little reference to each other, provided that they adhered to the national framework set out initially in the 1981 Education Act and further developed in the 1993 Education Act and the recommendations contained in HMI reports. The diversity of practice which resulted from this high level of autonomy is not surprising – and neither is the variability in the quality of that practice.

The 1994 Code, therefore, in the words of one of our respondents, 'brought order out of chaos' by establishing a common procedural framework within which decisions about special needs provision for particular children might be taken. However, that process has not been without its costs and compromises and we are now in a position to identify some of these:

- The 1994 Code has successfully established common terminology and, to a certain extent, common procedures across schools and LEAs. In many ways, this was always the limit of its ambition. However, this means that it has *not* established common practices, common forms and levels of provision or common understandings about levels of SEN. It has not, therefore, in its original version at least, created a special needs education system which is necessarily any more equitable than that which preceded its introduction. Put another way, the 'chaos', if such it was, remains, but it is now somewhat hidden by the appearance of order.
- The 1994 Code's approach to ensuring consistency and equity has been to try to bring about some procedural consistency across schools and LEAs through the staged procedure. It seems likely that many schools and LEAs have been able to use these procedures to organise their response to pupils' special educational needs in a highly effective and efficient manner. However, the 1994 Code's procedures also offer opportunities for practices to arise which have little to do with meeting pupils' needs. They invite schools, for instance, to find ways of moving pupils rapidly through the stages with a view to releasing additional resources and funds from the LEA. They invite LEAs, on the other hand, to view the stages as a series of barriers which schools have to overcome before they can access such resources. In both of these cases, meeting pupils' needs becomes something that is incidental to the main purpose of the exercise. Indeed, our

evidence suggests that considerable time, energy and resource is expended both by (some) schools and (some) LEAs in pursuing the perverse rather than legitimate incentives offered by the 1994 Code.

- The procedural approach of the 1994 Code means that it can appear to be working effectively whilst underlying educational issues are left unaddressed. At school level, this means that SENCOs can be entirely comfortable in operating a staged procedure whilst having little sense of any underlying rationale for their decisions. In particular, they may have little strategic grasp of what sorts of needs should be met with what sort of provision or how special needs provision relates to ordinary classroom provision. At LEA level, this means that provision at stages 3 and 5 can take the form of a somewhat routine addition of resources – particularly, in the latter case, of LSA 'hours' – with little regard for the *educational* implications of this approach. What results is a sort of 'semi-detached' form of special needs provision – semi-detached, that is, both from the 'ordinary' provision being made in mainstream classrooms and from any thorough appraisal of pupils' educational needs.

What is apparent from this is that it is not possible to ensure an effective and equitable special needs education system simply by relying on the procedures of the 1994 Code alone. The reality, of course, is that the 1994 Code has never been expected to stand alone in this way. It is supported by a wide range of policy initiatives at local and national level, training and professional development activities and inspection and accountability procedures. Nonetheless, the question arises as to whether the sort of guidance offered by the 1994 Code (or any equivalent document in the future) might be modified in the light of these findings.

Our view is that any modification has to be concerned with the *educational* principles of special needs provision as well as with *procedural* issues. In other words, it has to be concerned with *how* pupils are taught, with how effective provision can be developed - in the context of mainstream schools and classrooms for most pupils - and with how the progress of pupils with special educational needs can be ensured. It may be that such guidance, in order to be responsive to the subtleties and complexities of the teaching and learning process, might have to forego some of the 1994 Code's

concern with procedural regularity. It might, in other words, have to replace it with a greater emphasis on flexibility and learning outcomes.

In the light of these comments, the draft revision of the Code and the draft guidance on thresholds to which this investigation contributed seem like steps that are very much in the right direction. Both emphasised flexibility, an acknowledgement of the realities of teaching and a concern with learning. Whether they will, in practice, do enough to build on the positive features of the Code of Practice 1994 whilst off-setting some of its more negative features remains to be seen.

References

Croll, P., & Moses, D. (2000) *Special Needs in the Primary School: One in five?* London: Cassell.

DES. (1978) *Special Educational Needs: Report of the Committee of Enquiry into the Education of Handicapped Children and Young People (The Warnock Report).* London: HMSO

DFE (1994) *Code of Practice on the Identification and Assessment of Special Educational Needs.* London: DFE.

