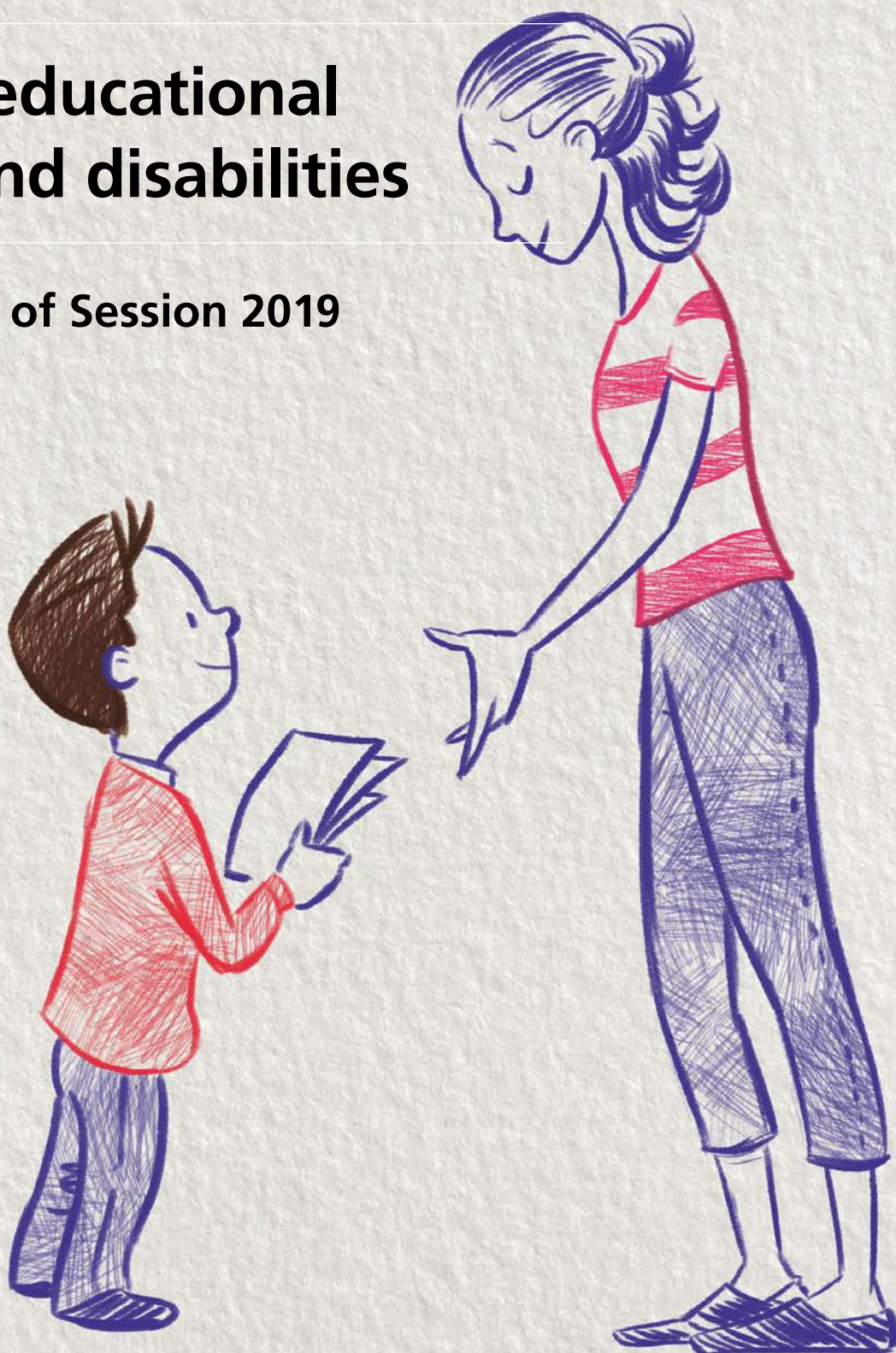




House of Commons  
Education Committee

# Special educational needs and disabilities

First Report of Session 2019







House of Commons  
Education Committee

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**Special educational  
needs and disabilities**

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**First Report of Session 2019**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 16 October 2019*



## The Education Committee

The Education Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Education and its associated public bodies.

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## Summary

In 2014, Parliament legislated with the intention of transforming the educational experiences of children and young people with special educational needs and disabilities. The reforms were ambitious: the Children and Families Bill sought to place young people at the heart of the system. However, as we set out in this report, that ambition remains to be realised. Let down by failures of implementation, the 2014 reforms have resulted in confusion and at times unlawful practice, bureaucratic nightmares, buck-passing and a lack of accountability, strained resources and adversarial experiences, and ultimately dashed the hopes of many.

The reforms were the right ones. But their implementation has been badly hampered by poor administration and a challenging funding environment in which local authorities and schools have lacked the ability to make transformative change. The Government has recently taken initial steps to rectify the latter of these two challenges, but there is much left to be done.

There is too much of a tension between the child's needs and the provision available. The significant funding shortfall is a serious contributory factor to the failure on the part of all involved to deliver on the SEND reforms and meet children's needs. Ultimately, however, unless we see a culture change, within schools and local authorities and the Government, any additional money will be wasted and make little difference to their lives.

We have found a general lack of accountability within the system. We do not think that the current approach to accountability is sufficient—the absence of a rigorous inspection regime at the beginning set the tone of a hands-off approach. This has been perpetuated by the fact that those required, or enabled, to 'police' the system have been limited in part by an apparent unwillingness to grapple with unlawful practice, while others are limited by the narrowness of their remit.

There must be greater oversight—we want to see a more rigorous inspection framework with clear consequences for failure. There should also be a greater focus on SEND in school inspections: at present, children who receive SEN Support are being let down by schools failing to meet their needs at this level. The Department did not need to preside serenely over chaos for five years to see that things were not quite going as planned. We recommend that parents should be able to report directly to central Government when local authorities fail to follow processes set out in statute and guidance. The Department should create a mechanism specifically for parents and carers of children with SEND, beyond what currently exists. The distance between young people's lived experience, their families' struggles and Ministers' desks is just too far.

Parents and carers have to wade through a treacle of bureaucracy, full of conflict, missed appointments and despair. We want to see a neutral role introduced, the purpose of which would be to arrange meetings, co-ordinate paperwork and be a source of impartial advice to parents. We believe that this would help reduce conflict in the system and remove much of the responsibility that seems to fall on parents' shoulders.



We have found that many local authorities are struggling with the reforms, and in some cases this has led to unlawful practice. However, they are also struggling against the tide of unintended consequences of policy decisions. We pass no judgement on the merits of the Department's free school policy, but current restrictions on a local authority's ability to create new specialist settings does nothing to improve the educational experiences of young people with SEND and leads to more pupils entering the independent sector at significant cost to the taxpayer. There should be a level playing field for local authorities.

During our inquiry we met young people who told us about their experiences as young people with special educational needs and disabilities. We were encouraged by their confidence, determination and humour. But we were ultimately saddened by their experiences. This generation is being let down—the reforms have not done enough to join the dots, to bring people together and to create opportunities for all young people to thrive in adulthood. There are opportunities, such as supported internships and apprenticeships, out there, and there are young people out there who want to grab them with both hands. But these opportunities are limited, and there is not sufficient support, or sufficient emphasis on enabling them to achieve their hopes and dreams. We call on the Government to establish a ministerial-led cross-departmental working group to develop more employment and training opportunities for post-16 young people.

We heard that many of the eagerly anticipated initiatives are not living up to their ambition and name. The role of health providers is pivotal, but unsurprisingly, the meshing of two systems has not worked. Unless health, and social care are 'at the table', we are no further on, and the Education, Health and Care Plan is no more than a Statement by another name. In a similar vein, we want to see greater joint working between the health and education sectors, beginning firmly with the development of a joint outcomes framework to measure how the health aspects of support for children and young people with SEND are being delivered locally. But ultimate responsibility for this monitoring should sit with government, not an inspectorate.

We are seeing serious gaps in therapy provision. We need to see professionals trained and supported so that they are able to support all pupils; these huge gaps in therapy provision across the country are letting down all pupils, but particularly those on SEN Support. We need to know where the gaps are, because children are falling through them, and what is going to be done about it.

Similarly, the local offer's aims and intentions appear to have moved away from the initial intentions, and in some cases have become unusable and useless, and we call on the Government to review local authorities' local offers in collaboration with children, young people and their parents and carers.

Special educational needs and disabilities must be seen as part of the whole approach of the Department's remit, not just an add-on. The Department for Education has an approach which is piecemeal, creating reactive, sticking-plaster policies, when what is needed is serious effort to ensure that issues are fully grappled with, and the 2014 Act works properly, as was intended.



## Part 1: Our report

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1. Our report is split into two parts. Part 1 sets out what we did, and what we think. First, we set out the introduction to our report, which explains what we did and sets out some of the background to our inquiry. Then we set out what we think about what we heard. This section includes our recommendations and conclusions. Part 2 sets out our evidence, which includes what we were told in written and oral evidence. Our epilogue calls on the Government to act, and act quickly. Both parts stand alone and can be read separately and independently from each other. We urge you to read the whole report.



## What we did

“There should be someone there to ensure that this child and children like this get what they deserve and what is needed for them to have the best future, and are not tossed aside and forgotten about in the system.” [Q481](#) [Jordan]

### The aims and objectives of part 3 of the Children and Families Act 2014

2. The Government proposed significant reforms to the special educational needs and disability system in 2011, in the Green Paper *Support and aspiration: A new approach to special educational needs and disability*.<sup>1</sup> These proposals and reforms became Part 3 of the Children and Families Act 2014, which introduced the potentially most significant reforms to the SEND system since Baroness Warnock’s *Report of the Committee of Enquiry into the Education of Handicapped Children and Young People*,<sup>2</sup> published in 1978. A number of reports have considered aspects of the education of children with special educational needs since then, including the 2006 report by the Education and Skills Committee,<sup>3</sup> and the 2009 Lamb Inquiry,<sup>4</sup> which looked at parental confidence in the SEND system.

3. The Coalition Government set out a number of actions and proposals for improving support and educational provision for children and young people with SEND and their families, including:

- introducing a co-ordinated assessment process to assess a child’s educational, health and care needs;
- ensuring local commissioners<sup>5</sup> work effectively together to help children and young people with SEND, and improving communication between different services;
- making sure that Education Health and Care plans from year 9 onwards included aspects to help them prepare for adulthood;
- introducing supported internships to help young people with SEND prepare for the workplace.<sup>6</sup>

4. The proposed reforms were ambitious and transformative. In the foreword to the Green Paper, Rt Hon Michael Gove MP, the then Secretary of State for Education, and Sarah Teather MP, the then Minister of State for Children and Families, wrote:

It is about their aspirations and their hopes. Their desire to become, like every child and young person, independent and successful in their chosen

1 Department for Education, *Support and aspiration: A new approach to special educational needs and disability*, Cm8027, March 2011

2 Report of the Committee of Enquiry into the Education of Handicapped Children and Young People, Cmnd. 7212, (Session 1977–78)

3 Education and Skills Committee, Third Report of Session 2005–6, *Special Educational Needs*, HC 478–1

4 *Lamb Inquiry into Special educational needs and parental confidence*, (December 2009)

5 Organisations within the health, education and social care sectors

6 Department for Education, ‘[2010 - 2015 government policy: special educational needs and disability](#)’, accessed 29 August 2019



future, and, to the greatest extent possible, the author of their own life story. It is about their families—who have consistently called for better support for their children and themselves.

Families of the most disabled children who are providing 24-hour care from birth, or the families of children struggling at school and who don't know where to turn for help.

It is also about their teachers, their college lecturers, and the many skilled staff from the health and social care professions who do their best, day in and day out, to provide the right support and encourage the highest aspirations.<sup>7</sup>

5. The Government's proposals were trialled extensively. In October 2011, the Government created 20 trials with 31 'pathfinder' local authorities.<sup>8</sup> These trials looked at different aspects of the reforms and were externally evaluated by a consortium led by SQW, a consultancy organisation, and a final report was published in 2015.<sup>9</sup> 'Pathfinder Champions' were appointed in April 2013 to help non-pathfinder areas to prepare for the SEND reforms.<sup>10</sup> The legislation began its journey through Parliament in 2013, with a previous Education Committee undertaking pre-legislative scrutiny of Part 3 of the Bill.<sup>11</sup> Some members of that Committee were also members of the Public Bill Committee.

## The Committee's inquiry and report

6. We launched our inquiry on 18 April 2018. We set out with the express intention of conducting post-legislative scrutiny of Part 3 of the Children and Families Act 2014, set in the context of the Act's implementation and the human experience of the reforms. We understood that this human experience would encompass many different parties and organisations, and we were keen to hear as many different perspectives as possible. We received over 700 submissions of written evidence, many of which were personal testimonies from parents and carers telling us how the reforms had personally affected their children and their families. We took a great deal of care over the handling of this evidence and where sensitive or personal details were included, we made careful decisions over anonymisation, redaction and in some cases, keeping submissions confidential. A summary of some of the confidential responses that we received is appended to this report.

7. We held twelve oral evidence sessions, hearing from parents, children and young people, representatives from charitable organisations, schools, colleges, local authorities and the health sector and the Minister of State for Care, the Minister of State for School Standards and the then Parliamentary Under-Secretary of State for Children and Families. We thank everyone who made a submission to our inquiry and those who

7 Department for Education, *Support and aspiration: A new approach to special educational needs and disability*, Cm8027, March 2011, p2

8 Department for Education 'SEND pathfinders', accessed 29 August 2019

9 Department for Education, *The Special Educational Needs and Disability Pathfinder Programme Evaluation Final Impact Research Report*, (July 2015)

10 Department for Education 'SEND pathfinders', accessed 29 August 2019

11 Education Committee, Sixth Report of Session 2012–13, *Pre-legislative scrutiny: Special Educational Needs*, HC 631–I



gave oral evidence for their time and contributions. We also thank the professionals and organisations who supported those witnesses who had personal experience of the system to come and talk to us.

8. Funding was a substantial issue that ran through the written and oral evidence. We held a concurrent inquiry into school and college funding, including a joint evidence session which covered funding issues relating to special educational needs and disabilities. Our report *A ten-year plan for school and college funding* was published in July 2019 and covers issues relating to how funding is allocated to schools, including the high needs block which is the part of the Dedicated Schools Grant that funds high level support for children with SEND, including special school places and provision in Education Health and Care Plans. We examined early intervention and use of the notional budget, which is the funding that all schools get given to meet low level special educational needs.<sup>12</sup> We also urged the Government to increase its overall funding to schools and colleges. Specifically, we called for the Government to:

- urgently address underfunding in further education by increasing the base rate from £4,000 to at least £4,760 (amounting to around £970 million per year), rising in line with inflation;
- increase school funding by raising the age-weighted pupil unit value;
- increase high needs funding for special educational needs and disabilities to address a projected deficit of at least £1.2 billion, and ensure any funding uplift takes proper account of the costs of providing Education, Health and Care plans up to the age of 25.<sup>13</sup>

9. On 30 August 2019, the Department for Education announced an increase in funding of £14 billion for schools between now and 2022/23. This included only just over £700 million for children with SEND in 2020–21. The Department also announced an extra £500 million of funding for further education.<sup>14</sup> However, it is disappointing that schools must wait until the next financial year for this much-needed funding for SEND, and we need to see more detail about how this money will be distributed and whether it will be ringfenced. We are pleased that the Government is addressing the funding needs, and this is a big step in the right direction, but we are not convinced about the extent to which this announcement alone will tackle the funding challenges for support for children and young people with SEND. While an increase in funding is essential, this must go hand in hand with cultural and systemic changes on the ground. On 4 September 2019, the Chancellor announced an additional £1 billion for children's and adult social care, and a consultation on the Adult Social Care precept.<sup>15</sup> This is to be welcomed but, like the funding for schools, we would expect this to be a first step for the Treasury's spending plans.

10. This inquiry was a very significant undertaking. We knew that it would take time, and that we would not be able to cover every issue that came up in our oral and written

12 Education Committee, Tenth Report of Session 2017–19, [A ten-year plan for school and college funding](#), HC 969

13 Education Committee, Tenth Report of Session 2017–19, [A ten-year plan for school and college funding](#), HC 969, p4

14 Department for Education, '[Increasing funding for schools, further education and teacher salaries](#)' accessed 3 September 2019

15 HM Treasury, [Spending Round 2019](#), September 2019, p7



evidence. We made a specific decision not to look at the particular types of needs facing groups of children and young people. Our focus has been on how the system works and how it needs to be changed so that it works for all children. This report sets out some of the many challenges that we heard about, and some of our key concerns. It tries to set out the experiences of all parties involved from their perspective. We look at the implementation process of the legislation and how some of the decisions made at the time had an impact on the current situation. We then set out the experiences of different parties, looking at the challenges they face and the impact that it had. Finally, we set out our conclusions and recommendations, in a section where we try to draw the experiences together and set out the need for change.

11. The language around Education Health and Care Plans (EHCPs) and the SEND system is complicated. We often read or were told about parents requesting an EHCP instead of a Needs Assessment. We think that this is indicative of wider problems which are explored in more detail in Part 2. Throughout our report, we refer to parents requesting a needs assessment where they may have told us that they requested an Education Health and Care Plan. We also use special educational needs and disability (SEND) as a term to refer to any child or young person who may have a special educational need or disability that means that they are in some way affected by the reforms. Unless there is a specific reason not to, we use the term throughout the report.

## Developments since the launch of the inquiry

12. In 2018 there were a number of announcements about provision for special educational needs and disabilities. In July 2018, a consortium formed of UCL's Institute for Education's Centre for Inclusive Education and the National Association for Special Educational Needs was announced to spread best practice for pupils with SEND across England, including a review of mandatory qualifications and to develop regional SEND focused training hubs.<sup>16</sup> In November 2018 the Department published successful applications from trusts to local authorities to run special free schools,<sup>17</sup> and this was followed in March 2019 by the announcement of a further 37 successful local authority bids for special schools and it is currently advertising for groups to run them.<sup>18</sup> In December 2018, the Department announced an additional £350 million for high needs funding. This funding included money to increase the number of educational psychologists who are trained from 106 to 206 each year. This was followed in March 2019 by an announcement of a further £31.6 million to support this increase, contributing to the operating costs of training providers and will contribute to the cost of trainees' tuition, including a first-year bursary grant.<sup>19</sup>

13. The SEND Code of Practice is statutory guidance, setting out how organisations, including local authorities, schools and the health sector should, and in some cases must, support children and young people who have special educational needs or disabilities.<sup>20</sup> In 2019, the Department for Education committed to reviewing the Code of Practice

16 University College London, '[IOE to develop new network of 10,000 schools to share special educational needs best practice](#)', accessed 29 August 2019

17 Department for Education, '[Special free schools: successful applications from trusts](#)', accessed 29 August 2019

18 Department for Education, '[Thousands of places created in new special free schools](#)', accessed 29 August 2019; Department for Education '[Apply to open a special or alternative provision free school](#)' accessed 29 August

19 "'Insufficient' educational psychologists to 'meet demand' from schools, warns government report" Schools Week, 20 March 2019

20 Under section 77 of the 2014 Act, the Secretary of State is under a duty to issue a code of practice, and the bodies listed in that section are required to "have regard to" the code in exercising their functions.



following Edward Timpson's review of school exclusions.<sup>21</sup> It also launched a call for evidence in May 2019 on the financial arrangements for children and young people with special educational needs and disabilities and those who attend alternative provision.<sup>22</sup> Developments have also included a significant number of parents taking their local authorities to judicial review, including, in June 2019 the families of three children taking the Treasury and Department for Education to the High Court regarding funding for SEND provision.<sup>23</sup> In October, the claim was dismissed, with the court finding that there had been no unlawful discrimination. However, we note that this was a ruling on whether there had been discrimination or irrationality grounds, rather than a wider comment on the current support available for young people with SEND.

14. In September 2019, the National Audit Office (NAO) published its report *Support for pupils with special educational needs and disabilities in England*.<sup>24</sup> It assessed how well pupils with SEND are supported, looking at the SEND system and its outcomes, funding, spending and financial sustainability and the quality of support and experiences of pupils and their families.<sup>25</sup> It found that the Department does not know the impact of the support that is given to children with SEND, and that while the Department has increased school funding, it has not kept up with the increase in pupil numbers.<sup>26</sup> The NAO's report also stated that the Department did not fully assess the potential financial consequences of the 2014 reforms.<sup>27</sup> It is a helpful and complementary piece of work to this report. The following month, the Local Government and Social Care Ombudsman published *Not going to plan? Education, Health and Care plans two years on*, which found a number of problems including severe delays when issuing a plan and communication and preparation for meetings.<sup>28</sup> This too is a useful piece of work which draws attention to problems that we address in our report. We also note the publication of Ofsted's exploratory study *Exploring moving to home education in secondary schools*,<sup>29</sup> published in October, which identified that children who move into home education often have complex needs. This is in line with much of the evidence that we heard. This is further fuel to the fire of ever-growing evidence that tells the Government that it must act.

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21 [Q763](#) [Nadhim Zahawi]

22 Department for Education, [Funding for SEND and those who need AP: Call for evidence](#), accessed 29 August

23 Irwin Mitchell, '[Families To Take Government To High Court Over Funding For Special Educational Needs](#)' accessed 30 August 2019

24 National Audit Office, [Support for pupils with special educational needs and disabilities in England](#), Session 2017–19, HC 2636, 11 September 2019

25 National Audit Office, [Support for pupils with special educational needs and disabilities in England](#), Session 2017–19, HC 2636, 11 September 2019, para 8

26 National Audit Office, [Support for pupils with special educational needs and disabilities in England](#), Session 2017–19, HC 2636, 11 September 2019, paras 10 and 12

27 National Audit Office, [Support for pupils with special educational needs and disabilities in England](#), Session 2017–19, HC 2636, 11 September 2019, para 15

28 Local Government and Social Care Ombudsman, [Not going to plan? - Education, Health and Care plans two years on](#), (October 2019)

29 Ofsted, [Exploring moving to home education in secondary schools](#), (October 2019)



## What we think

15. In Part 2 we set out the experiences of many of the people we have heard from, and the experiences of many more have informed our thinking throughout this inquiry. We have set out what we have heard about the implementation of the 2014 Act, and also the experiences of those who work and live within the system. The experiences and opinions presented to us in our oral and written evidence has helped us consider the extent to which the system today is operating as intended and inform our views, which are set out below.

### The 2014 reforms, their implementation and their legacy

16. Many people and organisations welcomed the reforms, with some welcoming specific aspects, while others were broadly supportive of the reforms and their principles and aspirations, albeit often with caveats relating to implementation.<sup>30</sup> Despite some views that the legislation or system is inadequate,<sup>31</sup> we have not been persuaded that the 2014 reforms are anything but the right ones. The reforms were introduced during a period of financial strictures and systemic change, but also a period of great aspiration and ambition by the Department for Education. We acknowledge that schools and local authorities were and are under great strain and this can result in them struggling to provide the support that children and young people with SEND and their parents and carers have every right to expect.

17. **We are confident that the 2014 reforms were the right ones. We believe that if the challenges within the system—including finance—are addressed, local authorities will be able to discharge their duties sufficiently.**

18. *We recommend that when the Government makes changes to address these challenges, it should avoid the temptation to address the problems within the system by weakening or watering down duties or making fundamental changes to the law.*

19. We addressed the funding shortfall in our tenth report, *A ten-year plan for school and college funding*,<sup>32</sup> which set out the challenges and inadequacies with the current funding, for both local authorities and the education sector. We heard throughout this inquiry, and our inquiry into school and college funding, about the enormous pressures facing local authorities to meet needs and fulfil their statutory duties.<sup>33</sup> However, decisions by the Department for Education to allow local authorities to spend their implementation grant with little or no oversight or safeguards was at best naïve, if not irresponsible and

30 Steve Rumbelow ([SCN0683](#)) para 6; Herefordshire Council ([SCN0509](#)) para 6.1; Parental Submission 130 ([SCN0238](#)) para 44; Parental Submission 138 ([SCN0362](#)) para ii; Herts Parent Carer Involvement ([SCN0552](#)) para 1a; Dr Jill Harrington ([SCN0477](#)); para 7; Parental Submission 54 ([SCN0493](#)) para 3; Parental Submission 154 ([SCN0541](#)) para 7; Mr Myles Pilling ([SCN0088](#)) para 2; Action Cerebral Palsy ([SCN0103](#)) para 13; St Martin's Governing Body ([SCN0128](#)) para II; Pre-school Learning Alliance ([SCN0147](#)) para II; Children's Services Development Group ([SCN0408](#)) para 9; Kisimul Group ([SCN0409](#)) para 10; Telford and Wrekin Council ([SCN0429](#)) para 1.1; Together for Short Lives ([SCN0430](#)) para 16; British Dyslexia Association ([SCN0438](#)) para III; The National Autistic Society ([SCN0473](#)) para 15; National Governance Association (NGA) ([SCN0476](#)) para c; The Special Educational Consortium ([SCN0480](#)) para 3; The Milestone School, Gloucester ([SCN0205](#)) para 4; Mrs Kathleen Richardson ([SCN0130](#)) para 1

31 Parental Submission 76 ([SCN0215](#)) para 3; Pinpoint Cambridgeshire ([SCN0264](#)) para 1x; Parental Submission 150 ([SCN0634](#)) para 2

32 Education Committee, Tenth Report of Session 2017–19, *A ten-year plan for school and college funding*, HC 969  
 33 [Q340](#) [Richard Flinton]; [Q353](#) [Richard Flinton]; [Q359](#) [Richard Flinton]; [Q362](#) [Steve Rumbelow]; [Q384](#) [Councillor Bramble]; [Q402](#) [Charlotte Ramsden]; [Q45](#) [Justin Cooke]; [Q55](#) [Julie Cordiner]; Local Government Association ([SCN0195](#)) paras 5.1 - 5.4; Association of Directors of Children's Services ([SCN0503](#)) paras 12–17



misguided.<sup>34</sup> Significant errors were made. The money that was intended for systemic change appears to have been spent merely on business as usual and maintaining the status quo. The way in which funds were given on a non-ringfenced basis to local authorities at a time of reducing local authority budgets by the Department for Education created an opportunity for the money to be used in ways other than supporting the transformation of the system. This in our view represents a serious failure of administration, policy and expenditure.

**20. The Department for Education set local authorities up to fail by making serious errors both in how it administered money intended for change, and also, until recently, failing to provide extra money when it was needed.**

**21. The significant shortfall in funding is a serious contributory factor to the failure on the part of schools and local authorities to meet the needs of children and young people with SEND. However, unless there is a systemic cultural shift on the part of all parties involved, additional funding will make little difference to the outcomes and experiences of children and young people with SEND.**

22. These financial challenges have been exacerbated by creating a duty to maintain EHCPs for young people until their 25th birthday,<sup>35</sup> and clear problems with a lack of ownership or responsibility being taken for paying for interventions.<sup>36</sup> We accept that the Department for Education made some effort to fund these changes,<sup>37</sup> but the Department failed to fully consider the increased costs and pressures that the duty to maintain an EHCP to 25 would place on local authorities and their staff, and schools and colleges. We do not necessarily think that significant extra costs were created, but rather funding has not been transferred from the adult social care budget along with the duty to support young people to 25. These broader funding challenges are compounded by an apparent lack of clarity about who is responsible for paying for what, with some schools and local authorities footing the bill for interventions that should be provided by the health services.<sup>38</sup> This has resulted in budgets becoming stretched across schools and local authorities, therapies not being provided, local authorities avoiding discharging their duties to young people post-19 and, critically, children and young people unable to access the support they need and are entitled to.<sup>39</sup>

23. We recognise that the adult social care budget is also stretched and so any transfer of money from the adult social care budget may take money away from older, vulnerable adults. Nevertheless, that does not detract from the fundamental necessity of ensuring that all adults in need of social care support receive good quality provision, and the wider responsibilities across Government to ensure that the financial burden is shared.

**24. While we acknowledge the extra money provided in the spending review, both for schools and social care, we deeply regret that this spending review process was**

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34 See paragraphs 90–93

35 See paragraph 99 for further details about this specific duty

36 See paragraphs 166 and 182

37 [Correspondence from Rt Hon Nick Gibb MP, Minister of State for School Standards and Nadhim Zahawi MP, Parliamentary Under-Secretary of State for Children and Families, 10 June 2019](#)

38 NAHT, [Empty Promises: The crisis in supporting children with SEND](#), (June 2018), pp 2 and 15; see also paragraph 166

39 See for example paragraphs 166 and 182



insufficient in tackling the fundamental challenges facing both children and adult social care. We acknowledge the Government's recent Budget announcement and hope that this will be tackled at that point.

25. *Nobody benefits when Departments avoid accountability and try and pass the buck. The Department for Education, together with the Department for Health and Social Care, should develop mutually beneficial options for cost- and burden-sharing with the health and social care sector.*

26. We asked the Department for Education how it is measuring the success of the SEND system. We are troubled by the inability of the Ministers to clearly explain how they are using the document published in 2015 which set out how the Department was going to hold the system to account, both locally and nationally.<sup>40</sup> In a follow up letter, following our ministerial oral evidence session, the Minister for Children and Families listed the analysis and data that is available and uses to create accountability within the system.<sup>41</sup> In addition, during the evidence session, the Minister for Schools, Rt Hon Nick Gibb MP told us:

The new Ofsted framework that comes into force this September has a greater emphasis on the progress that children with special educational needs are making. We have also had a greater emphasis on the progress pupils make in school, so that a school will be rewarded and credited for the progress children with special educational needs make, not simply those children on the threshold of a C/D or a 3/4 borderline.<sup>42</sup>

27. However, accountability is not just counting and measuring, it is being held responsible for actions taken. **Nobody appears to be taking any action based on the counting and measuring that is taking place, but even worse, no one appears to be asking anyone to take responsibility for their actions. There appears to be an absence of responsibility for driving any change or holding anyone accountable when changes do not happen.** We think that delaying the introduction of an inspection regime, and creating one that was initially time-limited, perpetuated the idea that the inspections were an improvement tool, rather than creating a rigorous system of accountability.<sup>43</sup>

28. We are pleased that the Department for Education has asked CQC and Ofsted to design a second round of inspections for beyond 2021. However, simply designing “a revisit programme” to “keep going on that improvement journey” is insufficient.

29. *The joint CQC and Ofsted inspections should not continue to be one-offs but should become part of an annual inspection process to which all local authorities and their partners are subject. CQC and Ofsted should be funded to be able to deliver this rigorous inspection timetable. CQC and Ofsted should design and implement an inspection regime that not only improves practice but has a rigorous framework that enables local authorities and their partners to be held to account and sets a clear timeframe for re-inspections. Ofsted and CQC should also clearly set out the consequences for local authorities and health bodies that fail their annual inspection.*

40 See [Qq785–808](#) for the full discussion of this point

41 [Correspondence from Rt Hon Nick Gibb MP, Minister of State for School Standards and Nadhim Zahawi MP, Parliamentary Under-Secretary of State for Children and Families, 10 June 2019](#)

42 [Q758](#)

43 See paragraph 117



30. We were told by Dr André Imich, SEN and Disability Professional Adviser for the Department for Education, that “the ultimate accountability is, as the Minister says, in the outcomes from the inspections”.<sup>44</sup> However, we heard about the limits of the inspection regime and complaints process, and that it is not in the remit of the Local Government and Social Care Ombudsman to investigate what goes on inside the school gates.<sup>45</sup> We were pleased that the Minister for Schools committed to looking at the extent of the powers of the Ombudsman,<sup>46</sup> but have subsequently been disappointed to see that the Minister wrote to the Chair of the Housing, Communities and Local Government Committee to set out the different ways parents can escalate complaints, but did not commit to extending the Ombudsman’s powers.<sup>47</sup> It is clear to us that the Local Government and Social Care Ombudsman’s remit must be extended to cover internal school management and free schools and academies. The opportunities for redress as set out in the Minister’s reply to the Chair of the Housing, Communities and Local Government Committee are frustratingly disparate.

31. *Two select committees have independently identified a problem with the current extent of the powers of the Local Government and Social Care Ombudsman: It is now up to the Government to act. The Department should, at the earliest opportunity, bring forward legislative proposals to allow the Ombudsman to consider what takes place within a school, rather than—in his words—only being able to look at “everything up to the school gate”.*

32. We were surprised that Ofsted and the Care Quality Commission (CQC) told us that it was not in their remit to report on compliance with the law.<sup>48</sup> We were surprised by their apparent lack of conviction: Ofsted is prepared to act proactively and make judgements about unlawful practice in relation to—for example—extremism and unregistered schools, and we see no reason why it should not do the same in relation to unlawful actions regarding special educational needs and disabilities. We considered whether, in reaction to the apparent lack of accountability within the system, creating a regulator would solve the problem, but we warned by the LGSCO that the SEND system is difficult to draw boundaries around and doing so would cause problems,<sup>49</sup> and Alison Fiddy, chief executive of IPSEA (Independent Provider of Special Education Advice) told us:

I would like to see more robust accountability from Government, I suppose, where local authorities are not complying with the law. I often think that the only way to make local authorities accountable is to really hit them where it hurts. Often, that means it is about tackling those who hold the purse strings, unfortunately.<sup>50</sup>

We do not think that financially penalising local authorities is necessarily the most appropriate form of action, partly bearing in mind the evidence we have heard about the financial constraints of local authorities, but ultimately because financial penalties would

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44 [Q772](#)

45 See paragraph 222

46 [Letter to Chair from Nick Gibb, the Minister for School Standards on LGSCO jurisdiction, dated 14 May 2019](#)

47 [Letter to Chair from Nick Gibb, the Minister for School Standards on LGSCO jurisdiction, dated 14 May 2019](#)

48 [Q522](#) [Jonathan Jones]

49 [Q602](#)

50 [Q602](#)



risk more children missing out on the support that they need in order to meet their needs. However, more needs to be done by Government to ensure that local authorities are complying with the law, given that many local authorities are not.<sup>51</sup>

**33. We do not think that the Department for Education is taking enough responsibility for ensuring that its reforms are overseen, that practice in local authorities is lawful, that statutory timescales are adhered to, and that children's needs are being met. We are concerned that the Department has left it to local authorities, inspectorates, parents and the courts to operate and police the system. There is a clear need for the Department to be more proactive in its oversight of the way in which the system is operating. However, ultimately, local authorities must ensure that they are compliant with the law as opposed to waiting to be caught out by an inspection regime, parents or other professionals.**

**34. *The Government should introduce a reporting and accountability mechanism for non-compliance so that parents and schools can report directly to the Department for Education where local authorities appear not to be complying with the law. It should also implement an annual scorecard for local authorities and health bodies to measure their success against the SEND reforms including, but not limited to, reports of non-compliance; the school placement of children and young people with SEND, including those without a school place; Tribunal hearings, and how local authorities meet statutory timescales. These scorecards, along with a summary document, should be placed in the House of Commons library no later than three months after the end of the year to which they relate.***

## From vicious cycle to virtuous circle

35. The intense focus on Education Health and Care Plans and the transition date has led to children on SEN Support being neglected. Children are unable to access appropriate support at this level, which has led to a lack of early intervention, and an increase in parents applying for Education Health and Care Plans because they appear to be the only way to open doors for access to support that has become rationed and difficult to access. This has led to an increase in applications, which has further strained a system already under pressure from the introduction of Education Health and Care Plans and the transition process which was much more complex than had been imagined. This has led to practices of rationing, gatekeeping and, fundamentally, children and young people's needs being unidentified and unmet.<sup>52</sup> Much of this is unlawful, goes wholly against the intentions of the Act and contributes to a lack of faith in the system.

**36. *Additionally, we expect the Department's SEND review to fundamentally address the relationship between need and available provision.***

37. In our report *A ten-year plan for school and college funding*, we discussed the use of the notional budget and its importance in early intervention and inclusion, including the perverse incentives of the current funding system.<sup>53</sup> We called on the Government to review and revise the high needs funding formula, and "assess the extent to which notional

51 See for example paragraph 204

52 See Part 2 for a fuller discussion of these issues

53 Education Committee, Tenth Report of Session 2017–19, [A ten-year plan for school and college funding](#), HC 969, paras 91–115



budget allocations take sufficient account of future trends, and facilitate adjustments to the notional budget allocation methodology to make funding arrangements more forward-looking.”<sup>54</sup> We think that the principles underpinning the notional budget are correct and promote an inclusive school environment. But at the moment it just is not happening.

**38. We call on the Government to make the notional budget a focus of its review into the financial arrangements of provision for pupils with SEND, and for those in alternative provision. The Government should pay particular attention to ensuring that the funding system works for children and young people with SEND who do not need EHCPs so that they are not inevitably dragged into that part of the system. This issue must be sorted as soon as possible and not kicked into the long grass. As part of its SEND review, the Department should identify local authorities with excellent examples of early identification and preventative measures and the spending of budgets upstream and ensure these examples are shared.**

39. In addition, a lack of standardised paperwork meant that the vast majority of local authorities had to create entirely new paperwork. A lack of standardisation of the EHCP process and paperwork has created and continues to create a huge burden on schools and other professionals and sense of confusion, further putting pressure on a strained system.<sup>55</sup>

40. SEN Support has been a neglected area of focus since 2014. We heard calls for greater strength and clarity in the Code of Practice, to help parents make sure that those responsible are accountable.<sup>56</sup> Children whose needs are met through SEN Support often only have the Code of Practice to rely on, and we are pleased that the Department for Education has committed to reviewing the Code of Practice by the end of 2020, in response to the Timpson Review of School Exclusion.<sup>57</sup> We also heard that a lack of standardised practice, forms and an increase in bureaucracy has moved SENCOs away from the classroom, which again leaves pupils unsupported.<sup>58</sup> We also heard about a lack of therapy services contributing to the reduction in support for pupils on SEN Support.<sup>59</sup> We understand the importance of enabling local authorities and their partners to meet local need. However, this should not be at the expense of local authorities and schools being able to meet children’s needs.

