



**The *Independent* Helpline for Special Educational Needs.  
Tel. 020 8979 8853**

# **ANNUAL REPORT**

**October 2002**

**– October 2003**

*All children with Special Educational Needs  
shall have the opportunity to become*

*confident and effective learners*

# CONTENTS

<b>Introduction</b>	<b>3</b>
<b>Main Report</b>	
<b>1. About the Helpline</b>	<b>5</b>
<b>2. General Background</b>	<b>6</b>
<b>3. Number, Sources, and Nature of Calls</b>	<b>6</b>
<b>4. Concerns Raised by Callers</b>	<b>7</b>
<b>4.1 Poor Communications</b>	<b>8</b>
<b>4.2 Inadequate Support from the School</b>	<b>9</b>
<b>4.3 Inadequate Support from the LEA</b>	<b>10</b>
<b>4.4 Statutory Assessment and Re-assessment Problems.</b>	<b>11</b>
<b>4.5 Statementing Problems</b>	<b>12</b>
<b>4.6 Delayed or Discontinued Provision Following Statements of SEN</b>	<b>13</b>
<b>4.7 Inflexibility of Transport Provision</b>	<b>14</b>
<b>4.8 Discrimination under the Disability Discrimination Act 1995 and         SEN and Disabilities Act 2001</b>	<b>15</b>
<b>4.9 Lack of Confidence in the SEN Panel</b>	<b>15</b>
<b>5. Action from the Helpline</b>	<b>16</b>
<b>6. Next Year 2003 – 2004</b>	<b>17</b>
<b>7. Conclusion</b>	<b>18</b>
<b>Appendices</b>	<b>19</b>
<b>Mary – her story</b>	
<b>Charlie’s story</b>	
<b>Acknowledgments</b>	
<b>Advice to parents</b>	<b>Back cover</b>



## Annual Report

### INTRODUCTION

#### 1. The Helpline

In October 2002 we launched our Pilot Project telephone Helpline for parents and others seeking procedural help and advice on Special Educational Needs. A year later we present our full report.

#### 2. Comments and Conclusions

Following our involvement in the cases, we find that almost without exception, the concerns expressed by parents have proven well founded. In March 2003 we published our Pilot Project Report and this set out many of the concerns expressed in this document. Whilst we have had no response from the Richmond-upon-Thames LEA to that Pilot Project Report, we would have expected to have seen an improvement in the service provided, in particular by the SEN department showing some reduction in the number of concerns being raised by parents. Regrettably, the evidence shows that the situation has, if anything, got worse.

**From the evidence we have obtained from the 85 parents in Richmond, we invite the Local Education Authority to meet with us to discuss the issues this Report contains. It is our view that by working closely with parents and helping them at all levels and then, jointly, working with the LEA, children's needs will be dealt with more sympathetically and efficiently.**

It is too early to comment on other authorities but copies of this report will be sent to them. If and when we have more detailed and reliable evidence on any Local Education Authority we shall publish it.

#### 3. Calls Received: October 2002 – October 2003

Total Callers – 101	Callers in Richmond Borough	85
	Callers from other Local Authorities	16
Total Long Term Cases – 51	Cases in Richmond	40
	Cases from other Local Authorities	11

#### 4. Main SEN Needs Reported:

- Autistic Spectrum Disorders (ASD) (approx. 75% of total)
- Speech and Language Difficulties
- Moderate Learning Difficulties
- Severe Learning Difficulties
- Attention Deficit Hyperactivity Disorder
- Dyspraxia
- Dyslexia
- Down's Syndrome
- Visual Impairment
- Hearing Impairment
- Epilepsy
- Cerebral Palsy
- Emotional and Behavioural Difficulties.

Note. In most cases the child had more than one need – e.g. children with ASD demonstrated sensory, motor and behavioural difficulties.

#### 5. School Age of Children — Long Term Cases

All Local Authorities	Pre- School 3	Primary 43	Secondary 5
Richmond	Pre- School 3	Primary 32	Secondary 5

#### 6. Range of Concerns

1. Poor communications
2. Inadequate support from schools
3. Inadequate support from LEAs
4. Statutory Assessment Problems
5. Statementing problems
6. Delayed provision and discontinued provision
7. Inflexible Transport policy
8. Disability Discrimination and Exclusions
9. Secrecy of the SEN Panel.



## FIRST ANNUAL REPORT

### 1.0 About the Helpline

We offer a friendly, independent, confidential telephone helpline for parents and others looking for information and advice on Special Educational Needs. There are no fees required. All members of the Helpline and its back-up team are volunteers who have spent much of their lives in education or related services. The help we offer includes

- Interpreting the SEN Code of Practice and other related documents
- Interpreting official letters
- Checking proposed and revised Statements of special educational needs
- Helping prepare letters of request, comment and complaint
- Finding independent professional advice – eg educational psychologists, lawyers etc.
- Giving guidance on the next available procedures which may be suitable
- Acting as a “friend” to accompany parents on visits to the offices of officials in the education and health services and to meetings in schools
- Advising on preparation of case statements for SENDIST (Special Educational Needs and Disability Tribunal)
- Presenting cases at the Tribunal

We can be called on **020 8979 8853** and one of our co-ordinators will listen carefully and either provide an immediate answer to questions or, more likely, take a few details and ask the most suitable member of the team to call back. On those occasions when we are not available, a message and phone number can be left. The line is open 7 days per week.

Where cases are complicated we may suggest a meeting to talk things through. In such a case we may, with the permission of the caller, involve more than one team member or contact our advisory solicitor for clarification of a legal point.

We raise our funds through a range of social and other events and welcome donations. Proposed changes in legislation suggest that we may soon be able to apply for charitable status. Money raised goes to meet telephone costs, legal and other professional advice, and office expenses.

## **2.0 General Background to 2002 – 2003.**

We launched SOS!SEN in October 2002 at a meeting of VIPs in SEN, The Voice of Independent Parents in Special Educational Needs ([www.vips-in-sen.co.uk](http://www.vips-in-sen.co.uk)). Over the past year our publicity has focussed on the local media, a leaflet to schools, and the website of VIPs in SEN and directly on [www.hampton-online.co.uk](http://www.hampton-online.co.uk). The education grapevine has also brought us many calls as independent psychologists and therapists have suggested to parents that they call us for procedural advice on coping with bureaucratic difficulties. Most importantly the news of our existence has spread from parent to parent.

A number of parents in Richmond have called us because since March 2003 the borough has not had the valuable services of a Parent Partnership Worker. For this reason the Borough's Project for SEN has frequently suggested to parents that we might help and we have been glad to do so. We understand that a PPW has been appointed to start in January 2004. Whether we shall be any the less busy as a result will depend upon the level to which the PPW will be able to act as an advocate for parents and the number of hours per week he or she will be working.