DfEE. (1997) *Excellence for All Children: Meeting special educational needs.* London: The Stationery Office.

DfEE. (1998) *Meeting Special Educational Needs: An action programme.* London: DfEE.

DfEE. (1999) *Statistics of Education: Special Educational Needs in England: January 1999. DfEE Statistical Bulletin. Issue No 12/99. October 1999 .* London: The Stationery Office.

DfES (2001) *SEN Code of Practice on the Identification and Assessment of Pupils with Special Educational Needs & SEN Thresholds: Good Practice Guidance on Identification and Provision for Pupils with Special Educational Needs* London: DfES.

Dyson, A., Lin, M. & Millward, A. (1997) *Effective Communication between Schools, LEAs, Health and Social Services in the Field of Special Educational Needs.* Special Needs Research Centre, University of Newcastle for DfEE & DH.

Ofsted. (1996) *The Implementation of the Code of Practice for Pupils with Special Educational Needs.* London: HMSO.

Ofsted. (1997) *The SEN Code of Practice: Two years on.* London: Ofsted.

Ofsted. (1999) *The SEN Code of Practice: Three years on.* London: Ofsted.

GLOSSARY & ABBREVIATIONS

BSS	Behaviour support service
Centile	A centile score on a standardised test indicates what percentage of pupils will perform at or below that level. For instance, a pupil whose attainment on a reading test is at the second centile has attainments in the bottom 2% of the population. Some LEAs use centile scores in their criteria because they indicate clearly a pupil's attainments relative to her/his peers and make it easy to establish 'cut-off' points for placement on stages of the Code and/or the allocation of resources.
CEO	Chief Education Officer
Code (or SEN Code or Code)	Code of Practice on the Identification and Assessment of Pupils with Special Educational Needs (DFE, 1994; revised DfES, 2001)
EBD	Emotional and behavioural difficulties
EP	Educational psychologist
FSM	(Entitlement to) free school meals
GLD	General learning difficulties
HI	Hearing impaired/impairment
IEP	Individual education plan
LEA	Local education authority
LSA	Learning support assistant
LSS	Learning support service
LST	Learning support teacher
NC	National Curriculum
OFSTED	Office for Standards in Education
PEP	Principal educational Psychologist
SEN	Special Educational Needs
SENCO	Special educational needs co-ordinator
SpLD	Specific learning difficulties
VI	Visually impaired/visual impairment

Index of Appendices

Appendix 1   **LEA questionnaire**

Appendix 2   **LEA criteria documents analysis pro-forma**

Appendix 3   **LEA interview schedule**

Appendix 4   **School interview schedule**

Appendix 5   **School contextual information pro-forma**

Appendix 6   **Contextual information analysis**

APPENDIX 1

LEA Questionnaire

Section 1:
Reference information

1. Name of LEA

   ....

2. Designation of LEA
   (ShireCounty/MetropolitanDistrict/LondonBorough/NewUnitary)

   ....

3. Name and position of person completing this form

   ....

   ....

4. Contact points for this person
   Telephone …………………….
   E-mail   ....

5. Please indicate the percentage of pupils in your LEA

   eligible for Free School Meals

Section 2:

Information about pupils with special educational needs in your LEA

A. Information about pupils with statements

1. Please indicate the percentage of pupils for whom your LEA
   maintains a **statement** of special educational need.

2. Please indicate the percentage of your LEA's pupils who are
   on the rolls of Special Schools (including out of LEA placements).

B. Information about pupils with non-statemented special educational needs (i.e. pupils at stages 1 - 4 of the *Code)*

1. Please indicate the percentage of pupils with **non-statemented**
   special needs (i.e. At Stages 1 - 4 of the *Code of Practice)* in your LEA.

