

Briefing: Five things you need to know about SEN in schools

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All children need and deserve support to be happy, achieve their best, and go on to lead good lives. This fundamental truth is no different for children with SEN (special educational needs), even though the support they require might be different to their peers. Yet for many years, children with SEN were sidelined by an education system flawed in its design: a system which was overly complex and bureaucratic, failing to offer high quality, personalised support to children with SEN and to be ambitious on their behalf.

The SEND system was radically overhauled by the Children and Families Act 2014. It was hoped that this would lead to better support for children, and consequently transform their outcomes. But despite the initial promise of the reforms - which were widely welcomed - it is over six years since the legislation was passed and, as this paper shows, too many children with SEND are not receiving the support promised by the reforms.

In September 2019, the Government announced a review of the SEND system to identify the reasons behind this and what action is needed to address it. This Review was due to be published last year but was delayed due to Covid-19. It is now due to be published this year and work is ongoing. Furthermore, the Government is in the process of reforming Alternative Provision (AP), and children with SEN make up the majority of children in these schools.

Below are five things you need to know about children with SEN, with a specific focus on how children's needs are met (or go unmet) in schools,¹ and the implications of these for the SEND Review and other reforms.

1. Many children with SEN have additional vulnerabilities too

- > In January 2020 there were 1,370,000 school pupils with identified SEN –15.5% of all pupils. A minority (295,000) of these children have a legal right to support through an Education, Health and Care Plan (EHCP).² The vast majority – over a million – receive SEN Support. This is local support, to which children don't have a legal entitlement and which varies depending on what school you go to and local budgets. 461,000 children with SEN have additional vulnerabilities:³
 - > 3 in 10 (31%) children with SEN are also eligible for Free School Meals (FSM).
 - > 1 in 9 (11%) children with SEN also have a social worker.

¹ CCO recognises that children with SEND face a range of challenges, including accessing healthcare and social care and ensuring that the support they received is joined up. Our blog explores some of these issues in the context of Covid-19:

<https://www.childrenscommissioner.gov.uk/2020/08/31/supporting-children-with-special-educational-needs-and-disabilities-to-return-to-school/>

² <https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>

³ CCO calculations based on children with identified SEN/FSM eligibility in spring term 2020 and those that had an open CIN episode during 2019/20 based in the CIN census 2019/20

- > Overall, over a third (36%) of children with SEN also have a social worker or are on free school meals (or both).
- > Looking specifically at children receiving SEN Support, 33% also have a social worker or are on free school meals (or both). This works out to 334,000 children with SEN Support.

2. Children with SEN have poor outcomes – especially those with additional vulnerabilities.

- > Pupils with SEN have markedly worse attainment than their peers without SEN across all headline measures. For example, in 2019, just 26.7% of children with SEN passed English and Maths GCSEs compared to 71% of children without SEN.⁴
- > Some children with more severe needs take non-GCSE qualifications at Key Stage 4. But even if we consider only the group receiving SEN Support, with less severe needs, there remains a significant attainment gap.
 - > Less than a third (32.3%) of children on SEN Support pass English and Maths GCSEs.⁵
- > Children on SEN Support with additional vulnerabilities struggle even more.⁶ This standard is achieved by just:
 - > 17% of children receiving SEN Support and are eligible for FSM.
 - > 13% of children receiving SEN Support and who have a social worker.
 - > 1 in 10 children receiving SEN Support who are **both** eligible for FSM **and** have a social worker.
- > Significant numbers of children with SEN end up leaving the mainstream state school system.⁷ This includes children who have moved to the independent sector or emigrate. However, it also includes children who have been withdrawn into elective home education or removed via a managed move.⁸ If these moves are made when it is in the best interests of the school rather than child, it meets the definition of “off-rolling”. There is not clear data on exactly how many children are affected and what happens to them.
- > Children with SEN are disproportionately more likely to be excluded from school. In 2018/19 they accounted for 44% of permanent exclusions overall, as well as 82% of permanent exclusions from primary schools.⁹
- > Children receiving SEN Support, rather than EHCP provision, are at a higher risk of being excluded:
 - > Children with SEN Support have 0.32 exclusions per hundred pupils. This is twice the rate for children with an EHC plan (0.15 exclusions per hundred pupils) and over 5