## **3.0 The Number, Sources and Nature of Calls to the Helpline.**

- **Callers**

During the year, 101 callers contacted us. Of these 85 were from the London Borough of Richmond upon Thames where we are based. The remainder came from the following LEA areas:- Barnet, Bromley(4), Birmingham, Chiswick and Hammersmith, Croydon(2), Enfield, Hounslow, Kingston, Lambeth, Sefton, West Sussex(2).

Of these calls 51 developed into long-term cases – Richmond(40), Bromley(4), West Sussex(2), Chiswick and Hammersmith(1), Sefton(1).

- **Special Educational Needs**

A very wide range of special educational needs were covered by the callers and in addition to the more frequent ones, mentioned in full in our Summary, a small number of calls covered syndromes arising from chromosome disorders.

The implications of the Disability Discrimination Act 1995 and the Special Educational Needs and Disability Act 2001 were also topics of concern and particularly in relation to exclusions from mainstream school.

- **Age Range of Children**

Particularly remarkable was the very high proportion of calls concerning children of Primary School age. Parents often felt that the provision their children were receiving was inadequate or unsuitable (e.g. placements in unsuitable SEN units), or that Early Intervention needed to be made and was not. Several were anxious for the educational future of their children when they transferred from Primary to Secondary school. It is difficult to be sure why so few parents of Secondary age children have called us. We would not, however, necessarily agree with the likely bureaucratic answer that this is because the SEN provision for children in Secondary is satisfactory. On the contrary we suspect that by the time a child has reached secondary school parents have largely given up fighting for better provision. Four of the 5 secondary long term cases which have come to us have been of such a serious nature that legal action for Negligence in meeting the children's needs would not be inappropriate and two are still under consideration for such action. We wonder just how many

children at risk of failure in secondary education and exclusion from mainstream school would not be in such a position if their needs had been diagnosed and met at an earlier age. Indeed, we have evidence to demonstrate the difficulties faced by some children on the SEN register when they transfer from primary to secondary school without the support they need – often with less support than they had in primary school.

- **Autistic Spectrum Disorder**

**Of particular note was the number of calls from the parents of children with Autistic Spectrum Disorder.** Recent research (indicating that perhaps one child in 8 may have ASD) led to much greater awareness of the need to improve and expand support for the children whether in mainstream school or in specialist placements. It is very doubtful in many local authorities whether the level of provision is adequate to meet the needs of these children currently in primary or secondary education. From the evidence of numbers we have for Richmond the Autistic Unit for 10 children at Key Stages 1 and 2 to open in Spring 2004 will not be large enough to meet the number of children who would benefit from such a placement. There are already parents with children in placements which are not specialist ones for autistic children who have been disappointed to learn that their children cannot have a place in this much needed Unit. If that is the case it is evident that the Secondary Unit planned for some time in the future will also be inadequate. We know of two cases of able children of secondary age who have been without education for more than a year because of the failure of an LEA to make appropriate provision.

We also share the concerns of parents of children with Asperger's Syndrome, children who are often able intellectually, and who in primary school are rarely receiving the full help they need and who in the large and bustling environment of the secondary school will face even greater problems. For at least one child in Richmond permanent exclusion from mainstream primary school has been the result of behavioural difficulties related to Asperger's – difficulties that with earlier diagnosis and provision of an adequate statement would not have become so severe. **We stress that the fault is rarely that of the schools.** They do their best to help on inadequate SEN budgets and inadequate training. **The responsibility is firmly that of the Local Education Authority**

## 4.0 Concerns Reported By Callers

The range of concerns is set out in the following table. Most callers raised more than one Concern:

1	Poor Communications with L.E.A.	40
2	Inadequate Support from the School	3
3	Inadequate Support from the L.E.A.	33
4	Statutory Assessment & Reassessment Problems	18
5	Statemnting Problems	17
6	Delayed or Discontinued Provision	3
7	Inflexibility of Transport Provision	3
8	Discrimination under the SEN & Disabilities Act 2001, & Disabilities Discrimination Act 1995	5
9	Lack of confidence in the SEN Panel	10
	Number of Long Term Cases	51

## Further Explanation of the Concerns and Our Comments

### 4.1 Poor Communications

- a) **Concern:** Unnecessarily long words and complex phrases from LEA officers and Legal Services which seemed designed to distance the officers from the parents and confuse rather than help them. Richmond parents reported the recent introduction of forms, which appeared to try to precipitate parents into accepting the decisions of the officers.

*Comment:* This issue was raised under the Pilot Report. Matters have not improved. One example in response to an informal letter was "Thank you for your letter of 17<sup>th</sup> inst referring to the cessation of X's therapy ..... " A number of forms have appeared recently and they do look a little intimidating. Officer time could be more usefully spent writing more informally and sensitively to parents.

- b) **Concern:** Unreasonable delays in responding to phone calls and letters. Long delays in obtaining meetings with the Head of SEN. Failure to provide precise or detailed information requested by parents.

*Comment:* Matters do not improve. One mother had an important meeting cancelled twice by an officer. Another received a letter that was dated 11<sup>th</sup> June but not posted until the 20<sup>th</sup>. Another is still waiting for the reply to a letter she sent last May requesting the criteria for granting a statutory assessment. A Helpline member is still waiting for a reply or even acknowledgment to letters sent about the same child to the Richmond Local Government Monitoring Officer on 19 June, 23 June, 27 July, and 5 October 2003.

- c) **Concern:** The production of documents which are supposed to be either consultative or informative but which are written in such a way as to be almost impossible to understand.

They are sent out in such a way that even if they were comprehensible they would not really reach the vast body of parents whose children are on the SEN register.

**Comment:** We agree. Consultation and information should be clear and wide. There is no point in producing information in a style devised to confuse and sending it out via channels that cannot ensure all parents will be reached. A recent attempt in Richmond at consultation put the responsibility on governing bodies of schools to get parents together to discuss a very long and confusing document. Time to carry out the exercise was extremely limited and the number of parents who could possibly be contacted very small.

d) **Concern:** Minutes of Panel Meetings far too brief for parents to even begin to understand how and why a decision had been taken.

**Comment:** *Statements like “Not agreed. No new evidence had been provided.” are hardly informative to a parent or school who actually considered their evidence was new and informative!*

e) **Concern:** Rudeness from some officers of the LEA.

**Comment:** *Happily the situation has improved at least in Richmond, and many parents spoke appreciatively of the friendliness of their case officers and one senior administrative officer even though they felt that at a more senior level politeness and concern had latterly significantly declined. Many parents felt that contacts with case officers would be better if the case officers were not changed so frequently or at least if they could be told when a case officer was to be changed. With evidence that case officers are being expected to take on more delegated work, continuity seems even more important.*

f) **Concern:** Exceptional delays in producing proposed and final statements of special educational needs.

