OFFICIAL RESPONSE
to the consultation on

'Right Support, Right Place, Right Time'

The 2022 SEND review

July 2022

About Us

Community Union | Education & Early Years
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In Autumn 2020, Voice – the Union for Education Professionals became a section of Community Union. The Education and Early Years section represents teachers, lecturers, tutors, school support staff, and early years and childcare professionals in workplaces throughout the UK.

Submission

This Official Response on behalf of Community members was submitted to SENDReview.CONSULTATION@EDUCATION.GOV.UK

Following the closing date of this consultation, this Official Response will be made available to members and the public on our website.

SEND Green Paper

Introduction to the response

Community members are passionate about education. The needs of all children and the ways that we meet them are what makes it possible for all children to achieve in our nurseries, schools, colleges and other places of learning. Our members and their colleagues work hard to make sure that these needs are met, but all-to-often, the system does not play its part.

The current system of support, initially funded by the school and topped up by further funding from Local Authority and High Needs Funding blocks is overly bureaucratic, too lengthy and relies on too many participants all playing their part. In short, this fragile system is vulnerable and too many children fall through the gap. With early intervention, united support services, adequate funding, and streamlining of process better outcomes could be achieved for children.

This SEND Green Paper sets out ways the government believe would improve services to parents, schools and children by prioritising early intervention and improving communication between Education, Health and Social Care but it argues that this must be done within the current funding envelope.

To be clear, a key reason for failure in the current system is the lack of funding.

It is unreasonable to expect schools to be able to support all children without adequate up-front funding to meet those needs. Even where funding is allocated it is lagged and schools have to find the initial funding from an ever-decreasing budget. And this assumes that the funding provided will meet the full cost of addressing those needs which it often does not.

The differing approaches of Local Authorities, Specialist Provision, Independent Providers all lead to a fractured system that we believe needs reform, but it is important to not dismantle everything that does work in the process.

Many Schools and Colleges have excellent relationships with specialist providers, such as Education Psychologists and Speech and Language Therapists, but there are too few to go around. Schools have self-funded their own behaviour and mental health specialists because the waiting list for support from NHS is simply too long to wait.

Throughout this response we have attempted to consider how the proposals will work in a range of settings and to respond appropriately. It is likely that a single approach will not work, but a more streamlined, holistic

What our members want is to be able to meet all the needs of the children they work with, with early intervention, diagnosis, training and support services available at the point of need. What they need is the funding to allow this to happen.

Consultation Questions

1. What key factors should be considered when developing national standards to ensure they deliver improved outcomes and experiences for children and young people with SEND and their families? This includes how the standards apply across education, health and care in a 0-25 system.

Since the Green Paper was first commissioned, we have fallen into a cost-of-living crisis. For the most disadvantaged in society this means there is even less to support their particular needs both at family level and in their education setting.

In order for this to be addressed we need to properly recognise the importance of early intervention, especially in mental health support. Current wait times for mental health support from CAMHS is around two years, by which time the needs of the child and the setting have dramatically escalated placing incredible burdens on the school system. Whilst we applaud the intent behind a Mental Health trained teacher in every school, the demands placed upon teaching staff mean that this training often cannot be exercised. This would be better provided by dedicated mental health practitioners and allowing teachers, to teach.

Too many additional duties are being placed on all teachers and especially the SENCO, with nothing reduced or removed to help them to withstand the burden. Many are being crushed beneath the weight of the workload and too many teachers are leaving because of the workload. We need to stabilise the workforce.

Standards need to be about provision and about meeting the needs of the children. They need to be about communication, and they need to highlight where the failures of provision are, so they can be addressed – not to apportion blame but to ensure no child is left wanting.

Any standards must be sufficiently flexible to allow for the change in demand that a nursery, school, trust, college might experience at any one time. These standards must not have an accountability focus, instead the focus must always be on the needs of the child first.