**41. We heard a lot about local authorities’ poor performance. But for children who receive SEN Support, they rely primarily on their school to get their support needs right. If, for whatever reason, a school fails to provide high quality SEN Support, the child is failed. We are pleased that Ofsted’s new framework includes a focus on children with SEND.**<sup>60</sup>

**42. As the Office for Standards in Education, Children’s Services and Skills, Ofsted is responsible for ensuring that “organisations providing education, training and care services in England do so to a high standard for children and students.”<sup>61</sup> We do not think enough is being done to ensure that every pupil with SEND receives a high standard of**

54 Education Committee, Tenth Report of Session 2017–19, [A ten-year plan for school and college funding](#), HC 969, para 115

55 See paragraphs 140 and 143

56 [Q157](#) [Amanda Batten]

57 [Q763](#) [Nadhim Zahawi]

58 See paragraph 140

59 See paragraphs 130 and 167

60 Ofsted, [The education inspection framework](#), (May 2019)

61 Ofsted, [‘About us’](#), accessed 1 October 2019



*education and that all schools are inclusive. Ofsted must deliver a clear judgement, and through this assurance to parents, that schools are delivering for individual children with SEND. It should either seek to do this through its existing programme of inspections, or alternatively develop a separate type of specialised inspection focusing on SEND, with a particular focus on the school's responsibility to deliver for pupils on SEN Support and that inclusive schools get the recognition that they deserve. If this requires legislative change, the Department should work with Ofsted to bring forward proposals at the earliest possible opportunity.*

**43.** *We recommend that the Department for Education strengthen the guidance in the Code of Practice on SEN Support to provide greater clarity over how children should be supported. The Department should also amend the guidance on Education Health and Care Needs Assessments and Plans to create a clearer and more standard interpretation of the process that should be followed for Education Health and Care Needs Assessments, with the aim of reducing paperwork and simplifying processes for all involved.*

### **CPD: crucial professional development**

44. The system is only as strong as the professionals who make up its system, and we want to see greater support provided to them. We heard that SENCOs can be part-time or diverted from their SEND responsibilities by other duties, taking them away from supporting teachers and pupils.<sup>62</sup> SENCOs play increasingly important roles in schools. As the number of children with SEND increases, and as pressure on teachers also rise, they need expert advice from other professionals. We consider that the role of the SENCO is of such importance that those undertaking that role should have enough dedicated time, pay and knowledge to enable them to do their job well. However, not all schools will be large enough to require a full-time dedicated SENCO. In addition, while we acknowledge that currently SENCOs should undertake the NASENCO training within three years of taking on the role,<sup>63</sup> we think that this should be done sooner.

**45.** *The Department for Education should, within six months of the publication of this report, issue updated guidance setting out that all SENCOs should undertake the NASENCO course upon taking on a SENCO role. It should also commission an independent reviewer to examine the cost implications of requiring all schools and colleges to have a full-time dedicated SENCO and recommending the size of school which should only be required to employ a part-time dedicated SENCO.*

**46.** *The Government should encourage local authorities, and if necessary provide them with the relevant powers, to bring all SENCOs from all schools in their area together, in order to share best practice, knowledge and training.*

47. We have heard that there is a lack of knowledge about SEND law and local authority procedures which are, in some cases, abused or taken advantage of.<sup>64</sup> This ignorance, wilful or otherwise, serves no one well, least of all the children and young people who the system is intended to support. Those who work in SEND teams in local authorities have an important but difficult role. Staffing has been impacted by the reforms, and the change in legislative framework and local policies and procedures along with the increase in

62 See paragraph 140

63 See paragraph 139

64 See Part 2 for a fuller discussion of this issue



workload created uncertain and difficult working environments.<sup>65</sup> We are not convinced that all local authorities have sufficiently invested in training for these front-line staff. Where staff are unsupported or poorly trained, mistakes may be made that let down young people and their families.

**48. *When developing its new framework for inspections, Ofsted and CQC should ensure it includes a requirement to inspect the availability, take up, quality and provision of the training and continuing professional development regarding SEND law of all local authority professionals who are engaged in Education Health and Care Needs Assessments, plan writing and reviewing and Tribunal work. This should be explicitly reported on in inspection reports.***

49. The lack of therapists is causing problems for local authorities in their assessment and review processes, schools for their ability to provide support for teachers and pupils, for the therapists themselves, and ultimately the children and young people who need their support. They are unable to spend appropriate time with children and young people, provide the expert advice that is relied on for needs assessments and for pupils who receive lower level support, and attend annual reviews. In some cases, they are unable to provide the specified interventions because there is insufficient staff.<sup>66</sup> We welcome the Department for Education's announcement of £300 million to train more educational psychologists, and the NHS Improvement and Health Education England's review of the workforce,<sup>67</sup> and urge both Departments to ensure that ensuring that there are sufficient professionals to meet children's needs remains a focus of their work. However, more needs to be done to address this serious shortcoming in the Government's SEND policy.

**50. *As part of the Government's SEND review, it should map therapy provision across the country and identify cold spots. This should be a priority and the results of the mapping published as soon as it is completed. Separately and subsequently, the Government should set out a clear strategy to address the problem.***

## Navigating the treacle of bureaucracy

51. We heard many times about the conflicts of interest, or challenges, that appear to exist with the local authority as both the assessor and the commissioner.<sup>68</sup> That is a tension that is difficult to overcome—we heard arguments about why the local authority is best placed to play those dual roles,<sup>69</sup> while we also heard how professionals make decisions that are overridden by budgetary constraints or a lack of commissioned provision.<sup>70</sup> This in turn creates distrust between local authorities and parents and carers, moving us even further away from the concept of local authorities as allies. However, we are not convinced that separating the two roles would necessarily be the right thing to do. We are however convinced by the need to create some neutrality in the system, and someone to act as

65 See paragraph 150

66 See Part 2 for a fuller discussion of these issues

67 NHS Improvement published its interim NHS People Plan on 3 June 2019

68 Natspec, *Natspec response to Education Select Committee SEND Inquiry*, (June 2018), para 1.1; Parental Submission 26 ([SCN0124](#)) para 4; Parental Submission 161 ([SCN0647](#)) para 8; Ms Nancy Gedge ([SCN0179](#)) para 1.1; National Governance Association (NGA) ([SCN0476](#)) para 1.3; Parental Submission 17 ([SCN0069](#)) para 4.5; Parental Submission 120 ([SCN0564](#)) para 3; Unique and PWSA UK ([SCN0433](#)) para 8.2; Wraparound Partnership ([SCN0369](#)) para 1; Beams ([SCN0224](#)) 6.2; [Q196](#) [George Holroyd]

69 See paragraph 226

70 [Q603](#) [Imogen Jolley]; [Q605](#) [Imogen Jolley]



an ally of the family in the process. Steve Innett from Healthwatch Kent described how parents felt alone in negotiating the system and that there was no co-ordinator role within the system.<sup>71</sup> We also heard that advice and support services could be postcode lotteries, and some charities were unable to help all those who seek their help,<sup>72</sup> but we were also told that not all parents access support because they do not know that it exists or where to go for help.<sup>73</sup> Furthermore, this complex, awful and often unnecessarily antagonistic experience for parents can prevent them from accessing their entitlements.

**52. We recommend that the Department for Education explores the potential for creating a neutral role, allocated to every parent or carer with a child when a request is made for a needs assessment, which has the responsibility for co-ordinating all statutory SEND processes including the annual review, similar to the role of the Independent Reviewing Officer for looked-after children.**

53. Getting children help and support in school and college places a heavy burden on parents and carers. It can be a lonely and isolating process that can, and often does, put significant strain on all aspects of a family's life. We think that the reforms did raise parental expectations, and rightly so. Parents were told that the reforms would make a real difference. They were told that they would only have to tell their story once and were promised greater and more co-ordinated support. The reality for many appears to be far from this. Creating a system with such promise has meant that parents know that their children are entitled to something, but they have to work too hard to access this entitlement and are left exhausted in the pursuit of it.

**54. Navigating the SEND system should not be a bureaucratic nightmare, difficult to navigate and requiring significant levels of legal knowledge and personal resilience. A child's access to support should not be determined by a parent's education, their social capital or the advice and support of people with whom they happen to come into contact. In some cases, parental empowerment has not happened. Children and parents are not 'in the know' and for some the law may not even appear to exist. Parents currently need a combination of special knowledge and social capital to navigate the system, and even then are left exhausted by the experience. Those without significant personal or social capital therefore face significant disadvantage. For some, Parliament might as well not have bothered to legislate.**

## Limiting factors

55. While we heard a lot of evidence about the failure of mainstream schools to be inclusive,<sup>74</sup> this seems to be exacerbated by special schools no longer fulfilling their function. As mainstream schools are struggling, or refusing, to meet the needs of children with lower-level needs, their parents and carers are seeking help and support in more specialised provision. This in turn is having an impact on local, maintained specialist provision, as children whose needs may be met locally are unable to access these placements, or their needs are no longer able to be met there. This in turn pushes these children towards costlier, often independent specialised provision.<sup>75</sup>

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71 [Q410](#)

72 [Q573](#) [Alison Fiddy]

73 See paragraph 214

74 See paragraphs 124 and 125

75 See Part 2 for a fuller discussion of these issues



56. If many of the challenges within the system were addressed, such as increased funding for schools, better and more consistent SEN Support, greater access to therapy for all pupils, and easier access to specialist advice for schools, there would be less need for so many children to attend expensive independent schools and more children would be able to remain in mainstream provision. We also think that local authorities are hampered by their inability to develop new specialist provision. Currently, there are restrictions on local authorities' abilities to open maintained schools,<sup>76</sup> and where it invites proposals for free schools, it is expected to meet the capital costs of the school.<sup>77</sup> The Department for Education/Education and Skills Funding Agency (ESFA) free school application process enables new free schools' capital costs to be funded through the ESFA, and in March 2019, the Department announced 37 successful areas that will get new special free schools.<sup>78</sup> However, the free school application process requires local authorities to bid for new free schools, before organisations can then bid to open the school in the successful area. The process is too limiting and short-sighted as it does not allow local authorities to build to meet demand and to make cost-effective decisions in the future. We accept that there is a cost to the Treasury, but we believe that unless local authorities are given greater freedom to build provision where and when they need it, including being able to build specialist colleges, local authorities will be required to spend significant sums of money on independent provision when children's needs could and should be met locally.

57. **The Government must see support for special educational needs and disabilities as a system-wide issue and ensure that all policies are 'SEND proof'. Central Government has introduced legislation which gives significant duties to local authorities and serious freedoms in how it can deliver them, but unintended consequences of other education policies, however laudable the original policy may be, have unfortunately limited local authorities' abilities to uphold these duties and meet all children and young people's needs. Ultimately the Government must decide whether it wants local authorities to retain the statutory duties it set in place in the 2014 Act. If it does, it must give them the necessary funding and freedom to meet their local population's needs, with the appropriate accountability to ensure that they do so.**

58. *The Department for Education should, in the absence of other plausible solutions, enable local authorities to create new maintained specialist schools, including specialist post-16 provision outside of the constraints of the free school programme. It should amend the capacity building guidance to ensure that local authorities are able to be more responsive to their local population's needs and address the unfortunate unintended consequences of the programme. This should not detract from the principle of inclusion and right to mainstream schooling. If necessary, local authorities should also be able to build more mainstream schools outside of the free school programme. This would create a level playing field for provision within and beyond local authority structures.*

## **(A lack of) Ambition for our young adults**

59. The greater focus on support for young people post-19 has placed a burden on the entire system. It has increased financial and administrative burdens and put staffing levels under pressure by creating an increase in demand for support, which is, in part,

76 Department for Education, [Academy and free school presumption: guidelines](#), (May 2018), p4; Department for Education, [Opening and closing maintained schools](#), (November 2018), p7

77 Department for Education, [Opening and closing maintained schools](#), (November 2018), p7

78 ["Revealed: The 39 areas set to get new special and AP free schools"](#), Schools Week, 11 March 2019



caused by the weakness in provision for young people in the adult social care system. This pressure has had an impact further down the system, as limited capacity and resources have been spread thinly across a wider age range, while the ambition of the reforms raised expectations for wider, and better outcomes.<sup>79</sup> However, the ambition of the reforms does not appear to have been matched in terms of planning, funding and capacity development. There is a disconnect between legislation, the Department's intention and expectation, wider expectation and interpretation, and the capacity of the system. We do not think that the issuing of non-statutory guidance when the statutory Code of Practice exists, is helpful given this adds further ambiguity to a system that we hear is already unclear. We would expect this to be addressed when the Department reviews the Code of Practice.

60. However, we are unconvinced that a review of guidance alone will solve the challenges that are in this area. Colleges need more funding, which we have addressed in our school and college funding report, and we hope that with an increase in funding, colleges will be better able to meet the needs of young people with SEND. We would hope that with more standardisation of the local authority's processes and paperwork, colleges would have a reduced bureaucratic burden which would mean they could increase their focus on meeting needs. We would hope that an independent review of the role of the SENCO in schools and colleges would also help to increase the specialist support that is available in FE colleges.

61. The 2014 reforms were not just about education. We are particularly concerned to hear that there is a lack of support and development for wider outcomes than just education and employment opportunities.<sup>80</sup> We heard a significant amount of evidence, particularly from children and young people, about the importance of their support addressing their life goals and future plans. We were disappointed to hear that these important aspects of children and young people's lives were not suitably addressed in the support and plans for children and young people with SEND.<sup>81</sup>

**62. *More needs to be done to include children and young people in the writing of their Plans and decision-making about the support they receive. The Department for Education's SEND review should identify best practice for including all children and young people's views in the support that they receive for their SEND. The recommendations and actions from the review should ensure that there is greater support for professionals to enable them to include their views and ensure they are central to the process.***

63. While in some areas there are projects like supported internships or apprenticeship opportunities that allow young people to gain employment experiences and ultimately employment, there are not sufficient opportunities to meet demand. We are specifically concerned to hear that many young people are ineligible for help because they do not have an Education Health and Care Plan.<sup>82</sup>

64. Our report *The apprenticeships ladder of opportunity: quality not quantity* found that extra support for apprentices with learning difficulties and disabilities is not well understood and employers are wary of recruiting them. It also found problems with

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79 See Part 2 for a fuller discussion of these issues

80 See Part 2 for a fuller discussion of these issues

81 See paragraph 162

82 See paragraph 201



Access to Work.<sup>83</sup> We recommended that the Equalities and Human Rights Commission should conduct a review into participation rates and suggest changes to inform practice and policy. It is clear that the problems we identified in this report remain the same, and we are disappointed that this is the case. We note that the Government committed to increasing apprenticeship starts by underrepresented groups by 2020, but the majority of the Government response to this recommendation focused on increasing gender and ethnic diversity among apprentices.<sup>84</sup> We are concerned that the Government is failing to sufficiently grapple with challenges facing young people with SEND in relation to apprenticeships.

65. The ambitious zeal of the Green Paper has faded, and we are seeing too much wasted potential. The Department for Education, and the country as a whole, is not ambitious enough for its young people with SEND. A lack of focus by the Department on quality post-16 provision and opportunities for young people with SEND perpetuates this lack of ambition and impacts on the routes that young people are taking post-16. Unless there is a greater focus on supporting young people into meaningful and sustainable employment and independent living opportunities, we are letting down an entire generation of young people, putting greater pressure on the benefits and adult social care system, and creating long term costs that are unnecessary and unpalatable.

66. *The Department for Education, the Department for Health and Social Care, the Department for Work and Pensions and the Ministry for Communities, Housing and Local Government should establish a ministerial-led cross-departmental working group, with representatives from the private sector, to develop and oversee a strategy to develop sustainable supported internship, apprenticeship and employment opportunities for young people with SEND. This taskforce should report regularly to the Education Committee on its work and strategy implementation.*

67. *The Department for Education, in partnership with the Department for Health and Social Care, the Department for Work and Pensions and the Ministry for Communities, Housing and Local Government, should review the capacity of local authorities to meet the independent living needs of young people with SEND. It should develop a shared action plan, setting out how it will increase capacity and opportunities as necessary and stimulate the market to enable all young people with SEND to live as independently as possible as adults.*

68. *We recommend that the Equality and Human Rights Commission conducts a monitoring review of apprenticeship participation by gender, ethnicity and by people with learning difficulties and/or disabilities every three years. Each review should recommend changes to improve Government policy and employer practice.*

## Working together

69. The absence of a full contribution from those responsible for health and social care has put further pressure on the system and that increased pressure has hindered its capacity to work as it was meant to. Other aspects of the reforms involving health and

83 Education Committee, Sixth Report of Session 2017–19, [The apprenticeships ladder of opportunity: quality not quantity](#), HC 344, paras 84 and 86

84 Education Committee, Seventh Special Report of Session 2017–19, [The apprenticeships ladder of opportunity: quality not quantity: Government Response to the Committee's Sixth Report of Session 2017–19](#), HC 1814, para 25



social care have also not worked.<sup>85</sup> It almost seems inevitable that trying to merge two systems would lead to the situation that currently exists—health professionals focusing on their own health priorities and targets and problems accessing therapies when there are pressures on waiting lists and staff. We were pleased to hear about the success of the Designated Medical Officer/Designated Clinical Officer but are concerned that not all local authorities have one, five years after the Act was commenced.<sup>86</sup>

**70. *Government should bring forward legislative proposals to place the role of the Designated Medical Officer/Designated Clinical Officer on a statutory footing at the earliest opportunity.***

71. Unless there is a specific person to co-ordinate the different systems, input from health and social care will remain reliant on parents or individual professionals. We expect that a co-ordinator role, working with families and with responsibility of co-ordinating needs assessments and reviews, would help to ease the challenges that we heard about regarding advice for assessments and arranging the correct attendance for review meetings, as well as helping to increase the number of outcomes that are focused on social care and health. However, the drive to overcome these barriers must come from the top. Rt Hon Anne Milton MP, the then Minister of State for Skills and Apprenticeships, told us that Government departments do not like working together, but should do so more:

Government departments are generally very bad at working together. It needs ministerial drive. Government departments do not like pooling resources because they always see this as a possibility for Treasury to cut the overall envelope. That might be the case, I don't know, but that is not a reason not to work together.<sup>87</sup>

The joint inspections by CQC and Ofsted go some way to show this joint working that should be done more often. We were heartened to hear about opportunities to learn from and disseminate best practice,<sup>88</sup> but we do not think that this is happening enough.

**72. *The duties on health providers were referenced as being hard-won in public bill discussions. We do not doubt that there must have been significant work behind the scenes to bring this duty into the Bill. However, we think that once this hard-won duty was indeed 'won', the Department's drive stopped and it relied on local authorities and their partners to maintain the momentum of joint-working and joint-commissioning.***

**73. *There is not sufficient emphasis on joint working within the Government. We recommend that the Department for Health and Social Care, NHS England, and the Department for Education should design an outcomes framework that local authorities and CCGs are held jointly responsible for, to measure the health-related delivery of support for children and young people with SEND. Ownership of these outcomes should belong jointly to CCGs and LAs, as well as the Department for Health and Social Care, NHS England and the Department for Education. Monitoring of this outcome framework should sit within central Government, not an inspectorate or regulator, to ensure consistent monitoring and the ability for the framework to be implemented effectively.***

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85 See Part 2 for a full discussion of these issues

86 [Q142](#) [Christine Lenehan]

87 Oral evidence taken on 23 July 2019, HC (2017–19) 341, [Q2557](#) [Anne Milton]

88 [Q462](#) [Professor Dunkley-Bent]; [Q453](#) [Nadhim Zahawi]



## A high quality and ambitious local offer

74. Advice and information are in short supply for parents, but also teachers and other professionals.<sup>89</sup> As the system bows under pressure, advice becomes in short supply and the system is difficult to navigate. As services fail to deliver, distrust of professionals grows, and advice is sought elsewhere. We hope that a co-ordinator role will help parents and carers to navigate the Education Health and Care needs assessment and review processes and help to remove the pressure on parents and carers to become legal experts. We also hope that a dedicated SENCO, removed from additional workload pressures, will also be able to provide greater support and advice to teachers and parents. We want to see local authorities as supportive allies and providers of honest information, not as adversaries, but we acknowledge that this will take time.

75. The local offer was seen as a solution to the problem of disparate information and services and as an important source of support for children without Education Health and Care Plans. However, we are concerned that the local offer appears to be difficult to create and difficult to use, and in some cases the content of the local offer is at the discretion of the local authority.<sup>90</sup> We asked the then Minister for Children and Families about the quality of the local offer. He explained to us that where it is done well, it delivers better outcomes:

Why? Because if it is taken seriously and looked at as part of the assessment of that local authority, they can take advantage, for example, of our free special schools programme to build additional capacity if they need it. Also, if parents feel confident that their schools, their local authorities and their health professionals are all engaging, then they will feel that their children are getting what they need, not otherwise.<sup>91</sup>

76. We are not persuaded that these better outcomes are in line with the original intention behind the local offer, although these outcomes are themselves laudable. The then Minister for Children and Families was keen to remind us of local authorities' statutory duty to consult with children, young people and their parents and carers on the local offer.<sup>92</sup> He also told us that CQC and Ofsted look at the local offer as part of their inspections.<sup>93</sup> The Department also told us in written evidence that it expects "the quality of Local Offers and their use by families to improve over time; particularly as a result of the accountability provisions built into the legislation (i.e. the need for co-production)."<sup>94</sup> However, the duty to consult does not necessarily result in the delivery of a product that works for parents and carers, and we do not think it should be used as an accountability measure. We were pleased to see that the Department told us that "[w]e believe strongly that the Local Offer is far more than just a directory of local services and provision. We continue to encourage local authorities to use the Local Offer as a way of informing their decisions over future commissioning of provision."<sup>95</sup> The responsibility of Ofsted and CQC to inspect the local

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89 See Part 2 for a full discussion of these issues

90 See Part 2 for a full discussion of these issues

91 [Q862](#)

92 [Q797](#); [Q807](#); [Q830](#)

93 [Q863](#)

94 Department for Education and Department for Health and Social Care ([SCN0701](#)) para 2.1b

95 Department for Education and Department for Health and Social Care ([SCN0701](#)) para 2.1b



offer is important, but we are concerned that the Department's arms-length inspection regime has enabled the policy aims to become confused and Ministers to lose sight of the intentions and ambition of the local offer.

**77. We agree with the Minister that co-production of the local offer is a positive thing. However, we are concerned that in many cases this is only symbolic and is used to suggest that parents endorse the local offer. We are concerned that Ministers are confused by the local offer's aims and intentions and are concerned that the ambition of the local offer has been severely diminished. The lack of heed taken to the warnings during the legislative scrutiny process has resulted in the failure of the aspirations of this policy to be realised: instead, they remain where they started—in the words of a Green Paper and the hopes of parents and young people.**

**78. *The Department should ensure that local authorities are producing local offers that are in line with the original intention of the local offer, and also demonstrate leadership and a grip on their obligations, including co-production, innovation, interactivity and accessibility. We also recommend that the Department for Education and the Department for Health and Social Care jointly conduct biennial reviews of each local authority's offer to ensure that the Departments take central oversight of both policy intention and delivery. These reviews should be done in collaboration with children, young people and their parents and carers.***

**79. *The Department should map provision available through each local authority's local offer, identifying lack of provision available to children and young people with SEND and set out a plan for ensuring that all local authorities, through their local offers provide a minimum level of provision.***

## Back to the future

80. We are disappointed that Robert Buckland's fear came to pass, and parents are still relied on to self-police the system.<sup>96</sup> We heard repeatedly from parents who were forced to take a case to Tribunal in order to get appropriate support, navigate and exhaust a local authority complaints system before being able to take their complaint to the Local Government and Social Care Ombudsman, and in some cases judicially review the local authority, and in one case the Government.<sup>97</sup> We heard countless examples of local authorities not meeting their statutory duties,<sup>98</sup> and of schools deliberately or otherwise off-rolling, excluding and even discouraging parents from sending pupils to their schools.<sup>99</sup> Many parents and carers are engaged in struggles with their LA. Some of these struggles are by-products of the challenges of the current system, which has led to the experience of an acutely adversarial system. In some local authorities this is particularly problematic, with a minority having acted appallingly, against both the spirit and the letter of the law.

81. We do not think that as a concept Tribunals themselves are unnecessary or a waste of money. There has to be a way to appeal decisions, bring test cases and ensure the correct balance of individual needs and the public purse. However, we are extremely concerned by the numbers of cases going to Tribunal, and the potential number of cases that are

96 See paragraphs 124 and 125

97 See paragraph 13

98 See for example paragraphs 156 and 158

99 See paragraph 124



unable to go to Tribunal because of bureaucratic delays and mistakes. But we must help people learn from these poor experiences, particularly as local authorities face increasing pressures.

*82. The Ministry of Justice should, as part of its reporting on SEND Tribunal cases, publish a yearly digest, setting out relevant trends and information to enable local authorities improve their service and ensure they are making lawful decisions. This should include information that assists with public accountability and scrutiny against performance.*

**83. These adversarial experiences are the products of poor implementation, the inability to access the right support at the right time, and services struggling with limited resources. We were warned: Parliament was told that if the reforms were not done properly, the system had the potential to become more adversarial. Not enough was done to prevent this happening. We have a system of unmet need and strain. This unmet need is creating poor broader experiences, for children, young people and their families, schools, colleges and local authorities.**



## Part 2: Our evidence

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84. We have tried to set out the story as we have heard it. Part 2 contains our evidence from which we drew our conclusions, set out in Part 1. It sets out many of the issues that we heard about, either through written or oral evidence. Throughout our inquiry we tried to give voice to everyone who had experience of the system, from young people and their families to those working in local authorities. Like the other parts of this report, it can be read separately and independently. While we expect that many people will focus on the first part of our report, we hope that people will also read Part 2, as it touches on experiences and challenges that are not necessarily discussed within Part 1.



# Implementation

## The wider world

85. The Children and Families Act 2014 became law at a time when the country was still feeling the effects of the financial crisis, with savings being made across local and national governments. We took evidence from Stephen Kingdom, Campaign Manager at Disabled Children's Partnership. He was the lead official on the special educational needs and disability reforms at the Department for Education between 2011 and 2014. He told us:

The wider environment in which the legislation was introduced was the hardest and worst time to do it, but the alternative of not doing it would have been even worse.<sup>100</sup>

This was echoed by Brian Lamb, Chair of the Inquiry into Parental Confidence in SEN, who told us that there was a momentum behind the reforms, and that had the reforms not been introduced at that time, both momentum and possible legislative space would have been lost.<sup>101</sup>

86. The 2014 reforms were brought in and implemented while the education sector was grappling with wide-ranging reforms. These reforms affected schools' finances, curricula and structures:

- The Coalition Government consulted in 2011 on funding reforms, resulting in the School Finance (England) Regulations 2012, followed by a further consultation in 2012 which included proposals to split the Dedicated Schools Grant into three notional blocks: schools, early years and high needs.<sup>102</sup> The Pupil Premium was introduced in 2011, providing extra funding for pupils who qualified for free school meals and children who had been looked after for more than six months, followed by the Pupil Premium Plus in 2015.
- In 2010, the Government announced its intention to introduce phonics checks for year one pupils,<sup>103</sup> and the Ebacc in secondary schools.<sup>104</sup> A new national curriculum was published in 2013, with most of the new curriculum coming into force and to be taught to pupils in 2014.<sup>105</sup> In 2013, it was announced that GCSEs would be reformed into linear qualifications with terminal examinations, that the division between higher and foundation tiers would be abolished, with both reforms to be phased in from 2015, alongside a new grading system.<sup>106</sup> A-levels were also reformed from 2015, features of which were the de-coupling of AS-levels and A-levels, and assessment taking place at the end of the course.<sup>107</sup>

100 [Q35](#)

101 [Q35](#)

102 *School funding: annual settlements under the Coalition Government*, Standard Note [06701](#), House of Commons Library, August 2013, pp 5 and 8

103 Department for Education, '[Reading at an early age the key to success](#)' accessed 29 August 2019

104 *English Baccalaureate*, Standard Note [06045](#), House of Commons Library, p 4; The Ebacc is a performance measure for schools. Schools are measured on the number and performance of pupils in maths, English language and literature, the sciences, a language and either history or geography at GCSE.

105 HC Deb, 12 September 2013, [col 54WS](#)

106 *GCSE, AS and A Level reform*, Standard Note [06962](#), House of Commons Library, March 2017, p6

107 *GCSE, AS and A Level reform*, Standard Note [06962](#), House of Commons Library, March 2017, p14



- Education policy also saw a push towards academisation and the compulsory academisation of schools where a school was judged inadequate by Ofsted (or where certain other conditions were met that relate to warning notices). The number of free schools increased, with more than 400 free schools approved for opening in England between 2010 and 2014, which is the equivalent of more than 200,000 new school places across the country.<sup>108</sup>

87. The implementation of these policies has seen perhaps unintended consequences—the creation of free schools and academies meant that the Department for Education introduced new rules that have meant that local authorities are, in most circumstances, unable to plan or build new maintained schools and local authorities are unable to direct an academy or free school to expand. In our report *Forgotten Children: alternative provision and the scandal of ever increasing exclusions* we set out how we had heard that the accountability system of Progress 8 and the focus on Ebacc subjects were a major factor in off-rolling and an incentive for exclusion.<sup>109</sup>

88. The education sector was not the only sector feeling the pressure of change and the lingering effects of the financial crisis. The NHS and adult social care sectors were also facing challenges, which then impacted on the support that they could provide to children and young people with SEND. Health conditions and SEND often overlap, and waiting times for diagnoses can affect educational experiences and outcomes. In 2013, NHS England said that it faced a funding gap of £30 billion by the end of the decade,<sup>110</sup> and in 2016 the National Audit Office reported that savings of £14.9 billion needed to be made by NHS trusts, NHS foundation trusts and clinical commissioners by 2020–21 to close the funding gap between the needs of patients and the resources available.<sup>111</sup> The Government announced a five year funding plan for the NHS in 2018, setting out that by the end of five years, the NHS would receive an increase in funding of £20.5 billion per year.<sup>112</sup>

89. Local authorities were also facing cuts and increasing pressures on their services. Since 2010, the number of children in care has been steadily rising and the pressures on adult social care has been increasing. The Local Government Association has announced that councils face a £3.1 billion funding gap for children's services by 2025.<sup>113</sup> Staffing in local authorities has been affected: the number of educational psychologists employed by local authorities dropped 13% between 2010 and 2015.<sup>114</sup> Meanwhile, the adult social care sector also faces a funding gap.<sup>115</sup> It is still awaiting the adult social care green paper, delayed from summer 2017, with its current status unknown, but it has been reported that the green paper has been scrapped, to be replaced by a white paper in the autumn.<sup>116</sup> In

108 Department for Education, '[Unprecedented number of new schools opened since 2010](#)', accessed 29 August 2019

109 Education Committee, Fifth Report of Session 2017–19, *Forgotten Children: alternative provision and the scandal of ever increasing exclusions*, HC 342, paras 29–31

110 NHS England, *The NHS belongs to the people: a call to action* (July 2013), p15

111 National Audit Office, *Financial Sustainability of the NHS*, Session 2016–17 HC 785, 22 November 2016, p4

112 Department for Health and Social Care, '[Prime Minister sets out 5-year NHS funding plan](#)' accessed 30 August 2019

113 Local Government Association, '[Children's services funding - facts and figures](#)' accessed 30 August 2019

114 '[Educational psychologists stripped from schools](#)', Schools Week, 28 January 2017

115 Local Government Association, '[Council tax will fail to protect adult social care services this year](#)' accessed 30 August 2019

116 *Adult social care: the Government's ongoing policy review and anticipated Green Paper (England)*, Briefing paper CBP-8002, House of Commons Library, p32; '[Boris Johnson set to pledge billions for new hospitals and social care](#)', Financial Times, 30 July 2019



June 2018, the Housing, Communities and Local Government and Health and Social Care Committees wrote in their joint report, *Long-term funding of adult social care*, that the social care system is “not fit to respond to current needs, let alone predicted future needs”.<sup>117</sup>

## Implementation grant

90. The Government recognised that the changes to the SEND system were significant and required not only a change in legislation, regulation and guidance, but also considerable investment in provision and staffing in order to create the necessary culture and conditions for the reforms to be delivered successfully. To that end, the Department for Education allocated at least £550 million to the implementation of the reforms,<sup>118</sup> and is spending a further £300 million on the SEND system.<sup>119</sup> More specifically, the Department issued £223 million in the form of five distinct SEND reform grants to local authorities between April 2014 and March 2018, followed by an additional £29 million in the financial year 2018–19.<sup>120</sup> Matt Keer, a parent of two deaf young people and blogger for Special Needs Jungle, conducted analysis of local authority spending of the Department’s grant money using data collected from over 300 FOI response documents and 8,370 line items of collated council expenditure.<sup>121</sup> From this analysis, we heard that by the spring of 2016, at least £483 million had been spent by the Department:

This included nearly £17 million spent on the SEND Pathfinder pilot process that ran from 2011 to 2015, and £465 million allocated in payments to (and through) local authorities to implement the SEND reforms through to the 2016–17 financial year. Since then, the DfE has injected around £70–120m of further funding into the SEND reform implementation process from early 2016 through to the end of the 2017–18 financial year.<sup>122</sup>

91. However, we heard that the grant money distributed to local authorities, deemed necessary to implement “the biggest changes to the SEN system since [ ... ] 1981”,<sup>123</sup> was disbursed out with relatively little oversight, accountability or guidance.<sup>124</sup> We were told that local authorities’ use of the money included hiring staff to work on the conversion of Statements to EHCPs and external firms to write EHCPs and the increasing of specialist staff, although it was suggested that predominantly temporary workers and agency staff were employed.<sup>125</sup> We also heard that very little was spent on training staff for the incoming reforms. Matt Keer told us:

For a grant that was delivered to enable system change, it appeared that a surprisingly small percentage was spent on training. Out of £140 million of spending over four years, we were able to track 1.5%—£2.3 million was spent on training. That was for a system that required one part of a new Act

117 Health and Social Care and Housing, Communities and Local Government Committees, First Joint Report of the Health and Social Care and Housing, Communities and Local Government Committees of Session 2017–19, *Long-term funding of adult social care*, HC 768, p 3

118 Matt Keer (SCN0167) para 1

119 Matt Keer (SCN0167) para 6

120 Matt Keer (SCN0167) para 21

121 Matt Keer (SCN0167) para 31

122 Matt Keer (SCN0167) para 17

123 Q773 [Dr Imich]

124 Matt Keer (SCN0167) paras 23–24

125 Matt Keer (SCN0167) paras 32–34 and 58



of Parliament, two Statutory Instruments, a 300-page code of practice and various ways in which the administration of SEND and the understanding of new statutory responsibilities had to be delivered.<sup>126</sup>

92. We asked the Department for Education about the accountability for the implementation grant. Dr Imich, SEN and Disability Professional Adviser, told us:

[ ... ] the ultimate accountability is, as the Minister says, in the outcomes from the inspections, because the intention behind that implementation grant was that they got the basic building blocks in place, they got the local offer in place, they got the new way of assessing children and creating education, health and care plans, they got new ways of working with health and social care in place and, most importantly, the transfer process of over 225,000 statements within a four-year period. That money was designed to help that process along.<sup>127</sup>

93. Change was happening on an immense scale. Significant amounts of money were being poured into a system in order to effect this change. However, the scale of the changes appears not to have been met with the oversight to ensure that the resources were appropriately directed to ensure that local authorities and their partners were able to meet their statutory duties when they came into force. And fundamentally, if the inspection outcomes of local authorities that we cover later in this report were the ultimate test of accountability, the Department's approach was inadequate.

## Legislation

94. The legislative process began on 4 February 2013 with the first reading of the Children and Families Bill. By the time the Bill received Royal Assent on 13 March 2014, thirteen months had passed and many parliamentarians, organisations, parents and carers had scrutinised the Bill as it made fundamental changes to the SEND system in England.

## *Transition from Statements to Education Health and Care Plans*

95. Education Health and Care Plans replaced Statements of SEN (Statements) and Learning Difficulty Assessments (LDAs). Local authorities were working to the deadline of 1 April 2018 for all Statements and LDAs to be transitioned over to EHCPs. However, this deadline was not met by all local authorities, and even when it was, we were told that the quality of many of the plans was poor.<sup>128</sup> Some were copied and pasted; some did not have needs assessments undertaken; some did not have health or social care input; and many resulted in parents taking the local authority to court. This was attributed in written evidence submissions to the fact that local authorities were simply being measured against a deadline with no regard to quality. It appeared that some local authorities were expecting to rewrite recent Education Health and Care Plans.<sup>129</sup> We heard how the lack of

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126 [Q49](#) [Matt Keer]

127 [Q772](#)

128 See paragraph 136

129 Nottinghamshire County Council ([SCN0484](#)) para 15



standardisation meant that local authorities had to develop their own ways of working, and this has meant that schools and colleges have had to deal with variations of bureaucracy, templates and processes.<sup>130</sup>

### **SEN Support**

96. SEN Support combined School Action<sup>131</sup> and School Action Plus,<sup>132</sup> addressing a need expressed in the Public Bill Committee to focus less on the labels a child is given and ensure a greater focus on outcomes.<sup>133</sup> It could be argued that the intention was to reduce the number of children who were labelled as having special educational needs, with the then Minister for Children and Families, Edward Timpson, telling the Public Bill Committee:

The Lamb inquiry and the Ofsted report of 2010 clearly showed that the current two-category school-based SEN system was not working as well as it should; in particular, about 50% of children identified as requiring School Action would not, if they had been provided with the right support earlier, have fallen into that category.<sup>134</sup>

However, this idea was refuted, and Sharon Hodgson MP, the then shadow Children and Families Minister told the Committee:

I am also pleased and reassured to hear the Minister say that this is not about getting rid of School Action and School Action Plus. It is not about suppressing the numbers of children and young people identified as having an SEN, which was one of the early worries. Some of the maybe misguided press at the time hinted that that was what the Green Paper and ultimately the legislation would be about. I was pleased to hear the Minister say that it is about ensuring that needs are assessed and then ultimately met. We are in total agreement with him and hope the Bill will achieve that.<sup>135</sup>

97. There was a discussion in the Public Bill Committee about the best way to support pupils who would receive SEN Support level interventions,<sup>136</sup> with questions raised about ensuring that pupils still have access to specialist external interventions that they would get under School Action or School Action Plus.<sup>137</sup> The then Minister for Children and Families explained that the local offer was intended to help enable parents to access specialist help.<sup>138</sup> Evidence to our inquiry suggested however, that this, and other reforms, had not been sufficient to ensure that the needs of children who do not have an Education Health and Care Plan (EHCP) are fully met.

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130 See paragraph 143

131 The 2001 [Special Educational Needs Code of Practice](#) set out that a child receiving School Action support was receiving interventions that were “additional to or different from those provided as part of the school’s usual differentiated curriculum offer and strategies.”