Section 3:

Information regarding practice over the delegation/devolvement of resources for pupils with special educational needs in mainstream schools

Please respond to **all** of the following statements by circling either **Yes or No.**

A. Pupils with statements of special educational needs in mainstream schools

1. In this LEA funding for all or most pupils
   with statements of both high and low incidence special
   educational needs **in mainstream schools** is retained.   **Yes   No**

2. In this LEA retains funding for all or most pupils
   with statements of low incidence special educational
   needs **in mainstream** schools is retained but all or most
   funding for high incidence special educational needs
   is devolved/delegated.   **Yes   No**

3. In this LEA funding for all or most pupils with both high

   and low incidence special educational needs

   in mainstream schools is delegated/devolved.   **Yes   No**

4. The pattern of delegation/devolution in this LEA is very different
   from those described above.   **Yes   No**

   Please explain below:

B. Pupils with non statemented special educational needs

5. In general terms this LEA retains substantial funding for
   non-statemented pupils in order to provide generic support

   services working across all types of mainstream

   schools.   **Yes   No**

6. In general terms this LEA retains some funding for non-statemented
    pupils in order to provide generic support services. However, these

    support services work in some types of schools but not others

    (e.g. in primary schools but not in secondary.).   **Yes   No**

7. In general terms this LEA does not provide **generic support services**

    for pupils with non-statemented special educational needs, however,

    it does retain some funding in order to provide support services with

    a more specialist role.

    (e.g. Offering advice rather than teaching. Working with particular

    types of special need.)   **Yes   No**

8. In general terms this LEA retains little or no funding for
    non-statemented pupils in order to provide support services.
    However, it does maintain services which schools can buy back
    from their delegated budgets.   **Yes   No**

9. In general terms this LEA retains little or no funding in order to
    provide support services.   Schools are expected to make appropriate
    provision from their delegated budgets.   **Yes   No**

10. This LEA operates in a **very** different way to those specified.

Please describe below:

```
┌─────────────────────────────────────────────────────────────────┐
│                                                                 │
│                                                                 │
│                                                                 │
│                                                                 │
│                                                                 │
└─────────────────────────────────────────────────────────────────┘
```

Section 4:
Criteria for stages of the Code of Practice
1. This LEA has produced written criteria to guide the placement
    of pupils at the school based stages of the Code of Practice.   **Yes   No**

2. This LEA has produced written guidance detailing
    the sort of provision that mainstream schools should
    make at the school based stages.   **Yes   No**

3. This LEA has produced written criteria to help determine
    whether or not a pupil should be given a statement.   **Yes   No**

4. This LEA has produced written guidance detailing
the sort of provision which should be made for pupils
with statements. **Yes   No.**

5. This LEA has produced written criteria for the allocation of
support services to schools. **Yes   No**

***Please supply any documentation detailing the criteria or guidance referred to
in this Section.***

Thank you for completing the questionnaire.

APPENDIX 2

LEA Criteria

Name of LEA

1. They have got criteria	Yes	No
2. They have got generic and categorical criteria	Yes	No

IF NO,

3. They have got generic criteria	Yes	No
4. They have got just categorical criteria	Yes	No

5. Threshold criteria for different 'types' of SEN at the stages of the Code:

	Gen LD	SpLD	EBD	Phys/ med	VI	HI	Speech	Autism	All SEN
a) Achievement									
b) Discrepancy									
c) Access to curriculum									
d) Parental Concern									
e) Iep Reviews									
f) Impact Of Previous Provision									
g) Teacher Judgement									
h) I.T.									
i) Relationship Problems									
j) Emotional problems/ anti-social Behaviour									
k) Self-Help Skills (physmed/sld/sev. autism)									
l) Uneven profile of sub-skills									
m) Delays in language functioning									
n) School policy									

Interesting examples [   ]   Provision Indicated: [   ]
(e.g. EBD, MED, SpLD...)   Criteria for 4/5 [   ]
LEA require evidence from [   ]   Criteria for 2/3 [   ]
(1=NC test scores, 2=portfolios of child's work, 3= standardised tests)

