



West Midlands
SEN Regional Partnership

Working Together



**Report on Cross
Border Admissions
March 2005**



sen regional partnerships
helping every child succeed

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Author Stephen Seymour Education Consultant

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Cross border admissions of pupils with statements

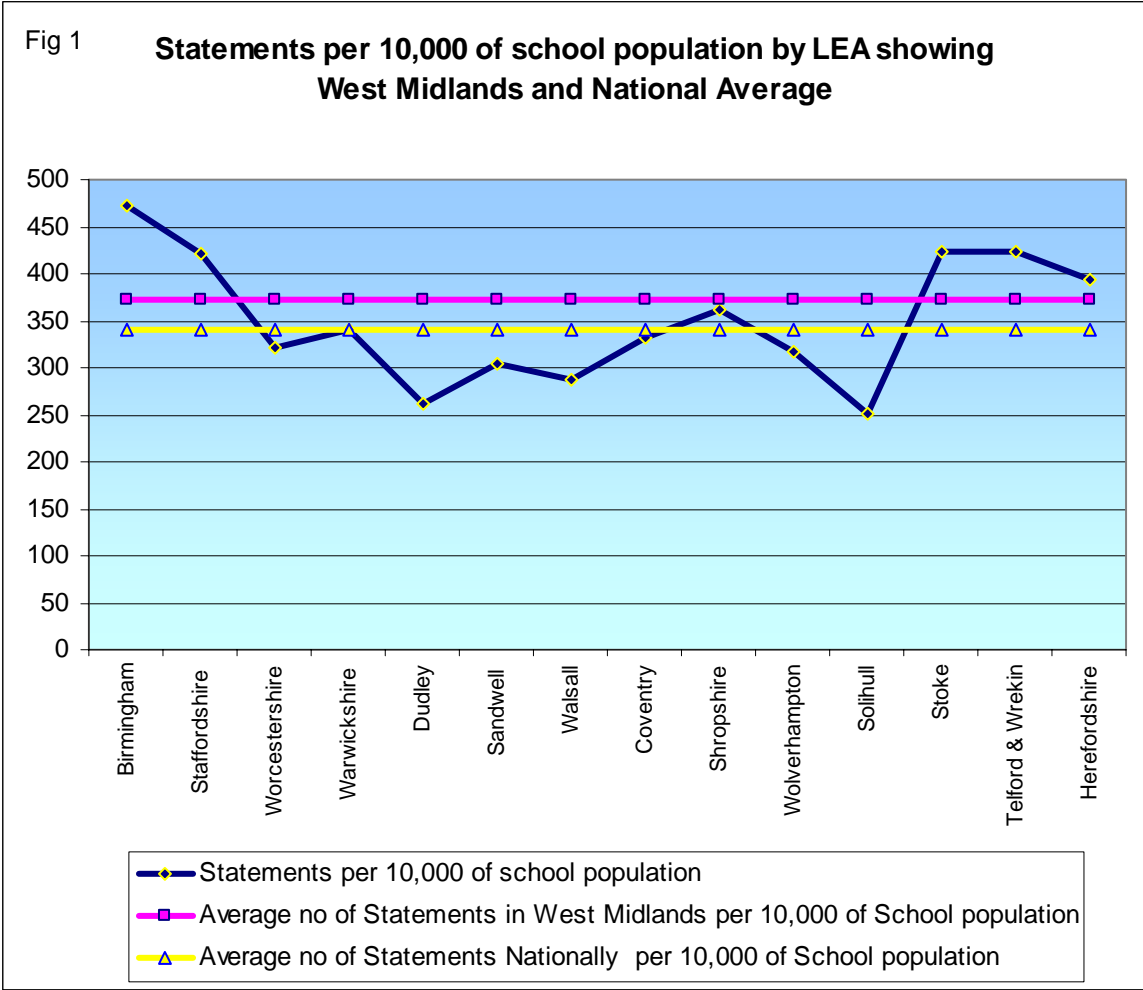
1. Background

- 1.1. The purpose of the data collection exercise on cross border admissions of pupils with Statements is part of a process designed to develop a protocol for use by LEAs within the West Midlands when dealing with requests for placement.
- 1.2. Data was collected on the number of pupils with statements and those pupils placed outside LEAs in Mainstream Primary, Secondary and Special Schools.
- 1.3. The 14 West Midlands LEAs have large differences in pupil population ranging from 178,800 pupils in Birmingham to 24,140 pupils in Herefordshire. For most data sets, comparative data within the following graphs has been based on the frequency per 10,000 of school population.
- 1.4. ¹Pupil population is based on January 2004 PLASC returns and in special schools the data quoted is actual numbers on roll not available places.
- 1.5. The numbers of pupils shown by each LEA placed in special schools includes pupils placed by the LEA in other LEA special schools and in the non maintained and independent special school sector. The data excludes those pupils placed in the LEA's own special schools by neighbouring LEAs.
- 1.6. The data sets used are attached in Appendix 1
- 1.7. Insufficient data was collected on Admissions appeals panels to provide accurate comparisons.
- 1.8. Concern had been raised over possible SENDIST Tribunal activity regarding cross border placements. In the 14 LEAs only one case was referred to and considered by SENDIST regarding cross border placement in Part 4 of the Statement. The parental appeal was upheld by the Tribunal.
- 1.9. A separate section with an interactive word document on the belonging regulations is attached in Appendix 2. This document is designed to be used on screen not as printed copy and should help LEAs determine to whom a child belongs.
- 1.10. A list of all special schools, resourced schools and Pupil Referral Units is included on a separate CD. This list is based around an Excel file and when used on a computer with Internet Access will automatically link selected schools to the Ofsted Website displaying the latest Ofsted report for the school. The List also includes all non maintained and independent special schools within the geographical area of the 14 West Midlands LEAs.

¹ Source DfES Statistics for Schools in England and Wales 2004

2. Statements

2.1. Figure 1 shows the total number of statements per 10,000 of pupil population with the West Midlands LEA average and National average shown for comparative purposes.