Mental health issues are a current high-priority and demand is increasing both due to existing need and those derived from Covid. Vulnerable children are seeking belonging and attachment support, without which can lead to PREVENT issues. Attendance monitoring and communication of attendance is highlighted in the School's White Paper, but seems to be absent from the Green Paper, despite evidence showing that school attendance is important for meeting children's needs, both socially and educationally. Ostracization from and within school can lead to insularity, anger, extremism and contribute to poor mental health. SEND staff – not just the SENCo – have a critical role in addressing these needs but are often inadequately trained and insufficiently funded. SEND support staff have a critical role to play and yet they are scarcely mentioned in the body of the consultation. They need greater support, better and more frequent training, and additional pay to recognise their specialism.

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The standards must cover all of these issues and yet avoid being a tick-box list for settings to prove they are meeting. There must be close working between Education, Health and Social Care in order to improve the system for all.

2. How should we develop the proposal for new local SEND partnerships to oversee the effective development of local inclusion plans whilst avoiding placing unnecessary burdens or duplicating current partnerships?

The success or failure of the new local SEND partnerships will be predicated on three things – Partnership, Communication, Funding – and if any of those falls down the SEND partnership and the support for the setting and the pupil is at risk.

<u>Partnership</u>
It must be clear which parties are required within the partnership. It is no good identifying that Social Care need to be present without identifying who and what their role is. Similarly requiring specialist education support but not clearly identifying it is wasteful. The partnership does need to have sufficient capacity and seniority to compel specialists to attend where their expertise is necessary.

<u>Communication</u>
Schools are experts at communicating with children. Not all schools are experts at communicating with other agencies or parents. Because of the workload that is placed on teachers, specialist support staff and health teams there is often insufficient time to effectively manage the necessary and timely communication that makes these systems effective. Communication will be key to making any inter-agency working possible.

<u>Funding</u>
The funding envelope for the current SEND system is insufficient. The demand is outstripping the supply, and this has raised the bar so that some of those desperately in need, no longer meet the threshold. Any changes to the SEND system must be frontloaded with change funding, and then continue to be funded to meet the needs of the children and provide the stability and consistency of staffing throughout the lean times and the harvest.

Mandatory inter-agency working will be essential to ensuring the success of these proposed changes. Key staff will need to be present at all key meetings as identified by the needs of the child. The pandemic has shown us the effectiveness of virtual meetings and this strategy should be maintained to enable participation. Furthermore, key meetings should be held at times which are convenient for all – including parents to ensure that communication with them and the child is placed at the centre of any decision making.

3. What factors would enable local authorities to successfully commission provision for low-incidence high-cost need, and further education, across local authority boundaries?

As previously mentioned, funding is a key element of any successful provision. Without sufficient funding the specialists necessary to meet the needs of children will simply not be available.

Again, as previously mentioned the SEND partnerships need to have sufficient authority to commission provision that is needed, as identified within by Education Health and Care Plans (EHCP). To support cross-boundary working and provisions – especially in border areas – standardisation of EHCPs will massively help. Furthermore, standardisation will help to reduce bureaucracy and duplication since the time taken to fill in forms will be limited to the key information and supporting detail for the EHCP.

If a child moves, then the data needs to be compatible across the UK so it can sync over. A standardised EHCP would be of benefit here too as it would remove the need for time-consuming data entry, negate the need for re-assessment, prevent children falling through the gaps and reduce delays.

4. What components of the EHCP should we consider reviewing or amending as we move to a standardised and digitised version?

Any documentation relating to a child's need must be sufficiently detailed and yet easy to access. This could be achieved by using digital forms which link to data as necessary preventing paperwork from becoming unwieldy.

An EHCP has to identify the needs of the child in a holistic manner over the resources needed to support those needs. Only once those needs are identified can the necessary resources be made available. Children must not be being allocated resources because they are available, if they are not the correct resources to meet the need.

Community agrees that there is too much variation and inconsistency in the way that a child's needs are identified and met and that a standardised and digital format could play a significant role in addressing this. Forms are unwieldy, long and frequently meaningless to the parents and children that they pertain to. Indeed, the consultation document notes that in order to address this, "documentation must be co-produced with parents, carers, children and young people to ensure the templates produced are user-friendly and accessible".