132 A child receiving School Action Plus support was receiving support from external agencies.

133 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Col 3 [Mr Timpson]

134 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Col 3 [Mr Timpson]

135 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 16 April 2013 (afternoon), Col 564

136 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Cols 53–54 and 56–57

137 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Cols 5–6 [Bill Esterson]

138 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Col 6



98. The implementation of Education Health and Care Plans impacted on the ability of teachers and other professionals to meet their needs. Schools told us that Special Educational Needs Co-Ordinators (SENCOs) and other staff were being taken away from supporting children in school and advising teachers in order to focus on the EHCP transfer process;<sup>139</sup> educational psychologists and other support, including speech and language therapists, were focusing on undertaking needs assessments and the EHCP process as opposed to providing specialist support and advice to pupils who need it;<sup>140</sup> and local authorities were diverting their resources into the transfer from Statements to EHCPs and fighting tribunal cases, as opposed to providing guidance and support for pupils at SEN Support level.<sup>141</sup>

## Post-19

99. One of the biggest reforms was the expansion of support for young people with SEND beyond school, particularly the extension of Education Health and Care Plans to young people up until their 25th birthday.<sup>142</sup> This was a fundamental change, ending Learning Difficulty Assessments,<sup>143</sup> and rolling out EHCPs to students in further education, apprenticeships or other training. However, this seems to have been one of the biggest sticking points of the reforms. We were told by local authorities and other individuals and organisations that this had not been adequately funded,<sup>144</sup> or was even unfunded.<sup>145</sup> The Department for Education disagreed, telling us that in fact it had been funded, by £272 million being added to the high needs funding block in 2013–14, and £390 million in 2014–15. We were told that the increase in the two financial years was then amalgamated in the funding baseline that informed the spending review settlement in 2015, and the successive distributions of high needs funding from 2015–16.<sup>146</sup>

100. While the reforms have been broadly welcomed, we have heard that they were imposed on the further education sector without proper care and consideration, with one submission suggesting that needs of 16–25 year olds “frequently appeared to be an afterthought during the drafting of the legislation and the code of practice, despite this being a vital stage in any young person’s life.”<sup>147</sup> The extension of support to 25 was debated in Public Bill Committee, where the Minister told the Committee that the Government was “not creating a statutory entitlement to education until the age of 25 for young people with SEN [ ... ] because doing so would not be in the best interests of many young people with SEN who, like their peers, want to complete their education and progress into adult life and work.”<sup>148</sup> This intention was repeated in the Department’s non-statutory guidance

139 See paragraph 140

140 See paragraph 145

141 See paragraph 149

142 The Children and Families Act 2014 states that a local authority may continue to maintain an EHC plan for a young person until the end of the academic year during which the young person turns 25.

143 LDAs were issued to students under 25 who were either in or about to enter post-16 education and who the LA judged as being likely to need additional support and would benefit from an LDA.

144 Steve Haines (SCN0650) para 9;

145 Q97 [David Clarke]; IPSEA, *IPSEA’s response to the Education Committee’s Special Educational Needs and Disability Inquiry* (June 2018), para 7.3; Mr Simeon Elliott (SCN0059) paras 1 and 4.1; East Sussex County Council (SCN0416) para 5.1; Telford and Wrekin Council (SCN0429) para 6.1; Warwickshire County Council (SCN0479) para 22; Herefordshire Council (SCN0509) para 4.1; Mr Paul Silvester (SCN0198) para 2.3; Coventry City Council (SCN0394) para 4.3

146 Correspondence from Rt Hon Nick Gibb MP, Minister of State for School Standards and Nadhim Zahawi, Parliamentary Under-Secretary of State for Children and Families, June 2019, p1

147 Royal National College for the Blind (SCN0502) para 11.1

148 PBC (Bill 131) 2012–2013, Children and Families Bill, 16 April 2013 (afternoon), Col 532



*SEND: 19 to 25-year-olds' entitlement to EHC Plans* which states that the “majority of young people with EHC plans complete further education with their peers by age 19, and our expectation is that this will continue. However, we recognise that some young people with SEND need longer to complete and consolidate their education and training.”<sup>149</sup>

101. This position is further reinforced in the Code of Practice, which states that while young people with SEND might need longer in education and to make a good transition to adulthood “this position does not mean that there is an automatic entitlement to continued support at age 19 or an expectation that those with an EHC plan should all remain in education until age 25.”<sup>150</sup> However, we were told that “[t]he non-statutory guidance that has been published to date is being relied upon by local authorities as creating a presumption that EHC plans for those aged 19 to 25 are the exception rather than the rule. Of course, that is not what the law requires, so there should be greater clarity on that.”<sup>151</sup>

102. We also heard criticism that outcomes can often be too focused on education,<sup>152</sup> that progression is often seen as academic achievement and progress from level to level, even though for some students their success lies in maintaining their ability.<sup>153</sup> Dame Christine Lenehan, Director of the Council for Disabled Children, told us that there is a lack of clarity around what an educational outcome looks like:

The whole issue about what an educational outcome looks like for a 22-year-old is not clear. The Code of Practice on this is not clear.<sup>154</sup>

103. Unfortunately, it appears that infrastructure did not meet aspiration. Along with higher aspirations of support for young people who needed it beyond the age of 19, we heard that the reforms brought an increase in students, assessments, paperwork, bureaucracy and needs to be met.<sup>155</sup> We heard conflicting accounts about how prepared the further education sector was for the reforms. Di Roberts, chair of the Association of Colleges' SEN group, told us that the Association of Colleges had been consulted at an early stage.<sup>156</sup> In contrast, Imogen Jolley, Head of Public Law at Simpson Millar, told us that the reforms were sprung upon the further education sector, with no additional support or resources.<sup>157</sup> In 2015, colleges were also bearing the additional burden of the increase in students brought about by the requirement that all young people are in learning or training until their 18th birthday.<sup>158</sup> Perhaps as a result of this lack of infrastructure and preparation, we heard that students were experiencing part-time timetables, a lack of opportunity to do the classes and subjects of choice, and a lack of opportunity to undertake supported internships, apprenticeships and other employment opportunities.<sup>159</sup>

149 Department for Education, '[SEND: 19- to 25-year-olds' entitlement to EHC Plans](#)' accessed 30 August 2019

150 Department for Education and Department for Health, [Special educational needs and disability code of practice: 0 to 25 years](#), (January 2015), para 9.151

151 [Q598](#) [Alison Fiddy]

152 See paragraph 192

153 [Q297](#) [Pat Brennan-Barrett]

154 [Q167](#)

155 See paragraph 143 and 189

156 [Q293](#)

157 [Q595](#)

158 This was brought in through the Education and Skills Act 2008.

159 See paragraph 198



104. Debbie Jones, the then President of the Association of Directors of Children's Services and Director of Children's Services at the London Borough of Lambeth, warned the Public Bill Committee that there were a number of issues that needed to be dealt with, including the rise in participation age and the fact that many of the young people who were previously not in education or training were more likely to have special educational needs than those already in education, and the transfer of the responsibility for the funding of FE to local authorities:

There is a number of issues. The simple answer is yes, [the amount of FE funding] is a major and critical concern for us, and it is one that we have taken up with the Education Funding Agency and the Department for Education. The money that has transferred is obviously based on lag numbers, and there is a number of queries about data. In relation to the raising of the participation age and the identification of need that colleagues have already expressed, immediately, before we even pass 'Go', there are likely to be significant difficulties. This area, the whole area of funding in general and the issue of the very complex arena of funding for pre-16 and post-16 are things that all agencies are particularly concerned about. We have made that clear to the Department for Education and to Ministers.<sup>160</sup>

We have also heard that while new legislation was created, other legislation has not been changed or joined up,<sup>161</sup> creating absurd situations like students unable to attend their specialist college because the transport costs have not been agreed.<sup>162</sup>

### Local offer

105. The 2011 Green Paper proposed that one of the ways parents could be given greater confidence was by giving them more control over the support available and more transparency in the provision of services. It proposed that local authorities and other services would set out a 'local offer' of all services available. The information would be easy to understand and would show what support was normally available in schools as well as the support for families who need extra help with caring for their child.<sup>163</sup> A lot of weight was placed on the local offer. Not only were there promises made in the Green Paper, but the Public Bill Committee was told that pupils without an EHCP would use the local offer to access support,<sup>164</sup> which seemed particularly important given the proposed changes to School Action and School Action Plus. The Public Bill Committee was warned about the weaknesses of the proposed local offer, with some people concerned that the local offer was only about signposting.<sup>165</sup> Concerns were also expressed by Srabani Sen, the then chief executive of Contact a Family, about the lack of duty on local authorities

160 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 7 March 2013 (afternoon), Col 144

161 For example, the Education Act 1996 (s 508G) refers to Learning Difficulties Assessments for post 16 pupils, and LDAs no longer exist. Imogen Jolley told us in correspondence that "The Education Act 1996 (as amended by the Education Inspections Act 2006 and the Apprenticeship, Skills, Children and Learning Act 2009)) still governs transport for compulsory school age pupils and post 16 students. There is a 'gap' in relation to defined arrangements for some 16–19 year olds that has not been addressed that allows LAs to decide on what transport they will put in place". (Imogen Jolley ([SCN0720](#)))

162 [Q584](#) [Imogen Jolley]

163 Department for Education, *Support and aspiration: A new approach to special educational needs and disability*, [Cm8027](#), March 2011, p5

164 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Cols 47– 8 [Srabani Sen], 52 [Brian Lamb], 56–7 [Jane McConnell]

165 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 48 [Bill Esterson and Srabani Sen]



to provide the services listed in the local offer<sup>166</sup> and Wendy Lee, Professional Director at The Communication Trust, called for “a minimum standard nationally for the common framework for the local offer”.<sup>167</sup> Indeed, the Public Bill Committee was told that the pathfinders’ local offers had only been directories of information, with nothing set out about expectations of schools.<sup>168</sup>

106. It appears that the warnings about the local offer came to pass. Brian Lamb told us that:

One of the mistakes when the local offer was introduced—I am a great fan of the local offer—was that there were not enough accountability measures in it to hold authorities to account when they did not do that joint commissioning and joint planning. What we need is more accountability within those measures. I think the local offer is great.<sup>169</sup>

We were also told that local offers were not delivering what they were meant to, that they had substantially changed since they had been first produced, or that it was more useful to use generic search engines than the local offer.<sup>170</sup> We also heard criticism that even though services were listed on the local offer, access to services were sometimes limited or non-existent.<sup>171</sup> Janine Cherrington, Head of Service at Transition2, felt that “the foot has been taken off the pedal of the local offer particularly”,<sup>172</sup> and that the aspiration that had been promised through the Green Paper had not been delivered.<sup>173</sup>

### *The role of health and social care*

107. The Children and Families Act 2014 introduced a joint commissioning duty,<sup>174</sup> and enabled and required health providers to bring pre-school children with a possible special educational need to a local authority’s attention.<sup>175</sup> Regulations required local authorities to seek advice and information from a health care professional and about social care.<sup>176</sup> The legislation also created a duty to arrange the health care provision element of an EHCP, which the Minister for Children and Families told the Public Bill Committee:

requires clinical commissioning groups to provide the medical elements—the health elements—within the education, health and care plan, and for those to be in the plan, clearly there must have been an assessment of the clinical need for those health and medical interventions. So it fits in with the NHS constitution, but it places an additional duty to ensure that the provisions within the plan for health are provided, having been assessed as being a clinical need.<sup>177</sup>

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166 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Cols 47–8

167 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 73

168 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 57 [Jane McConnell]

169 [Q31](#)

170 See paragraph 208

171 See paragraph 216

172 [Q299](#)

173 [Q299](#)

174 Children and Families Act 2014, [section 26](#)

175 Children and Families Act 2014, [section 23](#)

176 Special Educational Needs and Disability Regulations 2014 ([SI 2014/1530](#))

177 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (morning), Col 3; This resulted in s. 42(3) of the Children and Families Act 2014.



108. This duty was announced in a letter sent by the Minister for Children and Families on 4 March 2013 and was welcomed in the Public Bill Committee the following day. One witness remarked on the hard work that must have gone on behind the scenes to make it happen.<sup>178</sup> However, the London Borough of Hackney told us that partner agencies did not receive any additional funding to “respond to the pressures and expectations of the SEND Reform.”<sup>179</sup> It also told us that in its experience health and social care professionals did not fully understand what their respective roles and responsibilities were or have the necessary infrastructure to cope with the EHCP transfer process.<sup>180</sup>

109. While aspects of the legislation were welcomed, the Public Bill Committee also heard concerns. Jane McConnell, the then chief executive of IPSEA (Independent Provider of Special Education Advice) criticised the notion of an Education Health and Care Plan:

I know that this morning the Minister talked about duties on health. When we get the details of that and we have looked at it, we may have an education and health plan, but I suspect that at the moment, if this Bill and this plan were put under the Trade Descriptions Act, for instance, the Government would be liable to a successful prosecution for calling it an education, health and care plan when it is not; it is an education plan at the moment. Our call to the Government is to be transparent about this. Is it a genuinely joined-up plan that goes across all three aspects of a child's life, or is it still an education plan, very similar to the system that we have at the moment? I think that until we address that properly, you will always have issues with parents thinking that they are going to get one thing and something different being delivered under the Bill.<sup>181</sup>

110. This has been substantiated by our inquiry, as despite the hard work, we were told that in reality health and social care are still not equal partners in the process. We have heard that local authorities were not requesting input for assessments and where they were they often did not get a response and health staff are not attending reviews.<sup>182</sup> We have been told that there continued to be disagreements about who provides speech and language provision, despite clear case law and the joint commissioning duties.<sup>183</sup> We heard that schools were paying for health needs to be met, and there was a lack of clarity about responsibilities.<sup>184</sup> We did not hear that health services were stepping in to support pupils who do not have an EHCP.<sup>185</sup> Amanda Batten, Chair of the Disabled Children's Partnership, told us that integration between the three areas was a crucial aspect of the reforms, but has not really happened. She said that she felt that cuts to health and social care were often unnoticed and unmentioned, and they were undermining the reforms.<sup>186</sup>

111. Social care appears to have followed a similar journey to health services. We heard that social care is rarely consulted, rarely ‘at the table’, and rarely joined up.<sup>187</sup> We were told that there are often poor transitions between children's and adult social care. We

178 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Cols 46–7 [Christine Lenehan]

179 London Borough of Hackney ([SCN0422](#)) para 2.3

180 London Borough of Hackney ([SCN0422](#)) para 2.2

181 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 53

182 See paragraphs 165 and 184

183 See paragraphs 166 and 182

184 See paragraph 166

185 See paragraphs 130, 131 and 175

186 [Q165](#)

187 See paragraphs 164, 165 and 184



heard that the adult social care offer is often poor and not in line with the opportunities and support that are provided through the educational route of college and the benefit and safety net of an Education Health and Care Plan.<sup>188</sup>

112. Brian Lamb explained that the bodies responsible for delivering health and social care did not have the same level of accountability as local authorities, and that was a reason why the health and social care aspects of the reforms are facing challenges. He said:

The challenge is simply that the protections in the education bit of the plan are quite unique across the whole system. My understanding of the debate at the time when there was an attempt to include this in the legislation was that health and social care will always resist because they feel if they have to do it for this particular group of children, they would have to do it for other people and it would extend across the system. That is the particular challenge there.<sup>189</sup>

Stephen Kingdom said that while there were obvious implementation issues he felt that “a good fist had been made of it”.<sup>190</sup> He explained that the laws around health and social care for disabled children were complex and not straightforward.<sup>191</sup>

113. The Minister of State for Care, Caroline Dinenage MP, told us that the situation across the country is much like the siloed working in Government. She said that growing collaboration and joint working between Clinical Commissioning Groups and local authorities was difficult.<sup>192</sup> When questioned the Minister reaffirmed her and her Department’s passion and commitment to getting this right. However, it appeared that the Minister and her Department were monitoring progress primarily through the Ofsted and CQC inspections, disseminating good practice, issuing guidance,<sup>193</sup> and hoping for the best.

## Accountability structures

### *Holding to account*

114. In March 2015, the Department for Education published a document entitled *Special educational needs and disability: supporting local and national accountability* which set out roles and responsibilities at local and national level.<sup>194</sup> The document also set out the measures of success of the SEND system. When the Ministers were questioned about how they were measuring the success of the SEND system, we asked about a range of ways that this may happen, including data capture of SEN appeals and outcomes and the number of EHCPs which are completed in time and the Minister for Children and Families gave us some data against these criteria.<sup>195</sup> However, some monitoring did not

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188 South East Region of National Network of Parent Carer Forums ([SCN0399](#)) para 13; Mrs Sarah Riley ([SCN0351](#)) paras 23 and 25; Sixth Form Colleges Association ([SCN0402](#)) para 24; Hampshire County Council Children’s Services ([SCN0452](#)) para 5.6

189 [Q32](#)

190 [Q32](#)

191 [Q32](#)

192 [Q415](#)

193 [Qq420–422](#)

194 Department for Education, *Special educational needs and disability: supporting local and national accountability (March 2015)*

195 [Qq787–789](#)



appear to be happening robustly, or being driven from the Department, as there had not been a national survey of parents and local authorities since 2016 and there was no plan for another one yet,<sup>196</sup> and the use of the Personal Outcomes Evaluation Tool was in use in some areas, but not all.<sup>197</sup> The then Minister for Children and Families also told us that the Department has:

a longitudinal study, the SEN Futures study, that we are effectively doing that evidence gathering. That is central versus local evidence gathering, which is required. It is a requirement that locally those consultations take place. Plus then you have the inspection regime, so there are several layers of accountability.<sup>198</sup>

115. However, we were disappointed with the answers to our questions about measuring the success of the SEND system and requested that the Ministers send further information to us following the evidence session. In response to our request, the then Parliamentary Under-Secretary of State for Children and Families wrote to us on 1 July 2019 setting out further information about the accountability measures that the Department was using.<sup>199</sup>

116. Accountability was a strong feature of discussion in the Public Bill Committee. Views were expressed that the reforms could remove the conflict from the system,<sup>200</sup> while others felt that it had the potential for the combative system to continue.<sup>201</sup> Witnesses to the Public Bill Committee expressed concern that someone needed to ensure that there was proper oversight of the system to ensure parity of provision across the country. On 5 March 2013 Di Roberts, Principal of Brockenhurst College, said:

Who will ensure that the legislation operates so that a young person in Yorkshire has the same level of provision and the same rules applied to them as a young person on the Isle of Wight? My real concern is that if we do not have someone with that overview, everything will end up going through the tribunal system and it could be overloaded. Someone must make sure that local authorities are doing this coherently and in a way that is fair across the provision.<sup>202</sup>

117. *Special educational needs and disability: supporting local and national accountability* was published in March 2015 and included information about inspections by the Care Quality Commission (CQC) and Ofsted that would independently assess the reforms, which had been given Royal Assent the previous year.<sup>203</sup> The inspection regime however appears to have been an afterthought. According to the document, advice was provided to the Department for Education by Ofsted and CQC in December 2014 on local areas' preparation for the SEND reforms, and it was after this information was provided that the then Parliamentary Under-Secretary of State for Children and Families, Edward Timpson asked Ofsted and CQC to inspect local areas' implementation of the new reforms.

196 [Qq790–791](#)

197 [Q793](#)

198 [Q799](#)

199 [Correspondence from Nadhim Zahawi MP, Parliamentary Under-Secretary of State for Children and Families, regarding follow-up information relating to evidence session held on Tuesday 21 May 2019, 1 July 2019](#)

200 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Cols 42–3 [Christine Lenehan]

201 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 42 [Srabani Sen]

202 PBC ([Bill 131](#)) 2012–13, Children and Families Bill, 5 March 2013 (afternoon), Col 79

203 Department for Education, [Special educational needs and disability: supporting local and national accountability](#), (March 2015), pp 14–5



Proposals were set to be put out to public consultation in the Spring of 2015 and two sets of pilots were proposed for late Spring and Autumn 2015.<sup>204</sup> Inspections began in May 2016, a full two years after the 2014 Act received Royal Assent.<sup>205</sup>

118. As of 11 October 2019, there have been 100 Local area SEND inspections with findings issued. To date, 50 local authorities have been told to write a Written Statement of Action (WSOA).<sup>206</sup> In 2016, 25% of local areas were instructed to write a WSOA. In 2017, 51% had to write one and in 2018 almost 60% of inspected areas had to submit a WSOA.<sup>207</sup> In 2017, Ofsted and CQC published *Local area SEND inspections: one year on*,<sup>208</sup> a summary of the first year of the SEND inspections, but unfortunately this has not happened for subsequent years.. Five local authorities, Bury Metropolitan Borough Council, Hartlepool Borough Council, Sefton Metropolitan Borough Council, Suffolk County Council and Surrey County Council, have all failed their re-inspections. This means that the Department for Education and NHS England became involved in supporting the local areas to improve. There has been criticism of this approach, with parents from Suffolk reportedly being refused access to meetings about next steps, and there are concerns that this reflects the Government's approach to co-production.<sup>209</sup> It took a further two years from the start of the inspection cycle for the Department for Education to announce that CQC and Ofsted would monitor the areas where there is a WSOA. This announcement was made at the same time that it announced that Ofsted and CQC would be asked to design a second cycle of inspections to follow when the current cycle finishes in 2021.<sup>210</sup>

### ***Mechanisms for resolving disagreements***

119. The Code of Practice sets out the different avenues for complaint and redress.<sup>211</sup> Parents and young people over 16 have, among other avenues, access to disagreement resolution services, mediation, the local authority's complaints processes, ombudsmen, and the First-tier Tribunal (Special Educational Needs and Disability). The rights to appeal to a tribunal, access mediation and disagreement resolution services are set out in the Children and Families Act.<sup>212</sup> During the development of the legislation the Government also looked at whether the Tribunal should be able to look at the health and social care parts of provision.<sup>213</sup> The Government commissioned research and piloted the approach

204 Department for Education, *Special educational needs and disability: supporting local and national accountability*, (March 2015), pp 14–5

205 Department for Education, '[Joint inspections of local area special educational needs or disabilities \(or both\) provision](#)' accessed 2 September 2019

206 Where inspectors have significant concerns about how effectively the local area meets its duties or secures better outcomes for children and young people who have SEND, local authorities are required to outline in a WSOA how they will tackle the areas raised as being of significant concern, including setting out timescales.

207 Special Needs Jungle, '[An Inspector Calls. Again. But are they improving SEND provision?](#)' accessed 2 September 2019

208 Ofsted, *Local area SEND inspections: one year on* (October 2017)

209 Special Needs Jungle, '[An Inspector Calls. Again. But are they improving SEND provision?](#)' accessed 2 September 2019

210 Association of Educational Psychologists, '[Revisits to local areas with a Written Statement of Action \(WSOA\) for SEND](#)' accessed 2 September 2019

211 Department for Education & Department for Health, *Special educational needs and disability code of practice: 0 to 25* (January 2015), pp 246–7

212 Children and Families Act 2014, [sections 51–9](#)

213 Department for Education, '[SEND Tribunal: single route of redress national trial](#)', (March 2018) pp 5–6



between June 2015 and August 2016.<sup>214</sup> A two-year national trial began on 3 April 2018, extending the power of the First-tier Tribunal, allowing it to make non-binding recommendations on the health and social care parts of EHCPs.

120. Appeals to the First-tier Tribunal have been increasing, with 6,374 appeals received in 2018/19, up from 5,039 in the previous year.<sup>215</sup> This represents a 26% increase, and while the number of EHCPs is also increasing, the number has only increased by 11% in the past year. The Tribunal appears to be struggling, postponing 77% of its listed hearings in 2018/19, and 76% in the previous year. The Ministry of Justice's Quarterly Tribunal Statistics report states that the number of postponements has increased year on year since 2013/14, when there were 624 postponements, compared to 2,900 in 2018/19.<sup>216</sup> Around 89% of cases decided by the Tribunal were determined in favour of the appellant between September 2017 and 31 August 2018.<sup>217</sup> The Local Government and Social Care Ombudsman has also seen an increase in its caseload and the number of complaints about EHCPs have risen by 150% between 2015/16 and 2017/18.<sup>218</sup> In comparison, the number of EHCPs rose by 12% in 2017/18 and 7% in 2016/17. Michael King, the Local Government and Social Care Ombudsman, told us:

We now uphold 87% of the investigations we carry out. That is an unprecedented amount in our work. Our average across the whole of local government is 58%, so 87% is probably the highest category of fault we find in any area of our jurisdiction.<sup>219</sup>

121. In 2013, Robert Buckland MP told the Public Bill Committee:

My concern if we rely on parents to self-police available services is that the age-old battle that families often face will not be reduced and the adversarial nature of the complaints process will remain.<sup>220</sup>

Events have proven him and others right, not just in relation to parents holding local authorities to account, but in other areas too. Parliament and Government were warned about many of the risks in the proposed system, and both Parliament and Government failed to heed those warnings.

214 Department for Education, *SEND Tribunal: single route of redress national trial*, (March 2018) pp 5–6

215 Ministry of Justice, *Tribunal Statistics Quarterly: January to March 2019 - main tables (January to March 2019)*, (June 2019), Table S2

216 Ministry of Justice, *Tribunal Statistics Quarterly, January - March 2019*, (June 2019), p 10

217 Ministry of Justice, *Tribunals and gender recognition certificate statistics quarterly: July to September 2018*, (December 2018), Table SEND 1

218 Local Government and Social Care Ombudsman ([SCN0163](#)) para 13

219 [Q569](#)

220 [PBC \(Bill 131\)](#) 2012–13, Children and Families Bill, 21 March 2013 (morning), Col 410



## Experience

122. The number of pupils with identified special educational needs has been increasing over the past three years. 1,318,300 pupils were reported to have special educational needs in January 2019, which is 14.9% of all pupils.<sup>221</sup> This can be attributed to increased accuracy of diagnosis and earlier recognition of SEND,<sup>222</sup> as well as medical advances that means that some children with complex conditions live longer and have better quality lives.<sup>223</sup>

123. This means that there have been at least 1,318,300 pupils and their families whose lives were touched by the 2014 reforms, and we are sure countless more children and young people, including, but not exclusively, those in specialist colleges, youth custody, educated at home or in secure care, and those who are now too old to be part of the system. There were also 152 local authorities and their staff, thousands of nurseries, schools and colleges and their staff, and other professionals who worked with them. The health service and the judiciary were all affected. There were doubtless many others, including every member of our Committee who have all witnessed the impact of these reforms on the lives of our constituents. We have heard from hundreds of people, all involved to greater or lesser extents, all playing their part in this complex system, as part of this inquiry, and in this chapter, we set out what we have heard.

### The wider experience

124. Local authority representatives told us that the SEND reforms sit “uncomfortably with the wider school arrangements”,<sup>224</sup> and we heard examples such as a fragmented accountability system, with academy trusts not admitting children with SEND,<sup>225</sup> and inclusive schools disadvantaged by a school system driven by attainment, performance and behaviour.<sup>226</sup> In our report *Forgotten children: alternative provision and the scandal of ever increasing exclusions*, we referred to the move away from inclusive schools,<sup>227</sup> and in this inquiry we heard that supporting pupils with special educational needs created problems for schools that are inclusive.<sup>228</sup> Inclusive schools became magnet schools,<sup>229</sup> which, we were told, put pressure on their administrative and funding systems.<sup>230</sup> Due to funding, accountability, a focus on attainment and behaviour, or indeed just a lack

221 Department for Education, [Main text: Special educational needs in England - January 2019](#) (July 2019), p1

222 Lambeth SEND ([SCN0077](#)) para 4b

223 Association of Directors of Children's Services ([SCN0503](#)) para 20; Lambeth SEND ([SCN0077](#)) para 4c

224 [Q340](#) [Steve Rumbelow]

225 Northamptonshire County Council ([SCN0496](#)) para 8

226 Scott Brooks ([SCN0106](#)) para 8; Calderdale MBC ([SCN0491](#)) para 3.7; Headteachers' Roundtable ([SCN0208](#)) para 8; National Education Union ([SCN0252](#)) para 26

227 Education Committee, Fifth Report of Session 2017–19, [Forgotten Children: alternative provision and the scandal of ever increasing exclusions](#), HC 342

228 Essex County Council ([SCN0498](#)) para 1.1

229 Magnet schools are schools that are particularly good at one aspect of their provision, making them particularly attractive to certain cohorts, in this case pupils with SEND; National Network of Parent Carer Forums ([SCN0199](#)) para 4.15iii

230 Essex County Council ([SCN0498](#)) para 1.1; Thameside Primary School ([SCN0079](#)) para 7; Ms Gillian Doherty ([SCN0257](#)) para 3.5; Headteachers' Roundtable ([SCN0208](#)) para 8



of necessity, we have heard that some schools were less inclusive.<sup>231</sup> This non-inclusive practice had resulted in children with SEND becoming victims of illegal exclusions, being told not to come on a school trip, to not apply to the school, off-rolled or encouraged to move schools.<sup>232</sup> In England there are more than 1,500 children with SEND who do not have a school place, and some children are waiting up to two years for a place.<sup>233</sup>

125. We saw this lack of inclusivity in our inquiry into alternative provision and the disproportionate numbers of children with SEND who were excluded or in alternative provision.<sup>234</sup> As part of this inquiry, we heard that children were being home educated,<sup>235</sup> awaiting a school place,<sup>236</sup> or unable to attend school because their needs not being met.<sup>237</sup> Ben, a young researcher from the RIP:Stars,<sup>238</sup> summed this up when he told us:

Education and all types of support should meet the needs of the disabled child, not make us conform to the needs of the education system. It should be a balance. A disabled young person or child should not have to fit into all the norms, roles and rules of education. It might have to change a little bit, because it is not going to work otherwise. If it doesn't work, they should not get shipped off, excluded, offloaded or hidden in other places where they are just forgotten about: "Okay, he is causing trouble—he is gone." That was another big thing that we saw.<sup>239</sup>

126. Francesca, a severely deaf young person, told us that she had applied to go to a specialist all-deaf school for the only reason that at her school she had not been included by her school or peers.<sup>240</sup> Rules from the Department for Education mean that local authorities were unable easily to expand their specialist provision, as rules required them to apply to the DfE to open free schools if they wanted to increase the number of schools, which means that local authorities have found it a challenge to expand their local special school provision to meet the increase in requests.<sup>241</sup> However, where there is a need for additional places in maintained schools, the local authority can support proposals to enlarge the capacity of the premises.<sup>242</sup>

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- 231 Lambeth SEND ([SCN0077](#)) para 6b; NASUWT ([SCN0139](#)) para VI; Christopher Robertson ([SCN0176](#)) para 10; Ms Nancy Gedge ([SCN0179](#)) para 1.7; North Yorkshire County Council ([SCN0185](#)) para 4f; Cheshire West & Chester Council ([SCN0405](#)) para 3.6; National Development Team for Inclusion ([SCN0412](#)) para 3; London Borough of Hackney ([SCN0422](#)) para 1.6; Federation of Leaders in Special Education ([SCN0448](#)) para 1.4; Education and Children's Services Group, Prospect ([SCN0315](#)) para 8; Oxfordshire County Council ([SCN0317](#)) para 2; Ms Sally Lindsay-German ([SCN0350](#)) para 7; Parental Submission 19 ([SCN0081](#)) para 11
- 232 Christopher Robertson ([SCN0176](#)) para 8; Parental Submission 56 ([SCN0020](#)) para 3; NASUWT ([SCN0139](#)) para 12; Special Needs Jungle Ltd ([SCN0419](#)) para 24; Ambitious about Autism ([SCN0311](#)) para 37; Mrs Alison Prosser ([SCN0359](#)) para 4; Lambeth SEND ([SCN0077](#)) para 6b; NASUWT ([SCN0139](#)) para VI; GMB ([SCN0444](#)) para 12
- 233 "Hundreds of special needs pupils 'squeezed' out of school", BBC, 20 June 2019
- 234 Education Committee, Fifth Report of Session 2017–19, *Forgotten Children: alternative provision and the scandal of ever increasing exclusions*, HC 342, paras 14 and 21
- 235 Parental Submission 110 ([SCN0518](#)) para 3
- 236 Parental Submission 61 ([SCN0174](#)) para 8; Ms Gillian Doherty ([SCN0257](#)) para 1.9
- 237 Parental Submission 44 ([SCN0314](#)) para 3.7; Parental Submission 101 ([SCN0382](#)) para 5; Parental Submission 110 ([SCN0518](#)) paras 2–4
- 238 The RIP:Stars is a group of disabled young researchers aged 17–25 from Coventry. They undertook research into quality and rights-based Education Health and Care Plans.
- 239 [Q479](#)
- 240 [Q497](#)
- 241 [Q645](#) [Terry Reynolds]; Penny Hoffmann-Becking ([SCN0652](#)) para 6
- 242 Department for Education, *Making significant changes ('prescribed alterations') to maintained schools* (October 2018), p7



127. Parents were facing significant pressures. They were giving up jobs and businesses,<sup>243</sup> facing financial pressures of loss of income, debt, or extending their mortgages,<sup>244</sup> experiencing relationship breakdowns<sup>245</sup> and social isolation<sup>246</sup> and their mental health was suffering.<sup>247</sup> Penny Hoffmann-Becking, a parent and then trustee and steering group member of SEND Family Voices, told us:

I feel that many parents that I speak to are living in a constant state of anxiety because even if you have managed to secure something good now, there is always the worry that it could be cut next month or next year. Our children are uniquely vulnerable. My son I can put in any number of different schools. My daughter is in a very good school, she is very well looked after, but there is always the worry that the teaching assistant who supports her will be cut or that something else will happen.<sup>248</sup>

## SEN Support

128. 11.9% of all pupils on the school roll have special educational needs without Statements or Education Health and Care Plans (EHCPs).<sup>249</sup> The proportion of pupils with SEN but no plan or statement had been decreasing since 2011, when 17.8% of pupils on the school roll had some form of SEN but no statement or EHCP, compared to 18.3% in 2010, but began to rise again in 2017.<sup>250</sup> Pupils on SEN Support are meant to have their needs met by the school, which may include help from outside specialists. The Code of Practice sets out a graduated approach to supporting pupils, with a cycle of ‘assess, plan, do, review’.<sup>251</sup>

129. Charlotte Ramsden, the then President of the Association of Directors of Children’s Services, explained that the sector was working to put early help systems around schools and build partnerships, which she described as critical at SEN Support level. She described SEN Support as looking early at what need a child has and making sure they have access to support, without needing an EHCP. She told us that where there are strong partnerships between schools, the health sector and the local authority, SEN Support is effective.<sup>252</sup>

130. We heard concerns that there has been a lack of focus on the graduated approach and what good practice looks like for pupils on SEN Support.<sup>253</sup> Schools, local authorities and their staff have been focused on the needs of pupils receiving support through Education Health and Care Plans, resulting in a lack of focus on supporting pupils at this level.<sup>254</sup> We were told that children are unable to access external support, with therapists being

243 Parental Submission 101 ([SCN0382](#)) para 20; Parental Submission 115 ([SCN0565](#)) para 26; Parental Submission 39 ([SCN0188](#)); Parental Submission 76 ([SCN0215](#)) para 2.9; Parental Submission 114 ([SCN0575](#)) para 5

244 Parental Submission 94 ([SCN0336](#)) para 15; Parental Submission 51 ([SCN0478](#)) para 3; Parental Submission 115 ([SCN0565](#)) para 26; Parental Submission 163 ([SCN0078](#)) para VIII

245 Parental Submission 123 ([SCN0120](#)) para 9

246 Parental Submission 52 ([SCN0482](#)) para 5b

247 Parental Submission 39 ([SCN0188](#)) para 7; Parental Submission 101 ([SCN0382](#)) para 18

248 [Q241](#)

249 Department for Education, *Special Educational Needs in England: January 2019* (July 2019), p1

250 Department for Education, *Special Educational Needs in England - January 2019: national tables* (July 2019), Table 1

251 Department for Education & Department for Health, *Special educational needs and disability code of practice: 0 to 25* (January 2015), p86

252 [Q384](#)

253 [Q160](#) [Christine Lenehan]

254 The Special Educational Consortium ([SCN0480](#)) para 7; Warwickshire County Council ([SCN0479](#)) para 16; Calderdale MBC ([SCN0491](#)) para 4.1



told that they cannot work with pupils without an EHCP.<sup>255</sup> Special Educational Needs Co-Ordinators (SENCOs) who are on the National Award for Special Educational Needs Coordination (NASENCO) course at Manchester Metropolitan University told us that the definition of support is too fluid, and many schools are tempted to keep the level of support low due to the lack of funding.<sup>256</sup>

131. Ultimately, we heard concerns that children are not being appropriately identified and supported at this level.<sup>257</sup> This poor-quality support is impacting on parents' confidence with the system. We were told that parents are applying for Education Health and Care Plans in order to get support that their child should be receiving through SEN Support,<sup>258</sup> while Chris Harrison, the Director of SEND4Change, told us that SEN Support often does not include input from health and social care, making EHCPs more "magnetic" to parents.<sup>259</sup> He suggested that there is a lack of consistency around what is provided for pupils at SEN Support, and that if parents saw a plan with consistent features and some rigour, they would be less inclined to request an EHCP.<sup>260</sup> Local authority representatives agreed that parents seeing EHCPs as the only way to meet their child's needs was concerning.<sup>261</sup>

132. Many evidence submissions referred to 'quality first teaching'.<sup>262</sup> No one defined what this looks like, but the Code of Practice states that "[h]igh quality teaching, differentiated for individual pupils, is the first step in responding to pupils who have or may have SEN."<sup>263</sup> We received conflicting evidence on this point. Information about 'quality first teaching' included that schools are struggling to deliver it, schools are delivering it well and that it was listed in an EHCP as an educational intervention. It appeared that there may be challenges around schools being able to provide quality teaching to all its pupils, or that pupils with SEND are left to the postcode lottery of the quality of teaching in their schools. We were told by the National Development Team for Inclusion (NDTI) that there was a "lack of confidence in schools to include children and young people with more complex SEND which has led to a deskilling of competencies regarding a graduated response."<sup>264</sup> At our roundtable session with schools and education professionals, we heard that they wanted the flexibility to be creative, but that legislation prevented that freedom and flexibility, with the more legislation that there was, the harder it was to be flexible.<sup>265</sup> Budgets also

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255 [Q145](#) [Jean Gross]

256 Nasenco course, MMU ([SCN0110](#)) paras 1.8 - 1.9

257 Mrs Wendy Janes ([SCN0058](#)) para 1.3; National Network of Parent Carer Forums ([SCN0199](#)) para 4.14; New College Durham ([SCN0516](#)) para 7; Anonymous 4 ([SCN0126](#)) para 15; Ms Vanessa Grizzle ([SCN0474](#)) para 1.2; Wellspring Academy Trust ([SCN0395](#)) para 1.6; National Education Union ([SCN0252](#)) paras 7–8; Association of School and College Leaders ([SCN0265](#)) para 9; Staffordshire County Council ([SCN0458](#)) para 17

258 Wraparound Partnership ([SCN0369](#)) para 7; Contact ([SCN0499](#)) para 10.4; Telford and Wrekin Council ([SCN0429](#)) paras 2.2–3; Calderdale MBC ([SCN0491](#)) para 3.3

259 [Q383](#)

260 [Q381](#)

261 [Q351](#) [Steve Rumbelow]

262 Mr Neil Alexander-Passe ([SCN0143](#)) paras 8 and 18b; SENCO Forum ([SCN0178](#)) paras 6–8 and 12; Infant School 1 ([SCN0123](#)) para 25; Anonymous 4 ([SCN0126](#)) para 7; Bren Prendergast ([SCN0522](#)) para 1.8; Parents of Children with Additional Needs ([SCN0556](#)) para 4; Dr Jill Harrington ([SCN0477](#)) para 19.3; Dr Helen Curran ([SCN0486](#)) para 13.9; Essex County Council ([SCN0498](#)) para 1.8; Love to Learn ([SCN0275](#)) para 5.1; Anonymous 3 ([SCN0286](#)) para 1.4

263 Department for Education and Department for Health, *Special educational needs and disability code of practice: 0 to 25 years* (January 2015), para 6.37

264 National Development Team for Inclusion ([SCN0412](#)) para 6.1

265 [Q271](#) [Tania Beard]



constrained that flexibility, with some local authorities finding it hard to pay more now to save money in the future,<sup>266</sup> and schools being encouraged to use money meant for special educational needs on other things.<sup>267</sup>

133. Parents also told us that they wanted teachers to be creative and curious. Kathleen Redcliffe, a parent of a child with dyslexia, told us that teachers do not have time to be curious,<sup>268</sup> particularly where SENCOs are also headteachers.<sup>269</sup> However, SENCOs told us that they did not have the time to spend in classrooms supporting teachers or advising on support strategies as they are caught up by paperwork and administration created by the Education Health and Care Plan process.<sup>270</sup> This was an experience echoed by local authorities. Dr Lown from East Riding of Yorkshire Council told us that the increase in identification of children with SEND had put pressure on the ability of schools to meet the needs of pupils at SEN Support level,<sup>271</sup> but that the pressure to move to an EHCP took resources out of the system at SEN Support level and therefore children were not getting the support they needed, which then in turn created a higher level of need for this group of children and young people.<sup>272</sup>

134. There appears to be unanimity that SEN Support is vital for a huge number of pupils within the system, but that there are a wide variety of challenges in them receiving the high-quality support that they need.

