



Northern Ireland  
Assembly

Public Accounts Committee

# OFFICIAL REPORT (Hansard)

Inquiry into Special Educational Needs:  
Department of Education; Northern Ireland  
Audit Office; Department of Finance

15 October 2020

# NORTHERN IRELAND ASSEMBLY

## Public Accounts Committee

Inquiry into Special Educational Needs:  
Department of Education; Northern Ireland Audit Office; Department of Finance

15 October 2020

**Members present for all or part of the proceedings:**

Mr William Humphrey (Chairperson)  
Mr Roy Beggs (Deputy Chairperson)  
Mr Cathal Boylan  
Ms Órlaithí Flynn  
Mr Harry Harvey  
Mr David Hilditch  
Mr Maolíosa McHugh  
Mr Andrew Muir  
Mr Matthew O'Toole

**Witnesses:**

Mr Derek Baker	Department of Education
Mr Ricky Irwin	Department of Education
Mr Stuart Stevenson	Department of Finance
Mr Kieran Donnelly	Northern Ireland Audit Office

**The Chairperson (Mr Humphrey):** I invite Mr Derek Baker, the permanent secretary and accounting officer of the Department of Education, and Mr Ricky Irwin, director of inclusion and well-being from the Department of Education, to the table. Mr Kieran Donnelly, the Comptroller and Auditor General (C&AG), is in attendance, and Mr Stuart Stevenson, Treasury Officer of Accounts (TOA), will be joining the meeting remotely. Mr Stevenson, can you hear us?

**Mr Stuart Stevenson (Department of Finance):** Yes, Chair, I can hear you. Thank you.

**The Chairperson (Mr Humphrey):** We can hear you, too. You are very welcome this afternoon. Thank you.

Good afternoon to Mr Baker, Mr Irwin and Mr Donnelly. Mr Baker, you are very welcome this afternoon, and we appreciate the time that you and Mr Irwin have taken, because we appreciate the work that your Department and your colleagues have been involved in with COVID-19 and the dreadful pandemic that we face. We thank you for all the work that the Department of Education is doing on that in our schools and through youth work. It is hugely important to the nation to make sure that normality — this is the "new norm", as it is being called — appears to be upheld in the classroom. I know that many parents, if not all of them, greatly appreciate that. Thank you.

I ask you to make an opening statement on the subject matter that we are here to discuss today, and then, as you know, members will ask questions.

**Mr Derek Baker (Department of Education):** Thank you, Chair. If I may, I would like to provide two points of information for the benefit of Committee members. The first is a significant event that has occurred since the publication of the Audit Office report. Almost by coincidence — it was not previously planned — the Minister of Education published, at the end of September, for extended consultation, the full set of draft special educational needs (SEN) regulations, which will give effect to the Special Educational Needs and Disability Act (Northern Ireland) 2016. Alongside that, the Minister published for consultation the draft statutory code of practice that will accompany the regulations. The latter document is arguably more important. I do not expect Committee members to have read all of it. It is very voluminous material running to many hundreds of pages.

The code of practice sets out in considerable detail all the new arrangements that are part of the SEN framework. It sets out the roles and responsibilities of all the players, such as the Education Authority (EA), schools, boards of governors and principals; the arrangements for liaison between the Health and Education Departments; the arrangements and timescales for developing personal learning plans for annual reviews; and the arrangements for how the dispute avoidance resolution and the mediation arrangements will work. It sets out draft templates for all those documents, so it is a very important piece of work. It picks up many of the issues and, indeed, many of the acknowledged deficiencies and difficulties in SEN provision that have been identified in the Audit Office report, so the likelihood is that I will refer to those issues during the session as appropriate.

The second point is a more personal point. I do not want to lead Committee members, as you know. I am sure that the Committee will want to look backwards and forwards, but I have about two weeks left before I retire, so, in thinking about looking forward, I do not want to mislead Committee members about things that I will or will not be doing in the future. After about two weeks, I will not be around any more in the Department of Education. That is all that I will say at this stage, Chair.

**The Chairperson (Mr Humphrey):** OK. Thank you very much.

**Mr Hilditch:** I have a couple of questions for you, even though most of my questions will probably be for the Education Authority. You are very welcome this afternoon. There was a changeover from the boards to the authority, placing a quality leadership team there, but we are in a temporary leadership situation now. Has that in any way reflected on the difficulties that we face and that are in the report?

**Mr Baker:** I think that it has. That is a fair comment. In fairness to the Education Authority, it had a very difficult and overly long gestation, and, in large measure, that was a direct consequence of the time that it took for the legislation to find its way through the Assembly. The birth of the Education Authority took a very long time, and the five legacy education and library boards effectively had a sword of Damocles hanging over them for a long time. They lost a lot of staff, corporate expertise and corporate memory, so, when the Education Authority eventually came into being in 2015 after many years of uncertainty, it was probably firing on two cylinders and not on four. It took a while for it to recover from that to establish a fully functioning senior management team. It is a fair comment that you made.

**Mr Hilditch:** Does that situation currently exist? Obviously, there have been voluntary redundancy packages and various things over a period of time, and that experience has been lost to the Department.

**Mr Baker:** It has, but, in fairness to the Education Authority, it has gone through a change of senior leadership at board level, chief executive level and director level in recent years, and I think that it is getting back to the place that it needs to be by having a permanent senior team in place to take things forward. We are seeing that in some of the improvements that have been brought in in the last 12 to 18 months.

**Mr Hilditch:** On the financial side, throwing money at something will not fix the problem if the issues remain unresolved. A couple of years back, the Audit Office carried out a report on the financial health of schools that showed that there had been a 10% reduction in real terms to mainstream budgets over the previous 10 years. Do you think that the reduction in real terms in mainstream budgets over those 10 years resulted in greater pressure on SEN services and provisions that are delivered by the authority?

**Mr Baker:** Without a shadow of a doubt. I am afraid that I could bore the Committee to death going on about budgetary problems in education, because we have been grappling with them, but you summarised the salient points. Since the start of the decade, the education budget generally has

reduced in real terms by 10% to 12%. We have lost about £200 million of spending power, and that has inevitably increased pressures on schools, which is manifested in increasing school deficits. As you say, the Audit Office in its report cited school finances as being — I record this as a euphemism — at a tipping point. In my view, they were going over a cliff. That will place pressure on the ability of schools to deal with special educational needs from within their own budgets. That is at stages 1, 2 and 3 of the current arrangements, and that has played out.

There is no doubt in my mind that that is part of the difficulty. Whilst we have tried to protect the overall schools budget over that period, it has reduced in real terms by about 8% since the start of the decade. In England, by contrast, the Government have managed to increase the schools budget by 7% in real terms. Those are stark figures, and it is a very difficult problem for schools to grapple with.

**Mr Hilditch:** That being the case, is the radical review of the common funding formula for mainstream schools connected to the systemic review of education? Should it be connected directly?

**Mr Baker:** It should. Officials stood up the review of the common funding formula in the absence of Ministers. We were perhaps taking a step into the unknown, but, in the absence of Ministers, we stood up a small-scale transformation programme to look at a number of areas so that, hopefully, we would have some recommendations for Ministers when they returned. One of those was looking at the common funding formula and how we fund schools. It is quite a complicated formula. There are 19 factors that come into play in the way that we allocate money to schools. Remarkably, none of those factors relate to special educational needs, so we wanted to see whether there was a different way of doing it. I have one warning about that: if we are just changing the factors around but not increasing the overall size of the budget, it is like moving the deckchairs on the Titanic, and we have to recognise that. There is a big question mark over the fact that schools have to fund special educational needs at stages 1 to 3 from their own delegated resources. We take no account of that in the factors that are deployed in allocating money to schools in the way that we do for newcomer children, targeting social need, Irish-medium or things like that. That review stalled when COVID came along in March, and it is something that we intend to resurrect in due course.