**Comment:** Delays do still take place but some parents are now themselves, quite understandably, letting a Final Statement be published and then appealing to Tribunal rather than engage in time wasting efforts to get a satisfactory document agreed with the LEA. (Delays in the Summer in taking Proposed or Final Statements to Panel can result in schools being unable to prepare provision in time for the next school year.)

## 4.2 Inadequate Support from the School

- **Some schools were unable to provide all the support needed at School Action and School Action Plus because of budgetary constraints.** The problem was particularly severe at School Action Plus and children often did not receive enough support to allow them to make adequate progress as defined under sections 6.48 and 6.49 of the SEN Code of Practice. They often had to wait a seriously long time before obtaining School Action Plus assessments by the educational psychologists and even if there was evidence that the gap between a child and its peers was widening there was no money to provide extra support.
- Some high achieving schools were felt not to be interested in children with special educational needs.

- Provision of help for secondary pupils was felt to be hampered by the complexities of managing the needs of a large school population and often members of staff were not fully aware of the nature and level of a child's educational needs nor trained and experienced to meet them.

**Comment:** *It is evident that most schools do not have the necessary SEN budget to provide adequately for children at School Action and School Action Plus and there is little point in an LEA expecting a school to provide the impossible. They are often aware of what they need to do and what an LEA says is their responsibility but they do not have the funds needed. Help from outside such as the Special Educational Advisory Team or the Behaviour Support Team is thinly spread. In some schools the arrival of one child with severe difficulties may require a transfer of a very major proportion of the SEN Budget so that child may have one to one support and the other children experience less disruption in class. Early intervention in Primary schools is, therefore, extremely difficult to achieve because of lack of funds. It is not surprising that schools request statutory assessment for a child in order to be able to meet his or her needs*

An **example** of the problem may be seen in the difficulties faced by a child at School Action Plus with learning difficulties stemming from a defined disability. The school Example and the parents recognised that the gap between that child and its peers was widening and 4 psychological reports over 5 years had supported this view. All the school could offer from its budget was 4 hours of support per week. School and parental requests for Statutory Assessment met a bureaucratic refusal. The SEN Panel systematically claimed there was no new evidence to suggest that the child's needs could not be met at School Action Plus. When the child transferred to secondary school that school simply did not have the budget to offer even that number of hours. It had made this very clear to the Panel. The stress on that child was so great that a very serious escalation of the disability followed. Suddenly "new evidence" was found – only weeks before the Tribunal was to hear a parental appeal.

**Comment:** By the time many children reach secondary school their needs have not been addressed to the level needed for them to cope with the transition that is, in any case, difficult for most children. The experience required by staff to support children with their range of special educational needs is not available on the scale required. Looking at the past reports of some secondary school students the Helpline team has noted clear evidence that some teachers had not had the opportunity to read in full their Statements of SEN nor the important but lengthy Appendices to the Statements. It is essential that all teachers working with a statemented pupil should be fully aware of his or her needs and provision.

**Example:** A secondary student's termly reports over one year gave repeated criticisms of refusal to pick up anything dropped on the floor and of intermittent lateness. Only one member of staff seemed to have noticed that the Statement mentioned a medically diagnosed psychological disorder to explain the difficulties.

### 4.3 Inadequate Support from the LEA

#### Concerns:

- **Help was late in coming or did not come at all until the child's needs became so severe that Statutory Assessment had to be requested.** Parents felt the LEA was to blame because schools were inadequately funded (4.2 above).
- **The gap between the LEA policy of Inclusion and the reality of the situation when it came to assuring the Inclusive School. Inclusion and Integration were often used as if they meant the same thing.**
- Not enough funding was provided to support children in mainstream school and attempts to place them in units or special schools was seen to be an attempt to avoid the costs of educating them with their peers in mainstream school.

- LEAs tended to try and reduce provision wherever possible and to ignore the need for extra help for children transferring from primary to secondary school.
- Some units and special schools were being used to take children whose complex needs they were not equipped to meet in terms of staffing, space and security.
- The quality, length and depth of training available to teachers and support staff needing to prepare for the needs of children with a particular disability was often inadequate.
- LEA officers really more interested in saving resources than meeting the needs of their children and that this was evidenced by low levels of communication, the use of funding “bands” and confusing guidance on the criteria for awarding statutory assessment.

*Comment: The Helpline generally agrees with the concerns raised. It does not see it as its role to enter into the Inclusion v Special Education argument since members feel that each child’s needs are unique. Nonetheless since the Code of Practice emphasises the right of parents to opt for inclusion it is important that adequate funds should be made available to support their children in that setting. In most authorities officers assure parents that schools only have to ask for training and they will get it. Unfortunately some of the training may be too brief and not extended to the whole school staff. Where children have Speech and Language Therapy or Occupational Therapy provided in Part 3 of a Statement, and there is a shortage of NHS therapists LEAs do seem keen to see these therapies removed from the Statement.*

#### 4.4 Statutory Assessment and Re-assessment Problems.

##### Concerns:

- **For both parents and schools the only way to be sure of the nature of their children’s needs or obtain better provision for them was via Statutory Assessment or Reassessment and yet the initial level of refusal was very high.**
- Little information was provided to parents to justify that refusal and when there was some, it appeared to make little sense.
- Parents expected that evidence that a child was not making adequate progress as defined in the Code of Practice and provided by the schools in tests and reports, should be enough to assure agreement to Statutory Assessment. Surely, they felt, the purpose of a Statutory Assessment was to determine exactly what needs the child had, and what provision was needed to meet those needs. Instead, the almost automatic refusal by the Panel meant that parents had to do the costly job of obtaining assessments themselves before they could convince the Panel that there was a real case for Statutory Assessment.
- Refusal to assess, reassess or provide a Statement of SEN meant that parents had to obtain independent assessments and apply again to Panel, challenge the decision at the SENDIST, or simply accept that nothing would be done. For those going to Tribunal the challenge could be a costly and stressful business.
- Rather than waste public money and officer time by continuing to refuse to assess and preparing cases for Tribunal, LEAs would be more efficient if they recognised that where parents and schools persisted in their requests, the SEN Panel might spend rather more time looking at the evidence provided before saying “No”. **Time lost in carrying out an assessment often resulted in a child’s problems increasing and subsequently higher costs of provision in the long term.**

**Comment:** *We fully agree with the views of parents. A high proportion of appeals to Tribunal against a decision not to carry out a Statutory Assessment are withdrawn and not as the result of parents changing their minds. In a significant proportion of cases LEAs withdraw their refusals under the threat of Tribunal, using “New evidence” as a reason. This “New evidence” is difficult to explain since parents appealing to Tribunal do not usually return to the LEA with new evidence but put their case direct to Tribunal. If this “new evidence appears after an appeal has been lodged perhaps this points to more careful consideration needing to be given by the Panel in the first place.*

