

# SEND Green Paper Consultation

## Final Response from Leicester City SENDIB/SEND Transformation Partnership

15 June 2022

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

To support a more inclusive system, we must ensure expectations are managed for all stakeholders and minimise the postcode lottery/service boundary effects:

- Needs should be identified and assessed recognising the individual
    - support to enable C&YP to achieve standards and expectations and ambitions for them and their peers (reasonable person test). i.e. reasonable, affordable, and achievable
  - Appropriate provision made for all types of needs – at this time, alternative provision doesn't cover the broad spectrum of needs
  - Standardised access and review of support and all processes
    - Standardise process for accessing support and being clear at what stage (BERA)
    - Standardise the support links across services health and social care eg complex and challenging behaviour and language
    - This will include making explicit Quality First teaching expectations. These expectations should link with the Whole School SEND resources.
  - Transition standards in the education system will support SENCOs and other educationalists to be clear about best practice
  - Standards for coproducing and communicating with children, young people, parents and carers as expectations vary
  - A common language used with definitions which are clear to professionals and parents
  - Dedicated SENCO as a mandatory part of education leadership teams
  - Consider how C&YP with NO EHCP can be supported to access the right support in secondary and tertiary education
  - Access – Establish common register for C & YP with SEND across ICS; EHCP and SEN Support
  - Re-engaging NHS providers for Over 18 services - a statutory commitment to SEND for 18-25yrs old at Board level
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?

We agree that this will give a clear focus on local SEND. It must not duplicate existing partnerships and emerging systems eg Local Safeguarding Partnerships, Integrated Care Partnership.

The Local SEND Partnership should be a statutory board to bring partners together – with greater accountability on partners that aren't education. Although there are different

pressures for health, education and social care, we need to be enabled to be more integrated. The Local SEND Partnership should report to the place-based Health & Wellbeing Board. All partners must be at the table and enabled to be accountable. All partners including health social care, parents/carers/young people should be represented. Local inclusion plans should be developed with all partners.

Partnership needs to be culturally embedded, with collaborative messaging from all national stakeholders and Government Departments.

Consider:

- A key named person and deputy in each partner organisation including PCF to report into ICS/HWB/LA Cabinet and direct link a joint accountability through the ICB via SEND SRO/ SEND & CYP Exec Lead.
- SEND ICS Partners to develop Inclusion Plan aligned to ICS Integrated Care Strategy and local priorities and agree responsibilities and funding, to be reviewed annually or as prioritise change.
- Shared responsibilities could include areas across SEND ICS rather than aligned to individual organisation i.e., inform and respond to funding bids; EHCP; Joint Commissioning; Transition and Preparing for adulthood; development of personalisation agenda.
- Partnership needs to be culturally embedded, with collaborative messaging from all national stakeholders and Government Depts.
- Ensure there are agreed accountable roles within ICS for system and place.
- There should be one lead exec SEND accountable person to coordinate the plan for each area in partnership. SEND partnerships require accountability and focus similar to same status given to Safeguarding/ Looked After Children.

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

These factors will support activity across LA boundaries:

- Ensure we have a common clear definition of “high-cost”
- Effective shared decision-making governance on low-incident and high cost at an ICS level through Joint ICS & Place-based SEND strategies.
- Co-design and co-development with main stakeholders including Parent/ YP groups
- Expectations need to be managed. The role of parents, schools, primary care needs to be clear as does the limitations of service provision.
- Inclusive education offers linking to wider early help provision and family support offers.
- Understand population data/ sufficiency/
- A more joined up Commissioning framework
- Shared needs analysis, prevalence and benchmarking exercises with health partners and schools’ alliances.
- Gap analysis about what locality can commission together to bring CYP back into local area – support and working on and jointly with county A) High cost needs and B) investment in colleges to provide provision
- Standardising College approaches as they differ widely cross boundaries
  - Invest in college provision for high cost as well as the independent specialist providers

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

We agree with this proposal, to create a clear plan template which is understood by all children and young people, parent/carers professionals and stakeholders. Developing the right digitisation (Leicester City is in the process of rolling out a professional portal and a parent/carer portal) will be key to smoothing the process and having transparency at every step.

Additional aspects to consider:

- Brevity of EHCPs – they should not be too long and readable on smartphones
- BSL and new Deaf act – a digitised version may be possible
- Advocates and navigators should be culturally competent
- Set Outcomes and be clear about how to measure them, for example outcomes should be spelled out, with a drop-down option that includes progress being met, and thereby that the EHCP is no longer needed.
- Varied systems across ICS and information provided being transferred into plan can be complex.
- Review of Section C and G: Clear guidance and training. Leicester City have created an aide memoir to assist health professionals in writing advice and reports for plans.