**Mr Muir:** I appreciate your time, especially, as the Chair outlined, in the current unprecedented circumstances and given that so much is being done on that. Similar to Mr Hilditch, most of my questions are for the Education Authority rather than you. I understand the distinction between the two bodies. It is made clear that a review that started many years ago has cost £3.6 million. Why has that review been going on for so long? Does the amount that has been spent on it so far represent value for money?

**Mr Baker:** That is a question that I asked myself when I first saw that the review had been going on for so long. I would be alarmed if I thought that there was a group of officials working in the bowels of Rathgael House for 13 years that suddenly popped out. When you investigate that further, dig into it and go back over history, you will find that there are probably a number of reviews. We are going back over four ministerial mandates, and you get bound up in individual ministerial preferences and policies and in different consultations. The original review resulted in consultation by a Minister, and a series of proposals were presented. Some of those were very radical and did not find favour; for example, the notions of providing some kind of redress for parents and of broadening much more widely the definition of special educational needs to bring other groups in. That ran into the buffers, and when it came back, it was no longer a ministerial priority, so it rested.

A new Minister came along and decided that special educational needs would be a priority. That eventually had to be consulted on again, which resulted in proposals to the Executive in 2012. Thereafter, you get into the legislative process, which resulted in the Act. I take your point entirely. Prima facie, it looks as though a single review has been going on forever and ever, but there were different facets to it.

I have thought about this point. The £3.6 million that you referred to is for the salaries of staff who work in the policy areas of the Department of Education. If these regulations are adopted by the Assembly in due course, staff will continue after that to be employed in the Department of Education, working in the policy area of SEN. Even if the regulations are adopted, that is not the end of it. We will not tick a box, and we will not say, "That's SEN done and dusted. We will move on." For example, I do not want to pre-empt the work of the Committee, but, no doubt, it will produce a report with recommendations. The Children's Commissioner produced a report on SEN with 40 recommendations in March this year, there is the Audit Office report with recommendations and there is the whole set of regulations that need to be implemented. This is a process of continuous improvement, review and

refinement. That is a long-winded way of saying that we will not get to the point where we will say, "That's it. SEN's finished. Tick the box and move on." It will continue as a process of improvement.

**Mr Muir:** Thank you for your response. I understand that. The issue for me is whether £3.6 million being spent on all the different reviews, many of which did not have their recommendations actioned, is a good use of public resources when it could be used for children and young people who are in need of assistance.

**Mr Baker:** Yes. As I said, the £3.6 million relates to staff who work in the Department. They would be in the Department anyway. But you are right: if we did not have a review of special educational needs and did not develop the legislation and the code of practice, those staff would be working on something else. Whether it is good value for money, when you reach the end of the process, to have a set of regulations and a totally new paradigm to deliver SEN, is a very difficult question to answer. There is always an opportunity cost. If you spend £3.6 million over 13 years on staff, you could have spent it on staff looking at educational underachievement, shared education or something completely different. It is really difficult to say whether spending money on a review of special educational needs is better than spending it on some other policy area.

I fully accept the point that, prima facie, saying that a review has gone on for 13 years just looks bad and wrong, but I make the point that this has gone in many different directions since and will continue to do so. We will continue to need staff to review policy, practice and processes, even after the implementation of these regulations.

**Mr Muir:** I have one more question, Chair, if that is possible. I read the latest and the previous Audit Office report, and many constituents have contacted me with real concerns about special educational needs. It is one of the biggest issues that people contact me about, and it affects people personally. I find the latest report to be a damning indictment of the governance arrangements in the Department of Education and the Education Authority. How has it managed to come to this? Do you think those governance arrangements are fit for purpose? How did we get to this situation? The Department of Education and the Education Authority need to be held to account for what has happened, and we need to ensure that there is not another Audit Office report saying that we are still in the same situation.

**Mr Baker:** Yes, you make a very good point. Needless to say, as an accounting officer, when I receive an Audit Office report and when we are preparing for a Public Accounts Committee, I reflect on such matters. I am in the same position as you. Of the five things that keep me awake at night and fill my in tray and my inbox, special educational needs is up there with budget, budget, budget. It is the one that I get the most complaints about from elected representatives like you, from the public and from parents. I have met parents, advocacy groups and the Children's Commissioner, and some of the stories that I heard are quite anguished. I agree with that entirely.

I will comment on the governance arrangements in the Department. I have reflected on what I should have done under my tenure; that is, what I personally should have done. I hold, three times a year, a formal set-piece governance meeting with all the arm's-length bodies (ALBs), and we deal with things like budgets, governance, propriety and probity and accountability. I should have delved much more robustly into and asked many more pointed questions about the time taken for statutory assessments. I accepted too readily the point about valid exceptions. If we were not meeting the 26-week requirement, and I asked "Why not?", I was told, "Well, that is because of valid exceptions". I should have been saying, "Tell me more about those valid exceptions. Explain that to me. Why do they exist? Why are we not clearing them up?". I readily accept that that was my responsibility — it was nobody else's — because I chair that meeting.

The chief executive can answer the question about the governance arrangements in the Education Authority, but it is fair to say that the Education Authority has recognised its own deficiencies in that area. It commissioned and undertook a very detailed report into its management practices on special educational needs. It was anything but a whitewash. It shone a very harsh light on it, and I think that the chief executive publicly acknowledged that. The Education Authority has taken robust action in management terms, in HR terms and in service delivery terms to address those issues. You make a valid point, and there is real substance to it, for me in the Department and for the Education Authority.

**Mr Muir:** Thanks for the candour. It is appreciated.

**Mr McHugh:** Fáilte romhaibh an tráthnóna seo. You are very welcome. You referred to the gestation period. Is that in relation to the setting up of the Education Authority?

**Mr Baker:** Yes.

**Mr McHugh:** Was that not the unique opportunity to ensure that people fine-tuned systems? In fact, it was not as though we did not know that it was coming, because, as a member of the Western Education and Library Board, we thought that it was coming every year.

**Mr Baker:** I know.

**Mr McHugh:** At the same time, you would think that, over that period of time, they should have their house in order.

**Mr Baker:** In theory, you are absolutely right. In practice, as a member of the Western Education and Library Board, you will have experienced directly what happened. People left because they were under threat of redundancy or losing their job, and they disappeared very quickly. Both organisations were degraded, and that was a massive risk to the delivery of education over that period. I am speaking from recollection here, so what went into the Assembly at the start as a legislative proposal for the creation of a new body was very different to what came out the other end. Things chopped and changed. It was very difficult to plan in detail for the establishment of the new body because it was subject to very difficult political considerations, which I understand, but many staff just left. It was really difficult to recruit to an organisation that had massive question marks over it for a very long time.

There probably was an inevitability to the organisation losing a lot of corporate capacity. We have got through that period, happily. It has taken a while to get through it, and from the perspective of the Department, I see a much stronger managerial focus in the Education Authority, a much greater focus on performance and on developing quality performance indicators by which we can measure the delivery of special educational needs services and, indeed, the whole range of pupil support services.

**Mr McHugh:** I would like this to be clarified, because I am not sure where it all sits, so what is your role with the inspectorate? I would think that the inspectorate would have a very significant role at the present time, particularly for SEN in schools and in the way that schools deliver it.