Children need to belong and having a named setting supports this. If a child moves, then the data needs to be compatible across the UK so it can sync over. A standardised form will remove the need for time-consuming data entry, negate the need for re-assessment, prevent children falling through the gaps and eliminate delays in them accessing support. Furthermore, a digital system would allow any data to be sent ahead of the child to ensure that provision is ready in anticipation of arrival.

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We do not think that it benefits a child for the provision to be identified as an Education, Health, or Social Care need, though we understand that identification is necessary for the provision of funding. However, we reiterate what has already been said, all the needs of the child must be met, and this can only be achieve with sufficient funding.

5. How can parents and local authorities most effectively work together to produce a tailored list of placements that is appropriate for their child, and gives parents confidence in the EHCP process?

As has already been mentioned, one of the key components of success is communication but we note that Education, Health, and Social Care are sometimes not as effective at communicating with parents as should be the case; leaving parents frustrated by the system and worried for their child.

EHCP forms are unwieldy, long, and complicated for the professional who complete them and frequently meaningless to the children and parents that they pertain to.

Currently, parents accept that they must fight to get support for their children. When the support they believe is necessary is declined they know that they must appeal, and a tribunal is the most effective way. Parents know that LAs are unlikely to contest cases that go to tribunal, so parents naturally want a tribunal as they believe this is the only way to get what their child needs.

Once again, we return to the fact that it all boils down to money and when the funding runs out, the needs of the child fail to be met.

Parents need reassurance. They need to know that the system will provide the necessary support and they need educating in what that may look like. This is not a case of a shopping list but a genuine desire for the best for their child. Brushing parental concerns to one side will not assuage their legitimate concerns, so evidence must be presented to show that any support strategy is effective and likely to work. Anything that proceeds without parental support is likely to result in appeals and tribunals as now.

Once support is established, regular feedback with parents will be necessary to ensure parental support is maintained.

6. To what extent do you agree or disagree with our overall approach to strengthen redress, including through national standards and mandatory mediation?

Strongly Agree, Agree, ***Neither Agree nor Disagree****, Disagree, Strongly Disagree*

If you selected Disagree or Strongly Disagree, please tell us why, specifying the components you disagree with and alternatives or exceptions, particularly to mandatory mediation.

7. Do you consider the current remedies available to the SEND Tribunal for disabled children who have been discriminated against by schools effective in putting children and young people's education back on track?
Please give a reason for your answer with examples, if possible.

8. What steps should be taken to strengthen early years practice with regard to conducting the two-year-old progress check and integration with the Healthy Child Programme review?

It is no co-incidence that we have highlighted communication as being a key issue. Communication is vital to ensure that education settings have advance notice of the needs of the child before they enter the provision giving greater scope for needs to be met.

The two-year-old progress check is the responsibility of the Health and Social Care team. By working with education providers at pre-school level the learning needs of the child can also be assessed prior to formal education starting again enhancing the experience for children through early intervention.

This will necessitate closer working by DHSC, and a willingness across all departments to share the financial burden appropriately for the good of the child.

9. To what extent do you agree or disagree that we should introduce a new mandatory SENCo NPQ to replace the NASENCo?

Strongly Agree, Agree, Neither Agree or Disagree, ***Disagree****, Strongly Disagree*

If you selected Disagree or Strongly Disagree, please tell us why.

The NASENCo is a well-established and respected qualification. However, as with any qualification the NASENCo must not stand still and should be regularly reviewed to ensure that it continues to meet the needs of SENCO across the country. Indeed, it would be appropriate for there to be a range of CPD modules to supplement the NASENCo, specially tailored towards experienced SENCO and focussed on addressing developments in SEND which have emerged since training. For example, the current focus on mental health, improved Autism awareness and support for re-integration of children back into school following time in Alternative Provision.

Should the Department decide to develop its own NPQ in SEND, then it will be essential to do so in partnership with organisations like NASEN who have the experience in SEND. It is essential that any qualification meets the needs of SENCOs and supports them to meet the needs of the children. It is irrelevant how well this sits alongside the other NPQs as long as it is fit for purpose.