	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
a) Achievement:									
1. Below specified cut-off point (numbers quoted)									
i) 2nd percentile									
ii) 2 yr discrepancy									
iii) N.C. levels									
iv) specified IQ level (elaborate e.g. <65) ………….....									
v) standardised scores (elaborate e.g. <70) ………….……..									
vi) __ yr discrepancy (elaborate e.g. 5 yrs) ………………..									
vii) __ percentile (elaborate e.g. 1st) …………………									
2. Below generated age norms (no numbers quoted)									
i) falling behind peers									
3. Non-specified low attainment									
4. Lack of progress									
i) because of particular difficulties (e.g. EBD, phys)									
b) Discrepancy									
1. Ability/attainment	**Gen LD**	**SpLD**	**EBD**	**Phys/med**	**VI**	**HI**	**Speech**	**Autism**	**All SEN**
i) measured gap									
ii) expectation									
1iia)teacher's expectations									
1iib) parent's expectation									
1iic) child's expectations									
2. Aspects of attainment (i. english,maths)									
ii) non-specified subjects									
c) Access to curriculum/facilities:	**Gen LD**	**SpLD**	**EBD**	**Phys/med**	**VI**	**HI**	**Speech**	**Autism**	**All SEN**
1. Child is unable to access curriculum without intensive adult support and/or extensive adaptation of materials									
2. Significant disability (sensory/medical/physical) restricts/limits access to the curriculum									
3. Child has failed to progress despite intervention of specialist staff									

d) Parental Concern	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Parent informed and involved throughout process									
2. Information is provided by parents									
3. Parents are encouraged to become involved									
4. Parental consent to seek agency advice									

e) IEP Reviews:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. IEPs have been implemented, monitored and reviewed									
2. Stage 3 = up to 6 months (2 terms) or 2 reviews									
3. Stage 2 = up to 6 months (2 terms) or 2 reviews									
4. Stage 3 = at least 6 months									
5. Stage 2 = at least 6 months									
6. Parental involvement in IEPs									

f) Impact Of Previous Provision	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Previous attempts to modify the curriculum have failed – school has taken action to make curriculum accessible									
2. Parental support/engagement in school's actions									
3. Additional staff support has been implemented									
4. External agency involvement (indicate i or ii if known)									
i) From LEA services									
ii) From other external services (e.g. health, social services)									
iii) Consultation									
4iiia) action/advise from external services									
4iiib) involvement of external services									

g) Teacher Judgement:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Staff are made aware of pupils needs									
2. All staff are involved in planning/learning strategies									

h) I.T.:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. I.T. has been utilised									
2. There is a need for I.T.									

I) Relationship Problems:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Child has difficulties developing purposeful relationships with adults/peers									
2. Child's social interaction is restricted									

j) Emotional problems/ anti-social Behaviour:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Evidence of inappropriate behaviours which are frequent, intense and sustained									
2. Evidence of behaviour which is regarded as bizarre, unpredictable or self-injurious									
3. Evidence of behaviour which prevents the formulation of social relationships, impairing attainment and/or attendance									
4. Evidence of behavioural/emotional problems associated with other SEN (e.g. SpLD, sensory or medical problems)									

k) Self-Help Skills:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Pupil has significant other self-help difficulties which impede access to the curriculum									
2. Pupil requires significant adult support to maintain a minimum level of functioning									
3. Child's school has taken appropriate action to address the personal and self-help needs									
l) Uneven profile of sub-skills:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. There is evidence of an uneven skills profile, including clumsiness									
m) Delays in language functioning:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. Delays in language development are such that there are significant difficulties in communication (non verbal/verbal) and intelligibility									
2. Language development is significantly:									
i) below peers									
ii) age 5 or under – language development at least 2 years behind									
iii) 6-10 years – language development 3 or more years behind									
iv) in the bottom 2%									
v) below … percentile (elaborate)_____									
3. Delays in language development are demonstrated in tests									
n) School policy:	Gen LD	SpLD	EBD	Phys/med	VI	HI	Speech	Autism	All SEN
1. School has taken appropriate action in accordance with the stated policies									
2. For EBD pupils the school has followed its stated pastoral policy:									
3. School has involved LEA policies (e.g. behavioural plans for EBD pupils)									

4/5 Criteria:	*COUNT*

APPENDIX 3

LEA Interview Schedule

	Interview Number:	
Name of LEA		
Interviewee's name		
Interviewee's role		
Date		
Predominant type of SEN in this LEA		

LEA's SEN Policy

1. How does this LEA **use** the Code of Practice to fulfil it's SEN aims?

Probe

- How far is the Code a mechanism of controlling access to resources?
- How far is the Code interpreted flexibly?

2. Is the LEA's policy underpinned by any particular **philosophy** of SEN or overarching aims?

Probe

- Is the policy/philosophy changing?