**Mr Baker:** The Education and Training Inspectorate (ETI) is an integral part of the Department of Education. It is a really important resource because it is through school inspection that everybody, that is, elected representatives, Ministers, accounting officers and the public, receives assurances about the quality of teaching and learning in schools.

You are probably aware that, since 2017, four of our teaching unions have been on industrial action, which is action short of strike. One of the manifestations of that has been a refusal to cooperate with inspection. That effectively meant that the inspectorate could not properly carry out school inspections for a number of years. Happily, when the Assembly returned and the Education Minister came in earlier this year, he managed to negotiate a package with the Finance Minister to end that so that we could start inspections. Of course, with COVID, schools closed, and the inspection is not happening.

To get to an important point, you are right: when an individual inspection of a school takes place, it is part and parcel of the core inspection that special educational needs provision in the school will be inspected.

Secondly, and we have been stymied by three years of industrial action, but task number one for when we restart inspections — we have paused inspections now because of COVID, as we really cannot send inspectors into schools given what they are dealing with — is to carry out a thorough evaluation of special education needs at a strategic level on the progress that pupils make. That will be played into policy, strategy, training and information gathering. We managed to do a limited inspection on foot of the 2017 Audit Office report, but that was really about focusing on good practice, and we have disseminated that. We need a more detailed inspection to respond to the recommendation that the C&AG made in the 2017 report. You are right: inspection is right at the core of establishing and maintaining good practice.

**Mr Ricky Irwin (Department of Education):** If I may add to that, the ETI has been strengthening its capacity in its level of SEN expertise in the current inspectorate team. We have been working with it

on the terms of reference for the next phase of the evaluation that it will carry out on SEN. As Derek said, the focus will be very much on the interventions that are working well for children with SEN, what is not working well and the effectiveness of the early intervention preventions that are critical in this piece in notifying the EA of its services and what is and is not happening. There has been considerable preparation done for when the inspection services can resume.

**Mr Beggs:** Again, thanks for shining some light on what has been happening.

Paragraph 10 of the report states:

*"in our opinion, the current funding of SEN services is not financially sustainable."*

What is your view on that?

**Mr Baker:** It depends on what you mean by not sustainable. I believe that we probably need more funding for special education needs than we have. Why do I say that? I say it on the basis of the demand that keeps coming at us. Bear in mind that this is a demand-led service in many respects. If the legislation dictates that a statement of need is required for a pupil or group of pupils, there is no choice but to make that provision.

As we look ahead to the new arrangements that we want to put in place, on foot of the draft regulations and the draft code of practice, one of the core things that we want to do to improve the provision at supported school level is to free up the time of what are currently called special education needs coordinators (SENCOs), but which will be called learning support coordinators, so that they have the facility to provide a better level of support at individual school level. We estimate that the full-year cost of that will be £30 million, because we will have to provide substitute teachers or backfill for those people.

On foot of the original Audit Office report, when comments were made about the cost, we tried to benchmark what we in Northern Ireland spend on special education needs against what other jurisdictions spend. It is very difficult to do a like-for-like comparison, because the arrangements are very different across the United Kingdom. On the best like-for-like comparison, we found, to our surprise, that we spend far less per pupil on special education needs than England does. We spend just over £6,000 a year, whereas England spends up to £10,000 a year. That goes back to the first point that I made about budgets. For a child with a statement, we spend about £4,500; England spends £29,000. So, England is managing to spend far more than we are. That is not a measure of efficiency — I know that — but it might be a measure of economy. Needs continue to rise. I talk to principals all the time, and they tell me that what is presenting at the school gate is getting increasingly complex and that we have a problem.

The report is absolutely right. What is the response? We could look for more money, but that might be a forlorn hope, because we know the budgetary situation. We need to make sure that every penny we spend is well spent. I accept that. That goes back to my point about the need for a thorough evaluation by the Education and Training Inspectorate of the practice in schools so that we can identify best practice and focus on it. That is really important. We have not managed to do that, because of the action short of strike, but we will do it when we get out the other end of COVID-19.

**Mr Beggs:** I once spoke to a classroom assistant who had experience at primary school level but had taken a post at a secondary school. She expressed her frustration at standing at the back of a classroom, sometimes with multiple classroom assistants, doing nothing and waiting for something to happen. In fact, she could not hack it: she gave up the job and went back to the primary school where she was intervening and felt that she was contributing. Do you think that that is still happening, and, if so, does it show value for money?

**Mr Baker:** No, it does not show value for money. That is indefensible.

**Mr Beggs:** Can that still happen?

**Mr Baker:** It could. I cannot be at an individual school and know what is happening there. We delegate budgets to school leaders, and it is for school leaders to decide what happens with the deployment of staff in their school. That is why it is really important that we get inspection back up and running so that we can do a strategic evaluation of the practice in schools and focus on best practice.

Of course it is not value for money if a classroom assistant is standing at the back of a class not being gainfully employed and cannot hack it to the extent that they leave. I agree with you entirely. That is up to the local management of staff by the school leadership team. We need to evaluate and assess that. The mechanism for doing that is through inspection. We need to get in there and do that.

**Mr Irwin:** May I add to that? Over recent years, the number of classroom assistants and adult assistants in general, and the expenditure on them, has increased considerably, and that is linked to the point that Derek made about the complexity of the needs of children presenting at this time. It requires more one-to-one support. However, the EA has acknowledged that it needs to look in more detail at the model that it uses in relation to classroom assistants. EA officials will tell you that themselves. They have undertaken to do that as part of a wider programme of improvement that is under way.

**Mr Beggs:** You have decided only now to look at the model for classroom assistants. Hundreds of millions of pounds have been spent on it.

**Mr Irwin:** The classroom assistants model is clearly an issue that needs further investigation.

**Mr Beggs:** What areas of concern have you decided to investigate? What are the issues that you have taken forward?

**Mr Irwin:** It is part of the EA's wider programme of improvement of the individual operational processes that it employs for supporting children with SEN. We will support it in the delivery of that programme. I have no doubt that Sara and Una will cover more detail on that when they speak to you shortly.

**Mr Beggs:** Can you clarify how the process works? I am not fully knowledgeable about it. A certain number of hours is allocated to a child. Does the classroom assistant follow that child for the set number of hours, even though there are one or two other assistants in the classroom? You could easily, therefore, have multiple adults standing at the back of the classroom, not actually doing one-to-one engagement but waiting in case they may be needed. Is that the model that is in place at present?

**Mr Baker:** Where a classroom assistant is deemed necessary to support a child in a school through a statementing process, that will have been as a result of input from a series of qualified professionals. It could include a community paediatrician, social worker and speech and language therapist; it will have included an educational psychologist, educationalists and the school leaders. Together, they will decide what the statement of needs is for each and every child. If it is decided that a classroom assistant will provide the most appropriate support, a classroom assistant will be there. I cannot comment on what happens in every school, but I take your point entirely: if classroom assistants are not being employed properly, that needs to be addressed. Classroom assistants are not thrown willy-nilly at individual children; it is as a consequence of an assessment by a range of professionals.

**Mr Beggs:** But the assessment does not take any awareness of whether there are already two or three other assistants in a classroom.

**Mr Baker:** Well, at a local level, it would. Not all classroom assistants are employed for the same number of hours. Some of them might be spread around a number of children, some might be full time, some part time, and some might deal with a whole class. Therefore, they are employed in lots of different ways, and there are lots of different employment models for classroom assistants.