The consultation ponders whether the SENCO should be a member of SLT. It is worth pointing out that the SEND CoP already requires this. What SENCOs do need is dedicated admin support. No matter how big the school, the administration and bureaucracy of SEND takes a significant amount of and causes Teaching and Support staff to be away from the children rather than actively supporting them. A dedicated SEN administrator would help address this.

SEND support staff have a critical role to play and yet they are scarcely mentioned in the body of the consultation. They too need greater support, better and more frequent training and additional pay to recognise their specialism.

10. To what extent do you agree that we should strengthen the mandatory SENCo training requirement by requiring that headteachers must be satisfied that the SENCo is in the process of obtaining the relevant qualification when taking on the role?

***Strongly Agree**, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree*

As previously mentioned, the NASENCo is a well-established and respected qualification. However, as with any qualification it must not stand still and should be regularly reviewed to ensure that it continues to meet the needs of SENCO across the country. Updates could be offer in the form of CPD modules to supplement the NASENCo, especially tailored towards those already carrying out the role of SENCO and aimed at addressing developments in SEND which have emerged since training. This training could also be available to SEND support staff to ensure whole staff teams are up-to-date or could be cascaded by the SENCO in-house.

According to the STPCD:
"The relevant body must award a SEN allowance to a classroom teacher:
a) in any SEN post that requires a mandatory SEN qualification and involves teaching pupils with SEN;
b) in a special school;
c) who teaches pupils in one or more designated special classes or units in a school or, in the case of an unattached teacher, in a local authority unit or service;
d) in any non-designated setting (including any pupil referral unit) that is analogous to a designated special class or unit, where the post:
i. involves a substantial element of working directly with children with SEN;
ii. requires the exercise of a teacher's professional skills and judgement in the teaching of children with SEN; and
iii. has a greater level of involvement in the teaching of children with SEN than is the normal requirement of teachers throughout the school or unit within the school or, in the case of an unattached teacher, the unit or service."

It goes on to state that
"A teacher with leadership or management responsibilities is entitled, so far as is reasonably practicable, to a reasonable amount of time during school sessions for the purpose of discharging those responsibilities".

Therefore, it is already clear from existing documents that SENCOs should be suitably trained, and that responsibility should be reflected in both time and pay. But it is not just the SENCO who is involved in delivery. Other teachers who work significant amounts of time directly with SEND children are also entitled to an SEN allowance, and we believe this should be afforded to support staff working within SEND, too.

SEND support staff have a critical role to play and yet they are scarcely mentioned in the body of the consultation. SEND support staff need greater support, better and more frequent training and additional pay to recognise their specialism.

11. To what extent do you agree or disagree that both specialist and mixed MATs should be allowed to coexist in the fully trust-led future? This would allow current local authority maintained special schools and alternative provision settings to join either type of MAT.

Strongly Agree*, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree*

If you selected Disagree or Strongly Disagree, please tell us why

Exclusivity is not helpful and does not benefit the majority of children. Specialist knowledge, skills and abilities are not the preserve of the few who work in SEND or Alternative Provision, nor should they be, and, shared widely, they can benefit lots of children in mainstream provision too.

Closer links within locales through federations and partnerships, as well as MATs, fosters a better understanding of the work undertaken and the support that is offer to the most vulnerable children. This level of inclusion also builds trust between specialist providers and mainstream settings, strengthening relationships within the sector and the communities they serve.

By having a range of provision within the same area both from the same and other employers you have the opportunity to develop stronger and better teachers who can benefit from specialist training. Diverse employers can cause increases in costs but can also be employed to monitor standards and hold each other to account. This can only occur in a supportive system of partnership where the opportunity to learn from and support each other in the partnerships that are formed is recognised and encouraged. Career opportunities arise in specialist fields and allow those with specialisms to return to mainstream provision more easily. Furthermore, they can avoid the inflated cost of private provision.

Inclusion, not segregation.