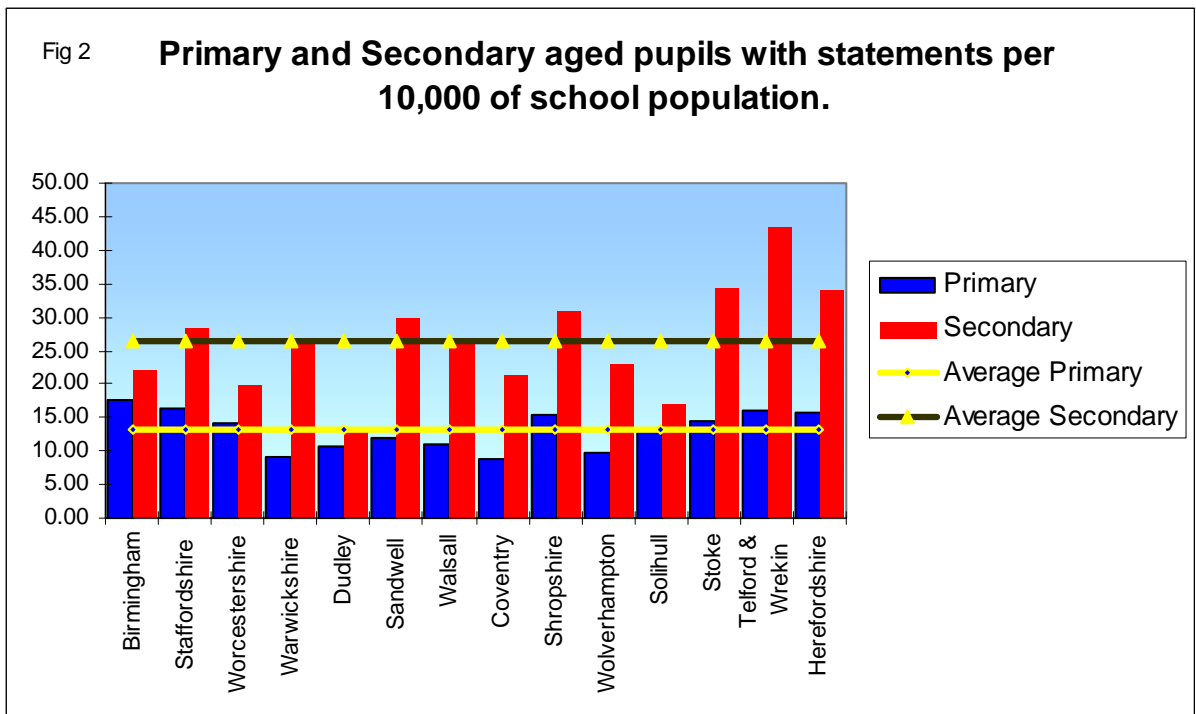


2.2. This graph shows that only 6 of the West Midlands LEAs have numbers of pupils with statements greater than the national average; however a pupil is nearly twice as likely to have a statement in Birmingham as Solihull.

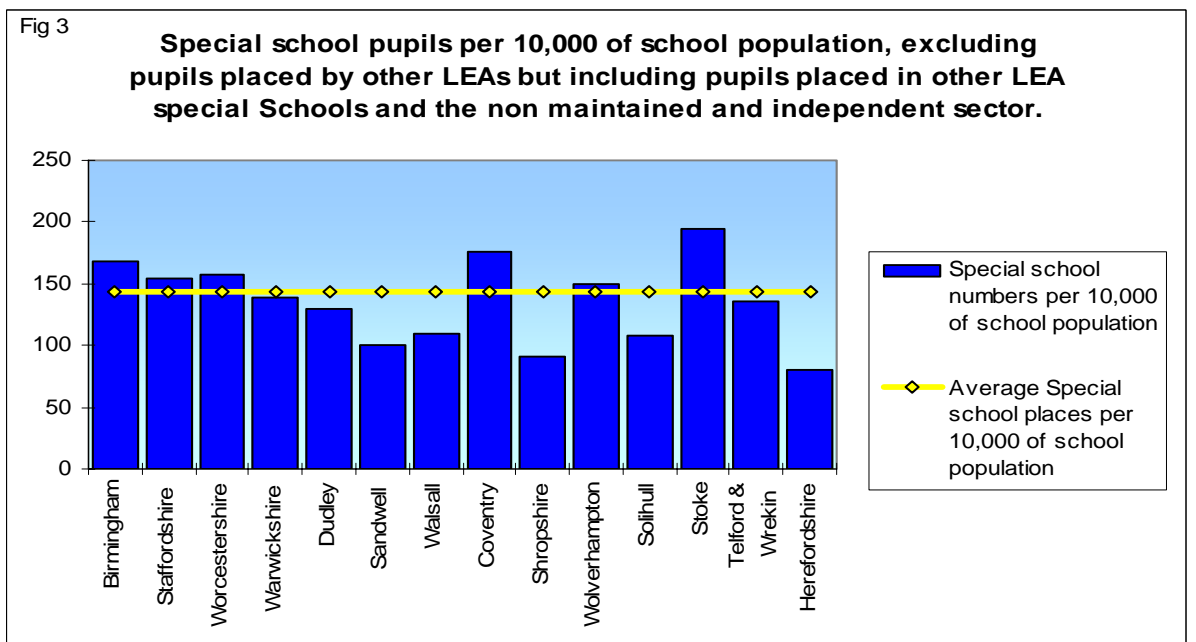
2.3. This fact has implications for cross border placements. LEAs use different mechanisms to delegate resources for SEN to mainstream schools. If a child from an LEA which delegates higher levels of resources to mainstream schools for meeting needs at School Action and School Action Plus transfers to an LEA where resources are commonly devolved through statement the school and child may be disadvantaged as resources will not follow the child from the home LEA. Conversely the possession of a statement for a child moving from a high statementing authority to a low statementing authority may highlight anomalies.