**Mr Beggs:** Paragraph 2.8 states:

*"there was not enough focus on SEN as part of initial teacher education".*

It has been known for decades that that has been a growing area of concern where additional support and expertise is needed. Why is it that, in teacher training colleges, new teachers have not been given a variety of levels of training in that area? That is the best time to ensure that future teachers are well informed about special educational needs. Why are there still inconsistent levels of training in higher-level institutions?

**Mr Baker:** Work has been done to ensure that modules on special education needs are built into initial teacher education for all newly qualified teachers. What we do not do at the initial teacher education

stage is provide in-depth training for each and every facet of special education needs; it is a more general module on SEN, which is mandatory for all newly qualified teachers now.

**Mr Beggs:** Paragraph 2.11 says:

*"there was a range of differences and disparities in the approaches adopted by the individual HEIs".*

Does the Department not have some say on what is a sensible level of training and expertise in that area?

**Mr Baker:** Well, it does. However, with regard to accreditation of initial teacher education, there is a body called the General Teaching Council in Northern Ireland, which provides accreditation for all the initial training that is provided to all teachers. That is how we get consistency. In addition to initial teacher education, we provide, or ensure that there is, a continuing suite of professional development provision for teachers. That is updated regularly by the Education Authority. There is a compendium of training available for our teachers. We also ensure that support is provided for our teachers in specific areas like autism through the Middletown Centre for Autism so that support can be provided at the initial stage and throughout their careers as needs change.

**Mr Beggs:** Finally, the 2017 report into special education needs indicated an

*"absence of any meaningful assessment or inspection"*

And that there was

*"no evidence that schools are identifying children with SEN in a consistent and timely way."*

That was three years ago. Paragraph 4.22 of the most recent report states:

*"We remain of the view that the Department and the EA cannot demonstrate value for money in the provision of support to children with SEN."*

Are you satisfied that there has been sufficient improvement since the last report was completed, which highlighted the issue to you? You are the permanent secretary and have responsibility for taking cognisance of Audit Office reports. What have you done to ensure significant improvement in this area?

**Mr Baker:** In response to your question on whether I am satisfied, no I am not. The original Audit Office report highlighted that value for money could be established through an evaluation of SEN practice in schools. I have already explained that, immediately after the 2017 report, we commissioned the Education and Training Inspectorate to carry that out. Unfortunately, the action short of strike stymied that and prevented it from being carried out. We just could not do it. Teachers were not cooperating with the inspection. You cannot force an inspector to go into a classroom if the teachers down tools and do not teach or engage at all. That is why it is the number-one priority, having resolved the action short of strike in April of this year. We have paused the inspection due to COVID-19, but when we get out the other side of COVID-19, this is the number-one priority for inspection.

**Mr Irwin:** If I can add to that and address the point about there being an inconsistent approach. The code of practice is the statutory guidance that all schools should give regard to. Following the 2017 report, schools and all education settings were reminded of the need to give regard to that code of practice. In anticipation of the new code of practice, we are also working with the EA to put together a programme of training, which would again remind principals, teachers and SENCOs of the need to follow the code of practice. It sets out clearly the identification, assessment and provision for children in SEN to avoid those inconsistencies.

**Mr Beggs:** One of the issues with the code of practice is that the assessment should be completed on a timely basis. However, the Education Authority limits the number of children who can be put forward for an education psychology assessment, which manages the system. That creates a bottleneck, so you do not know the scale of the problem. Is that not true? The code of practice is not working.

**Mr Irwin:** The code of practice is out for consultation and has been strengthened since the 1998 version was published. That is one of the major criticisms that has been made. The EA has acknowledged that it needs to look at its model of educational psychologist provision. There are two aspects to that provision. The first is access to the stage-3 code of practice services, and they have a model for that, which, in my opinion, is not working correctly and needs to change. The second aspect relates to the statutory assessment process. They do not hold back on the allocation of educational psychologists' time for statutory assessment. The difficulties lie with stage 3. The EA has a programme for looking at and improving those processes and can probably talk in more detail about that when they come in.

**Mr Baker:** I agree with you entirely. In terms of the statutory assessment — the statement of needs — the timescale is being exceeded. That is the area in which I accepted the point made by Mr Muir. I, and the Department, should have investigated that much more robustly and challenged the Education Authority much more robustly on the issue of valid exceptions. Why are there so many valid exceptions? Why are they drifting? So, I accept your point on that.

**Mr Boylan:** You are very welcome. Thank you very much. Most of the questions about the report have been aired already, but I want to pick up on some points. Derek, it is fair to say that we have failed children. Do you agree?

**Mr Baker:** We have failed some children. I have met the parents of some children, and it was a sobering experience for me, so I accept that. We are dealing with vulnerable children and with parents who want the best for those children, and they have not always got the best.

**Mr Boylan:** Absolutely. The context is that we are all adults and that there are a lot of professionals out there, and parents put their trust in all of us collectively, no matter what has happened over time. It seems that, over a 13-year period, we have definitely failed some children, and that is wrong. We have also failed in helping them to make a contribution to society, and we have to accept that.

We are looking back, through this report, at the past. You started by saying that the Minister has alluded to implementing some of the recommendations. Where are we with the 10 recommendations? What have we learnt from them? What do we intend to implement? Can you expand a wee bit on some of the recommendations?

**Mr Baker:** I go back to the general point about having failed children. We have not failed all children. As the Audit Office report acknowledges, one of the measures that we have for education, at an overall system level, is educational attainment. Now, it is not a perfect measure. I am talking about attainment in examinations. It is a narrow measure — I accept that — and it is not as holistic as we want it to be. Nonetheless, it is a measure that is used, and it is used in the draft Programme for Government. Attainment is based on achieving five or more GCSEs at A\* to C, including English and maths. In less than a decade, the attainment levels of children with special education needs have improved dramatically at that level. Those are educational outcomes. That is a success story. Attainment at that level has improved from about 24% to 41% now. By contrast, children without SEN have improved to a lesser level, so the gap is closing, and that is a real success story. I would qualify the point about failing children: some children have been failed, but, in overall system terms, there has been an improvement. I do, however, take your point. I get stories all the time about individual children.

**Mr Boylan:** I will clarify the point that I was trying to make. I wanted to know how we can quantify or qualify the number of people whom we have failed. We should be thinking about that as we learn from the report and as we move on. That is one of the key points that I wanted to make. You have to agree with that a certain extent.

**Mr Baker:** Yes. I will go back to your first question about the 10 recommendations in a moment, because I do not want to lose sight of those.

I mentioned at the start a new statutory code of practice and that all the arrangements that go with that are out for consultation. A key component of the new arrangements that the Minister has put out there is the concept of a personal learning plan for every pupil with special education needs. That is a different from the current arrangements, as it will be recorded on the school's information-management system. There is a prescribed format for it, and it will record outcomes and progress. Given that it will be online, we will be able to use that information at an individual level, at school level, and at overall system level to cut and dice the information to get a much better handle on the progress

overall of children in the system, so we will see, hopefully, who we are and who we are not failing. That is one for the future.

Many of the recommendations in the original 2017 report have been advanced, and the 2020 report provides the details on those. We have, for example, invested significantly in training people who work in special education needs. We have spent over £4 million on training school leaders, principals and SENCOs to build capacity in the system. We were taking a bit of a flyer, because we are anticipating that the Assembly will pass the new regulations — it may not. We are building capacity. We have much better information about what we are spending on every element of SEN services, whereas, in 2016, after the five education and library boards came together, we did not have that information. We do now. We have it in great detail, and it will facilitate the evaluation.