12. What more can be done by employers, providers and government to ensure that those young people with SEND can access, participate in and be supported to achieve an apprenticeship, including through access routes like traineeships?

The Equality Act 2010 is clear that no employer is allowed to discriminate against an applicant on grounds of disability. The government guidance states the intention of the act is to make it "more difficult for disabled people to be unfairly screened out when applying for jobs, by restricting the circumstances in which employers can ask job applicants questions about disability or health".

The law is clear, but in practice it often does not happen.

In addition, the SEND code of practice supports children up until the age of 25, but who polices this support and ensures that employers are able to access funding and resources to engage with SEND children and adults?

Without funding employers will find it difficult to meet the needs of some young people. Businesses will not support this if it costs them, despite the need to meet equalities legislation. And education for employers about the funding available and the mitigations and reasonable adjustments that can be made, might encourage more and broaden the employment horizons for young people.

13. To what extent do you agree or disagree that this new vision for alternative provision will result in improved outcomes for children and young people?

At this point, it is impossible to say if this will be successful, as there are too many variables. However, in addition to the priority of meeting the child's needs, we have already outlined the metrics of Partnership, Communication and Funding. We need to stabilise funding within SEND/AP in order to provide a secure foundation for budgeting and staffing without which the provision for the children will not be as effective as it should be.

As has been previously noted, there needs to be support from mainstream schools and colleges. It must not be a case of children leaving mainstream schooling and then forgotten, there needs to be closer working and more support available for schools should the mainstream provision be objectively proven to be in the best interests of the child. This should be determined by the child and their parents and profession and not be beholden to financially vulnerability.

The current system is at risk of fracture, but without adequate funding any new system will suffer the same disconnect and risk the same failure.

14. What needs to be in place in order to distribute existing funding more effectively to alternative provision schools, to ensure they have the financial stability required to deliver our vision for more early intervention and re-integration?

Every local area needs to have appropriate Alternative Provision. Part of the success of AP is predicated upon early intervention which addresses the needs of the child and supports the family and the school so that children can be reintegrated into mainstream provision. Whilst children being ferried half-way across their region and being removed from the immediate area can help to address some of the child's needs, it separates and divides, leaving the parents and the community behind and making supporting the local schools more difficult during reintegration.

Staff are valuable and a major expense, but their role does not have to be limited to the AP setting, and they can be trained and supported to share their experiences more widely perhaps acting in a consultative capacity in the local schools and colleges.

To facilitate this there needs to be minimum base funding for Alternative Provision regardless of demand. Without a solid funding base on which to build, there risks being no service when one is needed. Without a solid funding base on which to build, budgets cannot be secured, leaving staff vulnerable. This then places the security and efficacy of the provision in jeopardy and risks the children's needs not being met. All settings have minimum fixed costs for the premises and staffing which need to be met and it is unreasonable for this to be funded through contract only on a need's basis.

All settings need to be able to plan and budget for their future. The National Funding Formula has a part to play in this. Community believes that the NFF can be used to provide balanced funding so that specialist provision is able to plan and budget long-term which will consolidate and stabilise staffing and have a positive impact on the children they are supporting.

15. To what extent do you agree or disagree that introducing a bespoke alternative provision performance framework, based on these 5 outcomes, will improve the quality of alternative provision?

Strongly Agree, Agree, ***Neither Agree nor Disagree****, Disagree, Strongly Disagree*

If you selected Disagree or Strongly Disagree, please tell us why

It is wholly unfair for AP to be held to account against the same performance standards as staff and mainstream schools since the nature of their work is so different and the timescales in which they work are so different.

Pupil referral units and alternative provision are more vulnerable to high staff and pupil turnover than other state-funded schools.

Data can be misinterpreted and flawed or construed to support something beyond which it was intended. For example, data is often incomparable between children and schools. This is noted in the Ofsted school inspection handbook in paragraph 368: "Inspectors will not compare the outcomes achieved by pupils with SEND with those achieved by other pupils with SEND in the school, locally or nationally." We must especially be careful with any data gathered during the past two years as the data is, at best, incomparable with the data which preceded the pandemic.