3. In general terms, what are the arrangements for **funding** SEN provision in mainstream schools?

Probe:

- Balance between central retention and delegation for statemented/non-statemented needs
- Basis for allocating funds for non-statemented SEN (e.g. FSM, audit)
- Basis for allocating funds (or resources in kind) for statements

4. Does the LEA have any particular views on **how** schools should use their SEN resources.

Probe

- What sort of provision are schools expected to make?
- Have these expectations been formulated in guidance (if so, make sure we have a Codey)?

5. Does the LEA have any views on **criteria** for placement at the stages of the Code? (NB we will deal with these in more detail at each stage)

Probe

- Has the LEA formulated any guidance? (If so, ensure we have a Codey)
- Does the LEA value uniformity or diversity amongst its schools' interpretation of the stages?

6. Does the LEA have any views on **acceptable provision** at each stage of the Code? (NB we will deal with these in more detail at each stage)

Probe

- Has the LEA formulated any guidance? (If so, ensure we have a Codey)
- Does the LEA value uniformity or diversity amongst its schools' interpretation of the stages

The stages of the Code

Turning now to the detail of how the Code's stages are interpreted and looking first at pupils with **----------------**

7. Is placement of pupils with this type of difficulty at **stage 2** purely a **matter for schools**, or does the LEA have a role to play?

Probe
- If the LEA has a role to play, how does it do this - criteria, guidance, intervention by service personnel, influence of service personnel, moderation procedures?

8. If the LEA has no formal criteria for stage 2 for pupils with this type of difficulty, does it have an **expectation** as to what sort of criteria schools should be using?

9. If the LEA has no formal guidance on the **provision** schools should make for these pupils at stage 2, does it have a view as to what provision is acceptable?

10. Does the placement of pupils at stage 2 trigger any additional **resources** for schools?

Probe
- If so, what is the process for this?
- How does this impact on placement decisions?

Turning to **stage 3** for pupils with this type of difficulty, can we ask you the same questions:

11. Is placement of pupils with this type of difficulty at **stage 3** purely a **matter for schools**, or does the LEA have a role to play?

Probe
- If the LEA has a role to play, how does it do this - criteria, guidance, intervention by service personnel, influence of service personnel, moderation procedures?

12. If the LEA has no formal criteria for stage 3 for pupils with this type of difficulty, does it have an **expectation** as to what sort of criteria schools should be using?

13. If the LEA has no formal guidance on the **provision** schools should make for these pupils at stage 3, does it have a view as to what provision is acceptable?

14. Does the placement of pupils at stage 3 trigger any additional **resources** for schools?

Probe

- If so, what is the process for this?
- How does this impact on placement decisions?

15. What role do services play in placement at stage 3?

16. What provision do services make for pupils at stage 3?

17. Turning now to **stage 4** (statutory assessment), what is the process for initiating assessments?

Probe

- What is the school role in initiating a statutory assessment?
- What is the LEA role in the process for initiating a statutory assessment?
- What role do services play in the process for initiating a statutory assessment?

18. What **criteria** are used to determine whether an assessment should take place?

Probe

- How far are these explicit (e.g. use of tests or length of time at stage 3)?
- How far are these implicit (e.g. parental pressure)
- How far blanket policies are in place (e.g. no high-incidence needs are statemented)

19. Of the criteria you have mentioned which do you regard as the most important or as most decisive in the process for initiating a statutory assessment?

20. What **criteria** are used in deciding whether or not to issue a statement (i.e. at **stage 5**)?

Probe

- How far are criteria implicit/explicit?

21. Of the criteria you have mentioned which do you regard as the most important or as most decisive in the process for initiating a statutory assessment?

22. What additional **provision** does a statement bring with it for pupils with this type of SEN?

23. Turning now to the **other major types of SEN** (EBD, SpLD, sensory impairment, physical difficulties, speech and communication difficulties), please can you outline for us any ways in which the practices you have described so far are different?
Probe
- Are there other types of SEN where there are important differences?

LEA views on guidance materials
24. What **guidance** would be of most use to you?