2.4. The level of statements issued varies significantly between school phases and between LEAs. On average there are twice as many statements at secondary level (26.38 per 10,000) as primary level (13.17 per 10,000). This reflects the complexity of the curriculum at secondary level and the staged process to meeting children’s special educational needs which means that the child will necessarily spend some time at School Action and School Action Plus.

The variation is more marked in some LEAs as can be seen from the graph in Fig 2



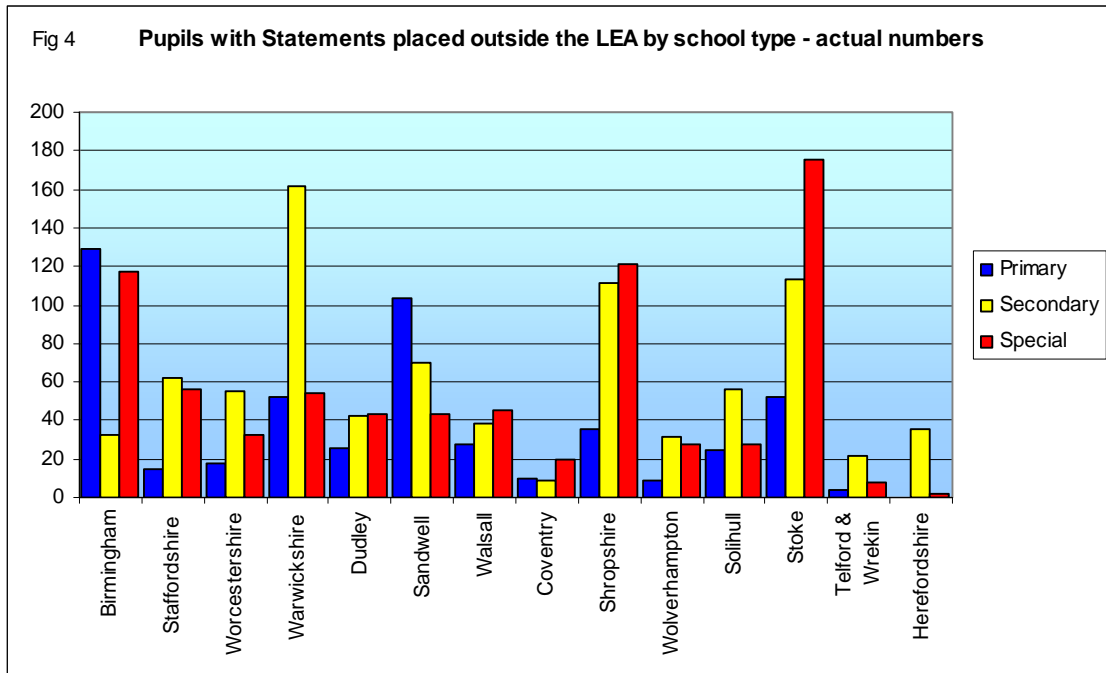
2.5. The variation between LEAs of pupils placed in special schools can be seen in Fig 3. This demonstrates that pupils with statements are twice as likely to be placed in a special school in Birmingham, Coventry and in Stoke, than pupils in Shropshire or Herefordshire.