Data tends to focus on short term pupil improvement, meaning trends cannot be seen over long periods of time and improvement is less obvious. For this reason, it is unreasonable for them to be judged on hard data in the same way as more mainstream provision. The Ofsted school inspection handbook notes this in paragraph 374, saying that "PRUs and other alternative providers may have different objectives in their work".

Community believes that all schools should be supported to enable them to provide a high standard of education for their children, including PRUs and AP, however the current high-stakes inspection and accountability system does not allow for this nuanced support which is to the detriment of the children.

16. To what extent do you agree or disagree that a statutory framework for pupil movements will improve oversight and transparency of placements into and out of alternative provision?

Strongly Agree, Agree, ***Neither Agree nor Disagree****, Disagree, Strongly Disagree*

As we have noted in our previous answers, a standardised EHCP available in a secure digital format has the potential to reduce bureaucracy and duplication and allow children to get the support they need more efficiently.

This concept could be expanded to included movement around Alternative Providers and to ensure that children do not fall through the gaps. However, as with children who are home educated, there must be careful consideration of the data gathered – both the nature and quantity – and the demands that places on the staff, and on ensuring that the data is secured and not used for purposes other than that which it was originally intended, as per the Data Protection Act 2018.

We have great concern that any data gathered may be used for accountability purposes, rather than for the benefit and support of the child.

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17. What are the key metrics we should capture and use to measure local and national performance? Please explain why you have selected these.

We have already outlined the fact that communication, partnership and funding are key to the success of any SEND system, but they should not and cannot be used in any measurable sense. However, without these key components the burden will fall unfairly on education to fund and to resource, and this is unacceptable.

It is beholden upon us to remember to focus on the whole child and not just address their immediate needs. The child is the priority and meeting their needs in a holistic manner is vital. These needs may change over time and the system needs to be sufficiently reactive to be able to meet emerging needs in a timely way to prevent other support being undone.

Identification of starting points is critical in any value-added system. As has already been noted, it is unreasonable to hold special schools, specialist SEND provision and AP to the same standards as mainstream schools. Evidence suggests that schools and academies adopt strategies such as off-rolling in order to preserve their data and standards, so it is essential that mainstream schools are not disincentivised from accommodating a wide range of children with diverse needs simply because of the potential damage to data. We need again to consider value-added which recognises the starting point and the progress made because children in high-quality AP can make rapid progress when adequately baseline assessed and tracked and supported.

18. How can we best develop a national framework for funding bands and tariffs to achieve our objectives and mitigate unintended consequences and risks?

As was mentioned in the previous answer, a child's needs must be met in a holistic manner which will mean addressing all needs – not in any priority order. By prioritising funding for a particular need, the child is a risk of having a less obvious need addressed, yet it may be the one has the greatest disabling impact upon their life. This prioritisation done poorly could leave providers open to failure to meet the child's needs under the Equality Act 2010.

Community is very nervous about funding bands and tariffs. There is wide variation in the costs associated with care across England and the UK. Wherever a child is, it is imperative that their needs are assessed in the same way and that suitable funding is released to meet those needs. Introduction of funding bands and tariffs risks reducing a child to a data point and focussing on the money rather than the person. It also risks unintentionally making the system a postcode lottery which will place a heavier burden on some areas meaning that they will be less able to meet children's needs.

19. How can the National SEND Delivery Board work most effectively with local partnerships to ensure the proposals are implemented successfully?

The National SEND Delivery Board needs greater prominence. Their existence outside of the SEND system, and arguably within it, is largely unknown which automatically limits their involvement and efficacy.

As has been noted throughout this official response, for an organisation such as this to have impact, they have to have the authority to act and to compel other actors and stakeholders to play their role. This could include strategic issues, joined up thinking between Education, Health and Social Care and training and ongoing CPD.

20. What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success?

The skilled and experienced staff working in SEND and AP will be the only ones who can make any change a success, so they must be heavily involved in developing and implementing any proposed change. Change does not come from dictation or a top-down approach but is fed through a groundswell where the change is seen to have a positive difference.