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?

In principle this will support an open and transparent process but this must also manage expectations and the reality of what is available locally.

Additional aspects to consider:

- A list of placements/menu of provision will require resource to manage this well – a framework/guidance will be required to manage expectations.
- Important principle of keeping CYP local and provision appropriate to meet needs.
- There should be guidance for stakeholders and parents about using the list of placements – for example – new providers are not necessarily best
- Ensure a keep local approach and remove barriers to access provision
- Potentially creates a greater risk of Tribunals if AP choice is made and there is no availability
- Could Section 41 list be adapted for this?
- Co-design and coproduction needed
- An extended role for SENDIASS

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

Overall approach of national standards will help strengthen redress, however there are mixed views on whether mandatory mediation would make the process less challenging. Locally, parent/carers inform SENDIASS regularly that they have already spent a lot of time corresponding with the LA and where the position does not change, they have the right to appeal via SENDIST. Adding mandatory mediation as another step may be perceived by

parents as another barrier to their parental right and route of redress even further. The nature of mediation requires both parties to enter into it willingly.

Consideration must be given to

1. The quality of advice and the experience of the mediators giving the initial mediation information
2. How the LA is enabled to ensure a decision maker attends all mediations
3. Mediations being carried out in a timely manner so as not to delay the process and further create a lack of faith in the system.
4. The capacity and funding to coordinate, manage and set up these formal mediation sessions with the relevant parties
5. The nature of the parental request may not require mediation
6. Making it clear that is it a process for reaching resolution, rather than a step towards Tribunal.
7. The issue of private assessments/consultations: Currently the reasons why parents pay for private consultations to obtain EHCP or LD funding is due to need for medical assessment. Independent assessments are based on individual need not population and therefore not fair to those who cannot afford this. Independent assessments are often not the full picture on for example priorities in Health Commissioned by ICS/access and availability to meet needs in schools and colleges.
8. How to manage any party coming to an EHC Assessment with the prejudged view of a particular educational setting.
9. Creating a standard and setting out the expectations about what might be reasonable given a moderated view of the child's level of need.
10. A fair and transparent process with a lay person on panel should be standard.

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?

Tribunal directed decisions should not fall solely on the Local Authority to act upon, for example in an EHCP where particular health needs are not identified but subsequently Tribunal directs provision is required, we have experienced that this then becomes a Local Authority responsibility to commission.

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?
  - National standards for the 2 year check and on the quality of referrals. Health visitors should be accountable and trained. It is important to strengthen links with Public Health with Early Years Support services and into Family Hubs.
  - Include early years checks within Nurse and school placements to be assured that the necessary checks have been carried out and not omitted
  - Mandated shared register by General Practice on all Early Years checks conducted and outcomes, especially where SEND could be included
  - Recruitment is a significant issue for the Early Years sector, and this is linked to low pay. The local partnership will need to be proactive in ensuring that the more marginalised voices of the early years sector are heard.

- Align the training of staff with Workforce Capacity and Capability
- Educational Psychologists (Registered with the Health & Care Professions Council to work with children and young people from birth to 25 years) and Early Years Specialist Teachers & Portage practitioners could play a key role at this stage, especially if there is scope for joint funding the specialist and skilled workforce for an early years partnership – across settings, childminders and parent/carers.

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

We agree with proposing a new mandatory SENCo NPQ as long as the qualification is not of a lower standard than the NASENCo qualification. It must include the SEND Code of Practice and learning about the BERA/graduated approach as a mandatory part of the learning programme.

Other aspects to consider:

- Enabling the SENCo to have authority and impact on change in the school/college/early years setting.
- Having a Level 3 SENCo qualification

10. To what extent do you agree or disagree 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?

We agree with the proposal to strengthen SENCo training. In order to support SEND and Inclusion in schools, the SENCo must be a dedicated role and a member of the school senior leadership. Ofsted should strengthen their support of this governance in the school system.

11. To what extent do you agree or disagree that both specialist and mixed MATs should 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.

A mixed MAT would create a better more inclusive system which will provide a closer cross-fertilisation of expertise and support across the MAT, enabling the development of a graduated provision across the MAT.

It is critical that Dedicated Specialist Provisions in MATs engage with Local Authority support services around early intervention and the graduated response to ensure the Inclusion is promoted.

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?