*Given that in many LEAs, assessment by Speech and Language therapists and Occupational therapists is not available to children unless they have a Statement of SEN or are under Statutory Assessment, and that the availability of assessment by an educational psychologist at School Action Plus is limited, it is not surprising that parents and schools press for Statutory Assessment. They need a clear picture of their child’s real needs and necessary provision. Refusal to assess is often overturned by Tribunal and this rather points to resource-led delays by LEAs rather than needs-led decisions.*

**Example:** A revealing indication of the thinking of one very senior LEA officer was found in documents acquired by parents under the Data Protection Act. One hand-written memo. noted “Do not agree SA if funding not available” and the other described the child as “Autistic. Hours spread.”. Interestingly the very reason that the parents were asking for Statutory Assessment was because they had been told by lower ranking LEA officers and NHS therapists that the child had behavioural problems, whilst a highly experienced independent educational psychologist engaged by the parents had indicated that a full Statutory Assessment needed to be done to be sure that a diagnosis of Autism would not be more accurate.

#### 4.5 **Statementing Problems**

- a) **Concern:** Where a child was given a Statement it was often based upon inadequate diagnosis, as responsibility for organising assessment from NHS professionals was left to the parents; some parents did not realise that this may be needed. In consequence some statements were issued without all the information needed to enable Parts 2 and 3 of the statement to be accurately completed.

**Comment:** *From Proposed and Final Statements we have seen it is obvious that many do not provide a full picture of the child’s needs under Part 2 and therefore are unable to meet adequately the necessary provision under Part 3. It would be very helpful if the Head of SEN could actively co-ordinate at the start of the Statutory Assessment stage all the necessary NHS assessment arrangements as well as the reports from the schools and parents In this way a full multi-disciplinary assessment would be ensured. This would go a long way to avoid the need for Statutory Reassessment if a statement turns out to be inadequate.*

**Example.** A familiar example comes from the Statement for a child with Asperger’s Syndrome. Like many others, the child demonstrated at school acute sensory and motor difficulties as well as speech and language difficulties. These were adding considerably to the child’s learning difficulties. Because no assessments of these had been carried out at Statutory Assessment stage, no specific and quantifiable provision for therapy had been included in the statement.

- b) **Concern:** Frequently, Part 2 did not provide a sufficiently detailed account of a child’s needs and failed to explain the nature of that need in such a way that those teaching and supporting the child would necessarily understand.

In Part 3, the Provision to meet that educational need was not sufficiently detailed and quantified. Objectives were not specific enough and contained insufficient detail.

Provision of therapy was sometimes placed under Part 6 “Non educational provision” so that was not legally enforceable (and did not have to be paid for by the LEA.)

*Comment: Whilst the Code of Practice and the courts have made it very clear that needs should be set out in detail and that provision should be so specific and quantifiable that there should be no doubt as to what the child’s provision should be, many LEAs fail to meet these requirements (See Code of Practice – Secs 8.29 to 8.37). Important information concerning needs is frequently left out of Part 2 by some authorities and specific objectives under Part 3 are vague in the extreme and not related to the needs of the particular child. For example, phrases like “to improve his communication skills” could be applied to almost any child of any age and only makes sense if the communication target applicable to that particular child is stated. Under provision, words such as “as appropriate” leave a great deal of uncertainty about what will actually be provided. Programmes of support are often indicated without any statement about who will design the particular programme and who will deliver it. We recommend that those drawing up Proposed and Final Statements look carefully at models provided in the shape of Statements based upon the recommendations for Part 2 and Part 3 set out by lawyers specialising in SEN and ordered by the Tribunal.*

**Examples:** Those we have seen, include failure to give under Part 2 even the briefest definition of the less commonly known or understood needs such as Tourette’s Syndrome, Asperger’s or XYY. Under Part 3 we have seen especially imprecise and unquantifiable provision such as “X shall have access to” (does that mean he will actually have it?) “..a programme of mobility training as appropriate” “Y shall have 10 hours of learning support, individually, in pairs or in groups”. So what precisely will Y get? Neither the courts nor the Tribunal appreciate this level of imprecision and parents find it hard to know just how many hours will be devoted to their child alone and what experience the support assistant will have.

- c) **Concern:** Parents had no way of knowing the suitability of the provision because those LEA and NHS professionals assessing the child did not include sufficient specifically detailed provision necessary for the child – hours of support, specific qualifications etc. This enabled the LEA to provide resource-led rather than needs-led provision. For this reason, parents who could afford to do so, appealed to the Tribunal and also had their children assessed by independent professionals who had no hesitation in proposing precise provision.

*Comment: It is obvious that the more clear and precise the Statement, the more likely it is to meet the child’s needs, ensure adequate progress, and avoid or reduce the need for Statutory Reassessment.*

- d) **Concern:** Some placements turned out to be unsuitable even though proposed by the LEA. Parents felt that their children were being placed into almost any unit where there was a space rather than the most suitable unit and that, in order to persuade a school to take the children, important information about needs and provision was sometimes not included in statements.  
Parents from Richmond were concerned that children with significantly more complex problems were being placed into units initially designed to meet the needs of children capable of being reintegrated fairly swiftly into mainstream school.

*Comment: We broadly support the views expressed. We understand that the LEA in Richmond is carrying out a review of its units. If as the result of the review the authority attempts to develop “complex needs” units we hope that this will be only after full consultation with schools and their governing bodies. Such a move would require not only the willingness of the schools but full retraining for staff (not just the odd day), additional staff, and heavy capital investment to ensure appropriate facilities and security are provided.*

- e) **Concern:** There was evidence of errors of gender, dates and schools being made on some proposed Statements.

*Comment: This does not inspire confidence or trust in LEAs. Despite letters and phone calls from one mother her child was stated as being at a local junior school even though he was at the infant one. No doubt SEN departments are very busy places but case officers should be very aware of their need to check on these little but important details.*

#### **4.6 Delayed or Discontinued Provision Following Statements of SEN**

Provision under Part 3 of a statement was often late in being provided or that provision was suddenly discontinued. For example, either the therapy was not provided in accordance with the statement, or the learning support assistance set out was not forthcoming.