Staff working in SEND/AP are often part of a small team that is exposed to a wide range of deprivation and neglect. It will be essential for staff to be supported with emotional and wellbeing support for their safety and ongoing mental health.

The education system is in crisis. There is too little funding for staffing and the funding there is does not reward experience. Therefore, specialist SEN staff are increasingly rare. Recruitment of new staff is important but only if the experienced teachers and mentors are retained to provide and support with training. We must not undervalue the experience and expertise within the system nor their capacity to undertake early intervention.

21. What support do local systems and delivery partners need to successfully transition and deliver the new national system?

The system needs to have local provision, which is available and supported by the community and understood and trusted by parents. As previously commented, whilst children's immediate needs can be addressed by being ferried half-way across their region, being removed from the immediate area separates and divides, leaving the parents and the community behind and making supporting the local schools more difficult during reintegration.

Listening to parents and involving them in the decision-making process, especially if there will be difficulties in meeting the child's needs, or disagreements on the best way of meeting them. Objective assessment and prognosis following intervention will be key in getting parents on board

With greater trust and support both for and from parents, children will get the support they need without having to resort to tribunals

22. Is there anything else you would like to say about the proposals in the green paper?

Community has serious concerns with the SEND/AP system and the way it integrates with statutory partners in Health and Social Care, and with mainstream education providers in schools and colleges.

The system is currently so focussed on attainment and accountability, that the needs of the child are not put front and centre. Not only that, but the Health and Social Care system is not as integrated as is needed for some cases in some areas. Due to a lack of funding and other resources, waiting times have grown so that early intervention is simply not possible. Where provision is available, the bar is set so high, that only the most in need are able to access it, despite the positive impact it may have had. And in too many cases the education system has to pick up the pieces.

Whilst there is some agreement that mainstream provision is appropriate for many children, the simple fact is that academisation, together with a relentless focus on performance and attainment has driven children away. When a setting is so fearful of the impact a child with SEND will have on their performance data, it is our opinion that they are no longer providing a suitable education. Where children are temporarily off-rolled to inflate a setting's performance data at the expense of SEND children, the setting is failing to provide a suitable education.

We have already mentioned the recruitment and retention crisis. A lack of skilled and experienced staff has left schools less able to manage the full spectrum of children and according to the Guardian "Another issue is the fashion, actively promoted by ministers, for extremely tight discipline, such as penalties for pupils who touch each other or avoid eye contact" which actively discriminates against children with some types of complex need.

Schools need to be places where all children are welcomed and nurtured to succeed and achieve, and their achievements need to be recognised even if they are way below what spurious data points suggest they should be. We note Ofsted's recent moves to crack down on off-rolling, but the reality is that parents no longer see mainstream schools and academies as being places that welcome children with SEND and additional needs and feel they have no alternative but to employ the tribunal system to ensure their child's needs are met.

It is all about data and money. And yet there is no money to meet the needs of the pupils which is why LAs are in deficit. The aim for more children to be supported to be in mainstream provision is laudable but the "thrust of government policy has been in the opposite direction, with academic achievement emphasised at the expense of everything else" [1]. Therefore, it is difficult to see this as being about the child.

The fact that an increasing number of parents are resorting to the tribunal system is a reflection of these policies and practices that are endemic to the current education system. The result, a marked increase in the demand for specialist provision at a substantial cost.

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We are under no illusions that the need for this review has arisen partly because of funding, but funding is key and will continue to be key as the needs of those heavily affected by COVID are met.

To conclude we echo the comment in the Guardian, “to reduce funding for EHCPs now when schools and families are already struggling as a result of the pandemic and because the government has refused to invest in an adequate education recovery package, would be deeply irresponsible.”

[1] The Guardian view on Tory plans for Send cuts: the wrong move 21 July 2022
https://www.theguardian.com/commentisfree/2022/jul/21/the-guardian-view-on-tory-plans-for-send-cuts-the-wrong-move?CMP=twt_a-education_b-gdnedu