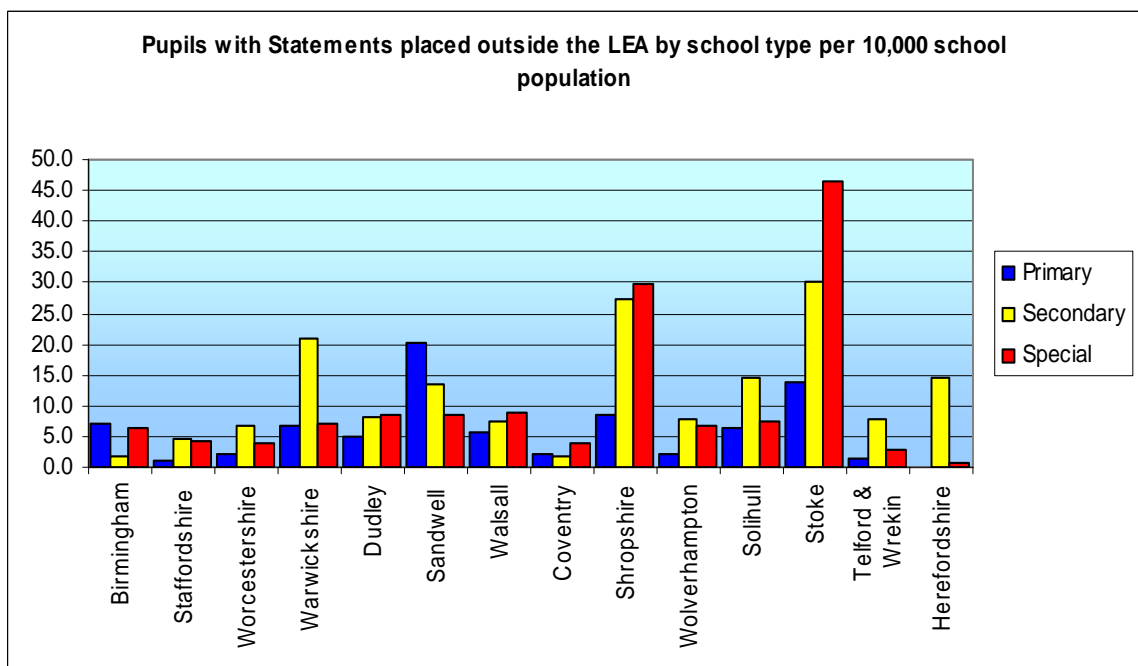
3. Placement of pupils in other LEAs

3.1. Pupils are usually placed in schools within another LEA because parents have expressed a preference for a particular school or because the needs of the child can be better met by provision in a nearby LEA. In the latter case this is

often to avoid undue travelling by the child as the proximity of the specialist provision is closer to the child's home. Fig 4 shows that, with the exception of Birmingham and Coventry, more secondary pupils than primary pupils with statements attend schools outside the LEA.



3.2. The high number of pupils placed in special schools outside Stoke and Shropshire reflects the fact that Local Government Re-organisation meant that traditional placements within the counties of Shropshire and Staffordshire changed. For instance 82 of the 121 pupils placed in other LEA special schools by Shropshire are placed in schools in Telford and Wrekin which was part of Shropshire until 1998. Fig 4 is actual numbers. In fig 5 the data has been adjusted to give a figure per 10,000 of school population which provides a more accurate comparison between LEAs.



4. Tribunals.

- 4.1. In 2003-2004 there were 349 cases registered with the Special Educational Needs and Disability Tribunal (SENDIST); of all those cases only one dealt with the placement of a child outside the LEA. The existing mechanism for managing cross border placements would therefore appear to be working effectively.
- 4.2. A detailed analysis of the referrals to SENDIST and the outcome of those referrals can be found in the West Midlands SEN regional Partnership Report on Tribunals²
- 4.3. In February 2005, ten of the fourteen West Midlands LEAs signed up to the following protocol. The LEAs not yet committed to this agreement are Worcestershire, Stoke on Trent, Wolverhampton and Solihull.

There is an expectation that where a Tribunal involves two LEAs, they will work in partnership in formulating the response. The Protocol strongly encourages the defending LEA to invite the other LEA to the tribunal as a witness. Similarly, there is an expectation that the other LEA will provide a witness for the Hearing if asked to do so.

NB. The proposal cannot preclude parents from one LEA appealing to SENDIST for a school from another LEA to be named in Part 4 of a statement and the LEA agreeing to the request in all cases.