*Comment: This appears to happen in a number of authorities and yet provision agreed in Part 3 of a statement is the statutory responsibility of the LEA. Some authorities claim that they have difficulty in finding NHS Speech and Language therapists and Occupational therapists. This may well be true but it does not remove their responsibility for the provision, and private therapists can be engaged.*

*Provision should not be discontinued until the proper statutory procedures have been followed, i.e. a Proposed Amended Statement has been issued by the LEA and the parents been given the opportunity to consider it and lodge any objections they may have. The provision must continue until a Final Amended Statement has been issued and agreed. (Parents still have the option of appeal to Tribunal). (See Code of Practice 8.126 – 8.133)*

**Example.** A particularly striking example of the above affected one Richmond family where not only was the child's therapy a term late in being provided but the therapy which she did get was not inline with that ordered by the Tribunal. Even this was suddenly discontinued after one and a half terms, followed a general report presented at an Annual Review for which the papers for consideration had not been issued in advance and in accordance with the Code of Practice Sec 9.13. The therapist did not appear again and protestations to the Head of SEN produced no positive reaction, although a bureaucratic letter claiming that everything had been done in accordance with the Code did follow eventually. Patently everything had not been done in accordance with the Code. Thanks to the direct intervention of the Director of Education the missing weeks of therapy were finally restored but only after the child and family had suffered considerable anxiety and disruption. It would have been wiser to leave the therapy in place until the end of that term by which time the proper procedures under the Code of Practice would have been followed.

#### **4.7 Inflexibility of Transport Provision**

Complaints came from Richmond parents only and concerned the failure to make clear to parents that their child might not be eligible for escorted transport, and an inflexible application or vague description of the 2- or 3-mile distance policy to school.

There was an unfair system by which parents could appeal only to the very body, the SEN Panel, which originally decided whether to grant escorted transport.

*Comment: Now that the policy has been in operation for over a year it may well be that it is more regularly made clear to parents at the time their children's placement is being decided. In any case, the appeal process has now been changed and parents appeal to the PASSAP (Pupil and Student Support Appeal Panel) a more independent body concerned with school transport appeals.*

*It is still important that there should be a review of the 2- or 3-mile walking distance policy to take into account the danger of the route and the genuine difficulty for some parents in accompanying their children to school. Parents who previously appealed without success to the SEN Panel might care to try again by requesting to the SEN section that the PASSAP consider their children's cases.*

**Example.** It took a year for one parent to resolve her child's transport problem and yet the original fault had been that of the LEA. She had been advised by the LEA to send her child to a certain school but had not been told of the change in policy that would prevent the child from having escorted transport. The Helpline team note with gratitude the action taken by the Cabinet Member for SEN for Richmond in ensuring a fairer appeals system for children with SEN.

One parent of a disabled child recently noted a statement by the LEA in Tribunal papers that a particular school was within the borough's 3-mile distance policy. "Walking" distance was omitted. Yes, 3 miles it would be if the railway lines were to be crossed on foot. In fact the shortest distance by road and on foot was 3.6 miles.

#### **4.8 Discrimination under the Disability Discrimination Act 1995 and SEN and Disabilities Act 2001**

Parents from three boroughs contacted the Helpline about this and particularly in relation to exclusions. One concern has been that, failure by an LEA and its schools to provide for a child with a diagnosed physical or mental impairment contravenes the DDA. Equally, to exclude permanently such a child, also contravenes the Act.

*Comment: Case Law concerning the application of the Acts is still very sparse but it does appear that where a child has a diagnosed mental impairment such as Attention Deficit Hyperactivity Disorder, Epilepsy, Autistic Spectrum Disorder etc., parents may well have a strong case of discrimination to make. We feel it advisable for parents to take legal advice until the picture becomes clearer. For exclusions, help can often be available from community law centres.*

**Example.** One worrying case has arisen recently where a child was excluded for a fixed term from his mainstream school. He had been diagnosed with a mental impairment that explained his behaviour and the school was aware of this disability. Whilst the fixed exclusion period was running, the LEA published a Final Statement naming that school as the placement. During the holidays another officer of the LEA was communicating with the school and giving the school the impression that the child could no longer cope with mainstream school. The school rightly or wrongly assumed that he would not be returning and removed him from the roll. Just before the term started again, the parents found their child had no school, even though the school was still his named placement. When frantic phone calls to the two officers concerned took place the parents immediately received a letter from the school permanently excluding the child. Clearly the fault was a bureaucratic one and demonstrates major communication flaws in the authority between officers. For the child it was a disaster.

#### **4.9 Lack of Confidence in the SEN Panel**

Parents from all but two authorities expressed their mistrust of the decision making processes of the SEN Panels and believed they behaved in an arbitrary way. They claimed that

- probably too many cases were being looked at any one session
- the Panel members had probably never met the children and that the main aim of the Panels was to delay or prevent the provision of resource
- the names of members of the Panel were not clearly published
- it was not known how many members attended regularly
- the minutes were not sent to parents automatically
- in more than one authority the Panel chair was also the person who presented each case. This is neither efficient nor democratic.

- SEN Panels appear to be made up of officers dedicated to saving resources rather than meeting the needs of children.

*Comment. It is almost certainly correct that the Panels have an enormous number of cases to consider and that membership of the Panels is not transparent to the world outside. It is obviously the case that most Panels take their decisions only on documents available but it must be remembered that in most cases these Panel members are LEA officers who have to attempt to balance resources available against the needs of the children whose cases are before them. Certainly there is need for greater transparency but it is unlikely that parents will be happy until they have a chance to put their case directly to the Panel. This is particularly so when a Panel refuses to grant a Statutory Assessment or a Statement. One way to reduce the mistrust of panels would be for the views of parents to be threshed out in detail with the SEN Section when a Proposed Statement has been issued and in the form of a revision. The revised version as negotiated with the parents could then go for consideration by the Panel.*

*To improve transparency, some LEAs have suggested participation on a limited basis by a representative of headteachers but there is no evidence to suggest that would create greater confidence. The volume of work to be covered on any one day is clearly a serious problem and, until parents can be sure that the Panels are giving enough time to their consideration, the concerns will remain.*

## **5.0 Action from the Helpline**

It has been rare that the Helpline team has worked alone. The resolution of problems has often come with the involvement of many other people – lawyers, independent educational psychologists and therapists, and above all the parents themselves. We have, however, been happy to provide initial advice on procedures under the Code of Practice and to suggest to parents a range of options open to them. Sometimes we have gone further by accompanying parents to meetings with LEA officers, taking a first look at flaws in proposed statements, helping with the rewriting of these, hunting through documents retrieved under the Data Protection Act 1998 to find evidence, helping with the preparation of documents for Tribunal and, in a few cases, acting as representatives of parents at Tribunal. If parental funds allow, we may suggest that it could be helpful to obtain independent advice from certain professionals. In some cases the best and only advice we have been able to give has been to engage a specialist legal firm. We have also provided back-up information for lawyers representing parents at Tribunal.

We realise that there are many parents who are not aware of their children's rights and some of these do not have the finances to engage independent professionals such as lawyers to fight their cases. It is here that we feel we are the most helpful even though we do not have the full legal or other expertise to provide all the help. Some of our funds are put to obtaining legal advice that we can then pass to parents.