The 2017 report recommended that we needed a strategic evaluation of SEN services. I have explained that we tried to do that with inspection and we did a best practice report, but it was not enough. That is on our radar screen to do immediately. We have invested a lot of time and effort into getting better liaison and cooperation arrangements with Health and Social Care (HSC), and there has been a good response. Those arrangements are up and running and working better. Every health and social care trust has a special education needs coordinator, and we have streamlined how we exchange information. We have provided a template so that all those health and social care professionals who provide information do so in a way that helps the educational psychologist and the EA staff to produce a statement more quickly and in a more streamlined manner.

We have dealt with a lot of issues and have focused on the timescales issues in the draft regulations and the draft code of practice, which prescribe in great detail how the process should operate — not just the statementing but the exchange of information, the dispute avoidance resolution service, and the independent statutory mediation service. It is all set out in great detail in the code of practice. We have addressed, so far as we can in the absence of Ministers, the action short of strike, and COVID-19, all the recommendations that we could, to varying degrees.

**Mr Boylan:** No doubt, and I appreciate that. However, I go back to the fact that a number of professionals and adults could have carried on some of those actions. Over a long period, there were people with responsibility. We talk about early intervention. If I ask you a question about preschool and primary school, I understand the processes, but if you ask people who work in those streams, they can clearly identify them. We should all have been working in partnership.

You mentioned health and other partners in various Departments. We should have been able to work together. That is the point; that is what is clearly coming out of the report. I appreciate your answer, but we could have done a lot better in those years in working with our partners to identify those things.

**Mr Baker:** I accept that we could have done better, but investments have been made. For example, the Minister recently developed a new suite of early-intervention nurture units that are not specifically about SEN but which play into SEN. Hopefully, those units will form a part of that early intervention, which may, further downstream, avoid the need for special education needs intervention.

What have the improvements been over that period? I mentioned earlier that there is a much greater focus in the Education Authority on addressing the problems. A year ago, there were over 100 statements that had not been completed within 80 weeks, which was outrageous. At the end of September 2020, that number was zero. A year ago, almost 160 cases had been outstanding for 60 weeks; at the end of September 2020 there were 10. A year ago, 260 cases had been outstanding for 40 weeks; that figure is now 44. The Education Authority is trying to improve on all fronts, and it has. It is particularly targeting the longer cases where children and their families are waiting, and it is right and proper that it does that. Improvements are being made across the board; maybe not quickly enough, and I take your point about that. I accept fully that families and individuals have suffered and that it is really important that we make improvements.

I believe that the regulations and the code of practice that the Minister has published provide a real opportunity for a reset on SEN, combined with all the reports from various quarters. The Children's Commissioner produced a really important report in March of this year with 40 recommendations. The Audit Office published a report. There is the work on the SEN regulations and the code of practice and the work that we have done on the SEN learner journey, which looks at the experience for a child and their family — not through the eyes of a bureaucrat like me who writes turgid, dry regulations — and how we can make it better. Those things have all come together now and we are in a position to make a genuine reset of special education needs provision. I will not be around, as I said at the start, to deliver that, but we have set up a process whereby the Minister has asked me as the permanent

secretary and, I assume, my successor to make sure that I oversee personally, with the chair and the chief executive of the Education Authority, the comprehensive plan to deliver all those things and all those recommendations. That plan will be developed in a co-design process with not just bureaucrats, officials and civil servants but parents, teachers and the Children's Commissioner, and that is really important. That is the commitment that is being made right now on those issues.

**Mr Boylan:** Can you quantify how funding pressures played a part in some of the failures identified in the report?

**Mr Baker:** I cannot. You make a general point that the education system is under funding pressure. That is well-documented. Nobody disputes that.

The Education Authority's services are under massive pressure. It has to deal with that, and it has been improving the situation. Individual schools are under massive pressure. I cannot say, "If we had had x hundred million pounds more, that would all have been solved" or, "These failings are attributable to x% or y%". It is just that the general pressure on the whole education system is bearing down on its ability to deliver a quality service, but we need to request that going forward.

**Mr Boylan:** Some of those children are on the vulnerable side of the education system.

**Mr Baker:** They are, of course.

**Mr Boylan:** Would you recommend ring-fencing funding for that side?

**Mr Baker:** The run of figures is in the Audit Office reports. You will see that the proportion of the education budget that is spent on special educational needs has been rising year-on-year and is consuming an ever-greater proportion of the total education budget.

The Comptroller and Auditor General quite rightly says that that is unsustainable, because it will eventually consume the whole budget if it keeps on that trajectory. That trajectory is not realistic, so we need to make sure that we are getting the best bang for our buck with our spending. It is fair to say that we have allocated a much greater proportion of the budget each and every year over a period of five or six years to special educational needs children, and that is being reflected.

**The Chairperson (Mr Humphrey):** You said earlier that the review is 13 years old and has had £3-6 million expended on it.

I met special educational needs teachers, formally and informally, when they came in front of the Education Committee and heard about the challenges that they face each day. We have all had parents come into our constituency office distraught because their child cannot get statemented or a place in a special school. That has a ripple effect in the classroom: on other children, teachers and classroom assistants. It affects the life that that child has at school and at home, because it is not a happy child.

The review took 13 years. A review and its outcomes are fundamental to considering the effectiveness of the future allocation of funding for SEN and whether a child is statemented. Not all children will be statemented, but, as you will know, there are many who still require extra help and support. An evidence base is required in order to go forward, and evidence is crucial. You said that you have not been able to move forward because of inspections being paused. When will you and your Department have the robust evaluation associated with outcomes to be able to do future planning?

**Mr Baker:** I would like to think that we will be able to ensure that the Education and Training Inspectorate evaluation is completed within the next six to nine months. It depends on when we can send inspectors back into schools, in the light of COVID. As you know, because of the struggles that all schools are having, the Minister has taken a policy decision not to have inspections this term. We need those to be done as quickly as possible, however.

We are not starting from a zero-evidence base. A huge amount of work has been done, particularly over the past three years, to prepare for the code of practice. Many people had input into the new draft code of practice that has just been published for consultation. We have been preparing the ground by working with school principals and lots of interest groups to make sure that the new arrangements will be as effective as possible. We can go ahead with that work. In your other role on the Education

Committee, you will be considering the draft code of practice and the draft regulations. I therefore do not think that we need to wait until the Education and Training Inspectorate has completed an evaluation before we move forward with the improvements that are happening.

Earlier, I mentioned the timescales for waiting for a statement. I have shared with you stories of the anguish of individual parents and children. You are absolutely right: those stories are really disturbing. I understand that you, as an elected representative, are at the receiving end of those stories and that you want to do the best for your constituents. We need to improve the timescales, and we need to improve them right now. We do not need to wait for an evaluation of overall policy and strategy in order to do that. The work is under way, and it needs to be accelerated as fast as we can do it.

**The Chairperson (Mr Humphrey):** I appreciate the sentiments that you expressed earlier about valid exceptions. "Valid exceptions" is a term used by bureaucrats. A "valid exception" is a vulnerable child. Every family is hugely affected and every school is affected, particularly primary schools, because many of them are small, and those children are so important to them. Incidentally, I agree with the Minister's decision on the inspectorate not going into schools, because schools are dealing with so much. Many of us in this room are school governors and thus know what schools are dealing with. We give credit to those in the schools' estate across the country for the work that they are doing, from principals right down.