## Education health and care plans

135. In January 2019, 271,200 children and young people had an Education Health and Care Plan (EHCP).<sup>273</sup> The number of pupils with Statements or EHCPs has been increasing since 2010, with the number of pupils with an EHCP increasing by 11% since 2018.<sup>274</sup> IPSEA (Independent Provider of Special Education Advice) describes an Education Health and Care Plan as “a legal document which describes a child or young person’s special educational needs, the support they need, and the outcomes they would like to achieve.”<sup>275</sup>

136. We have been consistently told that the quality of Education Health and Care Plans following transition from statements was poor.<sup>276</sup> Among other issues, we have been told

266 [Q274](#) [Penny Earl]

267 [Q256](#) [Penny Earl]

268 [Q180](#)

269 [Q196](#)

270 [Qq273–274](#) [Nicola Jones-Ford]

271 [Q96](#)

272 [Q99](#)

273 This is based on school census data available from the Department for Education and may not include all children and young people who have an Education Health and Care Plan.

274 Department for Education, *Statements of SEN and EHC plans: England 2019* (May 2019), p 1

275 IPSEA, ‘[Education, Health and Care Plans](#)’, accessed 4 September 2019

276 Fulham College Boys’ School ([SCN0068](#)) paras 7 - 8; Gloucester House—Tavistock children’s day unit ([SCN0071](#)) para 5; Temple Hill Primary School ([SCN0076](#)) para 2; Infant School 1 ([SCN0123](#)) para 4; Mrs Penny Earl ([SCN0136](#)) para 3.2; NASUWT ([SCN0139](#)) para 20; Gloucestershire Special School Headteachers ([SCN0146](#)) para 9; National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 29; The Milestone School, Gloucester ([SCN0205](#)) para 7; Association of School and College Leaders ([SCN0265](#)) para 23; New College Worcester ([SCN0338](#)) para 5; Wellspring Academy Trust ([SCN0395](#)) para 2.5; Surrey Special School Headteachers’ Association ([SCN0417](#)) para 2.4; Derwen College ([SCN0443](#)) para 3.1; GMB ([SCN0444](#)) para 13; Orchard Hill College ([SCN0553](#)) para 8; Special Educational Needs and Disabilities Information Advice and Support Service Board ([SCN0242](#)) paras 2.4 and 3.1; Our Barn Carers Project ([SCN0067](#)) para 20; Parental Submission 146 ([SCN0437](#)) para 3.3; Parental Submission 69 ([SCN0253](#)) para 7; Ms Gillian Doherty ([SCN0257](#)) para 2.1; SEND Family Voices ([SCN0290](#)) para 2; Gemma Birks ([SCN0455](#)) para 28; Parental Submission 94 ([SCN0336](#)) para 9



that new advice was disregarded,<sup>277</sup> and that the contents of existing documents (such as statements or reports) were copied and pasted into a new document.<sup>278</sup> We heard that there was no quality assurance,<sup>279</sup> and that there was a lack of specificity in reports, outcomes and provision.<sup>280</sup> We heard that local authorities used out of date assessments and information and named provision that bore no relation to need.<sup>281</sup> We were told that some young people lost provision or support that had been detailed in their Statements, or that local authorities attempted to remove it during the transfer process.<sup>282</sup>

137. We did hear some positive experiences, with Castle Wood Special School telling us that final plans are issued by deadlines,<sup>283</sup> while other schools were positive about the conversion process,<sup>284</sup> with a headteacher of a special school saying that it had been done with rigour.<sup>285</sup> We also heard that some parents have had a positive experience,<sup>286</sup> and that parents who have a correct EHCP have seen benefits, and that when done well, the process is “robust and fit for purpose.”<sup>287</sup>

### *Schools and colleges*

138. The majority of children and young people with SEND are educated in mainstream schools and colleges. Many of the evidence submissions from these institutions and the professionals that work in them and representing them focused a significant part of their evidence on pupils with EHCPs. We heard that schools were required to draft EHCPs,

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277 Peak School ([SCN0014](#)) para 4b

278 Peak School ([SCN0014](#)) para 4b; Infant School 1 ([SCN0123](#)) paras 6 and 18; St Martin’s Governing Body ([SCN0128](#)) para 1; Mr Dez Riddler ([SCN0148](#)) para 22; New College Worcester ([SCN0338](#)) para 5; Wellspring Academy Trust ([SCN0395](#)) para 2.5; Special Educational Needs and Disabilities Information Advice and Support Service Board ([SCN0242](#)) para 3.2; Warwickshire Parent Carer Forum ([SCN0171](#)) para 4; Parental Submission 36 ([SCN0173](#)) para 3.2; Parental Submission 93 ([SCN0334](#)) para 7; Mrs Alison Prosser ([SCN0359](#)) para 5; Parental Submission 137 ([SCN0361](#)) para 2; Parental Submission 142 ([SCN0420](#)) para 3; ASSET ([SCN0488](#)) para 6.4; Herts Parent Carer Involvement ([SCN0552](#)) para 2.2; Parents of Children with Additional Needs ([SCN0556](#)) para 5; Parental Submission 120 ([SCN0564](#)) para 2.14; Penny Hoffmann-Becking ([SCN0652](#)) para 2; Reachout ASC ([SCN0457](#)) para 4.1

279 Peak School ([SCN0014](#)) para 4b; Infant School 1 ([SCN0123](#)) para 11; National Star ([SCN0310](#)) para 4.2

280 Mrs Kristin Dockar ([SCN0066](#)) para 7; Infant School 1 ([SCN0123](#)) para 4; NASUWT ([SCN0139](#)) para 20; Mr Shaun Jukes ([SCN0196](#)) para 2.3; National Star ([SCN0310](#)) para 4.2; Royal National College for the Blind ([SCN0502](#)) para 8.6; Bren Prendergast ([SCN0522](#)) para 1.8; Special Educational Needs and Disabilities Information Advice and Support Service Board ([SCN0242](#)) para 2.3; Ms Gillian Doherty ([SCN0257](#)) para 2.1; Parental Submission 101 ([SCN0382](#)) para 4; Our Barn Carers Project ([SCN0067](#)) para 3; Parental Submission 81 ([SCN0158](#)) para 4.1; Parental Submission 34 ([SCN0165](#)) para 5; Warwickshire Parent Carer Forum ([SCN0171](#)) para 6; Parental Submission 39 ([SCN0188](#)) para 5 and 29; Ms Gillian Doherty ([SCN0257](#)) para 1.5; Parental Submission 55 ([SCN0287](#)) para 2.2; Parental Submission 94 ([SCN0336](#)) para 9; Parental Submission 138 ([SCN0362](#)) para 28; Parental Submission 103 ([SCN0389](#)) para 11; EHCP Experiences 18–25 ([SCN0414](#)) para 2.2; Hackney Independent Parent-Carer Forum ([SCN0468](#)) paras 14–5; Herts Parent Carer Involvement ([SCN0552](#)) para 2.4

281 Ashton Sixth Form College ([SCN0086](#)) para 4; Infant School 1 ([SCN0123](#)) para 4; Acorns School ([SCN0137](#)) para 1.3; Ms Nancy Gedge ([SCN0179](#)) para 1.4; Mr Shaun Jukes ([SCN0196](#)) para 2.3; Warwickshire Parent Carer Forum ([SCN0171](#)) para 4; National Network of Parent Carer Forums ([SCN0199](#)) para 4.3; Ms Gillian Doherty ([SCN0257](#)) para 2.1; SEND Family Voices ([SCN0290](#)) para 2; Parental Submission 93 ([SCN0334](#)) para 7; Special Needs Jungle Ltd ([SCN0419](#)) para 26

282 Barn Carers Project ([SCN0067](#)) para 17; Ms Gillian Doherty ([SCN0257](#)) para 2.2; Parental Submission 132 ([SCN0266](#)) para 12; Parental Submission 27 ([SCN0135](#)) para 1.5; Parental Submission 133 ([SCN0175](#)) para 5; Special Needs Jungle Ltd ([SCN0419](#)) para 27; Parental Submission 72 ([SCN0620](#)) para 2a

283 Castle Wood Special School ([SCN0391](#)) para 3.7

284 Carlisle Rural South SENCO Cluster ([SCN0189](#)) para 4; Walton On The Hill Primary School ([SCN0548](#)) para 4

285 Mr Paul Silvester ([SCN0198](#)) para 1.2

286 Parents of Children with Additional Needs ([SCN0556](#)) para 3

287 NFA Group ([SCN0508](#)) para 2



both during the transition process and even now post-transition.<sup>288</sup> Schools were critical of the local authority's ability to write suitable plans or outcomes, resulting in some schools and professionals playing a heavy role in amending or rewriting plans.<sup>289</sup> We heard that schools had pupils with EHCPs that need a rewrite, but no-one in the local authority had the skills to do so.<sup>290</sup> Schools and other education professionals have criticised the lack of clarity around the evidence needed to trigger EHC needs assessments and processes that should be used,<sup>291</sup> and have told us that different LAs have different thresholds, paperwork and expectations.<sup>292</sup> We were told that these thresholds were high or had been raised,<sup>293</sup> and could be higher than the legal threshold.<sup>294</sup> We also heard that the threshold for assessment was too low, which was overwhelming LAs and unnecessary applications for assessment were being made.<sup>295</sup>

139. The pressure on Special Educational Needs Co-ordinators (SENCOs) seemed to be immense, while the level of experience and the status they were afforded in schools varies. All SENCOs appointed since 2009 must achieve the National Award for Special Educational Needs Coordination (NASENCO) within three years of appointment.<sup>296</sup> However, the National Education Union told us that the qualification did not adequately support SENCOs.<sup>297</sup>

140. There appears to be a substantial amount of paperwork that takes up SENCOs' time.<sup>298</sup> Schools and other professionals told us that SENCOs were being taken away from providing support to their teachers in the school because they were caught up with this paperwork or not given sufficient time to do this aspect of their role.<sup>299</sup>

141. As well as having to manage the increase in workload and navigating the reforms, we also heard that SENCOs and those who manage provision for children with SEND faced

288 Fulham College Boys' School ([SCN0068](#)) para 6; The National Autistic Society ([SCN0473](#)) para 20; Afasic ([SCN0292](#)) para 12; Sense ([SCN0453](#)) para 9; Parental Submission 41 ([SCN0245](#)) para 3.2; Gemma Birks ([SCN0455](#)) para 31; Queen Alexandra College ([SCN0572](#)) para 6; NASUWT ([SCN0139](#)) para 18

289 Reachout ASC ([SCN0457](#)) para 4.1; Fulham College Boys' School ([SCN0068](#)) para 7; Gloucester House—Tavistock children's day unit ([SCN0071](#)) para 6

290 [Q273](#) [Nicola Jones-Ford]

291 Fulham College Boys' School ([SCN0068](#)) para 5; Infant School 1 ([SCN0123](#)) para 15; SENCO Bristol Cluster Group ([SCN0532](#)) para 6

292 Gloucester House—Tavistock children's day unit ([SCN0071](#)) para 8; NASUWT ([SCN0139](#)) para 18; SENCO Forum ([SCN0178](#)) para 16; National Education Union ([SCN0252](#)) para 10; Catholic Education Service ([SCN0258](#)) para 8; Association of School and College Leaders ([SCN0265](#)) para 10; Trainee Educational Psychologists at Newcastle University ([SCN0340](#)) para 3; Sixth Form Colleges Association ([SCN0402](#)) para 5; Chadsgrove Teaching School Alliance ([SCN0472](#)) para 9; Northampton College ([SCN0157](#)) para 5

293 Fulham College Boys' School ([SCN0068](#)) para 5; Association of School and College Leaders ([SCN0265](#)) para 33; NASUWT ([SCN0139](#)) para 9; Sixth Form Colleges Association ([SCN0402](#)) para 10

294 National Star ([SCN0310](#)) para 1.2; Brinsworth Academy ([SCN0072](#)) para 1; The legal test for an EHC needs assessment is set out in s 36(8) of the [Children and Families Act](#). The local authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted under subsection (7), the authority is of the opinion that—(a) the child or young person has or may have special educational needs, and (b) it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.

295 The Education Alliance ([SCN0152](#)) para 2; Ms Vanessa Grizzle ([SCN0474](#)) para 1.1

296 nasen, 'Partnerships and NASENCo' accessed 5 September 2019

297 National Education Union ([SCN0252](#)) para 23

298 SENCO Bristol Cluster Group ([SCN0532](#)) para 6; Nasenco course, MMU ([SCN0110](#)) para 2.3; NASUWT ([SCN0139](#)) para 17; Mrs Jan Stoney ([SCN0328](#)) paras 2a and 2c; Wellspring Academy Trust ([SCN0395](#)) para 1.9; The British Psychological Society ([SCN0447](#)) para 2.5

299 Fulham College Boys' School ([SCN0068](#)) para 9; Mrs Kathleen Richardson ([SCN0130](#)) para 8; Northampton College ([SCN0157](#)) para 9; National Education Union ([SCN0252](#)) para 23; Anonymous 4 ([SCN0126](#)) para 8; SENCO Forum ([SCN0178](#)) paras 6–7 and 37



budgetary challenges. We were told that headteachers were putting pressure on SENCOs to make decisions about who to apply for a plan for, because funding for EHCPs is not sufficient.<sup>300</sup> Tania Beard, Headteacher at St Martin's CofE Primary and Nursery School, told us:

I think the other reason that more parents are taking things into their own hands is that schools have to make really difficult decisions about where to prioritise. They have a SENCO, a certain amount of SENCO time and a lot of children with a lot of need, and you have to think, "Which child am I most likely to get an EHCP for? On which child can I spend the hours and invest the money it is going to take to get educational psychologists' reports and speech and language reports to support my application for an EHCP?"<sup>301</sup>

142. We also heard that some SENCOs did not know how much was in their SEND budget, or that they did not always have control over whether it was spent on pupils with special educational needs. Penny Earl, Resource Provision Manager at Stoke Park Infant School, told us that advisers have advised her headteacher to use her SEND funding to offset the school's deficit budget.<sup>302</sup> Nicola Jones-Ford, SENCO at Fulham College Boys' School, told us:

Trying to have the conversation with the school business manager and say, "I need this resource because I have this many hours or this child needs this way of working," is very difficult. I am then held accountable for a pot of money when I have no idea how much money there is in it, because it is not clear at all. It is all in together and muddled together within the school funding formula.<sup>303</sup>

143. Colleges have also found the EHCP transition process challenging.<sup>304</sup> Colleges and specialist residential schools and colleges appear to be facing similar challenges regarding the level of administration required. Because they often work with many different local authorities, they have found the different processes, systems and paperwork requirements challenging, which further adds to their workload.<sup>305</sup> We heard that colleges found EHCPs time consuming, and that they did not have the staffing capacity to attend annual reviews when lots of students have EHCPs.<sup>306</sup> Derby College was critical of the transition deadline as this now means that all annual reviews will happen around the same time every year.<sup>307</sup> Unlike mainstream schools, colleges are not required to have a SENCO, which suggests that in some cases, they have faced these additional challenges without the additional support and benefits of a SENCO.

144. The role of independent provision appears to be contested by schools. We heard both that independent special schools are seen as a placement of last resort, but that increasing unmet need means that children are having to access them faster,<sup>308</sup> and that they take

300 Nasenco course, MMU ([SCN0110](#)) para 3.1

301 [Q252](#)

302 [Q256](#)

303 [Q260](#)

304 We explore the issues around the reforms on post-16 and post-19 education later in this report.

305 Sixth Form Colleges Association ([SCN0402](#)) para 11; Derwen College ([SCN0443](#)) para 1.1; Association of Colleges ([SCN0492](#)) para 8; Derby College ([SCN0459](#)) para 1.4

306 Sixth Form Colleges Association ([SCN0402](#)) para 11

307 Derby College ([SCN0459](#)) para 1.5

308 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) paras 13–4



pupils whose needs cannot be met locally.<sup>309</sup> However, we were also told that independent special schools take pupils whose needs can be met locally.<sup>310</sup> Sabrina Hobbs, Principal at Severndale Specialist Academy, expressed concern that local authorities were running into deficit models and spending a high proportion of their high needs budget on private school provision.<sup>311</sup>

145. Despite it being a requirement that children are assessed by an educational psychologist for their needs assessment, we heard that children are not receiving assessment by educational psychologists.<sup>312</sup> We were told that Educational Psychologists—like SENCOs—have limited capacity as they are caught up in paperwork and EHCPs,<sup>313</sup> and they were often unable to provide lower level support and this stopped schools accessing specialist advice.<sup>314</sup> We also heard that many services, particularly educational psychologists, but also speech and language therapists, are accessible as traded services. We were told that this has meant that only schools with the financial resources can access this support leading to a service provision that is biased towards schools that have surplus funds as opposed to the needs of the pupils within the school.<sup>315</sup> We were told that educational psychologists' traded work was preventative and working well, but there was not equality of access.<sup>316</sup>

146. We were also told that educational psychologists are facing challenges in relation to the extension of support to 25. The British Psychological Society told us that educational psychologists are concerned about the policy change's impact on their workload, but also that it creates what has been described as “the biggest change in their professional role in the last 30 years, all at a time of decreasing local authority budgets.”<sup>317</sup>

147. Funding provision was also challenging for schools. We heard that EHCP funding only applies for schools once a plan was agreed, so schools could be funding provision with no additional financial support until a plan was agreed.<sup>318</sup> We were also told that EHCPs were being issued that detailed provision but did not have the funding to match, or that did not come with funding attached, or which were funded according to bands.<sup>319</sup> Matt Keer, a parent of two deaf young people and blogger for Special Needs Jungle, explained the problems of banding. He told us that local authorities were not increasing their banding levels in line with the real costs of providing provision, keeping them stagnant or reducing them:

The number of local authorities that had allowed the band values to creep up in line with costs—for example, I am guessing superannuation of staff—

309 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 12

310 Headteachers' Roundtable ([SCN0208](#)) para 7

311 [Q256](#)

312 Infant School 1 ([SCN0123](#)) para 12; Association of Educational Psychologists ([SCN0495](#)) para 3.2

313 Spring Common Academy ([SCN0225](#)) para 26; Federation of Leaders in Special Education ([SCN0448](#)) para 2.5

314 National Association of Principal Educational Psychologists (NAPEP) ([SCN0441](#)) para 2; Association of Educational Psychologists ([SCN0495](#)) paras 2.4 and 4.3; Infant School 1 ([SCN0123](#)) para 5

315 The British Psychological Society ([SCN0447](#)) para 3.5

316 Anonymous 7 ([SCN0529](#)) para 4

317 The British Psychological Society ([SCN0447](#)) para 5.2

318 Thameside Primary School ([SCN0079](#)) para 6; St Barnabas CE VC Primary School ([SCN0400](#)) para 6

319 Brinsworth Academy ([SCN0072](#)) para 6; Dr Cath Lowther ([SCN0099](#)) para 14; Temple Hill Primary School ([SCN0076](#)) para 15; The Education Alliance ([SCN0152](#)) para 5; St Barnabas CE VC Primary School ([SCN0400](#)) para 4



was four. Four out of those 130 local authorities had increased their banding levels in line with the real costs of providing provision. The rest of them had mostly kept levels static and increasingly are now looking to reduce those.<sup>320</sup>

This meant that for pupils, and their schools, who had provision linked to banding in their EHCPs, they were at risk of the amount of support that they received being reduced if costs increased but the funding for the band did not increase in line with these costs. He outlined the impact on schools when he told us:

As a parent, if you have an EHCP that does not have specified provision and you are just relying on a banding, it is a mug's game. Your school will be starved of funding.<sup>321</sup>

### Local authorities

148. Local authorities are responsible for carrying out needs assessments for Education Health and Care Plans, and are responsible for maintaining the Plan. They therefore were responsible for ensuring Statements and Learning Difficulty Assessments were transferred to EHCPs. We have already set out the financial support that was provided to local authorities in order to deliver the reforms, including the transition process and the introduction of Education Health and Care Plans.

149. Moving from Statements and Learning Difficulty Assessments (LDAs) to EHCPs impacted on local authorities' ability and capacity to provide their statutory functions. Many local authorities told us that they successfully transitioned all Statements and LDAs to EHCPs by the deadline,<sup>322</sup> but some explained that it had created pressures on time and resources and impacted on capacity elsewhere, for example that the annual review process had fallen behind,<sup>323</sup> and that there had been a lack of preventative work<sup>324</sup> and a shift in focus away from SEN Support.<sup>325</sup> Local authorities told us that the transition timescales were very tight and "did not enable a process that was fully productive in order to meet the deadline."<sup>326</sup> Other authorities acknowledged that it became an issue of quantity or quality,<sup>327</sup> which was exacerbated by the Department for Education making the number of conversions the main measurable target.<sup>328</sup> Other criticisms of the Department's approach can be summarised as a lack of structure and guidance. Local authorities said that the later publication of guidance gave a limited lead-in time,<sup>329</sup> and the provision of a

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320 [Q66](#)

321 [Q66](#)

322 North Yorkshire County Council ([SCN0185](#)) para 5a; Cornwall Council ([SCN0226](#)) para 2.1; Northumberland County Council ([SCN0481](#)) para 10; Calderdale MBC ([SCN0491](#)) para 4.1; North Lincolnshire Council ([SCN0527](#)) para 2a; Kent County Council ([SCN0592](#)) para 4.2

323 North Yorkshire County Council ([SCN0185](#)) para 5a

324 Hampshire County Council Children's Services ([SCN0452](#)) para 2.1

325 Warwickshire County Council ([SCN0479](#)) para 16; Calderdale MBC ([SCN0491](#)) para 4.1

326 Cheshire West & Chester Council ([SCN0405](#)) para 2.1

327 London Borough of Hackney ([SCN0422](#)) para 2.1; Devon SEND Improvement Board ([SCN0428](#)) para 2.1; Nottinghamshire County Council ([SCN0484](#)) para 15

328 Warwickshire County Council ([SCN0479](#)) para 16

329 Telford and Wrekin Council ([SCN0429](#)) para 3.2a



template for the EHCP would have saved time.<sup>330</sup> Local authorities also felt that the scale of transition was underestimated, meaning that the focus had been on the process of the transfer rather than the spirit of the reforms.<sup>331</sup>

150. Another impact was on local authority staff. According to local authorities, the reforms destabilised the workforce and increased the workload.<sup>332</sup> Plymouth City Council told us that statements took an average of 10–15 hours to do, while an EHCP now takes 30–40 hours.<sup>333</sup> We were told that a direct result has been high staff turnover and loss of experienced staff,<sup>334</sup> and unmanageable caseloads.<sup>335</sup> Local authorities also said that the increase in assessments had put pressure on their staff and other partners and also acknowledged the shortage of educational psychologists.<sup>336</sup>

151. Schools were concerned about the quality of training and expertise of the local authority staff who write plans, and local authorities felt that outside bodies had an impact on the quality of plans, citing a lack of professionals and timeliness of advice.<sup>337</sup> One local authority that used an external company to write plans stated that the quality of the work was too variable and compromised the quality of plans.<sup>338</sup> We did hear that local authorities were moving to addressing quality issues, although one local authority told us that it cannot check all plans for quality.<sup>339</sup> We were also told that in one local authority all plans are read by the assessment team, the lead for health, and checked by an educational psychologist,<sup>340</sup> while in another we heard that all Education Health and Care Plans were quality assured by the service manager or equivalent.<sup>341</sup>

152. Local authorities outlined other challenges that they face, including the timescales of the process, telling us that timescales have an impact on quality, and do not allow for co-production, proper consideration of the needs of the child and getting good advice.<sup>342</sup> Many local authorities identified the practices of schools and colleges as having an impact on the quality of the provision that they as local authorities provide, but also the quality of support that children and young people with SEND within the education system. Local authorities also felt that mainstream schools are not meeting needs early or effectively enough,<sup>343</sup> with insufficient emphasis on the graduated approach,<sup>344</sup> or that the approaches of schools to the graduated approach were inconsistent.<sup>345</sup> Local authorities also pointed to funding issues within schools and felt that schools were seeking extra funding through

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330 Warwickshire County Council ([SCN0479](#)) para 15

331 Association of Directors of Children's Services ([SCN0503](#)) para 11; Northamptonshire County Council ([SCN0496](#)) para 9

332 London Borough of Hackney ([SCN0422](#)) para 2.4; UNISON ([SCN0211](#)) para 1

333 Plymouth City Council ([SCN0454](#)) para 2.6

334 Coventry City Council ([SCN0394](#)) para 5.4

335 UNISON ([SCN0211](#)) para 12

336 East Sussex County Council ([SCN0685](#)) para 14

337 Telford and Wrekin Council ([SCN0429](#)) paras 3.2b–e

338 Nottinghamshire County Council ([SCN0484](#)) para 14

339 East Sussex County Council ([SCN0685](#)) para 20

340 Halton Borough Council ([SCN0684](#)) para viii

341 London Borough of Newham ([SCN0686](#)) para 28

342 East Sussex County Council ([SCN0685](#)) paras 17–8; Halton Borough Council ([SCN0684](#)) paras v–vii; North Yorkshire County Council ([SCN0185](#)) para 3biii

343 Oxfordshire County Council ([SCN0317](#)) para 7

344 North Yorkshire County Council ([SCN0185](#)) para 4c

345 Cornwall Council ([SCN0226](#)) para 1.2



EHCPs.<sup>346</sup> Some local authorities were frustrated by the fragmentation of the school system, including that they could not intervene in academies.<sup>347</sup> Steve Rumbelow, chief executive of Rochdale Borough Council, told us:

Fundamentally, there needs to be a duty on the schools to work with the local authority that has the statutory responsibility. Even in a setting like Rochdale, where we are integrating health and social care, we still have some difficulties getting health to play into the plan process in the way they should. There are lots of things that need to be done in that respect but fundamentally there needs to be a duty to provide education in a normal setting—a secondary or primary school setting—and the local authority needs powers to make sure that happens. We do not have those powers.<sup>348</sup>

153. Local authorities told us that they had seen an increase in young people with SEND, requests for needs assessments and children and young people with EHCPs.<sup>349</sup> West Sussex County Council told us that it had received a small increase in agreed requests for needs assessments, but an increase in requests overall, linked to school's lack of confidence in meeting needs in school and a lack of funding.<sup>350</sup> We also heard conflicting information about the threshold for an EHC needs assessment.<sup>351</sup> Some told us that the threshold is appropriate,<sup>352</sup> while others told us that the threshold was lower than before the reforms and some felt that it was too low.<sup>353</sup> Herefordshire Council felt that the reforms did maintain thresholds but raised parental expectations without the means to deliver.<sup>354</sup>

### *Children, young people and their parents and carers*

154. At the heart of Education Health and Care Plans are the children and young people who rely on them to access education. These plans were the result of reforms framed as ambitious and with a focus on children with SEND having parity of esteem with their peers. The reforms were more person-centred, offering a focus on the individual, as well as greater involvement for parents and carers.

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- 346 London Borough of Hackney ([SCN0422](#)) para 1.8; Devon SEND Improvement Board ([SCN0428](#)) para 1.7; Hampshire County Council Children's Services ([SCN0452](#)) para 1.2; Plymouth City Council ([SCN0454](#)) para 2.7.3; Calderdale MBC ([SCN0491](#)) para 5.3; Cambridgeshire County Council ([SCN0537](#)) para 1.20; City of York SEN Services ([SCN0589](#)) para 3.1; West Sussex County Council ([SCN0594](#)) para 4.1; Cambridgeshire County Council ([SCN0537](#)) para 1.11
- 347 Oxfordshire County Council ([SCN0317](#)) para 4; [Q340](#) [Steve Rumbelow]; [Q355](#) [Richard Flinton]
- 348 [Q355](#)
- 349 Cambridgeshire County Council ([SCN0537](#)) para 1.11; Lambeth SEND ([SCN0077](#)) para 2; Isle of Wight CC SEN Service ([SCN0194](#)) para 10; Local Government Association ([SCN0195](#)) para 5.1; London Borough of Brent ([SCN0209](#)) para 2; Cornwall Council ([SCN0373](#)) para 4; Coventry City Council ([SCN0394](#)) para 4.2; Cheshire West & Chester Council ([SCN0405](#)) para 3.4; East Sussex County Council ([SCN0416](#)) para 1.4; Telford and Wrekin Council ([SCN0429](#)) para 2.2; Staffordshire County Council ([SCN0458](#)) para 7; West Sussex County Council ([SCN0594](#)) para 2.4; North Yorkshire County Council ([SCN0185](#)) para 3a; Calderdale MBC ([SCN0491](#)) para 3.3; Northamptonshire County Council ([SCN0496](#)) para 4; City of York SEN Services ([SCN0589](#)) para 1.1; Kent County Council ([SCN0592](#)) para 3.3
- 350 West Sussex County Council ([SCN0594](#)) para 2.4
- 351 See footnote 296
- 352 London Borough of Newham ([SCN0686](#)) para 22; [Q381](#) [Charlotte Ramsden]
- 353 Anonymous 3 ([SCN0286](#)) para 1.3; North Yorkshire County Council ([SCN0185](#)) para 3d; Devon SEND Improvement Board ([SCN0428](#)) para 1.3; East Sussex County Council ([SCN0416](#)) para 1.6; Halton Borough Council ([SCN0684](#)) para 2
- 354 Herefordshire Council ([SCN0509](#)) para 1.1



155. Brian Lamb told us that consultation with parents at every stage was a “genuine innovation”,<sup>355</sup> and that parents were positive about EHCPs but acknowledged that there were major inconsistencies of quality and practice.<sup>356</sup> However, we were told that consultation with parents was either not happening or was often fraught and confrontational. Linda Jordan, Senior Development Adviser (Children and Young People’s programme), National Development Team for Inclusion, told us that the planning process had become fragmented, so that instead of people sitting together to develop the plan, people were sending in advice and views, and then a case officer wrote the plan.<sup>357</sup> We also heard that co-production was patchy, that EHCPs had been finalised by the local authority with the parents’ knowledge or without opportunity to comment,<sup>358</sup> that draft EHCPs did not include parents’ feedback or what had been agreed in meetings,<sup>359</sup> and the child’s views were not taken into account.<sup>360</sup>

156. Misleading or unlawful advice existed in the system, passed from local authorities to schools and then to parents,<sup>361</sup> which impacted on the quality of support that pupils received and that parents and carers could access for their children. Many parents told us that they had been refused an Education Health and Care Plan,<sup>362</sup> advised not to apply for an Education Health and Care Plan,<sup>363</sup> been refused a needs assessment by the local authority<sup>364</sup> or told that their child would not meet the threshold.<sup>365</sup> Many of these stories resulted in the decision being overturned at Tribunal or upon appeal.

157. We heard that the EHCP process was highly complex and that many parents were unable to engage with the process and with the complexity of the documentation.<sup>366</sup> Some parents were commissioning high cost private assessments,<sup>367</sup> only for some of them not to be able to be used because the local authority would not accept them.<sup>368</sup> Some parents were writing plans themselves,<sup>369</sup> while in other cases the school had written the plan.<sup>370</sup> Many parents were holding local authorities and schools to account for timescales, with

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355 Brian Lamb OBE ([SCN0602](#)) para 6

356 Brian Lamb OBE ([SCN0602](#)) para 7

357 [Q338](#)

358 Parental Submission 27 ([SCN0135](#)) para 2.3; South East Region of National Network of Parent Carer Forums ([SCN0399](#)) para 4

359 Parental Submission 29 ([SCN0144](#)) para 3.5; Parental Submission 39 ([SCN0188](#)) para 30; Our Barn Carers Project ([SCN0067](#)) para 3; Parental Submission 18 ([SCN0075](#)) para 17

360 Parental Submission 138 ([SCN0362](#)) para 40; Hampshire Parent Carer Network ([SCN0471](#)) para 45

361 Parental Submission 66 ([SCN0127](#)) para 1.3; Parental Submission 131 ([SCN0239](#)) para 1; see also paragraph 204

362 Parental Submission 68 ([SCN0234](#)) para 5

363 Parental Submission 74 ([SCN0162](#)) para 9; Mrs Roxanna Kishore-Bigord ([SCN0462](#)) para 3; Herts Parent Carer Involvement ([SCN0552](#)) para 2.7; Parental Submission 129 ([SCN0220](#)) paras 25–6

364 Parental Submission 61 ([SCN0174](#)) para 6; Parental Submission 39 ([SCN0188](#)) para 19; Parental Submission 131 ([SCN0239](#)) para 2; Parental Submission 155 ([SCN0280](#)) para 3; Parental Submission 94 ([SCN0336](#)) para 8; Parental Submission 99 ([SCN0380](#)) para 4; Parental Submission 115 ([SCN0565](#)) para 6; Parental Submission 157 ([SCN0645](#)) para 6; Parental Submission 3 ([SCN0008](#)) para 1

365 Parental Submission 100 ([SCN0381](#)) para 4

366 Parental Submission 13 ([SCN0042](#)) para 1.7; Parental Submission 121 ([SCN0046](#)) para 2; Our Barn Carers Project ([SCN0067](#)) para 36; Parental Submission 17 ([SCN0069](#)) para 4.2; Mrs Nicola Hanson ([SCN0026](#)) para 6

367 Parental Submission 8 ([SCN0019](#)) para 9.1; Claire Ryan ([SCN0032](#)) para 5; Parental Submission 81 ([SCN0158](#)) para 4; Parental Submission 36 ([SCN0173](#)) para 2.2; Parental Submission 133 ([SCN0175](#)) para 2; Parental Submission 101 ([SCN0382](#)) para 8; Parental Submission 105 ([SCN0432](#)) para 2; Parental Submission 120 ([SCN0564](#)) para 2.9; Parental Submission 157 ([SCN0645](#)) para 7

368 Our Barn Carers Project ([SCN0067](#)) para 6; Parental Submission 39 ([SCN0188](#)) para 25; Parental Submission 103 ([SCN0389](#)) para 10; Parental Submission 73 ([SCN0082](#)) para 3

369 Parental Submission 17 ([SCN0069](#)) para 4.6; Parental Submission 22 ([SCN0102](#)) para 7; Parental Submission 96 ([SCN0346](#)) para 22; Hampshire Parent Carer Network ([SCN0471](#)) para 37

370 Parental Submission 41 ([SCN0245](#)) para 3.2; Gemma Birks ([SCN0455](#)) para 31



timescales not being met.<sup>371</sup> Of course timescales work both ways and parents were also under pressure to meet their deadlines. However, we were told that it “does appear that deadlines for the authority are optional, whilst those for parents are mandatory.”<sup>372</sup>

158. Children, young people and their parents and carers were missing out on vital parts of the process. We were told that assessments did not happen,<sup>373</sup> including assessments by educational psychologists, in some cases because there are no therapists to do so.<sup>374</sup> We heard that some Statements were transferred to EHCPs without transfer reviews, assessments and meetings.<sup>375</sup> Parents also reported a lack of specificity in reports, as well as the provision and outcomes detailed in the EHCP.<sup>376</sup>

159. We did hear from parents who had positive experiences.<sup>377</sup> We heard about great staff who provided excellent support or had written excellent reports.<sup>378</sup> There were positive stories about families who were pleased with the assessment process,<sup>379</sup> and the transfer process<sup>380</sup> and the EHCP process and outcome in general.<sup>381</sup> We were told that there were good quality plans being produced, although we note that in some cases this was after legal input,<sup>382</sup> and some parents report a better experience for those who got new EHCPs as opposed to those who transitioned from the old system.<sup>383</sup> However, in the main, these stories were the minority, and we read many more stories of poor, and in some cases appalling, experiences from parents.

160. Children and young people are waiting too long to get their plans, and this problem is compounded if the quality of the plan is then as poor as we have been told that they often are. We heard from seven young people who gave evidence about their experience of having special educational needs and disabilities. Jordan, one of the young researchers from the RIP:Stars, told us that plans were being delayed, mistaken or done badly. He said that the errors meant that children had to wait longer for their plans. He also said that it wasted time for everyone involved—the professional who had to make the plan, the parent, and then the child who had a plan that was pretty much useless.<sup>384</sup>

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371 Parental Submission 28 ([SCN0142](#)) para 3; ASSET ([SCN0488](#)) para 6.3; Parental Submission 17 ([SCN0069](#)) para 4.1; Parental Submission 29 ([SCN0144](#)) para 4.1; Parental Submission 74 ([SCN0162](#)) para 25; Special Needs Jungle Ltd ([SCN0419](#)) para 48; Parental Submission 120 ([SCN0564](#)) para 2.11

372 Our Barn Carers Project ([SCN0067](#)) para 13

373 Parental Submission 99 ([SCN0380](#)) para 6; Claire Ryan ([SCN0032](#)) paras 11 and 14; Parental Submission 57 ([SCN0034](#)) para 3.4; Parental Submission 31 ([SCN0153](#)) para 3.3; Miss Helen Dobbs ([SCN0172](#)) para 2.4

374 Miss Helen Dobbs ([SCN0172](#)) para 2.4

375 Parental Submission 20 ([SCN0090](#)) para 3; Parental Submission 148 ([SCN0568](#)) para 8; Claire Ryan ([SCN0032](#)) para 13; Parental Submission 22 ([SCN0102](#)) para 7

376 Our Barn Carers Project ([SCN0067](#)) para 3; Parental Submission 80 ([SCN0154](#)) para 3.2; Parental Submission 81 ([SCN0158](#)) para 4.1; Parental Submission 34 ([SCN0165](#)) para 5; Warwickshire Parent Carer Forum ([SCN0171](#)) para 6; Parental Submission 36 ([SCN0173](#)) para 2.2; Parental Submission 39 ([SCN0188](#)) para 29; Ms Gillian Doherty ([SCN0257](#)) para 1.5; Parental Submission 55 ([SCN0287](#)) para 2.2; Parental Submission 94 ([SCN0336](#)) para 9; Parental Submission 138 ([SCN0362](#)) para 28; Parental Submission 103 ([SCN0389](#)) para 11; EHCP Experiences 18–25 ([SCN0414](#)) para 2.2; Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 14; Herts Parent Carer Involvement ([SCN0552](#)) para 2.4; Parental Submission 124 ([SCN0117](#)) para 8

377 Parents of Children with Additional Needs ([SCN0556](#)) para 3

378 Parental Submission 161 ([SCN0647](#)) para 4; Parental Submission 21 ([SCN0101](#)) para 2.3; Parental Submission 52 ([SCN0482](#)) para 2; Parental Submission 147 ([SCN0524](#)) para 7

379 Parental Submission 105 ([SCN0432](#)) para 2

380 Parental Submission 40 ([SCN0190](#)) para 3

381 Parental Submission 161 ([SCN0647](#)) para 6

382 Parental Submission 75 ([SCN0204](#)) para 9; Parental Submission 54 ([SCN0493](#)) para 3; Parental Submission 161 ([SCN0647](#)) para 6

383 Parents of Children with Additional Needs ([SCN0556](#)) para 5

384 [Q479](#)



161. The RIP:Stars' research looked at young people's involvement in their plans. They found that professionals felt that this was the 'ideal' but that there was still much more to do to be able to get person-centred planning.<sup>385</sup> Jordan told us:

One of the things we found out in the research was that children were not actually being involved in the process of their education, health and care plans, which was a stunning find. The plans being made about the child were not being made with the child's information being given, or their verbal opinions, or their views being shared within it. That finding was quite atrocious.<sup>386</sup>

However, some young people did feel involved. Francesca, a severely deaf young person, told us that she found that talking about her support in the EHCP annual review meetings was really empowering, but she did not feel that that was necessarily enough. She told us that she knew that meetings happened without the child or young person present and she felt "that when we are older it is really frustrating, because you feel that you can make your own decisions, because it is your own support."<sup>387</sup>

162. Ben from the RIP:Stars told us that children were receiving plans that were not life-focused. He said that they were too focused on education and so children were not getting the support they needed to develop key skills necessary for adulthood, such as making decisions and friendships.<sup>388</sup> His fellow researcher Eva told us:

I think people should try to consider what the child wants to get out of their life—their dreams and ambitions and their life goals—instead of just viewing it as a medical condition and something that needs to be solved quickly.<sup>389</sup>

Eva's emphasis on dreams and ambition is not unreasonable. These reforms, including the greater involvement of health and social care, were meant to facilitate this. However, as we explore throughout this report, there has been a lack of joint working and pulling in the same direction to enable this aim to be met.