Our local knowledge is growing not only in Richmond but also in certain other boroughs and this knowledge can be extremely helpful to parents. We have helped during the past year in the preparation of 4 cases to the Local Government Ombudsman. We deplore the delays by some Councils in delaying their replies to the Ombudsman. This can only be interpreted, at worst, as deliberate time wasting or, at best, inefficiency.

Perhaps our greatest strength has been in our persistence. Where we have noted a wrong we have fought hard and consistently to right this wrong.

We do not automatically accept the accuracy of all concerns expressed but we do believe that none of these should be ignored. There is no evidence to suggest that parents act in any way irresponsibly. On the contrary we find that often parents are too ready to accept what they are told by the authorities and to be too grateful for the often inadequate help their children may be given.

We believe that in the past year we have dealt with enough cases in one borough to provide sufficiently reliable evidence of problems in the administration and provision of SEN. For the remainder, we do not have that level of information. Overall, however, we do find similar issues across the local authorities.

## **6.0 Next Year 2003 – 2004**

### **New Members**

We are already planning the expansion of our service by adding to the membership of our team. New members with relevant experience are always welcome to join us. Training sessions are provided. How much a member gets involved depends on their time available and the specialisms they may have. To know more, please ring the Helpline number. We would love to hear from you. As the team expands we can also expand our publicity, safe in the knowledge that we can cope with more calls.

### **New Local Helplines**

Whilst we will happily help anyone who calls, we do believe that helplines like ours are particularly effective when members have local knowledge. For this reason we are happy to pass on any help we can to people in other authorities thinking of setting up their own local helpline. We started by listening to lawyers and obtaining their advice on the documents to refer to, listening to parents and teachers about the problems they face, and familiarising ourselves with the Code of Practice. Parents of young children are already busy people but in the course of fighting for their children's rights they do come across others, such as retired teachers and social workers who may well feel inspired to set up a helpline.

### **Workshops for Parents**

The first workshop will be held in Richmond in mid January 2004. We shall be providing workshops for parents on a range of topics such as:

- interpreting the Code of Practice,
- checking a Proposed Statement of SEN
- preparing a Case Statement for Tribunal
- understanding your child's Individual Education Plan.
- preparing for and taking part in an Annual Review.

**For more information and to get on our list please ring us Tel. 020 8979 8853**

### **Legal Surgeries**

As funds increase, we plan to provide more surgeries so that parents can obtain the help of professionals in the legal world.

### **Fund Raising**

We always welcome help with fund raising activities and, of course, direct donations. If anyone would like to help us raise funds do please contact us.

## 7.0 Conclusion.

It has been a busy year and we have responded to a wide range of concerns. Whilst always being happy to work in any way and in any group to improve Special Educational Needs, we retain at all times our independence of thought.

We wish to thank the Cabinet Member for SEN for her willingness to listen to concerns and the Director of Education for her direct intervention on some occasions when communication and other problems have become so serious that a Helpline member has needed to contact her directly.

We do not include in this report detailed recommendations for action because we have inadequate information on the structure and functioning of most LEA areas from which we have received calls. For Richmond, however, we do have such information and would be happy to meet with all interested parties to help to draw up a detailed action plan. The concerns expressed to us do in themselves, however, indicate the sort of action to be taken. One area, which was highlighted in our Pilot Project Report in October 2002, was that of poor communication. We still believe that problems in this area could be readily resolved by the use of a much more straightforward and less austere language in letters and non-legal documents. More needs to be done to ensure that letters and phone calls are replied to and followed up promptly. A carefully constructed and full database would help to avoid deadlines being missed concerning statutory time limits and delays in chasing up annual review reports. It would

- ensure that parents receive such documents as proposed amended statements
- ensure that assessment reports are not allowed to come in late
- would allow for easier exchange of information between other agencies and the SEN section. It might also help to provide a more flexible response to transport needs as the database would provide full information not only on the individual child but also his or her family circumstances.

At a time when there is a tension between the aims of both national and local government to reduce the number of Statements, and the increasing expectations and determination of parents that their children's special educational needs shall be met, a helpline like SOS!SEN has an important part to play. At a time when individual LEAs are producing assessment guidance thresholds which attempt to set out the grounds upon which they, the authorities, will consider Statutory Assessment, parents are relying upon the clarity and importance of the national guidance set out in the Code of Practice and focussing on **adequacy of progress**. (See Code of Practice Sections 5.41. 5.42. 6.48, and 6.49).

The helpline attempts to ensure a Partnership with Parents, which is so well expressed in the Code. We conclude with a quote from the Code, a quote that explains the reason for our work:

## **Appendix 1: Mary's story - The parent's view**

Mary's story illustrates very well the inefficiency and lack of concern we have all come to expect of our local SEN Service.

Mary was doing really well at school until it was closed when the LEA thought it could save some money. Her Statement was changed so her new placement, in a unit, could be recorded. We thought it was odd when we saw the continued loose wording on the changed version and particularly reference in Part 2 to her as having "average ability" and in Part 3 "low average ability"! We were already sure the placement would not be able to meet her needs and so we decided to appeal against the amended Final Statement by getting legal help, and assessments by an independent educational psychologist, a Speech and Language therapist and an Occupational therapist.

The educational psychologist after very thorough assessment of Mary reported that she had, among other difficulties, Moderate Learning Difficulties (not average and not low average). In other words there had been an inaccurate diagnosis of her needs by those in the borough who had originally assessed her. The Occupational therapist discovered quite important sensory and motor skill problems which needed expert help.

As a result of the Tribunal nearly 18 months ago it was agreed and ordered that Mary should transfer in the next school year to a mainstream school with full-time support and that 3 terms of Occupational Therapy should be provided by a therapist who would link with the teachers. We were delighted with the outcome of the Tribunal and waited for the new amended Statement to arrive. When it did we took it to two of Mary's former teachers to check and they found that a number of important provisions had not been included. It took nearly two months of correspondence and meetings with SEN to get it right. (For example the learning support had not been included.)

During those Summer holidays we expected to hear from SEN or the school about arrangements for the start of term. We heard nothing. We telephoned. The school had been told Mary would be coming but nothing detailed had been sent to the staff by way of information.

We could not just take Mary into school without proper support and in total frustration we wrote a letter of complaint to the local paper. That worked! She was there by half-term at least. No arrangements had been made, however, for the Occupational Therapy. Inquiries produced the answer that therapists were in short supply. When our advisers pointed out the statutory requirement that the LEA should meet the provision set out in Part 3 of a Statement still nothing happened but on threat of complaint to the Local Government Ombudsman a therapist was, miraculously found even though she could not meet exactly the hours of provision ordered by Tribunal. To show willing we agreed to the modified provision as a temporary arrangement and that started one term late. Some 3 months later we received a letter from a senior LEA officer suggesting that the missing O.T. time might be replaced by extending the therapy period. We were pleased as Mary was really benefiting from her therapy and was generally doing well at school.