⁴ Proportion of children who passed English and Maths GCSEs at grades 9-4. Key stage 4 performance 2019 (revised) - GOV.UK (www.gov.uk)

⁵ [Key stage 4 performance 2019 \(revised\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

⁶ CCO analysis calculations based on children taking KS4 in 2019 with identified SEN/FSM eligibility in summer term 2019 and those that had an open CIN episode during 2019 based in the CIN census 2019

⁷ <https://ffteducationdatalab.org.uk/2020/12/the-department-for-education-needs-to-look-at-why-so-many-pupils-with-send-leave-the-state-funded-school-system/>

⁸ A managed move is when a child undertakes a trial at a new school. Children might be sent to another mainstream setting or to Alternative Provision.

⁹ <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2018-to-2019>

times the rate for those with no identified SEN (0.06 exclusions per hundred pupils)¹⁰

- > 4 in 5 children (81%) in Alternative Provision (AP) have identified SEND – usually social, emotional and mental health needs.¹¹
- > 30 per cent of children who entered custody over 2018-19 were assessed as having special educational needs or disabilities.¹²

3. Most children with SEN are educated in mainstream settings – for now

- > More than 4 in 5 school pupils with SEN are educated in mainstream schools, including 91% of pupils receiving SEN Support¹³ and three quarters of pupils with SEN, FSM eligibility and a social worker.¹⁴
- > But only 4 in 10 (41%) teachers agree that there is appropriate training in place for all teachers in supporting pupils with SEN.¹⁵
- > Pupils with EHCPs are more likely to be attending a mainstream school than a state-funded special school: 49% are educated in mainstream schools compared to 43% in special schools.¹⁶ However, the number of children in special schools is rising, from just over 80,000 in 2007 to just over 128,000 in 2020.¹⁷ This is not simply because there are more pupils with severe SEN – the proportion of pupils with EHCPs attending special schools has grown in recent years too, from 38.2% in January 2010 to 44.2% in January 2018, before a slight decrease to 43% in January 2020.¹⁸

4. SEN funding has failed to keep pace with increased demand, making the system unsustainable

- > The high needs budget (which provides funding for children for more severe needs, especially those in special schools) has been significantly increased in recent years, including £780m extra funding in 2020-21 and a further £730m committed for 2021-22. The total high needs budget now exceeds £8bn.¹⁹
- > But with more and more pupils attending special schools, which are more expensive, these increases have not proved adequate. At least 132 of 151 councils overspent on their high needs budgets in 2019-20, with a total shortfall of £643m.²⁰
- > With any additional SEN funding being targeted at the burgeoning high needs sector, mainstream schools are not being given the resources they require to support the needs

¹⁰ <https://explore-education-statistics.service.gov.uk/find-statistics/permanent-and-fixed-period-exclusions-in-england>

¹¹ <https://www.centreforsocialjustice.org.uk/wp-content/uploads/2020/05/CSJJ8057-Cold-Spots-Report-200507-v1-WEB.pdf>

¹² <https://questions-statements.parliament.uk/written-questions/detail/2019-07-02/272276>

¹³ <https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>

¹⁴ CCO calculations based on children with identified SEN/FSM eligibility in spring term 2020 and those that had an open CIN episode during 2019/20 based in the CIN census 2019/20

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885697/SSS_Summer19_Support_for_Pupils.pdf

¹⁶ <https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>

¹⁷ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2018/06/Public-Spending-on-Children-in-England-CCO-JUNE-2018.pdf> and <https://explore-education-statistics.service.gov.uk/find-statistics/school-pupils-and-their-characteristics>

¹⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882802/Special_educational_needs_and_disability_-_an_analysis_and_summary_of_data_sources.pdf and <https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>

¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901889/FINAL_2021-22_NFF_Policy_Document_MB.pdf

²⁰ <https://www.theguardian.com/society/2020/dec/05/funding-gap-of-643m-puts-special-needs-teaching-at-risk>

of pupils with lower level SEN (whose support is not funded by the this budget). This leaves children with SEN in mainstream settings struggling.

- > This creates a vicious cycle because there are perverse incentives for families who are not getting the right SEN support to obtain an EHCP for their child and request a special school place, putting further pressure on the high needs budget, so more funds have to be diverted – and the cycle continues.