In the absence of that evidence, can you assure the Committee that the Department and the EA will be able to ensure that the current resource will be put to best effect? You obviously need more money. A point was made earlier about a silo approach being taken. I sometimes worry that we take a silo approach when it is a joined-up approach that is needed. The Department and the EA obviously need to take that approach, but it should also include the Department for Communities, the Public Health Agency (PHA), local government and the wider regional government apparatus that is in place to ensure that there is value for money, no duplication, no wastage and that the maximum amount of money is being spent to address the issues that those young people face.

**Mr Baker:** I will go back to the valid exception point. The analogy that came to me is that it was being used as a get-out-of-jail-free card. It created an excuse to allow things to drift. We have addressed that in the draft code of practice. Under the new arrangements, there are still valid exceptions, but we have put in place upper time limits for them so that cases will not be allowed to drift.

To go back to the substance of your question, you are asking me to provide you with an assurance on something that will happen in the future. I made the point at the start that I will not be around. I can assure you, however, that there is an absolute commitment on the part of the Minister and the departmental officials — Ricky and his team and Sara Long and her team — that we all need to do much better in that space. The new code of practice, the regulations and the various reports by the Children's Commissioner and others give us an opportunity to reset, commit to doing better and make sure that we are properly joined up. We have made great progress in joining up with Health and Social Care: there is no doubt about that. The arrangements that have been put in place are working so much better than they used to. The financial pressures mean that we need to make sure that every pound that we spend is spent effectively. We can only commit to best endeavours on that. I am happy to do that, albeit on behalf of my successor.

**The Chairperson (Mr Humphrey):** I have a question about directing resources to children without a statement. Your budgets are continually under pressure. I have spoken to the Minister many times about this, and he is hugely supportive and is trying to do all that he can to ensure that the issues are addressed, but money is always a pressure. I am reassured by the answer that you gave me moments ago about taking a joined-up approach and greater effectiveness across government. I do not doubt your words on that, but I hope that that is the case. We must maximise that effectiveness, however. Early intervention is better for the child, the family and everyone else involved, but it is also cheaper. For those children who are not statemented, can we be assured that the resource will be there to address their needs as well?

**Mr Baker:** Yes. There are a number of points there. I mentioned earlier in the meeting that the Minister is mindful of the value of early intervention, and that can take place in all kinds of ways. For example, the Minister recently announced a whole new suite of nurture units, and we want to roll out those nurture units. They have been thoroughly evaluated and have a high impact and a relatively low cost. Hopefully, having them will avoid the need for special needs intervention later on.

The budget and overspends by the Education Authority, which the Comptroller and Auditor General has reported on, have also been big problems for me. The Education Authority is in the process of looking at those — Sara can speak more about that — and is committed to a financial recovery plan that looks at all its services, including pupil support services, to see how it can get all those back on an even keel so that it is not only living within budget but spending its money wisely. There is an absolute commitment to that.

There is no question of there not being a commitment from the Minister right down to the Education Authority to budgetary responsibility and to making sure that every penny is well spent. We commit to doing our very best on that front.

**The Chairperson (Mr Humphrey):** I welcome that, and it will be reassuring for members to hear. When I was first elected to this place, I dealt with a mother who came to me distraught. She was having a battle to get her son into a mainstream school, because he required special educational needs support. She won that battle, and I was privileged to support her in doing so. That young man went to a mainstream school. He successfully completed his AS levels and A levels. He was deputy head boy of the school and is currently in university. I want to see more young people have that opportunity, and I am glad that we are all in the same place and want to make sure that that is the case.

Before I bring in other members, I am a governor of a school, Edenbrooke Primary School, in which there is a nurture unit. I am aware of other schools in my constituency, such as Currie Primary School, that have a nurture unit, and I welcome the establishment of one at Glenwood Primary School. Nurture units are invaluable to schools. Many of the schools that are getting one are in the most difficult, deprived and hard-to-reach communities, so I welcome the announcement.

**Mr Baker:** I will make a couple of points, Chair, on the need for early intervention. I refer back to the new code of practice and the new arrangements. One of the things that will be put in place is the role of the learning support coordinator. It is analogous to the current SENCO, but one of the big changes is that we will require preschool provision — statutory nurseries — to have a learning support coordinator. That is a reflection of the importance of early intervention at the preschool stage so that we can deal with problems as early as possible.

Another point to make on providing support for young people with special needs in mainstream schools is that one of the transformation projects that I referred to earlier in the transformation programme is about creating greater agility in area planning. Area planning is about "right school, right place, right size", but it can be a bureaucratic and slow process. If a mainstream school wants to establish a learning support centre or an autism support centre, we have to go through the full development proposal process, which is slow and bureaucratic. By coincidence, I think that tomorrow we are going to issue a proposal for consultation about being much more agile on that. It would mean that we would not have to go through the development proposal process and would allow us to put in place very quickly, if the need is there, a learning support centre or an autism support centre in mainstream schools without there being the full panoply of development proposal bureaucracy around it. There is stuff that is going on to improve the experience of young people in mainstream schools so that we can have more examples like the one that you quoted.

I have one final statistic. Over a period, the proportion of young people with special educational needs leaving school and going on to higher education or to university has increased from 10% to over 20%. That is another outcome success story of what is happening as part of SEN provision.

**The Chairperson (Mr Humphrey):** OK. Thank you.

**Mr O'Toole:** Thank you both for coming to give evidence today. To get a bit of historical context, some of which has been touched on already, I have a couple of questions. Most of the legislative basis for special educational needs has come of the 2016 Act: the current one. I apologise for using you to do my background research. When that legislation was being prepared, what was the expectation? Were forecasts set out for expectation, need and cost?

**Mr Baker:** No. The Act itself did not go into the detail of cost or anticipated need. Sorry. Were you going to come back in on that?

**Mr O'Toole:** No. I will let you finish your answer.

**Mr Baker:** Need is a fluid thing. It changes all the time, and the nature and complexity of what is presenting in schools is changing all the time, so that was not in the Act. The Act would have been prepared in the knowledge of what the trajectory of special educational needs was. It was mentioned in the Audit Office report that, in an old code of practice from 22 years ago, there was an assumption that 2% of the school population might require a statement. That is long obsolete, and it is not used as a planning document. We did not prescribe in the 2016 Act, or in anything around that, what we thought the level of need would be or, indeed, what the level of funding would be. That is an operational thing that comes after the fact of the legislation.

**Mr O'Toole:** It was 2%, but when?

**Mr Baker:** That was in 1998, in an old code of practice that is long since gone and is not used as a planning figure. Once upon a time, however, 2% was a reasonable assumption.

**Mr O'Toole:** It is now nearly 20%.

**Mr Baker:** No. The 2% was the proportion of children who needed a statement. It is currently 5.5% of the school population.

**Mr O'Toole:** I am sorry. In discussing some of the findings around financial sustainability, you talked about how, relative to England, Northern Ireland's spending on schools had been constrained. In the austerity years, spending on schools in England has been ring-fenced, I suppose, whereas it has not been here. We had £311 million being spent in 2019-2020 on SEN. I am aware that our budgetary processes have been in abeyance for the past few years. I sit on the Finance Committee, and it has been in chaos. When was the last long-term budgeting exercise done by the Department, as part of something mandated by the Department of Finance or just done as an internal exercise?

**Mr Baker:** I am afraid that, for the past six years, we have had annual budgets. We have had no ability to do any long-term budgeting exercise on anything, and that is no way to plan. That is just a beef, as an accounting officer. We have had six years of annual budgets for one reason or another, and, against that backdrop, it has been extremely difficult to do any kind of long-term planning, which is a problem.