## Health and social care

163. The reforms were meant to co-ordinate the support from health and social care and help to ensure that parents did not have to repeatedly tell their story to professionals. We did hear of some successes, for example the introduction of the Designated Medical Officer.<sup>390</sup> However, we were repeatedly told that there had been little evidence of co-operation and communication from the health and social care sector.<sup>391</sup> Alison Fiddy from IPSEA told us:

385 RIP:STARS: Franklin, A., Brady, G. and Durell, S. *Defining quality and rights based Education, Health and Care Plans (EHCPs) for disabled children and young people* (2018) p13

386 Q477

387 Q497

388 Q477

389 Q481

390 See for example paragraph 171

391 Pre-school Learning Alliance (SCN0147) para 3.1; Beams (SCN0224) para 4.1; Sense (SCN0453) para 9; Reachout ASC (SCN0457) para 7.1; The Special Educational Consortium (SCN0480) para 20; We Love Carers (SCN0540) para 4.1; sendPACT (SCN0559) para 5.2; Lisa O'Leary (SCN0023) para 6; Mr Dez Riddler (SCN0148) para 26; Wellspring Academy Trust (SCN0395) para 1.12; Federation of Leaders in Special Education (SCN0448) para 4.1; Chadsgrove Teaching School Alliance (SCN0472) para 19; Brinsworth Academy (SCN0072) paras 8–9



People do not talk about education, health and care plans; they talk about educational healthcare plans. That is a very different thing. These are not educational healthcare plans. They are three separate things. At the moment, the E is uppercase and the H and the C are lowercase. That is not how it should be.<sup>392</sup>

## *Schools and colleges*

164. Schools and colleges told us that there had been no increase, or even a decrease, in health and social care support.<sup>393</sup> We heard that there was little co-operation or collaboration,<sup>394</sup> or the onus was on the school to bring services together.<sup>395</sup> Some felt that health and social care bodies were playing ‘catch up’ with the reforms, meaning all that was currently happening was the maintenance of the status quo.<sup>396</sup>

165. Schools told us that there was a lack of attendance and engagement, with health and social care staff often not in attendance at meetings and reviews.<sup>397</sup> Schools were very aware that health bodies have their own waiting list time frames to meet but pointed out that this slowed down assessments and support,<sup>398</sup> which left schools to provide support without specialist support. Spring Common Academy told us that this then undermined parental confidence.<sup>399</sup> Many schools told us that they were unable to hold health and social care to account,<sup>400</sup> and told us that health and social care staff did not complete paperwork or minutes,<sup>401</sup> or when they did, they were thin on detail.<sup>402</sup> Schools reported that health and social care input was reliant on personalities rather than clear and fair systems.<sup>403</sup> Transition2 was critical of some EHCPs being vehicles to show need and secure services rather than encourage partnership working.<sup>404</sup>

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392 [Q599](#)

393 Henry Tyndale School ([SCN0041](#)) paras 2.2–3 and 4.2; Mr Simeon Elliott ([SCN0059](#)) para 1.3; The Milestone School, Gloucester ([SCN0205](#)) para 7; Surrey Special School Headteachers’ Association ([SCN0417](#)) paras 4.1–3; Voice ([SCN0434](#)) para 13; Association of Educational Psychologists ([SCN0495](#)) para 5.2; Kingsbury Primary School ([SCN0580](#)) paras 15 and 17

394 Lisa O’Leary ([SCN0023](#)) para 6; Mr Dez Riddler ([SCN0148](#)) para 26; Wellspring Academy Trust ([SCN0395](#)) para 1.12; Federation of Leaders in Special Education ([SCN0448](#)) para 4.1; Chadsgrove Teaching School Alliance ([SCN0472](#)) para 19

395 Julie King ([SCN0051](#)) para 7; NASUWT ([SCN0139](#)) para 25; Ms Nancy Gedge ([SCN0179](#)) para 4.1; Mr Paul Silvester ([SCN0198](#)) para 2.3

396 SENCO Forum ([SCN0178](#)) para 31

397 Mrs Kristin Dockar ([SCN0066](#)) paras 21 and 24; Gloucester House—Tavistock children’s day unit ([SCN0071](#)) para 11; Nasenco course, MMU ([SCN0110](#)) para 4.4; More House Foundation ([SCN0122](#)) para 4; Infant School 1 ([SCN0123](#)) para 30; Acorns School ([SCN0137](#)) para 3.2; Northampton College ([SCN0157](#)) para 10; Headteachers’ Roundtable ([SCN0208](#)) para 11; British Association of Teachers of the Deaf ([SCN0217](#)) para 7; Independent Schools Council ([SCN0299](#)) para 13; New College Worcester ([SCN0338](#)) para 16; Sixth Form Colleges Association ([SCN0402](#)) para 19; Orchard Hill College ([SCN0553](#)) para 18

398 Fulham College Boys’ School ([SCN0068](#)) para 15; Infant School 1 ([SCN0123](#)) para 16; Mr Dez Riddler ([SCN0148](#)) para 16

399 Spring Common Academy ([SCN0225](#)) para 19

400 Gloucester House—Tavistock children’s day unit ([SCN0071](#)) para 12; St Martin’s Governing Body ([SCN0128](#)) para 4; West Midlands SEND Forum ([SCN0161](#)) para 13

401 Nasenco course, MMU ([SCN0110](#)) para 4.5; British Association of Teachers of the Deaf ([SCN0217](#)) para 7; SENCO Bristol Cluster Group ([SCN0532](#)) para 28

402 Mr Dez Riddler ([SCN0148](#)) para 16

403 West Midlands SEND Forum ([SCN0161](#)) para 15; Mr Shaun Jukes ([SCN0196](#)) para 4.1; Headteachers’ Roundtable ([SCN0208](#)) para 13; Voice ([SCN0434](#)) para 13; Federation of Leaders in Special Education ([SCN0448](#)) para 4.4

404 Transition2 ([SCN0517](#)) para 10



166. Schools described a lack of understanding, clarity and agreement about who was responsible for paying for different interventions,<sup>405</sup> with schools providing a range of interventions and therapies including speech and language therapy and high-end medical support and school nursing.<sup>406</sup> Sabrina Hobbs, Principal at Severndale Specialist Academy, told us:

That is what the Act was trying to achieve. That hasn't happened. We can bat around stuff like funding and resource and all the rest of it, but education is currently paying for health needs within schools. That could be speech and language therapy, it could be mental health, it could be nursing and all sorts. As a special school, we are currently paying in excess of £90,000 a year just for nursing care, for our students who have been assessed by health to need wraparound care provision for their health needs. That is not to do with education or access to education; it is just to be secure in their health while they are at school—or anywhere—but when they come to school that stops and it becomes the responsibility of education, which means that we are using educational budgets to pay for that. That is happening in our school as a specialist school, but it is happening across all schools, in mainstream schools, in primary and secondary, and it will have an impact on how school leaders can use the money they have for SEN support.<sup>407</sup>

167. Where schools and local authorities were providing speech and language provision, some schools reported that the NHS was not providing the same level of provision.<sup>408</sup> We were told that therapists had no time to work alongside teachers in classroom or to discuss issues with parents.<sup>409</sup> We also heard that some health professionals were refusing to work with low-level cases and only working with pupils who have an Education Health and Care Plan.<sup>410</sup>

168. Some schools were especially concerned about the access to mental health support. We heard that access to Child and Adolescent Mental Health Services (CAMHS) was really difficult and young people were being left without support,<sup>411</sup> while Wellspring Academy Trust told us that staff from CAMHS were unable to attend meetings, unlike other areas of health.<sup>412</sup> Dr Cath Lowther, an educational psychologist, called mental health needs a “lesser sibling” and told us that it is much harder for pupils with mental health needs to get support:

From speaking with colleagues and from my own experience, it feels much harder for them, and their needs have to be much higher. This decision got overturned—it did not go to tribunal, although a tribunal was requested—but an assessment was turned down for a significantly unwell young man. He had a range of complex needs and was on suicide watch; CAMHS had

405 Surrey Special School Headteachers' Association ([SCN0417](#)) para 4.3; Chadsgrove Teaching School Alliance ([SCN0472](#)) para 24; Treloar's ([SCN0605](#)) para 14

406 SENCO Forum ([SCN0178](#)) para 27; National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 46; Carlisle Rural South SENCO Cluster ([SCN0189](#)) para 9; Spring Common Academy ([SCN0225](#)) para 19

407 [Q278](#)

408 Julie King ([SCN0051](#)) para 4; New College Worcester ([SCN0338](#)) para 16; Elaine Parkinson ([SCN0582](#)) para 1

409 Castle Wood Special School ([SCN0391](#)) paras 5.4–5

410 Infant School 1 ([SCN0123](#)) para 31; Mr Dez Riddler ([SCN0148](#)) para 14

411 Castle Wood Special School ([SCN0391](#)) para 5.1; Kisimul Group ([SCN0409](#)) para 26; [Q281](#) [Jon Boyes]

412 Wellspring Academy Trust ([SCN0395](#)) para 2.16



given parents the “lock away your knives” leaflet, and he was turned down for an assessment. That was overruled and he has now got one, but at the same time there was a young lady who had a dyslexia diagnosis, and was almost at age-related expectations, who had a straight go-ahead.<sup>413</sup>

Wellspring Academy Trust told us that children with Social Emotional and Mental Health (SEMH) needs lacked care and health support, with no link between CAMHS and SEMH schools, and explained that therapeutic support was affected by a child’s capacity to access the service, meaning that a child might not be in receipt of appropriate support and care because of their disability.<sup>414</sup>

### Local authorities

169. Local authorities also told us about challenges working with social care and health.<sup>415</sup> They described challenges around information sharing because agencies have different systems,<sup>416</sup> and challenges around meeting timescales because it was not clear what took precedence and each agency was working to their own timescale,<sup>417</sup> with health and social care seeing requests for assessment advice as lower priority than their own direct work.<sup>418</sup> Local authorities felt that there was no lack of willingness to deliver interventions, but funding and resources were limited and therapies were under pressure.<sup>419</sup> One local authority felt that health and social care struggled to attend annual reviews because they were under increasing pressure to focus their resources on the increasing number of needs assessments.<sup>420</sup> Local authorities told us that the result of a lack of provision and inconsistent delivery of provision in social care and the health system was that parents then seek Education Health and Care Plans in order to access therapy, or in order to continue to access health therapies when a young person was old enough to leave education.<sup>421</sup> The lack of health input in the graduated approach was identified as a problem, and another reason why parents were seeking support through Education Health and Care Plans.<sup>422</sup>

170. Local authorities highlighted challenges that they faced regarding accountability. We heard that local authorities felt that they were being held to account for the quality and provision of services over which they have no control.<sup>423</sup> “Disjointed” delivery of provision, Essex County Council told us, impacted on parental confidence, which resulted in requests for independent provision and the use of tribunal cases to secure the place.<sup>424</sup> Local authorities pointed to a lack of clarity or strength of the role and responsibilities of health and social care,<sup>425</sup> in particular pointing to where duties for local authorities are

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413 [Q279](#)

414 Wellspring Academy Trust ([SCN0395](#)) paras 2.14–15

415 Oxfordshire County Council ([SCN0317](#)) para 19; London Borough of Hackney ([SCN0422](#)) paras 4.1–7; Kent County Council ([SCN0592](#)) paras 7.4–6; Telford and Wrekin Council ([SCN0429](#)) para 5.2

416 North Yorkshire County Council ([SCN0185](#)) para 7d

417 North Yorkshire County Council ([SCN0185](#)) para 7e

418 Herefordshire Council ([SCN0509](#)) para 5.1

419 Coventry City Council ([SCN0394](#)) para 6.1; Telford and Wrekin Council ([SCN0429](#)) para 5.1; Northamptonshire County Council ([SCN0496](#)) para 15; Calderdale MBC ([SCN0491](#)) para 6.2; Hampshire County Council Children’s Services ([SCN0452](#)) para 4.1; [Q392](#) [Charlotte Ramsden]; [Q645](#) [Stuart Gallimore]

420 Telford and Wrekin Council ([SCN0429](#)) para 5.2

421 Kent County Council ([SCN0592](#)) para 7.2; Northumberland County Council ([SCN0481](#)) para 14

422 Essex County Council ([SCN0498](#)) para 4.3; [Q383](#) [Chris Harrison]

423 Local Government Association ([SCN0195](#)) para 6.3

424 Essex County Council ([SCN0498](#)) para 4.9

425 Cornwall Council ([SCN0373](#)) para 9; Cambridgeshire County Council ([SCN0537](#)) para 4.3



‘must’ but for health provision was only ‘should’.<sup>426</sup> As a consequence, local authorities said that the other sectors had been permitted to reduce the support that they provided, leaving the education budget to pick up the costs.<sup>427</sup> Hampshire County Council said that where the threshold for adult social care was not met, it was down to education to foot the costs.<sup>428</sup> We heard that the system was reliant on relationships, but local authorities felt that they do not have the power to ensure partners act as they should. Steve Rumbelow told us:

It is too reliant on relationships. We are not heavily academised in Rochdale, which creates a different dialogue. If we were heavily academised—I am not naïve; I know the conversation would be much more difficult. That is why it should not rely on me having a good relationship with the school system and with health colleagues; there has to be something that gives me an opportunity to demand that they step up and do what they should do.<sup>429</sup>

171. Local authorities told us that the roles of the Designated Medical Officer (DMO) and Designated Clinical Officer (DCO) had improved joint working,<sup>430</sup> and pointed to successful working, such as the DMO working closely with local authority staff.<sup>431</sup> Cheshire West and Chester Council told us that it had partly funded the DMO and DCO posts,<sup>432</sup> and the DCO or DMO signed off all Education Health and Care Plans.<sup>433</sup> However, other local authorities have said that there was a lack of clarity in the guidance about the role of the DMO,<sup>434</sup> and having an optional DMO created variability across different areas, which could be resolved by making the role statutory.<sup>435</sup>

172. Many local authorities told us that the complexity of Clinical Commissioning Groups (CCGs) made it hard to work together.<sup>436</sup> Kent County Council told us that not all Clinical Commissioning Groups commission the same services, which meant that in some cases only some of the local authority’s population could access specific types of support.<sup>437</sup> The local authority told us that it was illogical that therapists were employed by the NHS, that budgets were held by the Clinical Commissioning Group, but that responsibility for ensuring provision is in place sits with the LA.<sup>438</sup> We did hear that joint commissioning could be successful as Coventry City Council told us that joint commissioning between the Clinical Commissioning Group and the local authority had funded speech and language therapy included in part F of Education Health and Care Plans.<sup>439</sup>

426 Oxfordshire County Council ([SCN0317](#)) para 18; Warwickshire County Council ([SCN0479](#)) para 33

427 London Borough of Hackney ([SCN0422](#)) para 4.7; East Sussex County Council ([SCN0416](#)) para 4.6; Staffordshire County Council ([SCN0458](#)) para 29; Warwickshire County Council ([SCN0479](#)) para 32; Association of Directors of Children’s Services ([SCN0503](#)) para 20; East Sussex County Council ([SCN0685](#)) para 59

428 Hampshire County Council Children’s Services ([SCN0452](#)) para 4.2

429 [Q358](#)

430 City of York SEN Services ([SCN0589](#)) para 4.5

431 East Sussex County Council ([SCN0416](#)) para 4.5

432 Cheshire West & Chester Council ([SCN0405](#)) para 4.2

433 Cheshire West & Chester Council ([SCN0405](#)) para 4.4

434 Herefordshire Council ([SCN0509](#)) para 5.1

435 Devon SEND Improvement Board ([SCN0428](#)) para 4.3

436 East Sussex County Council ([SCN0416](#)) para 4.6; Devon SEND Improvement Board ([SCN0428](#)) para 4.3; Hampshire County Council Children’s Services ([SCN0452](#)) para 4.1; Warwickshire County Council ([SCN0479](#)) para 31; Essex County Council ([SCN0498](#)) para 4.4; Association of Directors of Children’s Services ([SCN0503](#)) para 21

437 Kent County Council ([SCN0592](#)) para 7.4

438 Kent County Council ([SCN0592](#)) para 7.5

439 Part F of an EHCP sets out the special educational provision that a child needs to meet their special educational needs; Coventry City Council ([SCN0394](#)) para 4.4



173. Local authorities appeared to struggle with defining outcomes and ensuring that outcomes are met.<sup>440</sup> Charlotte Ramsden, the then president of the Association of Directors of Children's Services, said that health teams needed to start measuring success by educational successes, not just health successes, in order to establish a "genuine partnership system".<sup>441</sup> John Henderson, chief executive of Staffordshire County Council, made a wider point about outcomes, telling us that he felt that there was a lack of agreed outcomes for children and young people with SEND, and a lack of understanding about their needs more broadly, unlike looked-after children and the elderly where he felt there was a broad consensus of the outcomes that everyone wanted for these two groups.<sup>442</sup>

## Health and social care

174. We did not receive very much written evidence from health and social care practitioners or organisations, which may itself highlight some of the challenges that have been laid out already about the role and contribution of these two sectors in the reforms. However, we did hear from NHS England that good progress had been made on the SEND reforms,<sup>443</sup> while the Department for Health and Social Care told us that while there was patchy performance across the country, the fact that some local areas were getting it right shows that the legislation was right, and the focus should be on getting local areas to the level that they should be.<sup>444</sup> During our oral evidence session Professor Jacqueline Dunkley-Bent OBE, Head of Maternity Children and Young People–Nursing Directorate at NHS England, outlined some of the practical things that it has been doing to help local areas:

If I can start with the levers, we have introduced into the NHS standard contract some narrative around education and healthcare plans and the timeliness of their completion and delivery. That is in the NHS standard contract. The Clinical Commissioning Groups will be able to use that in their quality surveillance and governance frameworks to ensure that there is accountability for meeting that contract objective.

We have also talked about guidance and publications, but other things we have done from that board, driven by the senior children's nurse for SEND at NHS England, are to work with providers on SEND leadership and knowing the role and responsibility. We have not just published quick guides but have used them in education environments to help our colleagues in the sector in the CCG and other parts such as the local authority, to be able to provide holistic care for the child with those needs.

Those are some practical examples. We have commissioned the Council for Disabled Children to develop a CCG assessment so that the CCG can use that assessment toolkit to assess whether they are complying with the SEND reforms and how successful or not they are. Those are some of the practical things we are doing, not just about guidance but working with people to ensure that children have that holistic care.<sup>445</sup>

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440 Essex County Council ([SCN0498](#)) para 4.5

441 [Q392](#)

442 [Qq363–364](#)

443 NHS England ([SCN0680](#)) para 3

444 [Qq420–421](#)

445 [Q422](#)



175. We were told that pupils with SEND who did not have an EHCP were not benefiting from the reforms. The Royal College of Speech and Language Therapists said that before the reforms were implemented, it had predicted that the weaknesses in the joint commissioning duty would impact on services for those without EHCPs.<sup>446</sup> This appears to have been borne out, as we heard that there were children known to occupational therapists who did not have an EHCP and did not benefit from co-ordinated support,<sup>447</sup> while there were therapists who did not have the time to work with pupils who did not have an EHCP.<sup>448</sup>

176. Therapists reported being overstretched and having long waiting lists, either because there were not sufficient therapists, or because there was not adequate provision in an area due to reduced budgets and growing caseloads.<sup>449</sup> Although we heard that every plan in Greater Manchester that required it had health input, it was acknowledged more broadly that a shortage of therapists would impact on the quality of plans that were being written.<sup>450</sup> We were also told that it could be difficult for health professionals to write advice about the support a child needs without thinking about the local provision. Dr Crockford, a community paediatrician in Chester and previously Designated Medical Officer for West Cheshire Clinical Commissioning Group, told us:

It is often quite difficult for the professionals writing the plans to write totally honestly from the point of the child's needs and completely forget what provision is in the local area. That is what we should be doing—we should be writing the plan based on the need, and if the provision is not there, we should be writing for that provision. That is part of our role as DMO or DCO.<sup>451</sup>

177. In our oral evidence session with health and social care professionals, we discussed whether they were able to attend meetings about pupils with EHCPs, and whether it was necessary. We heard the view that where there was a “heavy health element” to the plan, health professionals needed to be involved in writing the plan.<sup>452</sup> We were told that doctors needed to be informed of reviews in plenty of time, so they could make the decision about whether they needed to attend and then put into place any arrangements for rearranging surgeries.<sup>453</sup> We had been told in written evidence that there was a lack of clear communication pathways between health and education, which led to multiple requests for information or requests going to the wrong person.<sup>454</sup> We explored this in our oral evidence session, and Dr Payne, Professional Adviser—Children, Young People and Families at the Royal College of Occupational Therapists, told us that while she felt that this had been a problem at the beginning of the reforms, this was less of a problem now.<sup>455</sup>

178. The Department for Health and Social Care told us that it did not tell Clinical Commissioning Groups how they should spend their budgets. It did however, set clear

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446 Royal College of Speech and Language Therapists ([SCN0500](#)) para 5.4

447 Royal College of Occupational Therapists ([SCN0439](#)) para 24

448 Royal College of Speech and Language Therapists ([SCN0500](#)) para 5.1.1; [Q428](#) [Michelle Morris]

449 Royal College of Occupational Therapists ([SCN0439](#)) para 10; Royal College of Speech and Language Therapists ([SCN0500](#)) para 4.12

450 [Q445](#) [Michelle Morris]

451 [Q445](#)

452 [Q431](#) [Dr Crockford]

453 [Qq429–430](#) [Dr Crockford]

454 Royal College of Occupational Therapists ([SCN0439](#)) para 14

455 [Q433](#)



messages about what its priority is, through its long term plan and the four clinical priorities, of which learning disability and autism is one.<sup>456</sup> The Department said that the expectation in the legislation was for partnership working and where there were arguments about who pays, this indicated a failure of partnership working.<sup>457</sup> The Royal College of Speech and Language Therapists told us that there was a lack of joint commissioning in many areas, and a lack of a common definition of what joint commissioning was.<sup>458</sup>

179. We wanted to know whose responsibility it was to ensure that joint commissioning was happening as required by section 26 of the Children and Families Act 2014. We were told that it was a shared responsibility, but the Minister told us that “fundamental governmental responsibility” sat with the Department for Education.<sup>459</sup> We felt that there was a lack of clarity in the answers being given:

**Chair:** But would you not say that the fact that it is difficult to answer that question shows that there is a flaw in the—

**Caroline Dinéage:** It shows the challenges, doesn't it? Would you say a flaw? The fact that a Bill has to come out of a Government Department gives responsibility to that Government Department. It shows the silo working we have within Government in producing legislation, but it doesn't have to be a flaw. A huge frustration of mine as a Government Minister has been trying to break down those barriers and work collaboratively across Government Departments so that we are not jealously possessive of our pots of cash, but are thinking about the best investment for an individual, rather than a Department, a CCG, a local authority or whatever.<sup>460</sup>

180. This lack of clarity about who was responsible for implementing and monitoring the legislation appeared to have travelled down to the front line, with health professionals thinking that there was a lack of clarity about who commissioned what, with Dr Payne drawing particular attention to powered wheelchairs and other specialist equipment.<sup>461</sup> Dr Crockford told us that there was often difficulty distinguishing between an intervention for a health need that could be carried out by a health professional and one that could be undertaken by other professionals.<sup>462</sup>

181. We heard about the benefits and importance of multidisciplinary working, and how that helped to break down barriers. Unfortunately, we were told it required strong leadership, time and effort, and ultimately was only happening in some areas of the country.<sup>463</sup>

### *Children, young people and their parents and carers*

182. Many submissions from parents told us of experiences which showed that the reforms were not working as they were expected to. We were told by parents that they had

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456 [Q436](#) [Caroline Dinéage]

457 [Q437](#) [Fran Oram]

458 Royal College of Speech and Language Therapists ([SCN0500](#)) paras 6.3.1 and 6.4

459 [Qq448–450](#) [Fran Oram and Caroline Dinéage]

460 [Q451](#)

461 [Q444](#)

462 [Q410](#)

463 [Qq412–414](#) [Michelle Morris]; [Q420](#) [Dr Crockford and Fran Oram]



been acting as the intermediary and co-ordinator between services,<sup>464</sup> and in some cases the school took on this role.<sup>465</sup> As well as playing a co-ordinator role, we were told that provision was not funded or provided and parents were fighting to get it paid for.<sup>466</sup> Speech and language therapy (SALT) in particular seemed to be a particular challenge. We heard that health services did not specify and quantify SALT provision,<sup>467</sup> while on the other hand the local authority detailed SALT and occupational therapy in the health section of the EHCP, even though it should have been detailed in section F as an educational need.<sup>468</sup> Parents told us that the three different sectors passed the buck, each one saying that it was the other's responsibility.<sup>469</sup> Ultimately we heard that many therapies, including speech and language therapy, were not being provided<sup>470</sup> or difficult to access, even for schools.<sup>471</sup>

183. We were told that when children and young people were issued with EHCPs that have health provision in the incorrect place, or without agreement to fund, it could make parents think that the provision listed would definitely be provided.<sup>472</sup> As one parent told us:

writing that a child needs speech therapy weekly for 1 hour at a time doesn't magically fund the NHS to be able to deliver the therapy. It just leads to frustration for families who feel like their child is being failed.<sup>473</sup>

184. Many parents told us that there was no input from social care to needs assessments, EHCPs or reviews and children were being listed as "not known to social care".<sup>474</sup> Where social care was involved, it was often only from a child protection angle.<sup>475</sup> We also heard that health professionals do not, or are not able to, attend meetings.<sup>476</sup> Alison Fiddy from IPSEA explained the impact that poor quality advice and involvement from these team had on children and young people:

If the quality of the advice and information coming from educational psychologists, speech and language therapists, occupational therapists,

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- 464 Parental Submission 11 ([SCN0030](#)) para 28; Parental Submission 37 ([SCN0181](#)) para 16; Parental Submission 137 ([SCN0361](#)) para 1; Parental Submission 47 ([SCN0366](#)) para 9; Parental Submission 103 ([SCN0389](#)) para 22iii; Parental Submission 111 ([SCN0555](#)) para 34; SEND Family Voices ([SCN0290](#)) para 5.2
- 465 Parental Submission 40 ([SCN0190](#)) para 5
- 466 Parental Submission 38 ([SCN0182](#)); Parental Submission 114 ([SCN0575](#)) paras 4–5; Parental Submission 54 ([SCN0493](#)) para 13
- 467 Parental Submission 101 ([SCN0382](#)) para 12
- 468 Parental Submission 103 ([SCN0389](#)) para 22vii; Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 71; ASSET ([SCN0488](#)) para 8.1; [Q82](#) [Matt Keer]
- 469 Parental Submission 18 ([SCN0075](#)) para 31; Warwickshire Parent Carer Forum ([SCN0171](#)) para 14; Parental Submission 29 ([SCN0144](#)) para 6.4; Down Syndrome Training & Support Service Ltd ([SCN0053](#)) para 3; Afasic ([SCN0292](#)) para 17; Parental Submission 127 ([SCN0169](#)) para 21; Parental Submission 37 ([SCN0181](#)) para 14; Parental Submission 155 ([SCN0280](#)) para 17; Parental Submission 103 ([SCN0389](#)) para 22i; Parental Submission 104 ([SCN0407](#)) para 4o
- 470 Parental Submission 29 ([SCN0144](#)) para 6.3; Parental Submission 30 ([SCN0149](#)) para 6; Parental Submission 18 ([SCN0075](#)) para 31; Afasic ([SCN0292](#)) para 19; Parental Submission 99 ([SCN0380](#)) para 17
- 471 Parental Submission 39 ([SCN0188](#)) paras 2 and 44
- 472 Beams ([SCN0224](#)) para 1.5
- 473 Parental Submission 54 ([SCN0493](#)) para 13
- 474 Parental Submission 31 ([SCN0153](#)) para 5.1; Parental Submission 127 ([SCN0169](#)) para 12; Miss Helen Dobbs ([SCN0172](#)) para 4.3; Parental Submission 37 ([SCN0181](#)) para 15; Parental Submission 39 ([SCN0188](#)) para 46; Ms Gillian Doherty ([SCN0257](#)) para 4.1; Parental Submission 155 ([SCN0280](#)) para 18; Parental Submission 5 ([SCN0010](#)) para 3; SEND Family Voices ([SCN0290](#)) para 5.1; Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 69; Claire Ryan ([SCN0032](#)) para 22
- 475 Parental Submission 5 ([SCN0010](#)) para 3; Warwickshire Parent Carer Forum ([SCN0171](#)) para 5
- 476 Parental Submission 57 ([SCN0034](#)) para 5.2; Parental Submission 17 ([SCN0069](#)) para 6.1; Parental Submission 155 ([SCN0280](#)) para 19; Parental Submission 105 ([SCN0432](#)) para 8; Ms Gillian Doherty ([SCN0257](#)) para 4.3



health and social care is not good, that will translate into a poorly drafted plan that lacks the necessary level of specificity, which is absolutely crucial in ensuring that children and young people's needs are met.<sup>477</sup>

185. However, we also heard positive stories. We heard from parents that said that they had experienced good involvement from health professionals and excellent reports had been written.<sup>478</sup> We were told that SALT provision is the 'backbone' of reports in one local area,<sup>479</sup> and examples of joint working between occupational therapists, physios, SALT and clinical psychologists.<sup>480</sup> Other parents told us that the health provision was good, but was underfunded and rationed.<sup>481</sup>

## Post-16 and Post-19 education

186. In 2018, the average Attainment 8 score for pupils at state-funded schools was 46.5.<sup>482</sup> For pupils with special educational needs, it was 27.2.<sup>483</sup> 13.5% of young people with special educational needs achieved English and maths at grades 9–5 compared to 48.3% of their peers with no identified special educational need.<sup>484</sup> The Department for Education's own data release states "pupils with SEN perform significantly worse than pupils with no identified SEN across all headline measures of attainment".<sup>485</sup> Supported internships have existed since September 2013 and over 1,200 people undertook an internship in 2018.<sup>486</sup> In 2017/18, 11.2% of all apprenticeship starts were undertaken people with learning difficulties and/or disabilities. The Government has a target of 11.9% by 2020.<sup>487</sup> The Government introduced incentives for employers to hire apprentices with an EHCP. Employers receive an additional £1,000 if they hire an apprentice, who at the time of starting is "19–24 years old and who has previously been in care or who has an Education, Health and Care plan provided by their local authority."<sup>488</sup> We know that for some young people, getting a job will never be possible, but the 2014 reforms introduced a greater focus on person-centred planning to help all young people thrive in adulthood and to fulfil their potential in whatever ways possible.

## Schools, colleges and work providers

187. Schools and colleges were sceptical about the support that had been provided for young people, describing a landscape of unclear pathways and patchy opportunities,<sup>489</sup>

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477 [Q603](#)

478 Ms Gillian Doherty ([SCN0257](#)) para 4.3

479 Warwickshire Parent Carer Forum ([SCN0171](#)) para 8

480 Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 73

481 Parental Submission 164 ([SCN0332](#)) para 5.2; Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 21

482 Attainment 8 is a performance measure that measures a students' average grade across eight subjects. These eight subjects are the same subjects that count towards Progress 8.