25. Would a **prescriptive** set of National guidelines be helpful to you?

26. Would a **general** set of guidelines be helpful to you?

Thank you for your time

APPENDIX 4

<u>SCHOOL INTERVIEW</u>

School Interview Schedule   **No.**

Name of school:

Date:

Type of SEN interview is referring to:

1. How does the school use the Code of Practice to fulfil it's SEN aims?

2. Has the LEA issued any guidance:

a) on how schools should interpret the Code?	b) on how schools should use their own resources?
Yes/no	Yes/no

How closely is this followed?

3. If no formal guidance/criteria have been issued. Does the LEA convey its views to the school in any other way (e.g. via training or interactions with LEA service personnel)

4. Has the school developed any written criteria for the stages of the Code or guidance on provision to be made at each stage?

         Yes/no/evolving   If no, go to Q6

5. What is the thinking behind the guidance?

6. If no criteria/guidance have been developed, is this a deliberate policy and what is its rationale?

The stages of the Code

Turning now to the detail of how the Code's stages are interpreted:

7. Is placement of pupils with this type of SEN at stage 2

a) Purely a matter for the school?

                         Yes/no
or

b) Does the LEA have any role to play?

If no, go to Q9

                         Yes/no

8. What is this role?

9. When you are considering suggesting whether or not to place these pupils at stage 2 of the Code, which criteria are you likely to consider?

10. Is there any other evidence that you would use?

11) Of these factors which do you regard as the most important?

12. What process do you follow in coming to a decision about placement?

13. What provision would pupils with this type of SEN placed at stage 2 typically receive?

14. Is this different from the provision pupils receive at stage 1?

15. In your opinion, is this difference in provision between stage 1 and stage 2 significant?

16. How do you review your IEPs

17. Do LEA or other external services have any involvement at stage 2?

Turning to stage 3 for pupils with this type of SEN, can we ask you the same type of questions i.e.

18. When you are considering suggesting whether or not to place a pupil with this type of SEN at stage 3 of the Code, which criteria are you likely to consider?

19. Is there any other evidence that you would use?

20. Of these factors which do you regard as the most important?

21. What process do you follow in coming to a decision in school to propose that a pupil should move to stage 3?

22. What is the role of the LEA and its services in placing pupils with this type of SEN at stage 3?

23. How is the responsibility to place a pupil at stage 3 divided between school and LEA?

24. Are you aware of what criteria the LEA uses at this stage?   Yes/no

If yes, please specify:

25. What additional resources and services from the LEA arise from placing a pupil with this type of SEN on stage 3?

26. What provision would pupils with this type of SEN placed at Stage 3 typically receive?

27. Is this different from the provision pupils receive at stage 2?

28. How do you review your IEPs?

Turning now to stage 4, when you are considering suggesting whether or not to request a statutory assessment for pupils with this type of SEN, which criteria are you likely to consider?

29. Is there any other evidence that you would use?

30. Of these factors which do you regard as the most important?

31. What process do you follow in coming to a decision in school to propose that a pupil should have a statutory assessment?

32. What does your LEA do when you request a statutory assessment?

33. How is the final decision arrived at?

34. Are you aware of what criteria the LEA uses when making its decision?

35. Does placement at stage 4 trigger any additional resources or provision over and above stage 3 **Yes/no**

If yes, please elaborate

Turning now to stage 5

36. Are you aware of what criteria the LEA uses when making its decision?

Yes/no

If Yes, pleases elaborate

37. What additional resources and services result from a statement?

38. What provision would statemented pupils with this type of SEN typically receive?

39. Returning to your SEN register, are there any differences in the practices you have described so far and any of the school's other types of SEN pupils?

Yes/no

Practices are different for the following types of SEN pupils:

SCHOOL VIEWS ON GUIDANCE MATERIALS

40. What guidance would be of most use to you?

41. Would a prescriptive set of national guidelines be helpful to you?

Yes/no

42. Would a general set of guidelines be helpful to you?

Yes/no

THANK YOU FOR YOUR TIME

APPENDIX 5

School Information Sheet

1. Name of school	
2. Telephone number	
3. LEA	
4. Interviewee's name(s)	
5. Role(s)	

6. School type: (please tick)

a) Primary	
b) Infants	
c) Junior	
d) Secondary	
e) Middle	
f) High school	

g) Other (details)

7. Age range	

8. Number on roll:

a) Non-statutory	
b) Statutory	
9. Total number on SEN Register	
10. Free school meals as a % of roll	

11. Please complete the following grid by indicating the number of pupils per type of SEN on each stage of the Code of Practice. For the purposes of this project we need you to use our categories for the different 'types of SEN'

(please do not however feel under any obligation to spend time generating this information if it is not readily available.)