We had hoped that the next Budget would be a three-year Budget, but, to our dismay, I heard the Chancellor of the Exchequer say a couple of weeks ago that we may be looking at another one-year Budget, which is not ideal.

**Mr O'Toole:** This is not a gotcha, but have you never done an exercise to look at the long-term trajectory of forecasting SEN costs?

**Mr Baker:** We can look ahead and estimate what we think SEN will cost, but we are doing that in a vacuum, because we do not know what our budget for it will be. For example, I mentioned earlier that, as we look to the implementation of the new code of practice, all the arrangements around that and the new regulations, we can estimate what we think it will cost to free up the time of the new learning support coordinators in each and every school in Northern Ireland, and we even put a price on that. We know what the pupil support services in the Education Authority cost, so we can make an estimate of what we think SEN will cost, but we cannot do it in the context of knowing what our budget is and what proportion of our budget that will consume. At this stage, in the middle of and moving towards the end of October, we do not know what our budget will be from April 2021, unfortunately.

**Mr O'Toole:** You said that it is possible to make an estimate of SEN costs. Was that done in 2016, when the legislation was passed?

**Mr Baker:** I cannot answer that question, because I was not around then. I know that that is a cop-out. I should be able to answer it. I think that the answer is probably no. Ricky was not around then either. I may have to come back to you on that specific point.

**The Chairperson (Mr Humphrey):** We will give you two weeks to come back.

**Mr Baker:** Give me two weeks. If it is longer than two weeks, I will be away.

**Mr O'Toole:** On the question of financial sustainability and the overall cost of special educational needs, like others here, I have had correspondence during an ongoing bit of casework with someone whose child has very acute and severe needs. To put it bluntly, not only are those needs not being met but she is facing very significant difficulty in managing the process and getting straight answers from the EA.

This is a statement that I am asking you to either endorse or reject. Do you think that, if there had been better forecasting of the cost implications of SEN overall and a longer-term, strategic look at what those costs were, there would be less presentation of acute crisis challenges, with people unable to get the right support for their children because there seems to be a resource crisis. Who gets resource and who does not has become a bit of a game of whack-a-mole and a bit random. This may be unfair, but it can sometimes seem that, when a person in an area gets, first, an adequate process and, secondly, gets their child the support that it needs, it is about the resource at that moment in that area. Do you think that it would have been handled better if there had been a long-term look at the costs?

**Mr Baker:** Intuitively, the answer to that question is yes, but I will make the point that much of special educational needs is demand-led. In that respect, the resource requirements and the service requirements come at you, and you cannot always anticipate what is going to come. You do have to respond, however, and, following the provision of a statement, which is a statutory instrument, you have to respond. You have to pay out whether you have the budget or not, which is partly why the Education Authority has found its budget under so much pressure.

I will answer your question in a different way. If the Education Authority had had better management processes in place and better management information in place, it could have provided a better service to many of those people whom you have described. That is evidenced by the fact that, having shone a light on its own internal deficiencies — credit to it for doing that — it has managed to reduce waiting times for statements dramatically over the past 12 months. It has done that through its own activities, and I suppose that the obvious response to that is this: why was it not done earlier? I have already held my own hands up and said that I should have probed the issue more robustly earlier myself.

**Mr Harvey:** Thank you, Mr Baker and Mr Irwin. I am led to believe that 20% more children here have special educational needs when compared with the figure for GB. What explanation can be given for that?

**Mr Baker:** I am not altogether sure that it is 20% more. The proportion of the school population in Northern Ireland that has special needs is 13.8%. Scotland has a very different definition, so it is hard to compare with Scotland. In England it is 12.1%, so there is a 1.7 percentage point difference between ourselves and England. When you ask why a higher proportion of children here have special needs than in England, I do not have an answer to that. I am not an expert, but I have asked many people who are experts, and they do not know. There are some empirical facts that you can point to. The diagnosis of autism amongst schoolchildren here is twice the rate in England. Obviously, autism will feed through to special needs; not in every case, but in a large measure, it will feed through. I have no explanation as to why the incidence of autism is higher. You would need to ask health professionals, but I suspect they might not have an answer. Other factors will also play into special needs, particularly issues around behavioural difficulties, emotional difficulties and attachment difficulties of young people. We have higher levels of poverty, at a general level, and child poverty than in England. We have the legacy of the Troubles in Northern Ireland; that is cross-generational and can impact in particular areas. We have higher levels of mental health problems than England. All of those will play through to the problems experienced by families and young people. They will manifest in special needs. I cannot give you a direct cause-and-effect link. That is me commenting anecdotally, but I have asked many professionals why the incidence is higher, and those are the kind of factors that they present. Ricky, do you want to add to that?

**Mr Irwin:** Just that further research needs to be done to really understand those aspects that Derek has mentioned and to understand the interplay between them, and how we need policy and funding to be able to respond to that in the future.

**Mr Harvey:** There is a mixture of factors. I noticed, and you mentioned it, that from 2010-11 to 2017-18 the results achieved by children with special needs leaving school —. More are leaving with a good qualification and fewer leaving with none. That is a good result.

**Mr Baker:** That is an excellent outcome. More importantly, buried within those figures is the fact that the gap is closing between those who have special needs and those who do not. All of that is down to the quality of teaching and learning in our schools and the work of teachers, classroom assistants and school leaders.

**Mr Harvey:** It is a steady improvement. Thank you.

**The Chairperson (Mr Humphrey):** Ms Flynn is joining us via StarLeaf. Do you wish to ask a question?

**Ms Flynn:** Yes, Chair, thank you. Most of the key issues have been covered by the other members, so I will make more of an observation than a question. From all the answers that you have given, Derek, there is a lot to be hopeful for. The things that you have talked about and the improvements that are already being made are all great. However, the reason for this session today, and what we are basing our questions and queries on, is the most recent audit report that is still saying that the recommendations that were made in 2017 have not been implemented. Although it is encouraging to hear of all the good work being done, the worry is that we come back to this in a couple of years. A couple of members have questioned about previous recommendations that have not been fully implemented in the past number of years. You had issues with the inspectorate, who could not carry out that piece of work, and the schools were reminded about the code of practice. Was that a letter or an email that was sent from the Department to remind schools about the code of practice? Is that as far as things went around that piece of work from 2017? Does the Department have a designated person who is going to hold on to the more recent audit report to make sure that we do not see the slippage that we have seen from 2017? I am encouraged to hear about all the progress that has been made, as well as the consultation that the Minister has published. That is all good news.

**Mr Baker:** Does the Department have a designated person? That person is Ricky, and my successor will also deal with that. That is the short answer. A general observation is that many of the deficiencies that were quite rightly identified by the Audit Office in its reports are, I hope, covered in the new code of practice, which, as I say, I do not expect you to have read, because it is several hundred pages long. Those deficiencies are picked up and addressed in the code of practice. That is the important point that I would make in response to your observation.

**Mr Irwin:** Of course, on some of the actions, it was more than just a letter being sent to schools in June 2018. There has also been training for principals and SENCOs over the last couple of years. We also reviewed the categories of SEN and medical distinctions. Training and guidance were provided to schools on that. Of course, as Derek said, the ETI carried out a best practice phase 1 evaluation, and the results of that have been shared with schools. Now, of course, there is the consultation. There has been quite a lot of action around all the recommendations.

**The Chairperson (Mr Humphrey):** All members have had an opportunity to ask questions in the first round. A couple of members have asked to make very brief second comments.

**Mr Hilditch:** On recommendation 4, we have been very much looking at the blame culture that was afoot. On the relationship with the Department of Health, which was getting some of the blame for the previous delays, has the box at recommendation 4 now been ticked?