At Annual Review in the late Spring, however, things went wrong. We did not realise that the papers should have been sent out at least 14 days before the

meeting. They were circulated at the meeting and we had no chance to look at them carefully. The LEA representative at the review did not comment on this. Surely he should have done. By this time Mary had received only one and a half terms of the three terms of therapy ordered by Tribunal. The NHS therapist then announced that Mary had made good progress, did not need her anymore and that she was not coming back again. She provided a report but no assessment. The friend (member of the Helpline) with us commented on our pleasure that the progress had been made but pointed out that the therapy must continue until the proper procedures for changing the Statement had been followed in accordance with the Code of Practice. This was ignored by the LEA representative and Mary never saw that therapist again.

We gave the LEA 2 weeks in the hope that the officers would reinstate the therapy but at the end of that time we asked the Helpline member to contact SEN on our behalf. With our written authorisation she wrote an informal letter indicating that she was sure the SEN Service could not have been aware that the therapy would so abruptly have been stopped and asked that it should be reinstated. A week later we received a reply but it was not copied to our helper. It advised us to wait until the report on the Annual Review had been received and that the LEA officer who had attended the Annual Review would respond. (In fact we discovered later that the report had already been received and date stamped in the SEN department.)

Because in the past we had already had so many problems with the SEN Service there seemed no point in complaining to them again and on our behalf, our Helpline friend put in a formal complaint and request for an investigation to the Local Government Monitoring Officer. No acknowledgment or reply was received. Much later in the month she and we received a letter dated 11<sup>th</sup> but posted on 20<sup>th</sup> from the LEA officer present at the Review which talked about why the therapy had been discontinued but did not address the key issue of the failure of the LEA to maintain the therapy until the correct statutory procedures had been followed. Our Helpline friend wrote again to the Local Government Monitoring Officer enclosing the letter. No acknowledgment or reply was received. She also wrote to the LEA officer present at the Annual Review explaining about duties under the Code and, fortunately, copied it to the Director of Education who took direct action and, after discussion, agreed that legally the therapy must be restored. Meanwhile we received a letter from the Head of SEN informing us that "With regard to the cessation of the Occupational Therapy input, I would assure you that this was done in accordance with correct procedures outlined in the Code of Practice."!

By this time it was nearly the Summer holidays. There was no sign of a new therapist. Suddenly and unexpectedly we were told that the investigation into the complaint would be carried out by the Assistant Director of Education. Our helper pointed out that it was quite inappropriate for the Service to investigate itself and wrote once again to the Local Government Monitoring Officer pointing this out and requesting an independent investigation. No acknowledgment or reply was received.

Term started again and with the therapy not restored. Difficulty in finding a therapist was once again the reason. Our helper then insisted on an

independent therapist and was told that efforts to find one had not been successful. We asked for evidence of these efforts and were not impressed. The Helpline then found a therapist who lives not far from us and told the LEA, only to be informed that one had now been found. The lost sessions are now being replaced.

Meanwhile back in the Summer we were sent a totally useless amended Proposed Statement to end Mary's therapy. We made it clear that we would not accept it. And that is roughly where we are. We have been told by the Head of SEN that Mary's therapy can be counted as complete since the three terms of the year ended last July! Surely even with a quick look at the Statement it would have been noticed that Therapy was provided by term and not by school dates. The therapy started a term late.

The independent investigation has still not taken place despite another letter to the Local Government Monitoring Officer (no acknowledgment and no reply). So we have now complained to the Local Government Ombudsman.

Well, we could add to this catalogue of inefficiency. It might even be funny if our child's future was not at stake and we have been deeply worried.

**We summarise by listing the concerns :-**

- **wrong placement,**
- **inaccurate assessment of ability,**
- **contradictory information on a Statement,**
- **errors in preparing a Statement after Tribunal,**
- **delays in provision,**
- **removal of provision without following the Code of Practice,**
- **failure to observe the Code,**
- **failure to reply to letters,**
- **no independent investigation of our complaint,**
- **misinterpretation of files.**

**And not an apology in sight.**

We know we are not alone in experiencing all this. We wonder how many other parents experience the same but do not realise their rights.

## Appendix 2: Charlie's story, told by his mother

All the signs were there. This time we knew what to look out for but yes it was clear - Charlie was clearly exhibiting many of the same traits we'd seen earlier with his elder brother, Robert.

Aware of the family history (and what a pain in the neck I was) the infant school was careful in its approach. Charlie was immediately placed on the SEN register due to his specific learning and speech and language difficulties.

After being identified as "at risk" he participated in a short term project and with specialist tuition made huge progress. The provision wasn't ongoing and the following year he wasn't even entered for the Reading and Writing tests in the SATs - presumably as the predicted outcome was so poor. We don't know why he wasn't tested as naturally the school omitted to tell us. We found out only when we opened the SATs envelope. So nil points for communication skills there School A.

On moving to junior school, Charlie's SEN provision followed the same pattern as his brother and actually decreased. He'd now been on School Action Plus for over two years with no real improvement. When this was brought to School B's attention I was told to wait until half term testing. Christmas came and went and when his reading and spelling age was over thirty months behind his chronological age and the gap wasn't closing. I decided enough was enough. Despite the school being aware of the family history and that Charlie's elder brother had a statement of SEN for dyslexia and speech and language difficulties, the school was not willing to make an approach to the LEA to request a statutory assessment. That left me, so I duly made my request and incredibly, despite all that had gone on in the past with Charlie's brother, in my naivety, I actually thought that given our family history - the LEA would act swiftly to assess Charlie's difficulties! Will I never learn?

Anyway, of course, they didn't their reply was that Charlie's difficulties were "not so significant" did not "fit their criteria" and Charlie's needs "could be met by the school,s own resources". Did I mention the SEN Tribunal? Oh well, when I did, suddenly the school and LEA called upon the services of an SpLD (Specific Learning Difficulties Teacher). She would provide two hours individual tuition per week for one term, possibly two, absolute maximum of three and by the way, none of this was guaranteed and wasn't I lucky because there were many other children worse off than my Charlie and there wasn't a bottomless pit of money after all and in fact the LEA in this borough is miles better than neighbouring LEAs with regard to SEN provision. I,m sure she didn't mean to be patronising!