483 Department for Education, [Key stage 4 including Multi-Academy Trust performance 2018 \(revised\)](#), (January 2019), pp 1 and 28

484 Department for Education, [Key stage 4 including Multi-Academy Trust performance 2018 \(revised\)](#) (January 2019), p28

485 Department for Education, [Key stage 4 including Multi-Academy Trust performance 2018 \(revised\)](#) (January 2019), p27

486 *People with disabilities in employment*, Briefing Paper [7540](#), House of Commons Library, May 2019, p14

487 *People with disabilities in employment*, Briefing Paper [7540](#), House of Commons Library, May 2019, p14

488 HM Government, ['How much is it going to cost?'](#), accessed 25 September 2019

489 Fulham College Boys' School ([SCN0068](#)) para 21; Mr Dez Riddler ([SCN0148](#)) para 30; National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 49



where nothing or very little has changed,<sup>490</sup> and a system that had had no funding allocated to it to make the changes that the system and legislation required.<sup>491</sup> We were told that there were limited options for young people, including limiting low expectations,<sup>492</sup> that other services were not engaged,<sup>493</sup> and that pupils with SEND were faced with a lack of choice and inclusivity at college, creating a lack of equality of opportunity.<sup>494</sup> We heard that some colleges were reluctant to put on courses for students with SEND.<sup>495</sup> We also heard that supported internships opportunities were patchy across the country,<sup>496</sup> and independent living placements could be variable in quality.<sup>497</sup> This was summed up by Sue Gerrard, a former primary teacher and carer of two young adults with disabilities, as post-16 options being “determined by what the market is prepared to offer, rather than by the needs of young people.”<sup>498</sup>

188. Professionals from schools and colleges felt that it was unclear who was entitled to what, with the National Association of Head Teachers putting the blame for much of the rise in tribunal cases at the lack of clarity around post-19 provision,<sup>499</sup> but ultimately at the door of the Department for Education:

This area must be much more clearly defined in terms of who is eligible on what basis. The analysis of the DfE guidance on this matter, widely seen as unhelpful, by firm of solicitors HCB sets out the issues very clearly, and also makes it clear why the DfE is part of the problem in driving up legal challenges to local authorities turning down EHCPs.<sup>500</sup>

This confusion was echoed by reports by schools and colleges that it was impossible to get EHCPs for pupils post-19 as local authorities were ceasing or refusing to issue EHCPs.<sup>501</sup>

189. We heard that colleges did not have enough high needs funded places to match the number of young people with EHCPs.<sup>502</sup> Pat Brennan-Barratt, Principal of Northampton College, told us that the move to try to only give plans to 19 years of age, and not give them to 25, meant that colleges were using their adult funding to support students. She told us it was costing her college over £300,000 a year, and the numbers of students without EHCPs was increasing, but the funding available was decreasing.<sup>503</sup> In addition to funding challenges, colleges told us that they faced a lack of certainty in their funding. We were told that colleges needed certainty of funding as providing support for students with SEND requires them to plan ahead and invest in staff and facilities.<sup>504</sup> Bernie White, Chair of Natspec, told us that specialist colleges could find themselves with pupils who do

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490 Mrs Kristin Dockar ([SCN0066](#)) para 27; Fulham College Boys' School ([SCN0068](#)) para 16; Mr Shaun Jukes ([SCN0196](#)) para 5.1; Herne Bay High School ([SCN0427](#)) para 11

491 Mr Simeon Elliott ([SCN0059](#)) paras 1 and 4.1

492 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 55

493 Nasenco course, MMU ([SCN0110](#)) para 5.5

494 St Martin's Governing Body ([SCN0128](#)) para 12

495 Mr Shaun Jukes ([SCN0196](#)) para 5.2

496 [Q296](#) [Linda Jordan]

497 Prior Pursglove and Stockton Sixth Form College ([SCN0436](#)) para 5

498 Sue Gerrard ([SCN0410](#)) para 5.3

499 National Association of Head Teachers ([SCN0301](#)) para 46

500 National Association of Head Teachers ([SCN0301](#)) para 47

501 Northampton College ([SCN0157](#)) para 13; Schools Students And Teachers Network (SSAT) ([SCN0505](#)) para 8.3; New College Durham ([SCN0516](#)) para 9; Orchard Hill College ([SCN0553](#)) para 21

502 [Q97](#) [Alyson Shields]; Carlisle College ([SCN0213](#)) paras 25a–c

503 [Q297](#)

504 [Q294](#) [Di Roberts and Bernie White]



not receive confirmation that they could progress from year one to year two of a two-year course until very late.<sup>505</sup> This put uncertainty on their funding, but doubtless also created uncertainty for the students and their families. We also heard that FE colleges were under pressure from pupils who came to them from home education, where colleges would then have to assess pupils who had special educational needs as they would not have had an EHCP, or from alternative provision, where the levels of funding would drop.<sup>506</sup>

190. At our oral evidence session with post-16 providers, witnesses representing specialist provision expressed concerns about a report commissioned by the Local Government Association from Isos Partnership.<sup>507</sup> David Ellis from National Star, an independent specialist FE college, felt that the suggestion that the increase to 25 was putting pressure on the high needs block was misleading, suggesting that rather than increased costs having been put into the system, the costs had instead been moved from adult services to education.<sup>508</sup> Bernie White felt that there was anxiety from local authorities about “the idea that students can participate in learning until they are 25, particularly when it focuses on them having the right to go to a specialist provider and that is seen as taking away from others.”<sup>509</sup> However, she said that in actuality there are very few 25-year-old learners in specialist provision. She felt that this anxiety was overriding sensible decision-making and pointed to the successful outcomes of specialist provision, which included sustained employment outcomes.<sup>510</sup> We also heard the view that there was a perverse incentive on local authorities not sharing information about post-19 options, as this enabled local authorities to avoid spending money.<sup>511</sup> We were told that there was no funding for maintained special schools to offer post-19 education,<sup>512</sup> although we did hear that some were setting up units for this cohort of students.<sup>513</sup>

191. The reforms extended the availability of EHCPs to young people up to the age of 25.<sup>514</sup> The duty to maintain an EHCP continues until it is no longer needed;<sup>515</sup> when deciding whether to continue an EHCP for a young person between 18 and 25, the reforms required the authority to take into account achievement of educational goals in the EHCP.<sup>516</sup> The reforms also required preparing for adulthood information to be published as part of the local offer, but also focused on in the Education Health and Care Plan. We heard conflicting information about the level to which this was done, with some submissions telling us that ‘preparing for adulthood’ decisions were made too late, there was not enough focus on it, or that it does not exist in Education Health and Care Plans.<sup>517</sup> However, we did hear that ‘preparing for adulthood’ was done too soon or that there was too much focus on

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505 [Q295](#)

506 [Q308](#) [Di Roberts]

507 ISOS Partnership, *Have we reached a ‘tipping point’? Trends in spending for children and young people with SEND in England* (December 2018)

508 [Q298](#)

509 [Q299](#)

510 [Q299](#)

511 Ms Nancy Gedge ([SCN0179](#)) para 5.6;

512 Surrey Special School Headteachers’ Association ([SCN0417](#)) para 5.2; Federation of Leaders in Special Education ([SCN0448](#)) para 5.6

513 Association of Colleges ([SCN0492](#)) para 22.2

514 Children and Families Act 2014, [section 46](#)

515 Or the authority ceases to be responsible for the person: see Children and Families Act 2014, [section 45\(1\)\(a\)](#)

516 Children and Families Act 2014, [section 45\(3\)](#)

517 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) paras 50–51, National Association of Principal Educational Psychologists (NAPEP) ([SCN0441](#)) para 25; Association of Colleges ([SCN0492](#)) para 22.3; New College Durham ([SCN0516](#)) para 1; Mr Dez Riddler ([SCN0148](#)) para 29



it in EHCPs,<sup>518</sup> which was described as a “relentless focus” on it as part of the process.<sup>519</sup> However, despite the requirement to start making decisions about post-16 options from Year 9 onwards, we heard that transition processes, or transition decisions, were started or made too late<sup>520</sup> and that local authorities were not engaged in transition planning.<sup>521</sup>

192. We also heard that there was a “predominant focus” on education and employment, as opposed to wider life outcomes, as part of post-16 and 19 provision and in EHCPs. Concerns were shared with us that Education Health and Care Plans were being ceased because it was assumed that a young person’s future was in an adult social care setting or because certain academic qualifications had not been achieved.<sup>522</sup> The Special Educational Needs and Disability Regulations 2014 require that an EHCP for a young person in or beyond Year 9 must include provision to assist the young person in preparation for adulthood and independent living, which includes “finding employment; obtaining accommodation; [and] participation in society.”<sup>523</sup> However, we heard that some EHCPs did not reflect the ethos of preparing for adulthood,<sup>524</sup> and only focused on education or training for employment.<sup>525</sup> Linda Jordan, Senior Development Adviser (Children and Young People’s programme) at the National Development Team for Inclusion, explained:

The Code talks about the preparing for adulthood outcomes throughout, I think they are mentioned in every chapter, but it also talks about education, health and care outcomes. Most education, health and care plans are constructed with the outcomes under areas of need. There is an element of confusion and that is mostly what we do, helping people to work through those contradictions and to think about that the most important outcomes are life outcomes, as Janine mentioned earlier, life outcomes for young people. It is perhaps moving away from some of our traditional ways of constructing outcomes in quite short-term, narrow education objectives more into how we are going to support this young person to be as independent as possible, to have relationships, friends and so on.<sup>526</sup>

Transition2’s written evidence explained that transition beyond education was not a focus within the local authority in which they worked.<sup>527</sup> This was also reported in further evidence from Treloar’s, a specialist school and college for disabled young people, who explained that funding decisions were not consistent as some local authorities wanted qualification outcomes but others recognised non-academic achievements.<sup>528</sup> Education professionals told us that they relied on the local authority to act as a co-ordinator of services for students post-16, but the local authority did not have the capacity to do this.<sup>529</sup>

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518 Ms Nancy Gedge ([SCN0179](#)) paras 2.8 and 5.2

519 Ms Nancy Gedge ([SCN0179](#)) para 2.8

520 Treloar’s ([SCN0605](#)) paras 10 and 12

521 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 49

522 Ms Nancy Gedge ([SCN0179](#)) para 5.7; National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#)) para 55

523 Special Educational Needs and Disability Regulations 2014 ([SI 2014/1530](#)), regs 12(3) and 2(2)

524 New College Durham ([SCN0516](#)) para 4

525 Sue Gerrard ([SCN0410](#)) para 2.4

526 [Q331](#)

527 Transition2 ([SCN0517](#)) para 6

528 Treloar’s ([SCN0605](#)) para 13

529 SENCO Bristol Cluster Group ([SCN0532](#)) para 33



We were told that there was a lack of information for schools about the services that were available, which impacted on their ability and confidence to support pupils when they left their school.<sup>530</sup>

193. While outcomes beyond education or employment seem to be barriers, we heard that employment outcomes themselves could be hard to achieve. Janine Cherrington from Transition2 outlined three barriers to employment and independence outcomes: work experience not happening early enough, the wrong partners being involved in Education Health and Care Plans for employment outcomes, and the financial impact on the family if a young person gets a job.<sup>531</sup> We also heard from Caroline Archer, Employment Service Manager at Action on Disability, who explained that providers of employment opportunities for young people faced challenges around the lack of funding for supported internships for students with SEND but no Education Health and Care Plan.<sup>532</sup> She also told us that organisations that provide support for young people with SEND and employers were becoming stretched because they had young people and employers coming back asking for help, beyond the six months or year that they are funded to provide help. While she acknowledged the support provided by Access to Work, she told us that it had limitations.<sup>533</sup> We previously found problems with Access to Work in our report *The apprenticeships ladder of opportunity: quality not quantity*, when we were told that it “remained slow and poorly publicised despite the Maynard Taskforce’s calls for improvement.”<sup>534</sup> It is disappointing that this important scheme still appears to be facing problems.

## Local authorities

194. We heard from the post-16 sector that local authorities resisted giving EHCPs to young people between the ages of 18 and 25 because it cost more money, although some providers reported that they had successfully referred pupils post-19 for EHCPs and they have received them.<sup>535</sup> In contrast, local authorities told us that they were seeing young people request an EHCP in order to ‘return’ to education.<sup>536</sup> Parents described local authorities having blanket policies and ceasing EHCPs or Statements based on the students’ age.<sup>537</sup>

195. Local authorities described a conflict between children’s social care and adult services, with some suggesting that parents were choosing for their children to stay in education for longer because it provided better support than was available through adult services.<sup>538</sup> Local authorities told us that this aspect of the reforms had put pressure on their high needs budget.<sup>539</sup> Local authorities reported that there was a lack of vocational and employment opportunities, supported living opportunities and link up with adult

530 SENCO Bristol Cluster Group ([SCN0532](#)) para 34

531 [Q335](#)

532 [Qq306–308](#)

533 [Q335](#)

534 Education Committee, Sixth Report of Session 2017–19, *The apprenticeships ladder of opportunity: quality not quantity*, HC 344, para 84

535 [Qq321–324](#) [Di Roberts, Beatrice Barleon, Pat Brennan-Barrett]

536 London Borough of Hackney ([SCN0422](#)) para 1.3; Staffordshire County Council ([SCN0458](#)) para 31

537 Parental Submission 6 ([SCN0011](#)) para 4; National Network of Parent Carer Forums ([SCN0199](#)) para 4.11

538 Nottinghamshire County Council ([SCN0484](#)) para 24; Cornwall Council ([SCN0373](#)) para 13

539 East Sussex County Council ([SCN0416](#)) para 5.1; Hampshire County Council Children’s Services ([SCN0452](#)) para 5.5; Devon SEND Improvement Board ([SCN0428](#)) para 3.6; Warwickshire County Council ([SCN0479](#)) para 22; Telford and Wrekin Council ([SCN0429](#)) para 4.2a; Northumberland County Council ([SCN0481](#)) para 13



social care for young people with SEND,<sup>540</sup> but acknowledged that better employment and apprenticeship destinations were key to releasing pressure on the system.<sup>541</sup> Some local authorities described positive changes such as an increase in local provision and increased supported internship opportunities, including Project Search.<sup>542</sup> Calderdale MBC told us that it “is developing structures through a Five Day Offer which allows a focus on independent living and better connects education and social care responses for young people with an EHC Plan.”<sup>543</sup> However, we also heard that these opportunities were limited by the level of resources.<sup>544</sup>

196. This was an area about which local authorities were seemingly very unclear. Local authorities said that there was a lack of clarity about what education post-16 and post-19 was,<sup>545</sup> with some local authorities suggesting that parts of the SEND Code of Practice were at odds with each other or that the regulations were ‘a grey area’.<sup>546</sup> Local authorities also said that there were no legal definitions or parameters around what progress is,<sup>547</sup> or that some young people did not make sufficient progress on their courses, which meant that they repeated courses, which in turn did not show progress or support progression to adulthood.<sup>548</sup> Local authorities also told us that they were not clear about when an EHCP could be ceased.<sup>549</sup> The intention of the legislation appeared not to be happening in practice. Hampshire County Council Children’s Services told us:

The SEND reforms have unintentionally created unrealistic expectations in raising the entitlement threshold to 25 years old. The DfE intended this extension of education entitlement to 25 year olds to be for a comparatively small percentage of young people however, families are now routinely testing the regulations in Tribunal and succeeding.<sup>550</sup>

This lack of clarity behind the intention of the legislation and the reality was also given as a reason why options beyond education, such as employment, were not being taken up. Northamptonshire County Council said that employment options were being hindered by an expectation of education to 25 and Tribunal decisions.<sup>551</sup>

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540 Lambeth SEND ([SCN0077](#)) para 6h

541 Telford and Wrekin Council ([SCN0429](#)) para 6.4; Coventry City Council ([SCN0394](#)) para 7.3

542 Coventry City Council ([SCN0394](#)) para 7.3; Devon SEND Improvement Board ([SCN0428](#)) para 5.1; Calderdale MBC ([SCN0491](#)) para 7.3; Essex County Council ([SCN0498](#)) paras 5.2–4

543 Calderdale MBC ([SCN0491](#)) para 7.2

544 Telford and Wrekin Council ([SCN0429](#)) para 6.4; Coventry City Council ([SCN0394](#)) para 7.3

545 Staffordshire County Council ([SCN0458](#)) para 31; Northumberland County Council ([SCN0481](#)) para 17; Northamptonshire County Council ([SCN0496](#)) para 18; West Sussex County Council ([SCN0594](#)) para 6.1

546 Northumberland County Council ([SCN0481](#)) para 17; London Borough of Hackney ([SCN0422](#)) para 5.2

547 Coventry City Council ([SCN0394](#)) para 7.1; East Sussex County Council ([SCN0416](#)) para 5.6; Telford and Wrekin Council ([SCN0429](#)) para 6.1

548 East Sussex County Council ([SCN0416](#)) para 5.6

549 Telford and Wrekin Council ([SCN0429](#)) para 6.1; Hampshire County Council Children’s Services ([SCN0452](#)) para 5.3; Herefordshire Council ([SCN0509](#)) para 6.2; North Yorkshire County Council ([SCN0185](#)) para 8f

550 Hampshire County Council Children’s Services ([SCN0452](#)) para 5.1

551 Northamptonshire County Council ([SCN0496](#)) para 21



## Health services

197. We heard from therapists that many young people struggled to access therapies, particularly occupational therapy and speech and language therapy, because they were not commissioned post-18.<sup>552</sup> When we asked the Minister of State for Care about this, she told us:

This is something that I do have concerns about. I am really aware that for some people, once they hit the age of 18, that can really be a cliff edge. That is why the Children and Families Act extended that to 25. There is a big disparity between services with a cliff edge at 18 and those that finish at 25. That is something that we do need to get 100% right. That transitional support in SEND particularly can make an unbelievable difference in the way that someone moves forward with their lives and whether their crisis points are tackled professionally.<sup>553</sup>

The Royal College of Occupational Therapists stated that a lack of access to therapies between 19 and 25 for students with SEND whose needs were diagnosed at a later age could be particularly problematic.<sup>554</sup> It appears that even for those with an EHCP, 18 continues to be a cliff-edge for many young people and their access to healthcare.

## Children, young people, parents and carers

198. The focus of the evidence that we took from parents was around the availability of options for young people, including insufficient local post-16 specialist provision.<sup>555</sup> While we heard that there was a lack of knowledge about the options that were being presented to young people by schools,<sup>556</sup> we also heard that more generally there was a lack of options for young people at this age. We were told that colleges only offered three-day a week courses, resulting in parents giving up work.<sup>557</sup> We heard that support and information just was not available, whether that was access to independent living training,<sup>558</sup> schools and colleges offered limited or poor careers advice and work experience options,<sup>559</sup> and no or limited access to education, apprenticeships or work.<sup>560</sup> We heard particular concerns that pupils who did not have EHCPs could struggle, as colleges got no funded support other than the from disadvantaged funding, and while they often needed longer than three years at college, without an EHCP, additional years were not funded.<sup>561</sup>

552 Royal College of Occupational Therapists ([SCN0439](#)) para 27; Royal College of Speech and Language Therapists ([SCN0500](#)) para 7.1

553 [Q443](#)

554 Royal College of Occupational Therapists ([SCN0439](#)) para 27

555 Warwickshire Parent Carer Forum ([SCN0171](#)) para 22; Hackney Independent Parent-Carer Forum ([SCN0468](#)) paras 83–8

556 Enhance EHC Ltd ([SCN0567](#)) para 25; Afasic ([SCN0292](#)) para 25

557 National Network of Parent Carer Forums ([SCN0199](#)) para 4.10; Pinpoint Cambridgeshire ([SCN0264](#)) para 21i; SEND Family Voices ([SCN0290](#)) para 6.4; Parental Submission 133 ([SCN0175](#)) para 8

558 Sue Gerrard ([SCN0410](#)) para 5.1; Royal National College for the Blind ([SCN0502](#)) para 11.5

559 Warwickshire Parent Carer Forum ([SCN0171](#)) para 25; Parental Submission 138 ([SCN0362](#)) para 62; Our Barn Carers Project ([SCN0067](#)) para 39

560 Parental Submission 71 ([SCN0262](#)) para 16; Herts Parent Carer Involvement ([SCN0552](#)) para 5.2; Pinpoint Cambridgeshire ([SCN0264](#)) para 21iv; South East Region of National Network of Parent Carer Forums ([SCN0399](#)) para 12; Parental Submission 31 ([SCN0153](#)) para 6.2; Warwickshire Parent Carer Forum ([SCN0171](#)) para 24; Parental Submission 56 ([SCN0020](#)) para 13

561 New College Durham ([SCN0516](#)) para 7



199. Parents told us that their child did not receive a meaningful transition and that the onus was on the parent to help their child find provision.<sup>562</sup> Parents were critical of FE provision, stating that there was not sufficient provision, resulting in young people being shoe-horned into courses,<sup>563</sup> and in young people's views and interests not being followed.<sup>564</sup> We also heard that there was very little work experience or career planning evident in FE colleges.<sup>565</sup>

200. Kashifa, a young person with SEND studying at FE college, described her experience of being put onto a college course specially for young people with learning disabilities, but not feeling that it led her anywhere.<sup>566</sup> She told us that she made had decisions based on limited exposure to options:

I think it would be useful if we had more information about our futures, like different work experiences and a chance to try out different jobs, to know what is out there. When I was at college, we only spoke about going to college. I left school not really knowing what I wanted to do. My work experience had been at my school, reading to children a few years younger than me, and I thought that this was what I wanted to do.

Thinking about it now, I think it would have been a lot more helpful to have a wide range of options, maybe to have several work experiences or work tasters with different businesses, to decide. Having real experiences makes it easier for me to decide about what I like and what I am good at.<sup>567</sup>

201. Parents expressed concerns about the limited employment options available for their children, but particularly with the routes that were meant to be supported. Parents felt that there was a lack of apprenticeship opportunities, particularly as children with SEND had to compete for places with non-disabled children, and they ultimately missed out.<sup>568</sup> Supported internships were met with the same criticism—there was limited availability and often young people did not get a job at the end of it.<sup>569</sup> We also heard that apprenticeships often only worked for some young people with Education Health and Care Plans.<sup>570</sup> We were told that young people without EHCPs were disadvantaged as they did not qualify for supported internships, which limited their employability options.<sup>571</sup>

202. We also heard about a lack of ambition for young people with SEND. Simran, a third-year accounting and management student at Queen Mary University of London, told us:

No, I feel that a lot of the time they see the disability more than the person. They judge us based on what they think we can do rather than qualifications and what we have achieved.

562 Miss Helen Dobbs ([SCN0172](#)) para 5.4;; SEND Family Voices ([SCN0290](#)) para 6.3

563 Hackney Independent Parent-Carer Forum ([SCN0468](#)) para 84

564 Bren Prendergast ([SCN0522](#)) para 5.4

565 Parental Submission 138 ([SCN0362](#)) para 62

566 [Q485](#)

567 [Q483](#)

568 Parental Submission 31 ([SCN0153](#)) para 6.2; Pinpoint Cambridgeshire ([SCN0264](#)) para 21iii; Parental Submission 138 ([SCN0362](#)) para 60

569 Pinpoint Cambridgeshire ([SCN0264](#)) para 21iv; South East Region of National Network of Parent Carer Forums ([SCN0399](#)) para 12

570 ASSET ([SCN0488](#)) para 8.8

571 Association of Colleges ([SCN0492](#)) para 24



As I was saying earlier, I have to work harder than everyone else to achieve anything. I have a twin sister and we do the same kind of thing. We have the same kind of grades and she is currently in a job and I am not, so I think that proves there are limited career aspirations for disabled people like myself.<sup>572</sup>

This was echoed by Pinpoint Cambridge who told us that colleges in their area were trying to make links with employers, but the employers were scared of taking on young people with additional needs.<sup>573</sup>

## Information and advice

203. The 2014 reforms were intended to make the system simpler and easier to navigate for those within it and many of our witnesses referred to the increase of information and advice that is available. There is also a significant amount of information and advice that is necessary, whether that advice given by professionals as part of the needs assessment process, or information about who can apply for one. Even with a plethora of information, many people will then need help to interpret the quality of the information available.

### Poor, misleading and unlawful advice

204. We were told of examples of poor, misleading and unlawful advice being given to schools and parents. We heard that in some cases staff in schools and local authorities do not know the law, give misleading or unlawful advice, and in some cases, publish erroneous information on their website.<sup>574</sup> Matt Keer described a “transmission belt of misinformation” starting with the local authority and going down to leadership level at the school.<sup>575</sup> He described some of the information as “blatantly misleading”<sup>576</sup> while some evidence we have taken goes so far as to say “unlawful”.<sup>577</sup> The Local Government and Social Care Ombudsman told us that some local authorities were gatekeeping and able to do this because of a lack of specific guidance in the Code of Practice, particularly around the local authority duty to carry out a needs assessment. He said that local authorities were putting hurdles and systems in place that were not based on the legislation.<sup>578</sup>

205. Ofsted told us that it reported non-compliance, but it was not their job to make judgements about legal accuracy; rather, the inspectorate’s job was to report instances for example where there was non-compliance with the Code of Practice.<sup>579</sup> Professor Gallagher from CQC told us:

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572 [Q489](#)

573 Pinpoint Cambridgeshire ([SCN0264](#)) para 21v

574 Matt Keer ([SCN0649](#)) paras 2– 5c; Penny Hoffmann-Becking ([SCN0652](#)) paras 11–3; Anonymous 9 ([SCN0659](#)); SOS SEN ([SCN0563](#)) paras 8.4 and 10; Parental Submission 35 ([SCN0168](#)) para 2.4; Ms Gillian Doherty ([SCN0257](#)) paras 1.1–2; SEND Family Voices ([SCN0290](#)) para 2.2; Parental Submission 66 ([SCN0127](#)) para 1.3; Parental Submission 131 ([SCN0239](#)) para 1; Federation of Leaders in Special Education ([SCN0448](#)) para 1.5; [Q609](#) [Alison Fiddy]; [Q568](#) [Alison Fiddy]; [Q613](#) [Alison Fiddy]; IPSEA, *IPSEA’s response to the Education Committee’s Special Educational Needs and Disability Inquiry* (June 2018) para 4.3

575 [Q55](#)

576 [Q55](#)

577 Anonymous 9 ([SCN0659](#))

578 [Q584](#) [Michael King]

579 [Q520](#) [Jonathan Jones]



In my understanding, we do not find complete illegality very often, but we call it out. We do find issues about interpretation and confusion around interpretation at the heart of some of the tensions in relationships both between bodies and, most importantly, between bodies, parents, children and young people. Those would be part of what we would feed back and look to organisations to address through their written statements of action.<sup>580</sup>

## *Schools and colleges*

### *Advice to meet needs*

206. Many of the challenges that have been described earlier in this report have an impact on the quality of advice that schools get in order to meet the needs of the pupils. We heard about schools struggling to access external advice,<sup>581</sup> that SENCOs were spending time on paperwork, not advising classroom teachers.<sup>582</sup> We were told that expert advice had become expensive, often only accessible through traded services and therefore reliant on schools with the funds to access the support.<sup>583</sup> We also heard that poorly written advice could affect the quality of an Education Health and Care Plan, resulting in schools struggling to provide the right support, and the child's needs not being met.<sup>584</sup> We were told that local authority caseworkers, on which schools, and young people and their parents, relied, were often not experts in special educational needs and disabilities and had variable levels of training and responsiveness.<sup>585</sup> This could impact on schools in other ways, for example we heard about children arriving in school having received the wrong diagnosis and therefore the wrong support.<sup>586</sup>

### *Information and advice*

207. We have already described the impact that poor information from local authorities can have on schools. It will impact on the actions that they take and the information that they themselves can pass on to parents. There appeared to be a gap in the accountability of information that schools provided about its SEN provision. Schools must provide annual information about their SEN provision as part of the Schools Information Report. However, only 61% of parent carer forums said that local authorities monitor these reports from maintained schools, while only 50% said the same about academies.<sup>587</sup>

### *Local offer*

208. Specialist colleges, independent special schools and out of area provision struggled to feature in local authorities' local offers. There was a lack of information about the provision that was available, and some were told by local authorities that they could not be featured

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580 [Q523](#)

581 See paragraph 145

582 See paragraph 140

583 See for example paragraph 185

584 See paragraph 176

585 Sixth Form Colleges Association ([SCN0402](#)) para 6; National Deaf Children's Society ([SCN0446](#)) para 6c; Mr Myles Pilling ([SCN0088](#)) para 3

586 [Q264](#) [Penny Earl]

587 Brian Lamb OBE ([SCN0602](#)) para 16



in their local offer.<sup>588</sup> Schools reported that parents did not find the local offer useful, either because they did not know about it, or that the local offer was difficult to navigate and parents preferred to use generic search engines instead.<sup>589</sup>

## Local authorities

### Advice to meet needs

209. We heard from local authorities that they struggled to ask for and receive appropriate external advice as part of the needs assessment process, with health and social care seeing requests for assessment as lower priority than their own work,<sup>590</sup> and problems with timeframes, including meeting them.<sup>591</sup> Local authorities told us that their staff needed significant training, and training new staff was a challenge, and the lack of lead-in time of the reforms meant that there was little time for training staff.<sup>592</sup> The importance of training was acknowledged by local authorities during oral evidence sessions.<sup>593</sup> Terry Reynolds, Director for Education and Skills at the London Borough of Newham, told us:

I would agree with you that experience and knowledge among staff was variable. For example, Newham had been relying on a lot of agency staff who were frequently refreshed as they got permanent jobs elsewhere and so on, so that there was not the consistency. We were concerned about that and concerned about some of the decision-making and some of the quality of the work that was being put into the development of EHCPs.

[ ... ]

As well as leading the teams, they have been responsible for a CPD programme with what the requirements are, what the legislation says, how you work on these and the sharing of effective practice of what people have done within the teams. What we are seeing is an improvement in the quality of what is offered. We have recruited additional permanent staff and we need to build on that.<sup>594</sup>

### Information and advice

210. Local authorities told us that the 2014 reforms had raised parental awareness, knowledge and expectations.<sup>595</sup> John Henderson, chief executive of Staffordshire County Council, told us that parents were able to access so much information that they had formed opinions before they had met with the local authority. He saw the local authority's role as an "honest arbiter" to find the right provision to meet a child's needs.<sup>596</sup> He also told us

588 Royal National College for the Blind ([SCN0502](#)) para 9.15; National Star ([SCN0310](#)) para 1.12

589 Chadsgrove Teaching School Alliance ([SCN0472](#)) para 6; The Milestone School, Gloucester ([SCN0205](#)) para 11; Royal National College for the Blind ([SCN0502](#)) para 9.15

590 Herefordshire Council ([SCN0509](#)) para 5.1

591 North Yorkshire County Council ([SCN0185](#)) para 7e

592 Calderdale MBC ([SCN0491](#)) para 3.2; West Sussex County Council ([SCN0594](#)) para 2.5; Coventry City Council ([SCN0394](#)) para 5.1

593 [Q696](#) [Terry Reynolds]

594 [Q691](#)

595 London Borough of Hackney ([SCN0422](#)) para 1.11; Lambeth SEND ([SCN0077](#)) para 4e; East Sussex County Council ([SCN0416](#)) para 1.4

596 [Qq351–352](#)



that some provision used “aggressive marketing”, which included legal advice about how to get provision funded by the local authority.<sup>597</sup> Perhaps understandably, this was not a perspective shared by many parents who submitted evidence to our inquiry.

### *Local offer*

211. We did not receive substantial evidence from local authorities about their local offers. Where local authorities did mention the local offer, it was usually in passing, either outlining where the local offer is co-produced<sup>598</sup> or in relation to information about services or information being available on the local offer,<sup>599</sup> with a particular focus on the need to improve the local offer for post-19 provision.<sup>600</sup> However, written evidence from East Sussex County Council and the London Borough of Newham suggested that the local offer could be difficult for local authorities to provide. East Sussex County Council’s written evidence explained that its understanding of how parents and carers used the internet conflicted with Ofsted’s focus on promoting the local offer as a “one size fits all solution for families”.<sup>601</sup> The London Borough of Newham told us that the information that was provided on its local offer website was not as comprehensive as it should be, but told us that it was launching a new site in April 2019.<sup>602</sup>

## *Children, young people, and their parents and carers*

### *Advice to meet needs*

212. Parents told us that they were not getting the advice needed to meet their children’s needs as part of the needs assessment process. Parents commissioned independent reports,<sup>603</sup> health and social care were not completing assessments or reports,<sup>604</sup> and needs assessments were being completed without educational psychologist reports, and other professional reports, in many cases when these are relevant and important in order to assess needs.<sup>605</sup> We also heard that increased requests for advice and assessments could be a delaying tactic, meaning that local authorities did not have to make decisions and put support in place.<sup>606</sup>

213. We were given a lot of information about the quality of advice and support in the context of support for children with EHCPs, but we also heard that advice and information could be difficult to come by if a child did not have one. Kathleen Redcliffe, a parent of a child with dyslexia, told us that she did not know what support was available to meet her son’s needs:

I think I communicate quite well to the school, and regularly, and have done from early on. I think it is a case, again, of time and resources. What

597 [Q351](#)

598 Kent County Council ([SCN0592](#)) para 2.2; Halton Borough Council ([SCN0684](#)) para 12

599 West Sussex County Council ([SCN0594](#)) para 2.2; City of York SEN Services ([SCN0589](#)) para 5.1; Royal Borough of Windsor and Maidenhead ([SCN0403](#)) para 6.1bi

600 East Riding of Yorkshire Council ([SCN0319](#)) para 5c

601 East Sussex County Council ([SCN0685](#)) para 47

602 London Borough of Newham ([SCN0686](#)) para 64

603 See paragraph 157

604 See paragraph 165

605 See paragraph 145

606 NASUWT ([SCN0139](#)) para 17



do they have to offer me or my son? What is available? It is a case of me needing to research and work out what is available to him. That is what I struggle with. How does he reach his full potential if I do not know what is available? It is trying to resource stuff externally all the time to then go back to school to say, “Is this available? Is this happening?”<sup>607</sup>

### Information and advice

214. Regardless as to whether there is more advice and information available, social capital plays a huge role in access to information and advice. We were told that some parents cannot access the system at all,<sup>608</sup> and that it could be difficult to know what the next steps were,<sup>609</sup> or what help is available.<sup>610</sup> We heard that paperwork was too complicated and long for some parents and could be difficult to understand.<sup>611</sup> Access to information and legal advice was shaped by the availability of legal aid, the ability to access charities and organisations that offer free support and advice, and knowledge that such organisations exist. John Harris, a journalist and parent of an autistic child, told us that the problem with having such a diverse and localised system for EHCPs was that it was “impossible to give people advice”<sup>612</sup> which makes the system very difficult to traverse, making advice hard to come by and therefore at a premium.<sup>613</sup>

215. One local authority told us that parents and teachers believe that the “EHCP system” favours parents who are wealthy and well-educated,<sup>614</sup> and that other parents can be hard to reach, do not know their rights, and are scared of the system.<sup>615</sup> Some parents reported excellent support from local authority information and advice services,<sup>616</sup> while other parents reported that the service was limited or almost non-existent,<sup>617</sup> and there were doubts about its independence or suggested a conflict of interest.<sup>618</sup> Family Fund told us that 46% of families that did not use an Independent Supporter to help them through the EHCP process did not know what it was,<sup>619</sup> which raises doubts about the efficacy of support services if parents do not know they exist.

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607 [Q190](#)

608 Beth Foster ([SCN0664](#)) para 30

609 Mrs Nicola Hanson ([SCN0026](#)) para 6

610 Our Barn Carers Project ([SCN0067](#)) para 37

611 Parental Submission 13 ([SCN0042](#)) para 1.7; Parental Submission 121 ([SCN0046](#)) para 2; Our Barn Carers Project ([SCN0067](#)) para 36; Parental Submission 17 ([SCN0069](#)) para 4.2; IPSEA, [IPSEA's response to the Education Committee's Special Educational Needs and Disability Inquiry](#) (June 2018), para 4.5

612 [Q161](#)

613 [Q161](#) [John Harris]

614 Essex County Council ([SCN0498](#)) para 1.6

615 Essex County Council ([SCN0498](#)) para 1.7

616 [Q177](#) [Carl Rogers]

617 Our Barn Carers Project ([SCN0067](#)) para 36; Parental Submission 27 ([SCN0135](#)) para 4.3; Parental Submission 62 ([SCN0193](#)) para 11; We Love Carers ([SCN0540](#)) para 2.2

618 Our Barn Carers Project ([SCN0067](#)) para 36; Mr Dez Riddler ([SCN0148](#)) para 10

619 Family Fund ([SCN0511](#)) para 4



## Local offer

216. Parents and carers reported that the local offer was not useful, not parent-friendly, not co-produced, not legally compliant or difficult to navigate, and that many parents did not know that it existed.<sup>620</sup> Parents described local offers as basic, only a directory or consisting solely of links to the Government's website,<sup>621</sup> and one parent told us:

Local offer: This just feels like a joke. As we understand it the local offer must only list what could be available, not what is available. It is hard to navigate, and we have found it of no benefit.<sup>622</sup>

We were told that while at the beginning local offers were well produced, they had changed, becoming unfit for purpose.<sup>623</sup> One representative from a parent carer forum told us that the local authority was operating a supply based planning process, instead of the demand based planning process that had been promised as part of the reforms.<sup>624</sup> We also heard that many parents of children and young people with SEND did not necessarily want advice provided via a website.<sup>625</sup>

## Adversarial experiences

217. At our first oral evidence session Baroness Warnock told us that in the 1970s local education authorities were seen as 'benign institutions', trusted allies in supporting children and families. She identified 1981 as the year where schools and universities first came under significant financial pressure. She told us "the local education authorities gradually became not allies but opponents because they were forever trying to save money."<sup>626</sup> While the reforms were meant to eliminate this, we were disappointed that this narrative perpetuates today.

218. The number of cases before the First-tier Tribunal Tribunals has increased substantially. 6,374 appeals were lodged with the Tribunal in 2018/19. This was nearly double the 3,236 appeals that were lodged in 2015/16.<sup>627</sup> 77% of listed hearings were postponed in 2018/19.<sup>628</sup> The next highest percentage of postponed hearings was 19% of hearings before mental health tribunals.<sup>629</sup> The Local Government and Social Care Ombudsman (LGSCO) had seen an increase of 150% since 2015–2016 in the volume of complaints about EHCPs.<sup>630</sup> The LGSCO upheld 87% of the investigations that it carried out, compared to an average of 58%.<sup>631</sup>

620 Penny Hoffmann-Becking ([SCN0652](#)) para 5; Parental Submission 22 ([SCN0102](#)) para 18; ASSET ([SCN0488](#)) para 5.3; Parental Submission 130 ([SCN0238](#)) para 42; Mrunal Sisodia ([SCN0657](#)) para 26; Penny Hoffmann-Becking ([SCN0652](#)) para 5; Hampshire Parent Carer Network ([SCN0471](#)) para 49

621 Our Barn Carers Project ([SCN0067](#)) para 51; Parental Submission 130 ([SCN0238](#)) para 42

622 Parental Submission 151 ([SCN0331](#)) para 10

623 Parental Submission 22 ([SCN0102](#)) para 18

624 Penny Hoffmann-Becking ([SCN0652](#)) para 6

625 Christopher Robertson ([SCN0176](#)) para 7

626 [Q14](#)

627 Ministry of Justice, *Tribunal Statistics Quarterly: January to March 2019 - main tables (January to March 2019)* (June 2019), Table S2

628 Ministry of Justice, *Tribunal Statistics Quarterly, January - March 2019* (June 2019), p10

629 Ministry of Justice, *Tribunal Statistics Quarterly: January to March 2019 - main tables (January to March 2019)* (June 2019), Table APJ 1

630 Local Government and Social Care Ombudsman ([SCN0163](#)) para 6

631 [Q569](#) [Michael King]



## ***The Tribunal Service and the Local Government and Social Care Ombudsman***

219. We sought direct evidence from the Judiciary, and we were grateful to receive written evidence submissions from Judge Meleri Tudur, Deputy Chamber President of the Health, Education and Social Care Chamber; First-tier Tribunal and Tribunal Judge Chris Ward, the Lead Judge in the Upper Tribunal for SEND cases. Tribunal cases are heard at the First-tier Tribunal, but appeals are heard in the Upper Tribunal.