**Mr Baker:** We have had very good cooperation with our Health colleagues, both at departmental level and at individual trust level. As I said earlier, each trust now has a special educational needs coordinator, who is the single point of contact to make sure that, when the Education Authority needs advice for a statement, that is allocated to the right person and is chased up. We have better electronic transmission of data. That might seem like a small thing in this day and age, but confidential health records moving outside the health service is actually a difficult issue. We have streamlined the nature of the information that we request from all the health and social care professionals to make it easier for them and for staff in the Education Authority to interpret that. The short answer is yes. Ricky has been involved at the sharp end in some of that cooperation. Ricky, do you want to add anything?

**Mr Irwin:** Over the last few months, with COVID, the interaction between Health and Education has been very challenging. On the compliance rates, Health is required to provide medical advice in relation to a statutory assessment within six weeks. It has been able to reach a 77% compliance rate during the COVID period, which is very good, and that puts it in a good position for when the new SEN framework comes in and the shorter time frame is introduced. We have definitely seen an

improvement in the cooperation and collaboration between Health and Education and between each of the trusts and the EA.

**Mr Hilditch:** OK. Thank you. Post-COVID, the level of inspection is to be increased and better expertise has been found. How will inspections be taken forward? Will there be a one-off visit, a paper exercise that is prepared beforehand or continual engagement?

**Mr Baker:** For an individual school inspection, the inspector will make sure that there is special educational needs expertise in there. The inspectorate has recruited additional associate inspectors. Those people may be teachers; they are not full-time inspectorate staff, but they can be deployed. The inspectorate has had a few special educational needs experts return who had been off, and it is recruiting, as we speak, another SEN expert.

On the wider evaluation of SEN practice at an overall system level, the plans for that have been drawn up. The inspectorate will investigate 50 schools. It will not be a paper exercise. Inspectors will go into those schools to see what the practice is, identify what works and so forth. It is all about the progress of individual pupils on the basis of the interventions in those schools. It will not be a paper exercise; it will take place in schools.

**Mr McHugh:** With regard to your answer to a question from the Chair about early intervention and nursery provisions and so on, you commented that there would be a learning support coordinator for statutory nurseries —.

**Mr Baker:** Statutory nurseries, yes.

**Mr McHugh:** Is it only statutory nurseries? I say that with a vested interest as the chairman of a naiscoil that is not statutory as such.

**Mr Baker:** At this stage it is only statutory, because they are the only ones that we can legislate for. We cannot legislate for private or voluntary pre-school provision. Ricky, am I right in saying that?

**Mr Irwin:** That is correct; it is for grant-aided schools.

**The Chairperson (Mr Humphrey):** That is something that you will have to lobby for in your work as an MLA. Unfortunately, you cannot do that here.

**Mr Muir:** Thank you for your responses this afternoon. Obviously, you are retiring in two weeks' time, so I just want to have an understanding of what the arrangements will be in the absence of a permanent secretary after you retire. Obviously, we are getting a replacement, and he is going to oversee the special educational needs steering group. Some of this here is a collective failure on behalf of the Department of Education and the Education Authority, and there is a real need for governance and oversight of the Education Authority, so what are arrangements going to be in place going forward?

**Mr Baker:** OK. It was the Minister who asked the permanent secretary to chair the steering group, and that will remain. With regard to the logistics of replacing me, that is happily not my responsibility. That is the responsibility of the Department of Finance, and I think that a competition will be launched very shortly. You can dust down your CV if you wish. That will be out there very soon so I hope that there will be a replacement in place quite soon.

**Mr Muir:** Thanks, but no thanks. *[Laughter.]* Who is going to oversee the SEN steering group in the absence of a permanent secretary?

**Mr Baker:** I have a deputy who is in charge of this area — it is actually Ricky's boss. If there are any meetings of the SEN steering group during that interregnum — it will hopefully only be for a few weeks, so we are not talking about a long period — my deputy secretary will chair the SEN steering group for that period, pending a competition reaching a conclusion. I would hope that that might only be for one meeting.

**Mr Muir:** Thank you for your forbearance, Chair.

Obviously, a lot of us are all getting our memories back to March, when the first set of restrictions came down with regard to COVID, with school closures and business restrictions happening again. I can recall that back then there were children with challenging behaviours and complex needs, and there was a real feeling by the parents and the young people that they were failed by the education system in the first wave. We are going into the second wave of COVID-19 where we are seeing increased restrictions and things that are having to be taken. What assurances can be given that those children will not be forgotten in the second wave of COVID-19?

**Mr Baker:** Yes, that was a real —.

**The Chairperson (Mr Humphrey):** I must point out to members that this is about this report. With the greatest respect, that is straying off the report, so I am not going to allow that to be asked.

**Mr Muir:** OK.

**Mr Boylan:** Derek, you are leaving in two weeks and I wish you well, but I will take the opportunity to ask this question. With regard to the two reports, where would we have been with regard to the overall system if these two reports had not been carried out?

**Mr Baker:** With or without these reports the Minister would have been pushing ahead with new SEN regulations on foot of the 2016 Act and the new code of practice. Many of the issues that were picked up in the 2017 report and followed through on are already covered in the code of practice, but, obviously, we could not progress with a statutory code of practice in the absence of an Assembly because it is a statutory process. Therefore, I think that a lot of them would have been addressed anyway, and you will see that if you ever get around to reading the draft code of practice with all of the issues that are covered in it. However, I think that the Audit Office reports play a really important part in concentrating everybody's minds. There are others who will not let us sit on our hands on these issues. I mentioned earlier that the Children's Commissioner produced a really important report in March of this year which identified 40 recommendations for improvements in SEN. That was a really valuable report because it looked at all of the issues through the eyes of parents, teachers and the staff who work in delivering the services, and it looked at their frustrations, so there was a human side to it. There are plenty of people who are holding our feet to the fire on this issue, with or without the Audit Office, but it does help.

**Mr Boylan:** OK. Thank you.

**The Chairperson (Mr Humphrey):** OK. Members, I have been quite lenient today and normally, as you know, I am not. However, given the import of this issue, I thank all members for the questions that they asked, and I thank you both, Mr Baker and Mr Irwin, for your answers. I take it that no other member has any other issue that they want to raise before we finish this session? OK.

Mr Donnelly and Mr Stevenson, is there anything that you wish to add or ask of our guests this afternoon?

**Mr Kieran Donnelly (Northern Ireland Audit Office):** Chair, I have nothing to add at this point, thank you.

**Mr Stevenson:** There is nothing from the Department of Finance's perspective, Chair, thank you.

**The Chairperson (Mr Humphrey):** OK. Gentlemen, thank you both very much. I know that you are going to remain and might be here for a sweep-up, but, if not, then I thank you both very much for the time that you have taken today. I thank you both very much for your candour, and I think it is important that that was the case today.

Derek, speaking very personally, I thank you for your work in the Department of Education over the last number of years. It has been very helpful to me in my constituency work with regard to young people in North Belfast, and that is across the community in North Belfast. That has been crucial and critical as those interventions have made a real difference to many young people's lives, so thank you very much. I am sure that all of our members would share that view with regard to their constituencies as well.

I take it that, after you have finished these two weeks, you will not be putting in for the job as head of the Northern Ireland Civil Service?

**Mr Baker:** I certainly will not, Chair *[Laughter.]*

**The Chairperson (Mr Humphrey):** Members, to allow the room to be prepared for our next guests, we will take a short break.

**Mr Baker:** Thank you.

**Mr Irwin:** Thank you.