Anyway, the additional support began, we religiously carried out the homework with Charlie and saw him progress with his reading. He was trying really hard and was keen to read at home. We heard him read aloud every day at home but sometimes his books didn't get changed at school and if we mentioned it in the reading diary we were told that it was Charlie's responsibility to go and change his books. (Mmm, -

dyslexic children organisational skills, lack of? Didn't ring any bells there, then). There were so many such instances that I was moved to draw up a little chart: day and date; read to whom?; book level; book series; book title; number of pages read; etc, and daily tabulate how many pages had been read at school and at home. It,s quite illuminating to see it set out that way some days he's not heard to read aloud at school and other days only manages one or two pages. A useful bit of evidence for all occasions and tribunals I think template available from me - no charge!

The wheels of justice grind slowly and Charlie's support continued pending our hearing at the SEN Tribunal. Two weeks before it was to take place I received a call from the Tribunal asking me to confirm that I wished to withdraw from the hearing? I suggested our case may have been confused with another - but no the correct case number was quoted, together with Charlie's name and details of the LEA in question. How strange, I asked the clerk how she had come to the conclusion that I wished to withdraw and she explained that the LEA had faxed her to advise that I had contacted the LEA and asked to participate in their SEN Disagreement Resolution Service and therefore wished to postpone. I most certainly had not. I assured the clerk that I did wish the tribunal to go ahead and furthermore would appreciate her pursuing this false representation made by the LEA. Having participated in the SEN Disagreement Resolution Service when first launched in relation to my eldest child it is not a route I would recommend, except to perhaps people I particularly disliked.

The day of the Tribunal dawned and we travelled up to London for the hearing. On arrival the clerk to the court asked if we had any late evidence to submit. We did not. About five minutes before we were due to start the clerk to the court asked if we had any objections to Mr X representing the LEA as Ms Y (Head of SEN at the LEA) had telephoned in sick that morning. If we did object the tribunal would have to be postponed. Postponed? Déjà vu - anyone? And - our case possibly wouldn't be heard until the New Year. Let's go over this again I asked so, Ms Y is sick, isn't here at the tribunal and has asked an associate to step in? Exactly. "Could we meet Mr X?" we said. "Certainly" In strode Mr X who was he? Well he was an associate of Ms Y and worked part time to the LEA in question and no we wouldn't be disadvantaged by having him represent the LEA as he was already familiar with Charlie's case and indeed had already advised the panel (to refuse my request for a statutory assessment). He was a consultant in Education Law. Ms Y was already aware that he would be in attendance that morning hence her telephone call to him asking him to step into the breach. Yes, he could confirm she telephoned in sick that morning. No she wasn't here at the moment. In that case said I, "how come Ms Y has signed in at the Security Desk less than an hour ago, along with the representative from the school". Both the clerk and Mr X were momentarily taken aback by this, but all credit to Mr X who recovered as well as you would expect someone in the legal profession\* so to do and he advised that Ms Y had travelled in to the Tribunal for Charlie's benefit in order to deliver the papers otherwise the case could not have gone ahead. "Would this be the case papers that you had already

confirmed you were familiar with? I asked in all innocence "the case papers which could, in this day and age, been faxed to you or emailed to you or couriered to you or even collected from Ms X's sick bed by a colleague and delivered?" I was indeed touched that Ms X had dragged herself from her sick bed to travel to Central London to deliver the papers so selflessly.

If the start rattled us it was nothing to what reared its head halfway through the hearing. The school representative announced (remember there are strict rules regarding the submission of late evidence) that he had received, **TWO** days earlier, results from testing carried out by the SpLD teacher nearly three weeks ago. If my mouth dropped open on hearing that Charlie had been tested and I had not been informed it dropped even further when it was announced that in a five month period including the six week summer holidays Charlie had made a staggering 21 months increase in reading accuracy and an even more staggering 29 months progress in reading comprehension. In a slightly less triumphant tone he announced Charlie had made five months progress in spelling (in five months!). When it was my turn to speak I asked, as politely as I could, why he had not felt it necessary to share this astounding progress with me. His reply was that he didn't see that it would have been much use to me. I have to say fair play to the Chair who immediately jumped to my defence and asked why the results hadn't been relayed to me. The school representative replied that he hadn't received formal notification and indeed he was reading from a scrap of paper. He went on to say that the school had tested Charlie the previous week and the results had been different but before he could relay these results (again I hadn't heard anything of this) the Chair (I was beginning to warm to him by then) asked why Charlie had been re-tested so soon and wasn't it standard practice to allow a six months gap between testing. The school rep. advised he was unaware of this practice, which was somewhat surprising given that he was the SENCO at the school and should be familiar with testing procedures.

Well I didn't know whether to laugh or cry (although I did manage to slot both in during the course of the hearing). I mean if the SpLD progress continues in this vein Charlie will be sitting his CEA, Levels in a couple of months! This late and unsubstantiated evidence definitely threw me and I will be lodging a complaint that it should not have been accepted as it contravened the late evidence rules. It's interesting to note that a week later I still haven't had sight of the official test results document which is strange as you'd think the SpLD teacher and the school would have wanted to share such good news with me, wouldn't you?

Still, I've learnt some valuable lessons on how the SEN Tribunal works.

\* Mr X says he is "a SENLEGAL Consultant. What are his legal qualifications? (ed)

## **Acknowledgements**

We wish to express our gratitude to all those who spread the word about our existence, who we are and what we do:-

- the Headteachers of local schools;
- The Special Needs Coordinators (SENCOs) in the schools;
- Special Needs Governors in the schools;
- Hampton Online;
- The Richmond and Twickenham Times, The Informer, and the Guardian newspapers;
- the VIPs in SEN website

and, of course, the volunteers who tirelessly and voluntarily continue to give their time and expertise to support those parents who need help and advice.

A Special thanks to John Griffiths who designed the **SOS!SEN** logo

## **Advice to All Concerned with Children's Rights to SEN**

- a) Obtain a copy of the SEN Code of Practice. It's vital and it's free. Phone 0845 60 222 60. Please quote reference DfES 581/2001.
- b) Remember parents and children have rights under the Data Protection Act 1998 to receive from an LEA a full set of records concerning their children and including copies of e-mails, notes of phone calls and meetings etc. There may be up to a 40-day wait but it's worth it. Write to the Council's Chief Executive in the first instance, referring to the Act. This is invaluable for someone thinking of challenging at Tribunal. It is amazing what can be unearthed and also to discover what is missing!
- c) Consider periodically whether a child's needs have changed and whether the initial assessments are still accurate. Remember that whilst statements may be changed by LEAs the appendices upon which they were originally based may be hopelessly out of date.
- d) If there are any doubts about a child's continuing needs or provision for them seek advice at once.
- e) Record via notes etc. details of all conversations (including telephone ones) with LEA officers and other interested persons, and confirm, in writing, what has been agreed.
- f) Keep copies of all correspondence sent and received.
- g) Be persistent.