220. The First-tier Tribunal covered a far greater number of hearings than in previous years as the number of appeals which had been resolved without a hearing decreased from about 80% in 2013–14 to 65% in 2017–18.<sup>632</sup> The Tribunal did not have capacity to cover all of the appeals, and while Judge Meleri Tudur acknowledged that this had happened in the past, this was very rarely and at peak times.<sup>633</sup> Judge Tudur told us that judges made daily decisions about which hearings to postpone and prioritise.<sup>634</sup> The Tribunal held an induction course for 21 new judges in March 2019, and had requested 30 new fee paid judges from the next generic Judicial Appointments Commission competition. However, we were warned that even if there were no increase in appeals, the situation would take at least a year before the situation would be resolved.<sup>635</sup> In contrast, the increase in cases at the First-tier Tribunal had not increased the workload of the Upper Tribunal.<sup>636</sup> We were told that the number of judges available for the Upper Tribunal was sufficient, providing parties had the same access to representation as they did at present, and that there was no substantial increase in requests for expedition.<sup>637</sup>

221. We were told that there had been an increase in the proportion of cases before the Upper Tribunal that have had some involvement of legal professionals on behalf of parents. Judge Ward told us that his records indicated an increase from just over 40% in 2014 and 2015 to between 50% and 55% in the following years.<sup>638</sup> While information about local authorities' representation at Upper Tribunal was not fully recorded, Judge Ward explained that some local authorities use the SEN team, the in-house legal team or external legal advisers at "paper stage", but are usually represented by external solicitors or barristers in court.<sup>639</sup>

222. Michael King, the Local Government and Social Care Ombudsman, told us that he did not have the power to investigate complaints regarding the workings of a school, for example exclusions and SEND provision, and that it was a source of frustration for both him and parents that he was unable to investigate.<sup>640</sup> Alison Fiddy from IPSEA told us that this enhancement of his powers might reduce the number of appeals going to Tribunal because currently no one had the power to look at the provision of SEN Support in schools, which might be driving more parents to apply for, and be refused, Education

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632 Judge Meleri Tudur ([SCN0694](#)) para 4.8

633 Judge Meleri Tudur ([SCN0694](#)) para 5.2

634 Judge Meleri Tudur ([SCN0694](#)) para 5.3

635 Judge Meleri Tudur ([SCN0694](#)) paras 5.5–8

636 Judge Chris Ward ([SCN0693](#)) para 3

637 Judge Chris Ward ([SCN0693](#)) para 13

638 Judge Chris Ward ([SCN0693](#)) para 10

639 Judge Chris Ward ([SCN0693](#)) para 11

640 [Q575](#)



Health and Care Needs Assessments.<sup>641</sup> The Ombudsman was also concerned about the diversity of the complaints procedures and the separate systems that could make it hard for families to make sense of and find a way of having their issue resolved.<sup>642</sup>

223. The Ombudsman told us that he saw local authorities failing to get the basics right:

We have issued good practice back to local authorities a number of times, which basically says: do the boring stuff right. Get those basic administrative processes right, embed them, train people in them, make sure you are following the law and just get the processes right. Then a lot of the other stuff will follow, and you will save an awful lot of money, because complaints will not be coming to us and they will not be going to the tribunal.<sup>643</sup>

This view was echoed by Alison Fiddy who told us that parents succeeded at Tribunal not because their legal team was expensive and made good arguments, but because local authorities did not have good evidence to back up their decision-making and were making decisions that were unlawful.<sup>644</sup>

### *Schools and colleges*

224. We heard that in some cases the reforms had improved their relationships with parents.<sup>645</sup> We also heard from some schools and colleges that the tribunal or complaints system was being predominantly used, and even ‘exploited’, by capable or affluent parents, leading to vulnerable children and their parents missing out.<sup>646</sup>

### *Local authorities*

225. Local authorities win about 10% of Tribunal cases and it was estimated that local authorities had spent over ten million pounds at Tribunal since 2014.<sup>647</sup> Local authorities told us that they tried to avoid Tribunals.<sup>648</sup> Dr Lown, Head of Children and Young People, Specialist Services at East Riding of Yorkshire Council, told us that local authorities took cases to Tribunal when parental preference was for expensive provision which could be provided within the local authority, or where the local authority did not think the choice of the parents was in the child’s best interests.<sup>649</sup>

226. Local authorities had concerns about the way that the Tribunal system operated. Some local authorities told us that Tribunal ignored the duties of schools, directing local authorities to carry out an EHC Needs Assessment as opposed to directing the graduated approach.<sup>650</sup> The Association for Directors of Children’s Services told us that there was a perception that Tribunals prioritise the preference of the parents over the preference

641 [Q581](#)

642 Local Government and Social Care Ombudsman ([SCN0163](#)) para 12

643 [Q622](#)

644 [Q573](#)

645 [Q284](#) [Penny Earl]

646 Henry Tyndale School ([SCN0041](#)) para 3.2; More House Foundation ([SCN0122](#)) para 1; Mr Shaun Jukes ([SCN0196](#)) para 1.1; Independent Schools Council ([SCN0299](#)) para 3; National Star ([SCN0310](#)) para 3.4

647 Special Needs Jungle, ‘[What costs £103.7 million and makes disabled children miserable?](#)’, accessed 17 September 2019

648 [Q366](#) [Steve Rumbelow]; [Q368](#) [John Henderson]; [Q131](#) [Dr Lown]

649 [Q131](#)

650 Northamptonshire County Council ([SCN0496](#)) para 2; London Borough of Hackney ([SCN0422](#)) para 1.13



of local authorities.<sup>651</sup> North Yorkshire County Council felt that Tribunal decisions did not take the public purse into account,<sup>652</sup> although Judge Ward and Judge Tudur both told us that the law required both the First-tier Tribunal and the Upper Tribunal to take the efficient use of resources into account.<sup>653</sup> When Andrew Reece from the British Association of Social Workers gave us his view on the tension between the local authority as assessor and budget holder, he explained how Tribunal decisions did not have to take the same things into account as local authorities do:

I think the tension is played out much more explicitly in tribunals, where the tribunal is looking at one single decision and does not have to think about what impact that decision is going to have for the rest of the system. When someone goes to a tribunal and gets a place at an out-of-area placement that costs three times what it would cost to provide locally, somebody locally is going to miss out, and tribunals do not have to take that into account. Those are the really difficult decisions that local authorities on the whole are very good at making.<sup>654</sup>

227. The London Borough of Hackney told us that the decision-making of the tribunal was not consistent, which meant that it could be difficult to analyse trends to improve delivery.<sup>655</sup> This was echoed by Dame Christine Lenehan, Director of the Council for Disabled Children, who told us that:

[what] we are not getting out of the tribunals at the moment is any feedback at all. What the tribunals used to do was they produced a yearly digest that, in effect, said, “Not going into the individual detail, these are where the trends are with cases this year. These are where some of the issues are.” For example, what percentage of tribunal cases rest on school transport? Quite a lot of tribunal decisions at the moment are resting on access to social care. There is a whole range of things. I think that if you are going to spend that much money on tribunals, you have to have it as a service improvement tool. I want to go back into local authorities and work with them and their families and say, “These look to be the trends. Where is your policy taking you? What does a reasonable baseline look like?” We will never have a world where a gold standard for everyone exists, but we need to be clear on what the baseline is.<sup>656</sup>

### *Children, young people and their parents and carers*

228. Some parents were unable to appeal, even if they had wanted to. Matt Keer wrote that while the appeal rate was a “spectacularly reasonable” 1.6%, this did not take into account all the appeals that were prevented because the things that in law were required for a family to lodge an appeal (for example an Education Health and Care Plan) were not actually provided.<sup>657</sup> The same goes for all of the other areas where the process was not working, but families were not able to appeal because the issue that they had was

651 Association of Directors of Children’s Services ([SCN0503](#)) para 9

652 North Yorkshire County Council ([SCN0185](#)) para 6j

653 Judge Chris Ward ([SCN0693](#)) para 19; Judge Meleri Tudur ([SCN0694](#)) paras 8.1–4

654 [Q399](#)

655 London Borough of Hackney ([SCN0422](#)) para 1.12

656 [Q150](#)

657 Special Needs Jungle, ‘[The latest SEND Tribunal figures paint a troubling picture](#)’, accessed 17 September 2019



not covered by the Tribunal process. We heard that there were six rights of appeal to the Tribunal resulting from the Children and Families Act 2014.<sup>658</sup> Access to legal aid for Tribunal appeals was cut in 2013, and is now means tested.<sup>659</sup> We were told that support funded by legal aid was provided over the phone and did not include representation at the hearing.<sup>660</sup> We will never know how many families were unable to secure an appropriate level of support for their child due to a lack of financial, social, or emotional resources.

229. Parents and carers engaged with their local authorities through parent carer forums, and while we heard that 69% of parent carer forums felt their relationship with the local authority was positive,<sup>661</sup> we did hear that their relationship with local authorities could be difficult. We were told of examples of the relationship reduced to co-production of cuts, being involved in consultations that go through regardless, or holding the local authority to account when they make unlawful decisions,<sup>662</sup> and ultimately relationships with local authorities and parent carer forums breaking down.<sup>663</sup>

230. Parents told us about the stress of going to Tribunal<sup>664</sup> and the financial cost if they did not qualify for legal aid.<sup>665</sup> We asked Ben, a researcher for the RIP:Stars, if he had spoken to young people about their experience at Tribunal:

We didn't speak to young people; we spoke more to parents about this. A lot of them had gone to tribunals, which had been very stressful and cost them a lot of money. We learned the fact that 89% of people who go to tribunals win their case. Why waste that time, causing stress for the young person, the parents or whoever is looking after that child? Why don't they get the quality plan in place first, get it right and get it done, instead of having to waste time and cause stress that is not needed for a family who are already in trouble with some things because they do not have a plan to support them?<sup>666</sup>

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658 Judge Meleri Tudur ([SCN0694](#)) para 7.2

659 Matt Keer ([SCN0649](#)) para 16

660 [Q571](#) [Imogen Jolley]

661 [Q226](#) [Mrunal Sisodia]

662 [Qq236–237](#) [Penny Hoffmann-Becking], [Q238](#) [Beth Foster]

663 [Q225](#) [Penny Hoffmann-Becking]

664 [Q210](#) [Carl Rogers]; [Q233](#) [Penny Hoffmann-Becking]

665 See paragraph 127

666 [Q480](#)



## Epilogue

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231. The responsibility of conducting this inquiry and producing this report has sat heavily on our shoulders. We have carefully considered many of the issues that have arisen throughout our inquiry. We recognise that for many, this is not an inquiry, it is their daily life. In September this year, the Department for Education announced its own review of the SEND reforms.<sup>667</sup> Five years on from the Children and Families Act 2014, this is a timely and prudent exercise.

232. However, the weight of the evidence, gathered through our inquiry and by others in their own work, reviews and experiences, is clear. The system is not working—yet. There are clear and fundamental problems that need fixing now, not left waiting on the outcome of another review. Apparently random examples of children getting good support are not enough. A reliance on relationships, luck or family circumstance is not enough. Families are in crisis, local authorities are under pressure, schools are struggling. And they cannot wait for the outcome of another review: they have waited patiently for long enough.

The Government must act decisively and soon. It must implement our recommendations with immediate effect and move swiftly to address the many other problems that we identify in our report. A generation of children depends on it.

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<sup>667</sup> Department for Education, '[Major review into support for children with special educational needs](#)', accessed 23 September 2019



## Conclusions and recommendations

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1. We are confident that the 2014 reforms were the right ones. We believe that if the challenges within the system—including finance—are addressed, local authorities will be able to discharge their duties sufficiently. (Paragraph 17)
2. *We recommend that when the Government makes changes to address these challenges, it should avoid the temptation to address the problems within the system by weakening or watering down duties or making fundamental changes to the law.* (Paragraph 18)
3. The Department for Education set local authorities up to fail by making serious errors both in how it administered money intended for change, and also, until recently, failing to provide extra money when it was needed. (Paragraph 20)
4. The significant shortfall in funding is a serious contributory factor to the failure on the part of schools and local authorities to meet the needs of children and young people with SEND. However, unless there is a systemic cultural shift on the part of all parties involved, additional funding will make little difference to the outcomes and experiences of children and young people with SEND. (Paragraph 21)
5. While we acknowledge the extra money provided in the spending review, both for schools and social care, we deeply regret that this spending review process was insufficient in tackling the fundamental challenges facing both children and adult social care. We acknowledge the Government's recent Budget announcement and hope that this will be tackled at that point. (Paragraph 24)
6. *Nobody benefits when Departments avoid accountability and try and pass the buck. The Department for Education, together with the Department for Health and Social Care, should develop mutually beneficial options for cost- and burden-sharing with the health and social care sector.* (Paragraph 25)
7. Nobody appears to be taking any action based on the counting and measuring that is taking place, but even worse, no one appears to be asking anyone to take responsibility for their actions. There appears to be an absence of responsibility for driving any change or holding anyone accountable when changes do not happen. (Paragraph 27)
8. We are pleased that the Department for Education has asked CQC and Ofsted to design a second round of inspections for beyond 2021. However, simply designing “a revisit programme” to “keep going on that improvement journey” is insufficient. (Paragraph 28)
9. *The joint CQC and Ofsted inspections should not continue to be one-offs but should become part of an annual inspection process to which all local authorities and their partners are subject. CQC and Ofsted should be funded to be able to deliver this rigorous inspection timetable. CQC and Ofsted should design and implement an inspection regime that not only improves practice but has a rigorous framework that enables local authorities and their partners to be held to account and sets a clear timeframe for re-inspections. Ofsted and CQC should also clearly set out the consequences for local authorities and health bodies that fail their annual inspection.* (Paragraph 29)



10. *Two select committees have independently identified a problem with the current extent of the powers of the Local Government and Social Care Ombudsman: It is now up to the Government to act. The Department should, at the earliest opportunity, bring forward legislative proposals to allow the Ombudsman to consider what takes place within a school, rather than—in his words—only being able to look at “everything up to the school gate”. (Paragraph 31)*
11. We do not think that the Department for Education is taking enough responsibility for ensuring that its reforms are overseen, that practice in local authorities is lawful, that statutory timescales are adhered to, and that children’s needs are being met. We are concerned that the Department has left it to local authorities, inspectorates, parents and the courts to operate and police the system. There is a clear need for the Department to be more proactive in its oversight of the way in which the system is operating. However, ultimately, local authorities must ensure that they are compliant with the law as opposed to waiting to be caught out by an inspection regime, parents or other professionals. (Paragraph 33)
12. *The Government should introduce a reporting and accountability mechanism for non-compliance so that parents and schools can report directly to the Department for Education where local authorities appear not to be complying with the law. It should also implement an annual scorecard for local authorities and health bodies to measure their success against the SEND reforms including, but not limited to, reports of non-compliance; the school placement of children and young people with SEND, including those without a school place; Tribunal hearings, and how local authorities meet statutory timescales. These scorecards, along with a summary document, should be placed in the House of Commons library no later than three months after the end of the year to which they relate. (Paragraph 34)*
13. *Additionally, we expect the Department’s SEND review to fundamentally address the relationship between need and available provision. (Paragraph 36)*
14. *We call on the Government to make the notional budget a focus of its review into the financial arrangements of provision for pupils with SEND, and for those in alternative provision. The Government should pay particular attention to ensuring that the funding system works for children and young people with SEND who do not need EHCPs so that they are not inevitably dragged into that part of the system. This issue must be sorted as soon as possible and not kicked into the long grass. As part of its SEND review, the Department should identify local authorities with excellent examples of early identification and preventative measures and the spending of budgets upstream and ensure these examples are shared. (Paragraph 38)*
15. We heard a lot about local authorities’ poor performance. But for children who receive SEN Support, they rely primarily on their school to get their support needs right. If, for whatever reason, a school fails to provide high quality SEN Support, the child is failed. We are pleased that Ofsted’s new framework includes a focus on children with SEND. (Paragraph 41)
16. *As the Office for Standards in Education, Children’s Services and Skills, Ofsted is responsible for ensuring that “organisations providing education, training and care services in England do so to a high standard for children and students.” We do not think*



*enough is being done to ensure that every pupil with SEND receives a high standard of education and that all schools are inclusive. Ofsted must deliver a clear judgement, and through this assurance to parents, that schools are delivering for individual children with SEND. It should either seek to do this through its existing programme of inspections, or alternatively develop a separate type of specialised inspection focusing on SEND, with a particular focus on the school's responsibility to deliver for pupils on SEN Support and that inclusive schools get the recognition that they deserve. If this requires legislative change, the Department should work with Ofsted to bring forward proposals at the earliest possible opportunity. (Paragraph 42)*

17. *We recommend that the Department for Education strengthen the guidance in the Code of Practice on SEN Support to provide greater clarity over how children should be supported. The Department should also amend the guidance on Education Health and Care Needs Assessments and Plans to create a clearer and more standard interpretation of the process that should be followed for Education Health and Care Needs Assessments, with the aim of reducing paperwork and simplifying processes for all involved. (Paragraph 43)*
18. *The Department for Education should, within six months of the publication of this report, issue updated guidance setting out that all SENCOs should undertake the NASENCO course upon taking on a SENCO role. It should also commission an independent reviewer to examine the cost implications of requiring all schools and colleges to have a full-time dedicated SENCO and recommending the size of school which should only be required to employ a part-time dedicated SENCO. (Paragraph 45)*
19. *The Government should encourage local authorities, and if necessary provide them with the relevant powers, to bring all SENCOs from all schools in their area together, in order to share best practice, knowledge and training. (Paragraph 46)*
20. *When developing its new framework for inspections, Ofsted and CQC should ensure it includes a requirement to inspect the availability, take up, quality and provision of the training and continuing professional development regarding SEND law of all local authority professionals who are engaged in Education Health and Care Needs Assessments, plan writing and reviewing and Tribunal work. This should be explicitly reported on in inspection reports. (Paragraph 48)*
21. *As part of the Government's SEND review, it should map therapy provision across the country and identify cold spots. This should be a priority and the results of the mapping published as soon as it is completed. Separately and subsequently, the Government should set out a clear strategy to address the problem. (Paragraph 50)*
22. *We recommend that the Department for Education explores the potential for creating a neutral role, allocated to every parent or carer with a child when a request is made for a needs assessment, which has the responsibility for co-ordinating all statutory SEND processes including the annual review, similar to the role of the Independent Reviewing Officer for looked-after children. (Paragraph 52)*
23. *Navigating the SEND system should not be a bureaucratic nightmare, difficult to navigate and requiring significant levels of legal knowledge and personal resilience. A child's access to support should not be determined by a parent's education, their social capital or the advice and support of people with whom they happen to come*



into contact. In some cases, parental empowerment has not happened. Children and parents are not ‘in the know’ and for some the law may not even appear to exist. Parents currently need a combination of special knowledge and social capital to navigate the system, and even then are left exhausted by the experience. Those without significant personal or social capital therefore face significant disadvantage. For some, Parliament might as well not have bothered to legislate. (Paragraph 54)

24. The Government must see support for special educational needs and disabilities as a system-wide issue and ensure that all policies are ‘SEND proof’. Central Government has introduced legislation which gives significant duties to local authorities and serious freedoms in how it can deliver them, but unintended consequences of other education policies, however laudable the original policy may be, have unfortunately limited local authorities’ abilities to uphold these duties and meet all children and young people’s needs. Ultimately the Government must decide whether it wants local authorities to retain the statutory duties it set in place in the 2014 Act. If it does, it must give them the necessary funding and freedom to meet their local population’s needs, with the appropriate accountability to ensure that they do so. (Paragraph 57)
25. *The Department for Education should, in the absence of other plausible solutions, enable local authorities to create new maintained specialist schools, including specialist post-16 provision outside of the constraints of the free school programme. It should amend the capacity building guidance to ensure that local authorities are able to be more responsive to their local population’s needs and address the unfortunate unintended consequences of the programme. This should not detract from the principle of inclusion and right to mainstream schooling. If necessary, local authorities should also be able to build more mainstream schools outside of the free school programme. This would create a level playing field for provision within and beyond local authority structures.* (Paragraph 58)
26. *More needs to be done to include children and young people in the writing of their Plans and decision-making about the support they receive. The Department for Education’s SEND review should identify best practice for including all children and young people’s views in the support that they receive for their SEND. The recommendations and actions from the review should ensure that there is greater support for professionals to enable them to include their views and ensure they are central to the process.* (Paragraph 62)
27. The ambitious zeal of the Green Paper has faded, and we are seeing too much wasted potential. The Department for Education, and the country as a whole, is not ambitious enough for its young people with SEND. A lack of focus by the Department on quality post-16 provision and opportunities for young people with SEND perpetuates this lack of ambition and impacts on the routes that young people are taking post-16. Unless there is a greater focus on supporting young people into meaningful and sustainable employment and independent living opportunities, we are letting down an entire generation of young people, putting greater pressure on the benefits and adult social care system, and creating long term costs that are unnecessary and unpalatable. (Paragraph 65)
28. *The Department for Education, the Department for Health and Social Care, the Department for Work and Pensions and the Ministry for Communities, Housing and*



*Local Government should establish a ministerial-led cross-departmental working group, with representatives from the private sector, to develop and oversee a strategy to develop sustainable supported internship, apprenticeship and employment opportunities for young people with SEND. This taskforce should report regularly to the Education Committee on its work and strategy implementation. (Paragraph 66)*

29. *The Department for Education, in partnership with the Department for Health and Social Care, the Department for Work and Pensions and the Ministry for Communities, Housing and Local Government, should review the capacity of local authorities to meet the independent living needs of young people with SEND. It should develop a shared action plan, setting out how it will increase capacity and opportunities as necessary and stimulate the market to enable all young people with SEND to live as independently as possible as adults. (Paragraph 67)*
30. *We recommend that the Equality and Human Rights Commission conducts a monitoring review of apprenticeship participation by gender, ethnicity and by people with learning difficulties and/or disabilities every three years. Each review should recommend changes to improve Government policy and employer practice. (Paragraph 68)*
31. *Government should bring forward legislative proposals to place the role of the Designated Medical Officer/Designated Clinical Officer on a statutory footing at the earliest opportunity. (Paragraph 70)*
32. *The duties on health providers were referenced as being hard-won in public bill discussions. We do not doubt that there must have been significant work behind the scenes to bring this duty into the Bill. However, we think that once this hard-won duty was indeed ‘won’, the Department’s drive stopped and it relied on local authorities and their partners to maintain the momentum of joint-working and joint-commissioning. (Paragraph 72)*
33. *There is not sufficient emphasis on joint working within the Government. We recommend that the Department for Health and Social Care, NHS England, and the Department for Education should design an outcomes framework that local authorities and CCGs are held jointly responsible for, to measure the health-related delivery of support for children and young people with SEND. Ownership of these outcomes should belong jointly to CCGs and LAs, as well as the Department for Health and Social Care, NHS England and the Department for Education. Monitoring of this outcome framework should sit within central Government, not an inspectorate or regulator, to ensure consistent monitoring and the ability for the framework to be implemented effectively. (Paragraph 73)*
34. *We agree with the Minister that co-production of the local offer is a positive thing. However, we are concerned that in many cases this is only symbolic and is used to suggest that parents endorse the local offer. We are concerned that Ministers are confused by the local offer’s aims and intentions and are concerned that the ambition of the local offer has been severely diminished. The lack of heed taken to the warnings during the legislative scrutiny process has resulted in the failure*



of the aspirations of this policy to be realised: instead, they remain where they started—in the words of a Green Paper and the hopes of parents and young people. (Paragraph 77)

35. *The Department should ensure that local authorities are producing local offers that are in line with the original intention of the local offer, and also demonstrate leadership and a grip on their obligations, including co-production, innovation, interactivity and accessibility. We also recommend that the Department for Education and the Department for Health and Social Care jointly conduct biennial reviews of each local authority's offer to ensure that the Departments take central oversight of both policy intention and delivery. These reviews should be done in collaboration with children, young people and their parents and carers.* (Paragraph 78)
36. *The Department should map provision available through each local authority's local offer, identifying lack of provision available to children and young people with SEND and set out a plan for ensuring that all local authorities, through their local offers provide a minimum level of provision.* (Paragraph 79)
37. *The Ministry of Justice should, as part of its reporting on SEND Tribunal cases, publish a yearly digest, setting out relevant trends and information to enable local authorities improve their service and ensure they are making lawful decisions. This should include information that assists with public accountability and scrutiny against performance.* (Paragraph 82)
38. These adversarial experiences are the products of poor implementation, the inability to access the right support at the right time, and services struggling with limited resources. We were warned: Parliament was told that if the reforms were not done properly, the system had the potential to become more adversarial. Not enough was done to prevent this happening. We have a system of unmet need and strain. This unmet need is creating poor broader experiences, for children, young people and their families, schools, colleges and local authorities. (Paragraph 83)



# Appendix 1: Experiences and perspectives of individuals affected by SEND provision

## Overview

The Education Select Committee put out an open call for evidence in relation to its Inquiry into special education needs and disabilities (SEND) in April 2018. It received a large volume of submissions from individuals who had experienced applying for SEND provision for a close family member or for other children/young people as part of their job. Because of the sensitive personal nature of these submissions, and the explicit request by many individuals not to publish any information that may be able to identify them, the Parliamentary Office of Science and Technology (POST) was asked to prepare a short report detailing the key issues they raised.

The Committee did not actively solicit evidence from individuals affected by SEND provision. The submissions received are therefore likely to demonstrate ‘self-selection’ or ‘volunteer’ bias, whereby they overrepresent individuals who have strong opinions or interests.<sup>668</sup> As such, this report is intended to summarise and reflect the key perspectives of the individuals as outlined in the submissions received, and should not be interpreted as representative of all individuals affected by SEND provision. Where extracts have been used these have been anonymised to protect the privacy of the individuals.

Please note that readers may find some of the extracts distressing.

If you are in need of confidential emotional support, you can contact Samaritans 24 hours a day by calling free on 116123, or emailing [jo@samaritans.org](mailto:jo@samaritans.org).

In total 91 submissions were reviewed:

- 86 were from relatives of children/young people with SEND (82 parents, 3 grandparents and 1 aunt)
- 3 were from school teachers who supported children with SEND
- 2 were from individuals who worked in charities that support children/young people with SEND

Some of the 91 submissions described the cases of multiple children/young people. 105 children/young people were mentioned in the submissions. SEND types were not described in 14 submissions, but of the cases of SEND described by submissions:

- The most common type of SEND mentioned was autism spectrum disorder (ASD). Submissions described 60 children/young people with ASD. 28 individuals with ASD also had other types of SEND. The most common cooccurring types of SEND were dyslexia (8), attention deficit disorder/attention deficit hyperactivity disorder (7) and dyspraxia (5). Other cooccurring SEND types included diabetes, epilepsy, foetal alcohol syndrome and attachment disorder.

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668 Rovai, A., Baker, J. and Ponton, M. (2014) *Social Science Research Design and Statistics: A Practitioner's Guide to Research Methods and SPSS Analysis*. Watertree press; Dan, A., Kalof, L. and Dietz, T. (2008) *Essentials of Social Research*. Open University Press.



- 6 children/young people had a learning disability/difficulty (including specific language impairment, dyslexia and dyscalculia).
- 5 had a neurological condition (such as epilepsy or cerebral palsy).
- 3 had a form of physical disability (such as hypermobility).
- 3 had global developmental delay.
- 3 had chronic fatigue syndrome (CFS, also known as ME).
- 3 had attachment disorder.
- 5 had other forms of SEND (including anxiety, deafness and bleeding disorders).
- 3 children/young people were described in submissions as having a form of SEND but not yet having a diagnosis.

55 individuals provided the name of their local authority in submissions. All local authorities named were in England and submissions were received from all English regions, except the North-East:

- 13 submissions were from London (namely Newham, Westminster, Bromley, Southwark and Kingston-Upon-Thames)
- 10 were from the South-East (namely Kent, Berkshire, Oxfordshire, Surrey, Hampshire and the Isle of Wight)
- 9 were in from the East of England (namely Essex, Bedfordshire, Norfolk, Suffolk and Cambridgeshire)
- 6 were from the West Midlands (namely Worcestershire, Dudley and Shropshire)
- 6 were from the South-West (namely Gloucestershire, Devon, Dorset and Bristol)
- 5 were from the North-West (namely Greater Manchester, Cumbria, Merseyside and Lancashire)
- 3 were from the East Midlands (namely Derbyshire and Northamptonshire)
- 3 were from Yorkshire and the Humber (namely West Yorkshire and North Yorkshire)

## Summary

The majority of submissions followed the path of a child/young person first being diagnosed with a SEND, attending school and parents/carers/teachers subsequently applying for SEND provisions. Many submissions also considered the impact of the process of applying for SEND provision on the child/young person and their family. Therefore, this report will first cover:

- Diagnosis of a SEND
- Experiences of school for children/young people with SEND



- Education, Health and Care Plans (EHCPs)
  - The transfer from statements to EHCPs
  - Complaints about EHCPs
  - Cross-organisational working on EHCPs
- Impact on child/young person and family

Submissions also discussed two further areas, which will be covered:

- Post-18 SEND support
- Distribution of funding for schools and local authorities

36 submissions mentioned that receiving a diagnosis of SEND for a child/young person took more time than they believed was necessary. Reasons given for delays in diagnosis included schools not supporting a child being assessed, being put on long waiting lists to be assessed, having to attend multiple assessments over months/years to receive a diagnosis and receiving incorrect diagnoses. Submissions noted particular issues around getting an ASD diagnosis for girls because their presentation of symptoms differs from the ‘typical’ symptoms associated with the condition.

School experiences were discussed in 65 submissions. Particular concerns focussed on a lack of specialist staff and a lack of training for other staff (such as class teachers, head teachers and teaching assistants). Individuals recommended that training for all staff should include how to support children/young people with SEND. Bullying of children/young people with SEND was also a common theme, with 2 submissions raising the issue of sexual abuse by other students towards girls with SEND. Individuals also discussed the treatment of children/young people with SEND by staff, with suggestions that children/young people with SEND were harassed by staff, separated from their peers, and excluded from activities. Some submissions raised serious allegations of physical mistreatment by staff. Interruption to schooling for children/young people with SEND was mentioned frequently and this was often attributed to a lack of an appropriate school placement. Issues around school placement were a particular issue when a child was transitioning from nursery into primary school and from primary school into secondary school. Parents noted that these long breaks from school were detrimental to the academic achievement of children/young people with SEND.

Education, Health and Care Plans (EHCPs) were discussed in 78 submissions. Individuals raised issues about transitions from earlier statements to EHCPs, such as the EHCPs being no improvement on previous statements/assessments and confusion from local authorities and other bodies about the process of transitioning to EHCPs. Submissions also raised issues about the process EHCPs including the time taken for an EHCP to be produced, the quality of EHCPs, the school choice listed on EHCPs, and violations of the law in the EHCP process. 32 parents in submissions also noted that they made formal complaints about EHCPs, including going to tribunal, writing to their local MP, and taking their local authority to court. Cooperation between education, health and social care sectors was a common theme, with individuals noting issues including poor coordination of services around the child/young person with SEND, and a lack of communication between



sectors. Child and Adolescent Mental Health Services (CAMHS) were mentioned in 28 submissions, with the main concerns being the long waiting-lists for accessing CAMHS services and CAMHS not being adequately involved with the EHCP process.

63 submissions mentioned the impact that trying to attain SEND provision for a child/young person with SEND had on the family, the financial cost to parents/carers of having children with SEND, the mental health impact on parents/carers of trying to secure SEND provision for their child, and the mental health impact on children/young people going through the EHCP process. Many submissions mentioned stress, anxiety, depression and suicide attempts associated with attempting to receive adequate SEND provision.

15 submissions mentioned young people with SEND who were aged over 18 and individuals raised concerns that there was very little post-18 support in their local area and little transition from pre-18 to post-18 support. 40 submissions discussed the financial cost of SEND provision and the way funding is distributed. These submissions focussed on the lack of budget for SEND provision in local authorities and schools and how current strategies (such as placing children in out-of-area schools and taking parents to tribunal) were unnecessarily costly. Parents also raised concerns that personal budgets for their child were not being spent appropriately and were not ringfenced.

## Diagnosis of SEND

36 submissions mentioned that receiving a diagnosis of SEND for a child/young person took more time than they believed was necessary. Parents expressed concern that even SEND conditions with symptoms usually presenting before age three (such as ASD) were often not officially diagnosed for many years while their child continue to struggle without support.

Reasons given for delays in diagnosis included schools not supporting a child being assessed (6), being put on long waiting lists to be assessed (6), having to attend multiple assessments over months/years to receive a diagnosis (3), and receiving incorrect diagnoses (3):

Her primary school Head Teacher told us that she did not believe in learning difficulties and refused to commission an EP [Educational Psychologist] report nor allow the school to participate in a private EP report. As a result our daughter was undiagnosed at primary school and never received additional SEN assistance.

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My Daughter has High Functioning Autism. I became aware of this shortly after she started school at 4 years old. She was finally diagnosed at the age of 13. It took 3 assessments over a period of 9 years to get the diagnosis, and I had to fight every step of the way to make it happen. She had never received any of the help and support that she needed and so we felt that a diagnosis would make things better.

3 submissions from parents noted that their child (ages 6–17) still had not received an official diagnosis. 7 submissions noted particular issues around getting an ASD diagnosis for girls because their presentation of symptoms differs from the ‘typical’ symptoms associated with the condition:



As her first school had an ASD resource base I would have expected her autism to be picked up sooner. But even in a school with ASD experience a girl on the autistic spectrum was an anomaly and she went under the radar of teachers and SENCOs [Special Educational Needs Coordinator].

## Experiences of school for children/young adults with SEND

The majority of submissions discussed the cases of children/young people who were of school age at the time of writing. Of the 105 children/young people described in the 91 submissions:

- 2 were aged 0–3 at the time of the submission
- 19 were aged 4–7
- 16 were aged 8–11
- 20 were aged 12–15
- 12 were aged 16–18
- 15 were aged over 18
- 21 children/young people did not have their age specified

65 submissions discussed the experiences of a child/young person attending school. These submissions focussed on school type and quality of SEND provision (30), treatment of the child/young adult at school (23), interruptions to schooling (19), and how school experience affected academic achievement (16).

### *School type*

The type of school/college currently being attended was provided for 74 children/young people:

- 37 children/young people were in mainstream state-funded schools
- 9 were in state-funded special schools
- 6 were in independent special schools
- 3 were being home-schooled
- 10 children/young people aged 4–18 were not currently receiving any education and 9 young people aged over 18 were not currently receiving any education

The lack of understanding of the needs of children/young people with SEND in mainstream schools was raised in 17 submissions. Particular concerns focussed on a lack of specialist staff, including Special Educational Needs Coordinators (SENCOs), and a lack of training for other staff (such as class teachers, head teachers and teaching assistants). 11 individuals recommended that training for all staff should include how to support children/young people with SEND:



I subsequently discovered that behavioural issues were not covered in childcare courses at the time and pre-school/nursery staff were expected to learn how to deal with such problems in the setting.

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SENCO's [sic] and teachers should have on-going training and CPD [continuous professional development] around mental health issues, but these must include the voice of young people who have experienced mental ill health and their family carers.

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Like us, our daughter's teachers were clueless about her needs and classroom behaviour management policies left her confused and in a constant state of acute anxiety and hypervigilance [...] The lack of knowledge and training around autistic presentations for "high functioning" children (especially girls) meant that her teachers and SENCOs could not believe that a 'model pupil', who was assumed to be neuro-typical, could have such a Jekyll and Hyde personality.

Of the 7 parents who expressed dissatisfaction with the school type their child was currently attending, 3 said would prefer to send their child to a mainstream school, and 4 stated that they would prefer to send their child to a special school. 6 individuals noted that there were no appropriate special schools in their area for their child to attend.

We have now decided that we are going to move [redacted] to a special school where she can get an education geared specifically around her. She has visited the school once and it was wonderful to see the interaction between herself and a child she had never met before but with a similar condition. She looked happy and at home, whereas the school she is in at the moment, she looks reticent as soon as she gets in the playground.

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Ideally, I would like him to go to a residential school for boys with Asperger's. I feel that it would give him the tools to deal with his uniqueness and help him to thrive.

### ***Treatment at school***

23 submissions mentioned the treatment of children/young people with SEND in school. 8 submissions talked about treatment by other students and 18 talked about treatment by school staff. The 8 submissions that mentioned treatment by other students all spoke about bullying of children/young people with SEND. 7 of the submissions highlighted that schools were not acknowledging or intervening when bullying was happening and 2 said their child was inaccurately identified as the bully instead of the victim. 2 submissions also raised the issue of sexual abuse by other students towards girls with SEND, 1 in a mainstream school and 1 in a special school.



She still struggles to play with others and has no real close friends at school – mostly because she plays differently and they don't understand this, she is also sometimes the butt of bullying even at 7, especially by boys in the same class. We have broached this with one of the part time headmistresses who has reprimanded the child concerned, but it doesn't stop it.

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The bullying increased. There was one bullying incident in the playground that stands out. She was blamed as the instigator of this incident and subsequently excluded for the rest of the day. I found out from her that evening what had happened. [...] Two weeks later the same thing happened again, but had escalated into a sexual assault. The school called me in to again take her home, acknowledging this time that she was the victim.

In the 18 submissions from parents that discussed the treatment of children/young people with SEND by staff, 6 suggested that their child had been bullied or harassed by staff members, 5 raised concerns that staff deliberately separated their child from their peers in mainstream schools, 4 stated that their child was not allowed to attend school activities because of their SEND, and 4 raised serious allegations of physical mistreatment by staff.

We have examples of bullying and harassment by staff including teachers, pastoral support and management. Our son was subject to data protection offences when his attendance was read out in class.

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I have concerns about inclusion of [redacted] in school as I have evidences that SEN kids during lunch time eat all together in only one separate table group and not with their other groups of their peers [...] SEN kids are not allowed to play in the big playground with their peers but they can play only in a restricted area, the bike area.

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6 days before the school trip to Spain I was told that she was not allowed to go. They excluded her for being autistic and were unwilling to support her. They had had a whole school year to prepare and they didn't bother. They broke her heart.

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When he was permitted to attend school he was often kept in isolation in a storeroom, was prevented from socialising with the other children and had unlawful restraint used against him.

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My son at times was treated like an animal and contained pushed up against the door with two adults blocking him in with their chairs (an independent witness observed this).



### *Interruption to schooling*

36 submissions discussed the interruption to schooling for children/young people with SEND. 19 parents raised the issue of their child having long breaks (sometimes years) in education because they were too unwell to attend (10 submissions) or because an appropriate school placement could not be found (9 submissions). Issues around school placement were a particular issue when a child was transitioning from nursery into primary school and from primary school into secondary school.

We have no school start date although [redacted] was meant to start school in September 2016. This is very upsetting but further compounded by the fact that [redacted] was also not allowed to access any Early Years Education.

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Now life has changed for [redacted], he lives a life without school, without friends, school being a traumatic experience, one he will never forget, never will he have that experience of going to high school. He has lost so much education that he can never get back due to the awful incompetence of LA, the systems have so let him down, a child with special needs, his parents should have been able to trust the systems and to care for him. It has changed his view on education for ever and will forever affect his future.

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My daughter's anxiety and social anxiety became so heightened that she was unable to access school for almost 2 years.

13 parents highlighted that their child was missing out on education because they were being regularly excluded from school, either because of unmanaged behaviour (7 submissions) or because of a lack of staff equipped to support their child (6 submissions). Many submissions noted that these exclusions were illegal.

Overall our son has missed over 936 days of education due to unlawful exclusions. It should be pointed out that this figure does not take into account the unrecorded absences! The misalignment of his school environment particularly throughout his primary education through lack of inclusion and integration has led to a great deal of our sons associated difficulties.

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She started to shutdown regularly. Each time this happened they simply excluded her. Apparently, they did not have the staff to deal with her and she was "a health and safety risk". I tried repeatedly to explain to them that they only needed to provide her with a quiet space to take time out for her to be able to regularly attend school, but they refused. She was being illegally excluded on a daily basis.

13 submissions mentioned children/young people with SEND refusing to attend school. Where a reason was given for the individual refusing to attend, 6 submissions stated



that it was because they were unhappy at school (often because of bullying by students or perceived mistreatment by staff) and 4 noted that it was symptom of their SEND (in particular ASD and anxiety).

[Redacted] became a School refuser because he mentally could not attend due to struggling academically and with the persistent bullying from the headteacher.

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He would often be late for school, usually no more than ten or fifteen minutes. We drove him to school every day. Sometimes we would be outside the gate with him in tears about going into school. The school's only answer was to threaten detention. This served to worsen the situation, and his attendance suffered with the resulting threats of fines. I pointed out this was a disability and asked for a no cost no effort adjustment – simply stop threatening detention.

### ***Impact on achievement***

16 submissions noted that the having little specialist education, poor school experience and long breaks from schooling affected the academic achievement of children/young people with SEND. 4 submissions from parents noted that their child was highly capable but was underachieving, 4 highlighted that the low expectations of their child's performance was limiting their achievement (such as not being allowed to sit as many GCSEs as they were capable of), 2 were concerned that their child was being entered into exams that they were not going to pass, with potential detrimental effects on their child's self-esteem, and 2 noted that after leaving school their child's achievements increased.

He has an IQ of 120, so he needs extra SEN support to reach his full potential. His full potential is not to have below-average spelling ability (considering how intelligent he is), as this will hold him back in all subjects. Considering his high IQ limiting the expectation for [redacted] to simply 'meet national expectations' is also low aspiration, being so intelligent he has the potential to exceed at all subjects, so the success of his school performance should not be limited to simply meeting national averages for his age, when his intelligence has the potential for him to exceed these.

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She has got her SATS this year which the school have told us she will fail, as her parents we can't understand why she is being put in for something that will only cause further anxiety and stress to her.

### **Education, Health and Care Plans (EHCPs)**

78 submissions talked directly about Education, Health and Care Plans (EHCPs). 16 mentioned the transition from statements of special educational needs/Learning Disability Assessments to EHCPs, 69 raised issues about EHCPs (specifically over the time taken for



them to be produced, their quality, the school choices listed on them, and legal violations by local authorities and schools) and 42 talked about cooperation between education, health and social care sectors in the EHCP process.

### *Transition to EHCPs*

16 submissions directly talked about being transitioning from statements of special educational needs/Learning Disability Assessments to EHCPs. Individuals raised issues such as the EHCPs being no improvement on previous statements/assessments (5), confusion from local authorities and other bodies about the process of transitioning to EHCPs (5), a lack of full assessment of children/young people with SEND during the transition process (4), and concerns about the cost of undertaking the transition (2).

Transitions from statements to EHC Plans were in the main not carried out in accordance with statutory requirements. In many instances on my caseload, plans were cut and pasted versions of statements with no new evidence gathered to inform the EHCP as required.

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When our son was transferred from a SEN statement to an EHCP in 2015, there was no Transfer Review meeting, no consultation with the LEA [Local Education Authorities] [...] and no updated assessments were commissioned. [...] The information was just copied from our son's old SSEN [statement of special educational needs] and pasted onto the new plan and the majority of the EHCP was left blank, with little or no outcomes and the support our son would receive was not quantified or specified.