5. Belonging Regulations

- 5.1. Circular 1/96 No. 615 EDUCATION, ENGLAND AND WALES The Education (Areas to which Pupils and Students Belong) Regulations 1996 is the Statutory instrument offering guidance to LEAs to determine which LEA has responsibility for educating a child whose personal circumstances may be complex.
- 5.2. The guidance is most often referred to in determining the financial responsibility for a Child in Public Care, or Looked After Child (LAC).
- 5.3. A significant number of LAC with severe behavioural difficulties are placed with independent fostering agencies with expertise in dealing with troubled children. In such cases the child has often moved frequently between foster placements and thus has never been in one educational setting for any length of time. Thus many of these children, who, in normal circumstances, would have had an assessment carried out leading to a Statement, do not have this formal recognition of their needs.
- 5.4. The Belonging Regulations in these cases clearly lay the responsibility for the education of the LAC child on the LEA where the child is fostered not the LEA from the council of the Social Services Department who have placed the child. Some LEAs, such as Nottingham, have developed voluntary recoupment agreements for non-statemented children looked after by Nottingham City Social Services and placed in other authorities. The purpose of these arrangements is to:

² West Midlands SEN & Disability Report (SENDIST) March 2005

- 5.4.1. ³provide short term transitional support for Nottingham City pupils with existing mainstream funding (known as MSG), when they move to another LEA until the new authority can make appropriate arrangements.
- 5.4.2. offer a short period of enhanced support for pupils at risk of permanent exclusion in order to preserve the placement; where the educating LEA, having no similar facility, may have to initiate a full statutory assessment with a view to writing a Statement in order to provide resources.
- 5.4.3. avoid unnecessary writing of statements for Looked After Children whose needs have already been identified, but in respect of whom the educating LEA cannot provide individual learning support time without recourse to a statement
- 5.5. This issue is one which affects a number of LEAs as Independent Fostering agencies such as Midland Foster Care Associates place children with foster carers and then access the local educational services.
- 5.6. The West Midlands authorities have a working group considering developing a similar voluntary agreement.

6. Admissions

- 6.1. The Code of Practice on School Admissions gives clear and explicit guidance on admitting pupils with statements

⁴Pupils with a Statement of special educational need that name a school in the statement are required to be admitted to the school that is named. The governing body (even if it is the admitting authority) does not have the right to refuse admission

- 6.2. The Special Educational Needs Code of Practice states that parents may express a preference for any maintained school they wish their child to attend, or make representations for a placement in any other school. LEA's must comply with a parental preference in accordance with Schedule 27 of the Education act 1996.⁵

³ City of Nottingham Inter –authority Recoupment “Voluntary Agreements for Children Looked After”

⁴ School Admissions Code of Practice 06/2003 DfES Paragraph 7.20

⁵ Education Act 1996 Chapter 56 Schedule 27 The Making and Maintaining of Statements under Section 324

3. - (1) *Every local education authority shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 to express a preference as to the maintained, grant-maintained or grant-maintained special school at which he wishes education to be provided for his child and to give reasons for his preference*

.....

(3) Where a local education authority make a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the school at which he wishes education to be provided for his child, they shall specify the name of that school in the statement unless-

(a) the school is unsuitable to the child's age, ability or aptitude or to his special educational needs, or

(b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.

(4) A local education authority shall, before specifying the name of any maintained, grant-maintained or grant-maintained special school in a statement, consult the governing body of the school and, if the school is maintained by another local education authority, that authority

6.3. From this guidance it can be seen that parents of pupils with statements have more admission rights than the parents of a child without a statement. Following the parents preference the LEA must consult the school, and where the school is in another LEA, the host LEA. Existing standard correspondence between LEAs shows models of good practice. Reproduced in Appendix 3 is a model letter adapted from Birmingham City Council LEA

7. Conclusion

7.1. There is little evidence that cross border admissions are causing significant problems to LEAs in the West Midlands. The regulations outlined by the Code of Practice on Admissions and the SEN Code of Practice, give clear guidance on procedures to adopt. It is clear that parents have placement rights which **must** be complied with provided that the usual caveats within the Code of Practice are observed.

7.2. To provide LEAs with more information about the provision available for children with SEN within the West Midland this report has an accompanying CD with a full list of all Specialist provision within the West Midland region including Pupil Referral Units and Non Maintained and Independent Special Schools. This can be used to identify potential placements and also to search for similar well established provision when re-organising or developing new provision, for instance mainstream resource bases for pupils with an autistic spectrum disorder.