Type of SEN	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Total
a) General learning difficulties						
b) Specific learning difficulties						
c) EBD						
d) Physical/medical disabilities						
e) Visual impairments						
f) Hearing impairments						
g) Speech and language difficulties						
h) Autistic spectrum disorder						
i) Other please specify						
i) Total						

12. a) Is the SENCO a full-time or part-time member of the school staff?
(please circle)   full-time/part-time

b) How much times does the SENCO have exclusively for SEN work in hrs/wk?

c) How is that time divided between SEN teaching and administration?

                                     Approx. no. of hours

i) SEN teaching

ii) SEN administration

<u>OTHER SCHOOL FUNDED STAFF:</u>

13 a) How many other teachers on the school's staff have at least some <u>timetabled</u> time exclusively for SEN work?

b) Adding all of their SEN time together, approximately what does this amount to in terms of total number of teaching hours per week?

c) How many learning support assistants have at least some <u>timetabled</u> time exclusively for SEN work?

d) Adding all of their SEN time together, approximately what does this amount to in terms of total number of hours per week?

LEA SERVICES

14) Approximately what input do the following services have in your school?
(e.g. EP 5 days/yr, SSA 30 hrs/wk)

Service	Number of hours/days per week/term/year…
a) Educational Psychologists:	
b) Learning support	
i) Learning support teachers	
ii) Learning support assistants	
d) Specific learning difficulties (dyslexia)	
i) teachers	
ii) assistants	
e) Behaviour support	
i) teachers	
ii) assistants	
f) Hearing Impairment teacher	
g) Visual Impairment teacher	
h) Speech and language	
i) teacher	
ii) therapists	
iii) assistants	
i) Other (please provide details)	

15) Do you have any other adults involved exclusively in SEN work during timetabled time? (e.g. parents)

Adults	Approx. no. of hrs per week	Input (e.g. one-to-one reading)
a) parents		
b) other volunteers		

Please provide us with a very brief pen-portrait of SEN provision in your school.

SEN management and administration

Pupil grouping for normal teaching purposes

Additional support and interventions

16. a) Is the school a site of designated SEN provision (unit, resource base)?

Yes/no

b) If yes, using the SEN key please indicate the type of SEN and how many pupils are in the unit?

Type of SEN (use SEN key)	No. of children
a)	
b)	

SEN Key:
1 = general learning difficulties
2 = specific learning difficulties
3 = EBD
4 = physical/medical disabilities
5 = visual impairments
6 = hearing impairments
7 = speech and language difficulties
8 = autism spectrum disorder

17. Please indicate the SENCO's <u>MAIN</u> other roles:

(please tick accordingly)

a) Head teacher

b) Deputy Head

c) Other SMT

d) Curriculum co-ordinator

e) Class/subject teacher

f) Assessment co-ordinator

g) Other MAIN roles

Please specify

THANK YOU FOR YOUR TIME

APPENDIX 6

Contextual information on sample schools

Prior to the school visits we requested contextual information about the school and its organisation. Six schools did not complete the information sheet so the figures are as a percentage of the 31 completed sheets.

Type of LEA	Phase	Number	Average no. (range) of statutory pupils on roll	Number (range) of pupils on SEN register as a % of statutory roll
High Statementing,	Primary	11	227 (50-495)	18.4% (11-118)
Low delegating	Secondary	6	949 (725-1202)	19.5% (85-280)
High Statementing,	Primary	3	209 (62-333)	24.6% (15-83)
high delegating	Secondary	3	1172 (1140-1190)	23% (172-335)
Low statementing,	Primary	2	257 (230-284)	22.2% (4-110)
low delegating	Secondary	1	974	21.1%
Low statementing,	Primary	3	406 (229-733)	29% (70-243)
high delegating	Secondary	1	837	31.3%

Extreme caution has to be taken in interpreting this data due to the small and inconsistent sample size in each of the categories. However, the data does indicate that there are approximately 60% more pupils on the register in the low statementing, high delegating authority schools than in the high statementing, low delegating counterparts.