5. More and more families of children with SEND are using legal routes to complain about the lack of support they have received. Their complaints are usually successful– but not all children with SEND have powerful parents or advocates

- > The number of appeals registered to the SEND Tribunal has risen year on year since the reforms – from just over 3,000 in 2014-15 to nearly 8,000 in 2019-20.²¹
- > In the vast majority of cases which are not conceded or withdrawn, the Tribunal has ruled against the local authority’s decision. It ruled in favour of the local authority in just 5% of cases in 2019-20.²² This proportion has not increased since the reforms were introduced and have had time to bed in – in fact it has steadily decreased.
- > In 2018-19, the Local Government and Social Care Ombudsman (LGSCO) received 45% more complaints about SEND than in 2016-17. Nine out of 10 investigations were upheld, compared to an average of 58% across non-SEND cases. The LGSCO described the number of complaints, and the proportion being upheld, as “exceptional and unprecedented”.²³
- > As stated in the report of the Education Select Committee’s inquiry into SEND, “Getting children help and support in school and college places a heavy burden on parents and carers... Parents currently need a combination of special knowledge and social capital to navigate the system, and even then are left exhausted by the experience.”²⁴ Children without parents who can champion their interests lose out – and these are likely to be the children with multiple vulnerabilities.

²¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942628/Tribunals_SEND_19-20_Tables.ods

²²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942628/Tribunals_SEND_19-20_Tables.ods

²³<https://www.lgo.org.uk/assets/attach/5693/EHCP-2019-vfC.pdf>

²⁴<https://publications.parliament.uk/pa/cm201919/cmselect/cmeduc/20/20.pdf>

What this all shows

- > Children with SEN generally have very poor outcomes, including those with less severe needs. This is especially true of those who are also vulnerable in other ways (those who have a social worker and/or are receiving free school meals), yet Government does not currently focus enough attention on those with overlapping needs. The majority of this group of children with SEN and additional vulnerabilities are educated in mainstream schools and receive SEN Support, which is non-statutory and where support can vary greatly.
- > The reasons behind children with SEND achieving such poor outcomes are varied and complex, but a key factor is how much support they receive from school, which is heavily limited by funding. The entire SEN system is chronically underfunded. There is always pressure for additional Government or council funding for high needs budgets, but that generally supports children with EHCPs who have a legal right to support – not children on SEN Support, including those with additional vulnerabilities.
- > As more funding is directed to the High Needs Block to fund children on EHCPs and special school places, less money is available to support children on SEN Support in mainstream schools. This has led more and more of these families to fight for support through EHCPs, which then puts more pressure on the high needs budget, in a vicious cycle. Children with additional vulnerabilities on top of SEN, like being on free school meals, or having a social worker, are less likely to have parents who can advocate on their behalf – so they often lose out in getting an EHCP.

What the SEND Review needs to do

1. First and foremost, the Review must address the funding gap for children with SEN, especially those who do not have an EHCP. The system requires a vast injection of funding. This will mean that families are not forced to apply for EHCPs in order to access support for their child. The high needs block will be under less pressure, enabling greater resources to be targeted at children with lower level SEN in mainstream settings – including those with additional vulnerabilities. This will also enable schools to play a greater role in prevention and early identification of problems.
2. The Review must also specifically consider the needs of children with SEN who have additional vulnerabilities. It should identify what best practice looks like for working with these children and improving their outcomes, and this group should be closely monitored by the Department for Education in the future.
3. The Review must lead to improved support to all children with SEN in mainstream settings. There needs to be consideration of the quality of special educational provision specifically, but also how children with SEN are impacted by the wider culture and environment of schools – e.g. behaviour management strategies. The Government should require that every school has a full time SENCO and have a greater focus on SEN in teacher training, including in continuous professional development.
4. The Review must consider how far school accountability measures recognise and rewarded schools that deliver high quality SEN provision. While Ofsted's new inspection framework introduced in 2019 put greater focus on children with SEND, this is not enough. The Government needs to reform the way school performance is assessed, placing greater emphasis on how far schools deliver for children with SEN (and others with additional needs), in terms of these children's attainment, wellbeing and how far they are supported to remain in the school.
5. The Review must align closely with the Department for Education's work on reforming Alternative Provision (AP). Together the reform programmes must ensure that staff in AP have the skills, knowledge and resources they need to support children with SEN, but also that children with SEN do not end up in AP simply because their SEN needs are not being met in mainstream.

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