Consideration should be given to

- a lower level Apprenticeship qualification to level 2
- Strengthen support to employers about being disability aware and to expand their opportunities for apprentices with lower level qualifications.
- Adjustment passports and strengthened messaging around reasonable adjustments would be very helpful for both young people and potential employers
- The National Funding Programme for apprenticeships and traineeships should be strengthened to ensure there is capacity in the system for example to enable Apprenticeship coordinators/Coaches (who work directly with young people in colleges for eg) to support the growing numbers of young people with SEND.
- Government campaigns to support a change in attitude and culture for employers and for parent/carers not to hold back their young people's ambitions/abilities.
- Families who receive Carers allowance/benefits allowance should not be adversely affected if their young person with SEND gets onto apprenticeship and/or traineeship.
- This should be cross referenced to the National Disability Strategy
- Ensure there is co-produced messaging with DWP.
- Ensure there is a pathway/onward destination for supported internships
- Ensure those who are NEET are not left behind
- The Educational Psychology profession (Registered to work with young people up to the age of 25 years) and Specialist Teachers have something more to offer in the Post-16 sector, including helping employers to engage understanding in reasonable adjustments, as happens in school. Also the continuing support and advisory role with parent/carers.
- SEND investors award, where they advertise inclusion off SEND placements and become one off the measurements for successful business. Could the government provide a Grant to encourage the above and obtained more placements

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?

The new vision, with appropriate resource and funding for new responsibilities, should help strengthen the ability to improve outcomes. It is appropriate that schools are accountable for Alternative Provision for their learners.

Considerations:

- All stakeholders must be clear about the quality measures to be met for improved outcomes.
- The notion of Alternative Provision may move children & young people further away from inclusion
- Consider less divisive terminology: using 'complementary' rather than 'alternative' provision.
- Consider if all children should be on a school roll, with complementary provision.
- This provision, with funding and responsibilities, should also offer progression towards improving stated outcomes and achieving qualifications.
- The qualifications of staff in these provisions should be equal to teaching qualifications.

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?

We agree that funding should be distributed to PRU APs to operate a graduated approach. There should be flexibility to allow for an early intervention approach wider than just commissioning to AP schools. Consideration should be given to the process of moderation, perhaps with special schools, so that funding could become more predictable.

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

(Effective outreach support, improved attendance, reintegration, academic attainment, with a focus on English and maths, successful post-16 transitions)

We agree that an AP performance framework with those 5 outcomes should improve the quality of Alternative Provision including PRUs and we are in tune with this vision. There should be flexibility in choice of **outreach support** as this is also provided through the Local Authority SEND support service. However, **academic attainment** for children and young people with SEND should not necessarily focus on English and maths but recognising appropriate vocational qualifications and/or functional skills. The focus should be on the right attainment for the young person. Schools must have a duty to **reintegrate** children back and where excluded, have a time limited program with a view to return to school. The return to school should include an in-depth assessment and recommendations to inform schools of the child's learning, their triggers and their needs for reintegration. Outcome measures are critical for the individual child eg SEMH curriculum, emotional wellbeing, self-regulation to support reintegration. Following reintegration, attendance and outcomes should be monitored.

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?

The framework will also enable monitoring and checks for supporting pupils. This should be a standardised approach not specific to SEND and health partners and should be included in the formal notification of pupil movements plus the planning of as required.

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

- New inclusion dashboards, to provide a timely local and national picture of how the system is performing
- Proposed performance metrics must take account of health intervention and provision.
- All of SEND - National standards that are going to be introduced
- Outcome focused metrics, linked to the national standards
- Inclusion measures from schools, measuring attendance and exclusion
- Appropriate curriculum offer to meet the needs of a range of children and this means a reduced curriculum

- Use of Alternative Provision
- Voice of children who have SEND as part of Ofsted inspection of local schools,
- Local metrics on consult on refusal for EHCP, fair access data, managed moves
- BERA checklist / challenges
- Joint Commissioning Strategy and action plan (SEND ICS Priorities)
- SEND Transition/preparing for adulthood Strategy and yearly action plan (show clear process and pathway for key transition stages inc. adulthood)
- Referral to treatment times – key SEND Inc. recovery information
- EHCP assessments and plans – time periods
- Assessed optimum level of functioning – child attaining

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

- Ensure that the banding and tariffs are in line with high cost funding allocated to LAs.
- Ensure new national framework of banding and price tariffs is matched to levels of need and types of education provision set out in the national standards.
- Funding bands should reflect the actual cost of the provision required and increase in line with inflation and reflective of different geographic areas. Disadvantaged funding pots that are ringfenced for children and young people with SEND should continue
- Funding bands should be split into 3 parts: Special education, Health and Social care elements. The government should define the criteria for funding band splits which gives clarity to the responsibilities

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

- Ensure this is a two way process where regional send advisors take back issues/etc to national.
- Commission analysis to better understand the support that CYP with SEND need from the health workforce

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 biggest difference to successful implementation will be:

- Deliver clarity in roles and responsibilities with every partner having a clear role to play, and having the levers to fulfil their responsibilities
- DfE's new Regions Group to take responsibility for holding LAs and MATs to account for delivering for SEND
- Provide statutory guidance to Integrated Care Boards (ICBs) to set out clearly how to discharge their SEND statutory responsibilities
- Ofsted/CQC to deliver an updated Local Area SEND Inspection Framework

**Barriers:**

- Tribunals that pit parents against services



- Competing Ofsted and Standards agenda
- Funding and AP funding: extra burdens but no extra funding or funding is not clear
- The SEND code of practice didn't take into account the extended responsibilities and funding for post 19 up to 25.
  - Changing legal issues from children act to care act. Transitions doesn't set up yp to access health/social care support. Over reliance.
  - Link into adults is critical for provision.
  - Education of parents to understand the range of support available to care for children/young person as opposed to care of yp as an adult.
- PfA should be done earlier but resourcing is not available to do this prep properly to avoid crisis management as the yp gets older and more expensive support is required as an adult.

**Enablers:**

- Create the right conditions in secondary schools to mandate PfA for cyp with SEND.
- Ofsted to monitor PfA in secondary schools.
- Destination data and outcomes at 19 should be reconsidered.
- Communications and system positioning (tribunals/ofsted) is needed to support inclusion messaging. More national comms about inclusive schools. Good destination data.

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

There needs to be opportunity for quality teams to work with schools to give a continuum of provision and standard thresholds.

There needs to be high quality local teams, including Local Authority and Health staff with school/college representatives, to drive forward the changes needed, to provide the support and challenge. There needs to be a clear, shared language. This will require funding and change would not be expected within a short period of time.

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

Many of the ambitions in the SEND Green Paper are welcome and offer real hope for reform. We recognise that it will take several years for the proposals to be taken through the legislative process, before coming into law. In the meantime, therefore, making additional high needs funding available via the 'safety valve' and 'Delivering Better Value in SEND' programmes is welcome, but DfE must go further and develop a plan that enables every council to eliminate its Dedicated Schools Grant deficit.

**In Summary:**

- The proposals will require the need for greater support and capacity in this sector and must be firmly supported by culture change
- Some proposals for removing identified barriers may run the risk of simply creating other, new barriers for families eg
  - Mandatory mediation carries many issues with it
  - There is a concern that the Green Paper may reinforce a 'deficit view' of additional needs and disabilities as a 'medical issue and risk' where NHS are required to intervene, as opposed to a 'strengths and ambitions' approach
- The national system is in crisis. Overhauling it requires funding and recognition of the system workforce issues (demand, capacity, skills mix)

- Consistency would be welcome (i.e. reduction of the postcode lottery situation), although national prescription is potentially difficult since it doesn't necessarily acknowledge local variation/need
- Parent support services that help parents know how to support their child could significantly help change the picture and reduce demand
  - This systemic and cultural change will take time to create confidence and set family expectations
- EHCPs should not be seen as the panacea for children with SEND to get the right support at the right time in the right place. Ceasing an EHCP should not be seen as a loss, but rather as a successful outcome, and should end at the right time, rather than arbitrarily at age 25. This needs to be communicated to parents
- Clarity is needed around:
  - frameworks and standards
  - roles and responsibilities - with every partner having a clear role to play, and having the levers to fulfil their responsibilities
  - protocols of support
  - accountability and escalation
  - Clear and common language and terminology and messaging is critical – eg the definition of 'AP' (Alternative Provision) varies within DfE proposals
- DfE's new Regions Group should take responsibility for holding Local Authorities and Multi-Academy Trusts (MATs) to account for delivering the SEND agenda
- Statutory guidance should be provided to NHS Integrated Care Boards (ICBs) to set out clearly how to discharge SEND statutory responsibilities
- The use of local multi-agency panels is supported. In the local area, the NHS have forums in place with the three Local Authorities. These are crucial for joint assessment of need, assessing capacity of local available services and key escalation routes for exceptional clinical decisions. Governance is critical, with a Leicester City (Place level) SEND Transformation Partnership reporting to the Health and Wellbeing Board
- Support across the system for Inclusion: Ofsted/CQC should deliver an updated Local Area SEND Inspection Framework which enables inclusion
- Successful delivery will require the removal of key barriers:
  - Tribunals that pit parents against services in an adversarial manner
  - Competing/conflicting Ofsted and Standards agendas
  - Unclear funding around extra burdens and Alternative Provision
  - Funding issues that cause Preparing for Adulthood to start too late, leading to crisis management and more expensive support

Not much reference is made in these proposals or in the consultation to SEN Support or Young Carers.