### *Issues with EHCPs*

69 submissions raised issues about the process EHCPs. These issues centred on the time taken for an EHCP to be produced (52), the quality of EHCPs (32), the school choice listed on EHCPs (17), and violations of the law in the EHCP process (17). 32 parents in submissions also noted that they made formal complaints about EHCPs, including going to tribunal, writing to their local MP, and taking their local authority to court.

### *Time taken*

52 submissions mentioned the amount of time taken for an EHCP to be produced. These submissions mainly focussed on two issues: the refusal by schools or local authorities to start the process of producing an EHCP (17) and the drawn-out process of an EHCP being drafted and finalised (30), with all submissions indicating this process took longer than the statutory 20 weeks. Many individuals expressed concern that the refusals and delays were attempts to limit the number of EHCPs given out and to save money. Parents also expressed concerns that their children were being unsupported while waiting for EHCPs to be issued.

I truly believe that councils play a numbers game with EHCP applications, denying the vast majority and waiting to see what comes back in the way



of appeals. Given the complexity of the system and the funds required to seek professional legal help, this puts SEN provision out of the reach of most people and creates a two tier system. It is utterly shameful.

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We requested that school support us in an EHCP application, as we felt that the support he was receiving was not enough, but they refused [...] We applied for an EHCP but were turned down twice, as school said there was no issue and they felt school should put more in place. Unfortunately though, we felt that school just did not understand what the issues were, and would not without an assessment, so it felt like being in a catch 22 situation.

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[The] EHCP was finalised on [date redacted]. A process that was meant to have taken 20 weeks had taken 101 weeks. I had spent in excess of 120 hours attending meetings, preparing for appeals, reading and replying to draft EHCPs.

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Because of gross incompetence and maladministration, failure to follow proper procedures, and adhere to statutory guidelines, it was 40 weeks before, in spite of an overwhelming amount of evidence, and our son having had a statement of Special Educational Needs all through school, the decision was made not to issue an EHCP.

## Quality

32 submissions raised concerns about the quality of EHCPs. The main issues highlighted were that EHCPs were poorly written (11), contained inaccuracies about the child/young person in question (9), did not give specific guidance on what SEND provision was needed (6), contained outdated information about the child/young person (4), and were not legally compliant (2).

[Local authority] SEND was in such utter chaos that they ended up sending the EHCPs out of county to be completed. They were shoddy, incorrect, provision, health needs, strengths etc were all in incorrect places. Provision was neither quantified or specified. It had to be reworked several times and in the end we had to send it to tribunal to get it to a reasonable standard.

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I work in a different local authority [...] When I commenced my duties I was shocked at the poor and unlawful practices that I encountered from the outset. In particular the poor quality of EHC plans, which were invariably badly written, not legally compliant and generally required substantial amendment to make them fit for the purpose of ensuring that the special needs of children and young people are correctly and fully identified and they are provided with the support they need. Other concerns included



an SEN transport policy that appears to be unlawful, unlawful sections inserted into EHC Plans and the apparent lack of training and knowledge of the requirements of the Children and Families Act 2014, the SEND Regulations 2014 and the SEND Code of Practice that seems to pervade the SEN Team.

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The final plan that was issued in March 2017 was vague, contained numerous errors, was clearly cut and pasted from other documents (other children's plans possibly as my daughter changed gender at one point) and contained no provision – in fact 'family' was listed as provision!

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Not only does my son have an EHCP with exaggerations and inaccuracies, and provision that is not provision, which would be normally delivered without the need for an EHCP, he does not have an educational placement either due to placement breakdown.

### *School choice*

17 parents were concerned that their preferred school choice for their child was not included on their EHCP. 10 expressed concern that the school suggestions were inappropriate because they did not meet their child's specific needs and 8 were concerned that the school choices were too far away from home (this was especially an issue for children/young people with ASD or anxiety where long journeys can be especially difficult).

### *Legal issues*

17 submissions noted that during the process of producing EHCPs, local authorities and schools had not followed legal guidelines laid out in the Children and Families Act 2014 and the SEND Regulations 2014, including through blocking applications for EHCPs, withdrawing provision from children/young people with SEND and excluding children/young people with SEND or putting them on unlawful reduced timetables.

The (incorrect and illegal) advice that EHCPs were only appropriate for children aged 2 or over was also stated on the LA's local offer website as late as last year, but I now see that this has been changed.

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So, the result, school will get away with it. They get away with ignoring their own policy, ignoring government policy, ignoring the law. They get away with direct discrimination. They will get away with treatment of my son that has seriously impacted on his mental/ emotional well-being.

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Mediation is pointless as [local authority] are now breaking the law by not having someone present at the mediation meetings who can make a decision on behalf of the panel.



### **Cooperation across services**

42 submissions discussed the cooperation between education, health, and social care sectors. 23 submissions highlighted a lack of proper cooperation between the sectors, with particular issues including poor coordination of services around the child/young person with SEND (7), a lack of communication between sectors (5), representatives from all sectors not attending key meetings (6), and individuals falling between the gaps in sectors (2). Child and Adolescent Mental Health Services (CAMHS) were mentioned in 28 submissions, with the main concerns being the long waiting-lists for accessing CAMHS services (12) and CAMHS not being adequately involved with the EHCP process (3).

Review meetings were inadequate. There was no representative from the local authority or input from CAMHS.

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There does not seem to be any mechanism for joint working with social care and health resulting in poor or no contributions to EHC Plans from these agencies, which is a statutory requirement, and lack of a joined up approach to supporting families. There is no Designated Medical Officer hence no apparent mechanism for agreeing health and social care provision to be specified in plans seems to exist. This is evident from the lack of quality in the relevant sections of EHC Plans. All of this is to the detriment of children and young people as well as making life more complicated for parents who have more to deal with than most people can imagine.

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No multi-agency meeting – including any meeting between CAMHS and school took place until my daughter was unable to attend school in Year 10, at my instigation. At one point school contacted CAMHS to ask about when my daughter could return to school. This is the only time they directly contacted CAMHS. A cynical person might think that their concern was regarding attendance figures and potential prosecution rather than my daughter's wellbeing.

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The crisis in the availability of CAMHS appointments meant that each time our daughter displayed symptoms of mental illness (first aged 5) she had to wait 4, 7 and then 12 months respectively for an appointment. During this time her symptoms worsened considerably until they reached crisis point. [...] The current crisis in CAMHS has catastrophic effects on children, families, schools and communities. Years of under-investment in children's mental health services has produced a perfect storm of high demand, long waiting lists and damaged children.

### **Family impact**

63 submissions mentioned the impact that trying to attain SEND provision for a child/young person with SEND had on the family. 10 submissions from parents noted that they



had multiple children with SEND and that this increased the pressure on the family. 6 individuals discussed having adopted children with SEND (often related to early childhood trauma) and noted that these children were particularly vulnerable. Issues raised around family impact mainly focussed on the financial cost to parents/carers of having children with SEND (43), the mental health impact on parents/carers of trying to secure SEND provision for their child (29) and the mental health impact on children/young people going through the EHCP process (32).

### **Financial impact**

43 submissions noted the financial cost to parents/carers of getting appropriate SEND provision for a child/young person. The most common costs were paying for SEND assessments for a child/young person (14), legal fees incurred for taking local authorities to tribunal or court (11), lost earnings due to caring for children not in education (7), therapies for a child/young person's SEND (6), private tuition or education (4), and transport costs to take a child/young person to their assigned school (3).

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I was told by the coordinators I had to self-fund Transport to school if I wanted [school] named as [redacted] secondary school – even though I went around all my local schools and researched most of year 5 to find the most suitable school.

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We probably have spent around £45,000 to date on trying to help our son. The money spent includes private assessments by educational psychologists, speech and language therapist, occupational therapist and lawyers. This isn't money we have sitting in a bank account – we had to remortgage our home.

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We have had to sell our belongings to raise the funds needed to ensure that we could afford the private reports the judge needs to make a decision on our sons [sic] future. £1000 for a speech and language therapist report; £1000 for a report from an Occupational therapist; £2500 for an Educational Psychologist; £1000 to 1500 for them each to attend the tribunal; £3000 for solicitors to attend tribunal it just goes on!

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At one point we were paying £200 a week for tuition as it was my daughter's wish to do her GCSEs. We were fortunate to be able to pay tutor fees but feel strongly that it is wrong that we had to do so, and it did place us under great strain.

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Financially, as a self employed person, I have lost a significant amount in earnings. I have had to take a substantial amount of time off work to attend meetings, prepare for SENDIST appeals, and most significantly the four



months I spent at home caring for [redacted] when he was off school due to his mental health needs having become so severe. I would estimate my loss of earnings to be well in excess of £20,000 over the last 3 years.

### ***Mental health impact on parents/carers***

29 submissions mentioned the effects of securing SEND provision on parents and carers. In these submissions, the main issues raised were stress (8), depression (4), damage to intimate relationship (4), anxiety (2) job loss (2), and suicide attempts (2).

The impact of this on the whole family is equally untenable. Our daughter is extremely distressed, and my husband and I are at break point.

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I had to leave my job. My employers had been sympathetic to a point, but the amount of time I was having to spend going backwards and forwards to the school meant employment was no longer an option for me.

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The stress that these processes have caused to me is indescribable. I was previously a relatively healthy individual, yet over the last three years I have suffered with anxiety, had episodes of vertigo and now suffer with regular severe migraines.

### ***Mental health impact on child/young person with SEND***

32 submissions mentioned the effects of the EHCP process on the mental health of children/young people with SEND. In these submissions, the main issues raised were anxiety (11), suicidal thoughts or actions (10), depression (6), and self-harm (3).

The result of this lack of support? For my daughter it has been catastrophic. She has been out of school for 8 months and is suffering with anxiety and depression.

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Things got worse and [name] began self harming, he tried to jump from heights in order to break his leg and drank washing up liquid to make himself sick to avoid school. [...] [Redacted] took a huge overdose of paracetamol as he could not bear the thought of going back to school. He was hospitalised, thankfully he recovered.

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At age 9, and in similar circumstances, [redacted] attempted to end his life. [...] The impact of all this on our already vulnerable son is as you might imagine considerable - last month, he tried to jump out of a roof window as he couldn't bear his life.

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She fell behind in her studies, which in turn led to increased anxiety. They refused to provide school work for her to do at home, despite my repeatedly asking them and it also being stated in her EHCP. [...] By her final year there her attendance was at 28%. She was a wreck. She had been refused registration for the majority of her GCSEs.

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My son had a mental breakdown at school twice, once in November prior to the Annual Review, and second beginning of February. This affected his attendance.

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The failures of the LA to provide an EHCP in a timely manner, and the ensuing battle to get appropriate educational provision, led to [redacted]'s mental health deteriorating significantly. He spent most of his time in his bedroom, showing signs of depression and becoming a virtual recluse.

## Post-18 support

15 submissions mentioned young people with SEND who were aged over 18. The majority of these submissions discussed school experiences. 9 submissions talked specifically about post-18 support, raising concerns that there was very little post-18 support in their local area (5) and little transition from pre-18 to post-18 support (4).

[Redacted] has no post 19 provision for young adults. There is 1 independent provision in the city, where parents have to go to tribunal to gain a place at!

## Distribution of funding

40 submissions discussed the financial cost of SEND provision and the way funding is distributed. 16 mentioned the cost to local authorities, focussing mainly on the perception that there was a reduced budget for SEND provision (3), that supporting children/young people with SEND in a mainstream school was very expensive (4), and that funding a school place in an independent or out-of-area school was costly (4).

There is a chronic lack of places in special schools and lack of visible strategic work to develop more places in a robust way. This results in a larger than average proportion of pupils being placed in independent and non-maintained schools, often at great cost. This in turn impacts on the schools' budget and mainstream schools have less money to support and include pupils effectively.

14 submissions raised the issue of school finances. 10 submissions noting that schools were not able or willing to pay the £6,000 per child/young person with SEND expected by local authorities before other provisions could be provided. 10 submissions also raised issues of personal budgets for children/young people, with 5 noting that there was no accountability of where an individual's personal budget was being spent in a school and that the SEND provision was often shared with other students and was not ringfenced.



I am unsure if there is an issue with the level of funding overall, but my experience is that the distribution does not meet children's needs. The biggest problems are that the money given to schools automatically for special educational needs – sometimes called “the notional 6k” because it is approximately £6,000 per pupil – is not ring-fenced for special educational needs and there are no national criteria to access the higher block of funding without an EHCP. The lack of ring-fencing for the money means it is in the school's interests to avoid/ignore pupils with special educational needs, so that they can spend that sum in other ways. The lack of national criteria about the higher block of funding means the available help for complex needs varies by location.

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Now, the EHCP is a problem, as the opinion is that the school take the lead, and they get the notional funding of £6000 to support his SEND. [...] That additional funding that MY SON and the OTHER children receive should be ring-fenced for their needs and easily accessible to anyone who requests a breakdown. This is not the case. I want to see where that additional / notional funding is going. We as parents are aware that the school do not want to apply for EHCPs as they would need to provide evidence to show where they currently spend the money. But they clearly cannot and do not want to provide that fiscal evidence.

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Mainstream schools have lost funding. There is no motivation to support our children, they are seen as a drain on resources and time and excluded illegally or completely. Then when parents need the support for their child the most, it is sadly lacking.

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Our son has additional “top-up” money but we do not know where this is spent. He has intermittent support from a [sic] LSA in class, but we have been waiting 12 months for an educational psychologist to observe and assess him, specifically in respect of his working memory.

---

Our daughter's second primary school were extremely reluctant to put in place any support under the initial £6,000 of funding to be found from school funds while she was awaiting diagnosis and her mental health was rapidly deteriorating. They disputed medical evidence and argued with mental health professionals as to the seriousness of our daughter's presentation. When they eventually put “support” in place it was wholly inappropriate and counterproductive. [...] At a time when many schools are having funds diverted away from them it is, in our opinion, SEND pupils who are the hardest hit particularly those in areas of high economic



deprivation, where parents lack the financial resources and confidence to take on the legal battles necessary to get appropriate education for their SEND children.

12 submissions suggested ways that local authorities and schools could make financial savings. These were stopping spending money on legal fees to block EHCPs (7) and providing adequate support early in a child's life to prevent more expensive interventions later on (5).

If only the Local Authorities and the Government could see how short sighted they are being, failing to invest now means more cost to the public purse overall through CAMHS, adult mental health [...] all because these children and young adults were not invested in from an early age.

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They should not be allowed to use huge sums of public money to employ legal representation at tribunals, when that money would be better spent on meeting the needs of children and young people with special educational needs and disabilities.



## Formal minutes

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### Tuesday 15 October 2019

Members present:

Robert Halfon, in the Chair

Lucy Allan	Ian Mearns
Ben Bradley	Thelma Walker
Emma Hardy	William Wragg

Draft Report (*Special educational needs and disabilities*), proposed by the Chair, brought up and read.

Report to be further considered on Wednesday 16 October.

[Adjourned till 16 October 2019 at 9.30 am]

### Wednesday 16 October 2019

Members present:

Robert Halfon, in the Chair

Ben Bradley	Ian Mearns
Marion Fellows	Lucy Powell
James Frith	Thelma Walker
Emma Hardy	

Consideration of the Chair's draft Report (*Special educational needs and disabilities*) resumed.

*Ordered*, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 233 read and agreed to.

Summary agreed to.

A Paper was appended to the Report as Appendix 1.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till 23 October 2019 at 9.30 am]



# Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Tuesday 3 July 2018

**Stephen Kingdom**, Campaign Manager, Disabled Children's Partnership, **Brian Lamb OBE**, Chair, Inquiry into Parental Confidence in Special Educational Needs, **Rt Hon Baroness Warnock**, Chair, Committee of Inquiry on Special Educational Needs

[Q1–42](#)

## Tuesday 23 October 2018

**Justin Cooke**, Policy and Public Affairs Manager, Ambitious about Autism, **Matt Keer**, Parent & contributor to the Special Needs Jungle website, **Julie Cordiner**, Education Funding Specialist, School Financial Success

[Q43–94](#)

**Alyson Shields**, Head of Education and Supported Learning, New College Durham, **Helen Wallace**, Headteacher, Thameside Primary School, **David Clarke**, Deputy Director for Education, Oxfordshire County Council, **Dr Jackie Lown**, Head of Children and Young People, Specialist Services, East Riding of Yorkshire Council

[Q95–140](#)

## Tuesday 20 November 2018

**Amanda Batten**, Chair of the Disabled Children's Partnership, **Dame Christine Lenahan**, Director, Council for Disabled Children, **Jean Gross**, Chair, Berrow Ten Years On Review, **John Harris**, journalist and parent of a child with SEND, **Mark Lever**, Chief Executive, National Autistic Society, **Steve Haines**, Executive Director for Policy and Campaigns, The National Deaf Children's Society, **Tara Flood**, Director, ALLFIE

[Q141–168](#)

## Tuesday 4 December 2018

**George Holroyd**, **Kathleen Redcliffe**, **Carl Rogers**, Parents

[Q169–223](#)

**Mrunal Sisodia**, Co-Chair, National Network of Parent Carer Forums, **Penny Hoffman-Becking**, Trustee and steering group member of SEND Family Voices, **Beth Foster**, Education Lead, Hampshire Parent Carer Network

[Q224–246](#)

## Tuesday 15 January 2019

**Tania Beard**, Headteacher, St Martin's C of E Primary and Nursery School, **Jon Boyes**, Principal, Herne Bay High School, **Penny Earl**, Resource Provision Manager, Stoke Park Infant School, **Sabrina Hobbs**, Principal, Severndale Specialist Academy, **Nicola Jones-Ford**, SENCo, Fulham College Boys' School, **Dr Cath Lowther**, Educational Psychologist, **Callum Wetherill**, Pastoral Leader, Joseph Norton Academy

[Q247–291](#)



## Tuesday 29 January 2019

**Beatrice Barleon**, Policy Development Manager, Mencap, **Bernie White**, Chair, Natspec, **Caroline Archer**, Employment Service Manager, Action on Disability, **David Ellis**, Chief Executive, National Star, **Di Roberts**, chair of the Association of Colleges' SEN Group, **Janine Cherrington**, Head of Service, Transition2, **Linda Jordan**, Senior Development Adviser (Children and Young People's programme), National Development Team for Inclusion, **Pat Brennan-Barrett**, Principal, Northampton College

[Q292–338](#)

## Tuesday 12 February 2019

**Richard Flinton**, Chief Executive, North Yorkshire County Council, **John Henderson**, Chief Executive, Staffordshire County Council, **Steve Rumbelow**, Chief Executive, Rochdale Borough Council

[Q339–378](#)

**Councillor Antoinette Bramble**, Chair of Children and Young People's Board, Local Government Association, **Chris Harrison**, Director, SEND4Change, **Charlotte Ramsden**, Chair of the Health, Care and Additional Needs Policy Committee, Association of Directors of Children's Services, **Andrew Reece**, British Association of Social Workers representative

[Q379–409](#)

## Tuesday 5 March 2019

**Caroline Dinenage MP**, Minister of State for Care, Department of Health and Social Care, **Fran Oram**, Director for mental health, dementia and disabilities, Department of Health and Social Care, **Michelle Morris**, Consultant Speech and Language Therapist / Designated Clinical Officer – Salford CCG, **Dr Sally Payne**, Professional Adviser – Children, Young People and Families, Royal College of Occupational Therapists, **Steve Inett**, CEO, Healthwatch Kent, **Dr Tracey Crockford**, Associate Specialist Community Paediatrician, Designated Medical Officer for SEND, West Cheshire, **Professor Jacqueline Dunkley-Bent OBE**, Head of Maternity Children and Young People–Nursing Directorate, NHS England

[Q410–475](#)

## Tuesday 19 March 2019

**Ben, Eva, Jordan**, young people

[Q476–481](#)

**Simran, Kashifa**, young people

[Q482–490](#)

**Francesca, Ella**, young people

[Q491–498](#)

## Wednesday 24 April 2019

**Gill Jones**, Deputy Director of Early Education, Ofsted, **Jonathan Jones**, HMI, Specialist Adviser, SEND, Ofsted, **Professor Ursula Gallagher**, Deputy Chief Inspector for Primary Medical Services and Integrated Care, CQC, **Nigel Thompson**, Head of Children's Health and Justice, CQC

[Q499–565](#)



**Alison Fiddy**, Chief Executive, Ipsea, **Imogen Jolley**, Head of Public Law, Simpson Millar, **Michael King**, Local Government and Social Care Ombudsman

[Q566–625](#)

### Wednesday 8 May 2019

**Terry Reynolds**, Director for Education and Skills, London Borough of Newham, **Stuart Gallimore**, Director of Children’s Services, East Sussex County Council

[Q626–750](#)

### Tuesday 21 May 2019

**Nadhim Zahawi MP**, Parliamentary Under-Secretary of State for Children and Families, **Rt Hon Nick Gibb MP**, Minister of State for School Standards, **Dr André Imich**, SEN and Disability Professional Adviser, Department for Education

[Q751–874](#)



## Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

SCN numbers are generated by the evidence processing system and so may not be complete.

- 1 Anonymous 1 ([SCN0166](#))
- 2 Anonymous 2 ([SCN0278](#))
- 3 Anonymous 3 ([SCN0286](#))
- 4 Anonymous 4 ([SCN0126](#))
- 5 Anonymous 5 ([SCN0184](#))
- 6 Anonymous 6 ([SCN0378](#))
- 7 Anonymous 7 ([SCN0529](#))
- 8 Anonymous 8 ([SCN0543](#))
- 9 Anonymous 9 ([SCN0659](#))
- 10 Achievement for All ([SCN0216](#))
- 11 Achieving for Children ([SCN0497](#))
- 12 Acorns School ([SCN0137](#))
- 13 Action Cerebral Palsy ([SCN0103](#))
- 14 Afasic ([SCN0292](#))
- 15 Alexander-Passe, Mr Neil ([SCN0143](#))
- 16 Ambitious about Autism ([SCN0311](#))
- 17 Armitage, Mr Peter ([SCN0268](#))
- 18 Ash, Mrs Sonia ([SCN0669](#))
- 19 Ashton Sixth Form College ([SCN0086](#))
- 20 ASSET ([SCN0488](#))
- 21 Association of Colleges ([SCN0492](#))
- 22 Association of Directors of Children's Services ([SCN0503](#))
- 23 Association of Educational Psychologists ([SCN0495](#))
- 24 Association of Employment and Learning Providers ([SCN0463](#))
- 25 Association of School and College Leaders ([SCN0265](#))
- 26 Atkinson, Roy ([SCN0621](#))
- 27 August, Kathryn ([SCN0687](#))
- 28 Bateson OBE, David ([SCN0531](#))
- 29 Beadle, Mr Dean ([SCN0306](#))
- 30 Beams ([SCN0224](#))
- 31 Bidder, Miss Jeannette ([SCN0356](#))
- 32 Bigord, Mr Aaron ([SCN0450](#))
- 33 Birkby Infant and Nursery School ([SCN0681](#))



- 34 Birks, Gemma ([SCN0455](#))
- 35 Bone, Mrs Tamsin ([SCN0207](#))
- 36 Brinsworth Academy ([SCN0072](#))
- 37 British Assistive Technology Association ([SCN0579](#))
- 38 British Association of Teachers of the Deaf ([SCN0217](#))
- 39 British Dyslexia Association ([SCN0438](#))
- 40 British Educational Suppliers Association ([SCN0396](#))
- 41 The British Psychological Society ([SCN0447](#))
- 42 Brooks, Scott ([SCN0106](#))
- 43 BURY2GETHER ([SCN0569](#))
- 44 Calderdale MBC ([SCN0491](#))
- 45 Cambridgeshire County Council ([SCN0537](#))
- 46 Canavan, Mrs Carolyn ([SCN0372](#))
- 47 Cannon-Brookes, Mrs Nicola ([SCN0666](#))
- 48 Carers Trust ([SCN0512](#))
- 49 Carlisle College ([SCN0213](#))
- 50 Carlisle Rural South SENCO Cluster ([SCN0189](#))
- 51 Castle Wood Special School ([SCN0391](#))
- 52 Catholic Education Service ([SCN0258](#))
- 53 Centre for Studies on Inclusive Education (CSIE) ([SCN0570](#))
- 54 Chadsgrove Teaching School Alliance ([SCN0472](#))
- 55 The Challenging Behaviour Foundation ([SCN0376](#))
- 56 Charlesworth, Mr Haydn ([SCN0129](#))
- 57 Cheshire West & Chester Council ([SCN0405](#))
- 58 Children's Heart Federation ([SCN0533](#))
- 59 Children's Services Development Group ([SCN0408](#))
- 60 Children's Services Development Group ([SCN0695](#))
- 61 Chiltern Way Academy ([SCN0607](#))
- 62 City of York SEN Services ([SCN0589](#))
- 63 Colour Blind Awareness ([SCN0269](#))
- 64 Contact ([SCN0499](#))
- 65 Contact ([SCN0709](#))
- 66 Cordiner, Julie ([SCN0651](#))
- 67 Cornwall Council ([SCN0226](#))
- 68 Cornwall Council ([SCN0373](#))
- 69 Coventry City Council ([SCN0394](#))
- 70 Curran, Dr Helen ([SCN0486](#))
- 71 Department for Education and Department for Health and Social Care ([SCN0583](#))



- 72 Department for Education and Department for Health and Social Care ([SCN0701](#))
- 73 Derby College ([SCN0459](#))
- 74 Derwen College ([SCN0443](#))
- 75 Devi, Ms Anita ([SCN0644](#))
- 76 Devon SEND Improvement Board ([SCN0428](#))
- 77 Division of Neuropsychology, British Psychological Society ([SCN0494](#))
- 78 Dobbs, Miss Helen ([SCN0172](#))
- 79 Dockar, Mrs Kristin ([SCN0066](#))
- 80 Doherty, Ms Gillian ([SCN0257](#))
- 81 Down Syndrome Training & Support Service Ltd ([SCN0053](#))
- 82 Dyslexial ([SCN0646](#))
- 83 Earl, Mrs Penny ([SCN0136](#))
- 84 East Riding of Yorkshire Council ([SCN0319](#))
- 85 East Sussex County Council ([SCN0416](#))
- 86 East Sussex County Council ([SCN0685](#))
- 87 The Education Alliance ([SCN0152](#))
- 88 Education and Children's Services Group, Prospect ([SCN0315](#))
- 89 Education Endowment Foundation ([SCN0413](#))
- 90 EHCP Experiences 18–25 ([SCN0414](#))
- 91 Elliott, Mr Simeon ([SCN0059](#))
- 92 Enhance EHC Ltd ([SCN0567](#))
- 93 Essex County Council ([SCN0498](#))
- 94 Extra Strong Parents Support Group ([SCN0087](#))
- 95 Fade, Stephanie ([SCN0218](#))
- 96 Family Fund ([SCN0511](#))
- 97 Family Voice Somerset ([SCN0590](#))
- 98 Federation of Leaders in Special Education ([SCN0448](#))
- 99 FIGS UK ([SCN0379](#))
- 100 Fishel, Max ([SCN0186](#))
- 101 Flinton, Richard ([SCN0682](#))
- 102 Foreland Fields School ([SCN0313](#))
- 103 Foster, Beth ([SCN0664](#))
- 104 Foundation, DFN Charitable ([SCN0714](#))
- 105 Fulham College Boys' School ([SCN0068](#))
- 106 Gallimore, Stuart ([SCN0710](#))
- 107 Gedge, Ms Nancy ([SCN0179](#))
- 108 Gerrard, Sue ([SCN0410](#))
- 109 Gibbs, Dr Simon ([SCN0133](#))



- 110 GL Assessment ([SCN0423](#))
- 111 Gloucester House - Tavistock children's day unit ([SCN0071](#))
- 112 Gloucestershire Special School Headteachers ([SCN0146](#))
- 113 GMB ([SCN0444](#))
- 114 Greaves, Dr Sarah ([SCN0043](#))
- 115 Grizzle, Ms Vanessa ([SCN0474](#))
- 116 Gross, Jean ([SCN0660](#))
- 117 Hackett, Geoffrey ([SCN0535](#))
- 118 Haines, Steve ([SCN0650](#))
- 119 Hall-Jones, Miss Fiona ([SCN0261](#))
- 120 Halton Borough Council ([SCN0684](#))
- 121 Hamling, Agnieszka ([SCN0293](#))
- 122 Hampshire County Council Children's Services ([SCN0452](#))
- 123 Hampshire Parent Carer Network ([SCN0471](#))
- 124 Hampshire Special School Headteachers Group ([SCN0145](#))
- 125 Hanson, Mrs Nicola ([SCN0026](#))
- 126 Harlow College ([SCN0670](#))
- 127 Harrington, Dr Jill ([SCN0477](#))
- 128 Harris, Professor Neville ([SCN0546](#))
- 129 Headteachers' Roundtable ([SCN0208](#))
- 130 Health Conditions in Schools Alliance ([SCN0504](#))
- 131 Healthwatch Essex ([SCN0295](#))
- 132 Henderson, John ([SCN0690](#))
- 133 Henry Tyndale School ([SCN0041](#))
- 134 Herefordshire Council ([SCN0509](#))
- 135 Herne Bay High School ([SCN0427](#))
- 136 Hertfordshire County Council ([SCN0418](#))
- 137 Herts Parent Carer Involvement ([SCN0552](#))
- 138 Hackney Independent Parent-Carer Forum ([SCN0468](#))
- 139 Hoffmann-Becking, Penny ([SCN0652](#))
- 140 Holroyd, George ([SCN0661](#))
- 141 I CAN ([SCN0421](#))
- 142 Independent Schools Association ([SCN0697](#))
- 143 Independent Schools Council ([SCN0299](#))
- 144 Infant School 1 ([SCN0123](#))
- 145 Isle of Wight CC SEN Service ([SCN0194](#))
- 146 Janes, Mrs Wendy ([SCN0058](#))
- 147 Jenkin Jones, Deborah ([SCN0318](#))



- 148 Jisc ([SCN0212](#))
- 149 Joel, Mrs Vickie ([SCN0206](#))
- 150 Jolley, Imogen ([SCN0720](#))
- 151 Jones, Mr Martin ([SCN0566](#))
- 152 Jones-Ford, Nicola ([SCN0671](#))
- 153 Jukes, Mr Shaun ([SCN0196](#))
- 154 Karten Network ([SCN0343](#))
- 155 Kashyap, Mrs Kathryn ([SCN0276](#))
- 156 Keer, Matt ([SCN0167](#))
- 157 Keer, Matt ([SCN0649](#))
- 158 Keer, Matt ([SCN0699](#))
- 159 Kent County Council ([SCN0592](#))
- 160 Kerwin-Nye, Anita ([SCN0469](#))
- 161 King, Julie ([SCN0051](#))
- 162 King, Michael ([SCN0707](#))
- 163 Kingdom, Stephen ([SCN0648](#))
- 164 Kingsbury Primary School ([SCN0580](#))
- 165 Kingston University London ([SCN0393](#))
- 166 Kishore-Bigord, Mrs Roxanna ([SCN0462](#))
- 167 Kisimul Group ([SCN0409](#))
- 168 Lamb OBE, Brian ([SCN0602](#))
- 169 Lambeth SEND ([SCN0077](#))
- 170 Leading Inclusion in Secondary Schools Network ([SCN0465](#))
- 171 Lindsay-German, Ms Sally ([SCN0350](#))
- 172 Local Government and Social Care Ombudsman ([SCN0163](#))
- 173 Local Government Association ([SCN0195](#))
- 174 London Assembly ([SCN0637](#))
- 175 London Borough of Brent ([SCN0209](#))
- 176 London Borough of Hackney ([SCN0422](#))
- 177 London Borough of Newham ([SCN0686](#))
- 178 Long, Ms Carol ([SCN0700](#))
- 179 Love to Learn ([SCN0275](#))
- 180 Lowther, Dr Cath ([SCN0099](#))
- 181 Lyngborg, Mrs I ([SCN0316](#))
- 182 Marsh, Dr Alan ([SCN0098](#))
- 183 Medhurst, Mrs Julie ([SCN0170](#))
- 184 Milestone Academy ([SCN0587](#))
- 185 The Milestone School, Gloucester ([SCN0205](#))



- 186 Mitchell, Mr Ian ([SCN0588](#))
- 187 Moorvision ([SCN0698](#))
- 188 More House Foundation ([SCN0122](#))
- 189 Moreton, Paul ([SCN0571](#))
- 190 Morewood, Mr Gareth ([SCN0392](#))
- 191 Morris Education Trust ([SCN0214](#))
- 192 Morris, Mrs Nicola ([SCN0064](#))
- 193 my AFK ([SCN0466](#))
- 194 NAS-Newham Branch Autism Parents Support Group ([SCN0368](#))
- 195 Nasenco course, MMU ([SCN0110](#))
- 196 Nasseem, Dr Elizabeth ([SCN0705](#))
- 197 NASUWT ([SCN0139](#))
- 198 National Association of Head Teachers ([SCN0301](#))
- 199 National Association of Independent Schools and Non-Maintained Special Schools ([SCN0183](#))
- 200 National Association of Principal Educational Psychologists (NAPEP) ([SCN0441](#))
- 201 The National Autistic Society ([SCN0473](#))
- 202 National Deaf Children's Society ([SCN0446](#))
- 203 National Deaf Children's Society ([SCN0706](#))
- 204 National Development Team for Inclusion ([SCN0412](#))
- 205 National Education Union ([SCN0252](#))
- 206 National Governance Association (NGA) ([SCN0476](#))
- 207 National Network of Parent Carer Forums ([SCN0199](#))
- 208 National Organisation for Foetal Alcohol Syndrome-UK ([SCN0425](#))
- 209 National Star ([SCN0310](#))
- 210 NATP Ltd t/a National Association of Therapeutic Parents. ([SCN0354](#))
- 211 NatSIP (National Sensory Impairment Partnership) ([SCN0487](#))
- 212 New College Durham ([SCN0516](#))
- 213 New College Worcester ([SCN0338](#))
- 214 NFA Group ([SCN0508](#))
- 215 NHS England ([SCN0672](#))
- 216 NHS England ([SCN0680](#))
- 217 Nicholson, Ms Fiona ([SCN0483](#))
- 218 North Lincolnshire Council ([SCN0527](#))
- 219 North Yorkshire County Council ([SCN0185](#))
- 220 Northampton College ([SCN0157](#))
- 221 Northamptonshire County Council ([SCN0496](#))
- 222 Northumberland County Council ([SCN0481](#))



- 223 Not Fine In School ([SCN0679](#))
- 224 Nottinghamshire County Council ([SCN0484](#))
- 225 nurtureuk ([SCN0342](#))
- 226 O'Sullivan, Sean ([SCN0662](#))
- 227 Ofsted ([SCN0598](#))
- 228 Oliver, Dr Jane ([SCN0298](#))
- 229 Olivera, Ms Gwynneth ([SCN0663](#))
- 230 Openstorytellers Limited ([SCN0156](#))
- 231 Orchard Hill College ([SCN0553](#))
- 232 Our Barn Carers Project ([SCN0067](#))
- 233 Oxfordshire County Council ([SCN0317](#))
- 234 O'Leary, Lisa ([SCN0023](#))
- 235 Parental Submission 1 ([SCN0002](#))
- 236 Parental Submission 2 ([SCN0006](#))
- 237 Parental Submission 3 ([SCN0008](#))
- 238 Parental Submission 4 ([SCN0009](#))
- 239 Parental Submission 5 ([SCN0010](#))
- 240 Parental Submission 6 ([SCN0011](#))
- 241 Parental Submission 7 ([SCN0012](#))
- 242 Parental Submission 8 ([SCN0019](#))
- 243 Parental Submission 9 ([SCN0022](#))
- 244 Parental Submission 10 ([SCN0029](#))
- 245 Parental Submission 11 ([SCN0030](#))
- 246 Parental Submission 12 ([SCN0031](#))
- 247 Parental Submission 13 ([SCN0042](#))
- 248 Parental Submission 14 ([SCN0044](#))
- 249 Parental Submission 15 ([SCN0052](#))
- 250 Parental Submission 16 ([SCN0056](#))
- 251 Parental Submission 17 ([SCN0069](#))
- 252 Parental Submission 18 ([SCN0075](#))
- 253 Parental Submission 19 ([SCN0081](#))
- 254 Parental Submission 20 ([SCN0090](#))
- 255 Parental Submission 21 ([SCN0101](#))
- 256 Parental Submission 22 ([SCN0102](#))
- 257 Parental Submission 23 ([SCN0109](#))
- 258 Parental Submission 24 ([SCN0116](#))
- 259 Parental Submission 25 ([SCN0118](#))
- 260 Parental Submission 26 ([SCN0124](#))



- 261 Parental Submission 27 ([SCN0135](#))
- 262 Parental Submission 28 ([SCN0142](#))
- 263 Parental Submission 29 ([SCN0144](#))
- 264 Parental Submission 30 ([SCN0149](#))
- 265 Parental Submission 31 ([SCN0153](#))
- 266 Parental Submission 32 ([SCN0155](#))
- 267 Parental Submission 33 ([SCN0159](#))
- 268 Parental Submission 34 ([SCN0165](#))
- 269 Parental Submission 35 ([SCN0168](#))
- 270 Parental Submission 36 ([SCN0173](#))
- 271 Parental Submission 37 ([SCN0181](#))
- 272 Parental Submission 38 ([SCN0182](#))
- 273 Parental Submission 39 ([SCN0188](#))
- 274 Parental Submission 40 ([SCN0190](#))
- 275 Parental Submission 41 ([SCN0245](#))
- 276 Parental Submission 42 ([SCN0254](#))
- 277 Parental Submission 43 ([SCN0273](#))
- 278 Parental Submission 44 ([SCN0314](#))
- 279 Parental Submission 45 ([SCN0341](#))
- 280 Parental Submission 46 ([SCN0360](#))
- 281 Parental Submission 47 ([SCN0366](#))
- 282 Parental Submission 48 ([SCN0374](#))
- 283 Parental Submission 49 ([SCN0398](#))
- 284 Parental Submission 50 ([SCN0426](#))
- 285 Parental Submission 51 ([SCN0478](#))
- 286 Parental Submission 52 ([SCN0482](#))
- 287 Parental Submission 53 ([SCN0490](#))
- 288 Parental Submission 54 ([SCN0493](#))
- 289 Parental Submission 55 ([SCN0287](#))
- 290 Parental Submission 56 ([SCN0020](#))
- 291 Parental Submission 57 ([SCN0034](#))
- 292 Parental Submission 58 ([SCN0047](#))
- 293 Parental Submission 59 ([SCN0121](#))
- 294 Parental Submission 60 ([SCN0138](#))
- 295 Parental Submission 61 ([SCN0174](#))
- 296 Parental Submission 62 ([SCN0193](#))
- 297 Parental Submission 63 ([SCN0197](#))
- 298 Parental Submission 64 ([SCN0612](#))



- 299 Parental Submission 65 ([SCN0004](#))
- 300 Parental Submission 66 ([SCN0127](#))
- 301 Parental Submission 67 ([SCN0210](#))
- 302 Parental Submission 68 ([SCN0234](#))
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