We asked schools to indicate the number of pupils per type of SEN on each stage of the Code of Practice. Some schools were not able to extract this information easily. As the most complete information was for GLD and EBD we have illustrated the responses to this question below:

Average number of GLD pupils as a percentage of statutory pupil roll

Type of LEA	Phase	Stage 1 - 3	Stage 4-5
High Statementing, low delegating	Primary	10.5%	0.45%
	Secondary	5.63%	1.52%
High Statementing, high delegating	Primary	14.15%	0.36%
	Secondary	8.65%	0.7%
Low statementing, low delegating	Primary	18%	0.39%
	Secondary	10.78%	1.85%
Low statementing, high delegating	Primary	15.92%	0.53%
	Secondary	18.16%	2.03%

As in the previous table, the authorities with low rates of statements have the highest percentage of pupils at stages one to five. Schools in the authorities where the proportion of statements is relatively high and rates of delegation are low have the lowest percentage of pupils at stages one to three. At stages four and five the lowest percentage of pupils are found in the high statementing, high delegating authorities.

Average number of EBD pupils as a percentage of statutory pupil roll

Type of LEA	Phase	Stage 1 - 3	Stage 4-5
High Statementing, low delegating	Primary	1.64%	0.19%
	Secondary	5.13%	0.42%
High Statementing, high delegating	Primary	2.64%	0.12%
	Secondary	1.71%	0.09%
Low statementing, low delegating	Primary	2.53%	0.58%
	Secondary	6.78%	0.10%
Low statementing, high delegating	Primary	1.56%	0.16%
	Secondary	8.12%	0.12%

The picture is different when considering pupils with EBD. In primary schools the highest percentage of pupils is in the high statementing, high delegating authorities at stages one to three (2.64%) and the low statementing, low delegating authorities at stages four and five (0.58%). The lowest percentage of primary pupils at stages one to three can be found in the low statementing, high delegating authorities (1.56%), and in the high statementing, high delegating authorities as stages four and five (0.12%). In secondary schools, the highest percentage of pupils at stages one to three is in the low statementing, high delegating authorities (8.12%) and the high statementing, low delegating authorities at stages four and five (0.42%). High statementing, high delegating authorities have the lowest percentage of secondary pupils at all stages of the Code.

SENCO Time

Within the primary phase, the range of time that the SENCO has exclusively for SEN work varies from no timetabled time to 27 hours per week, with the median being 3 ¼ hours. Within this time, the amount of time which is for SEN teaching varies from no time to almost 24 hours with a median of 2 hours; time for SEN administration varies from no time to 13.5 hours with a median of 3 ¼ hours. In the secondary phase the range of time SENCOs have exclusively for SEN work is from 3 to 24 hours per week with the median being 17.5 hours per week. Secondary SENCOs spend between 7 and 17.5 hours per week teaching SEN pupils, with a median of 8 hours and between 3 and 12.5 hours undertaking SEN administration duties (median of 6.25 hours). Some SENCOs were unable to quantify their time for SEN teaching and administration as it varies week by week.

Other SEN staff

A number of schools, particularly in the primary sector, only have one teacher (the SENCO) who has some timetabled time allocated exclusively for SEN work. Of the primary schools that do have additional teaching staff with allocated SEN hours the range is from 2.5 to 45 ¼ hours per week (this is shared across four members of staff). Schools in the low statementing authorities have more teaching time for SEN work (10 - 45.25 hours) than schools in the high statementing authorities (0-6 hours). In the secondary phase the range is from 5 ½ to 172 hours per week (which is shared across 14 teachers). There is no clear distinction between authorities with different rates of statementing in this phase.

We also asked schools about learning support assistants who have at least some timetabled time exclusively for SEN work. Once again, a number of schools do not receive any additional SEN support. Some schools were unable to distinguish between LSAs which they fund and those funded by their LEA. Within primary schools which do have access to LSA support, the range is from 1 1/3 hours to 215 hours per week (shared across 22 assistants) with an average of 90 hours per week. In the secondary sector a smaller percentage of schools access LSA support compared to their primary counterparts. Of the schools who do access learning assistant hours, the range is from 55 to 478 hours per week with an average of 150 hours. These assistants may be attached to particular statemented pupils in the schools.