

Beyond the labels: A SEND system which works for every child, every time

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Foreword from Dame Rachel de Souza



'People with disabilities are very intelligent in their own way, we all have a voice if it's by iPad or by mobile phone or eye gaze or a communication book' – Boy, 17, 'The Big Ask'

This paper is dedicated to all children growing up in England with additional educational needs or disabilities. This is an incredibly varied group: they come from all different communities, are growing up in different circumstances and have a very diverse set of needs.

I want to thank the thousands of children with special educational needs who have shared their experiences with me – their experiences guide every word of this paper. What unites these children, and indeed all children, is that they are ambitious for themselves. As children they want to be able to pursue their own interests and develop their identity; as adults they want to be able to get on and do well. What this means is slightly different for every child, but every child is equally capable of it.

The Special Educational Needs and/or Disability (SEND) system in England exists to help children achieve their goals, and it works most effectively when it works in partnership with children and their families in a shared vision. But this is too rarely the experience. Children want support to help them do well, but

they often experience a system which is more interested in asking “what is wrong with you?” than “how can we help?”. Children told me that they find labels marginalising; they are often accompanied by a sense that each label leads to a drop in ambition. We need to move away from diagnostics, labels, and processes and towards a system of practical help focused on achieving outcomes.

Children as young as 11 have told me they are worried that SEND meant that achieving the things they wanted would be much harder. Children were worried about being judged or being treated unfairly. Parents told me about the challenge of accessing the right help, quickly, for their children; having to navigate a complicated system that is too often adversarial. But they also told me how access to the right help has transformed their lives and their outlook. It has made them realise what they are capable of and helped them realise their ambitions.

The Government’s Review of the SEND system gives us the opportunity to realise children’s ambitions more consistently, and in so doing improve the experiences of every child. This is particularly true given the concurrent Independent Review of Children’s Social Care¹, the Schools White Paper², the introduction of integrated care services, and most recently, the National Child Safeguarding Practice Review Panel’s Phase 1 report into safeguarding children with disabilities and complex health needs in residential settings³. The vision in these reform papers have the potential to transform every child’s experience of the education, health, and care system. But, for these to be truly transformational they must be delivered in unison and not as siloed pieces of work. Everyone working with and for children needs to start by asking children what they want to achieve, perhaps pushing them to be even more aspirational, and then asking what support and infrastructure they need to achieve this.

There is no reason why children with SEND can’t achieve great outcomes: whether that be travelling independently, starting an apprenticeship, or going to Oxbridge. The current system is not sufficiently ambitious for children. Often a SEND diagnosis is used as an excuse for poor attendance in school, low attainment and poor expectations for higher education and employment. I believe that a diagnosis – if one is needed at all - should simply be one route into further support and the right interventions to ensure that a child can achieve their ambitions.

This paper outlines the key messages the office has heard from children and translates them into three over-arching ambitions:

- To ensure all children and young people get support that reflects their ambitions
- To ensure that all children are getting timely and effective support, locally, with a focus on early intervention
- To ensure that all children have consistent, excellent experiences wherever they are in the system

This is everyone's responsibility to get right. Children's experiences will depend on families, schools, local authorities, and the health service working cohesively, and towards the same outcomes. There is nothing that undermines children's experiences as much as responsibility being passed on rather than grasped.

The prize of getting this right is enormous, not just in terms of improved experiences for children and families, but in terms of improved life-chances and ambitions realised. This must be the motivation to reform, innovate, integrate, and invest to improve the offer to children. I've seen some fantastic examples, across schools, care, colleges, and health, so now the challenge is to make sure that every service and all support for every child and every family, is as brilliant as the best, wherever they are in the country.

Executive Summary

The Children's Commissioner is committed to ensuring that children's voices are at the heart of the Department for Education's (DfE) SEND Green Paper consultation. To inform this, the Children's Commissioner's Office (CCo) spoke with 55 children, and young people with additional needs across a range of education settings and analysed the consistency and accessibility of 650 Education, Health and Care Plans (EHCPs). A large proportion of the children in contact with the Children's Commissioner's advice and representation service for children in care or in contact with social services, Help at Hand, have SEND, and their experiences have heavily informed this work. It is a key priority for the Children's Commissioner to improve the way this supports children with disability, and her plan to do this has been laid out in the Help at Hand Review⁴.

Children with SEND are also overrepresented in terms of low attendance at school. According to ONS statistics, the overall absence rate for pupils with an EHCP was 11.6% in autumn 2021 and 9.1% for those with SEN support, compared to 6.3% for children with no identified SEND. The School Census confirmed that, in autumn 2021, 1.7 million children were regularly absent from school. As part of the office's attendance work, the team spoke to hundreds of children, teachers, and local authorities to understand why. In those conversations, the CCo heard about some of the challenges children with SEND face in attending school regularly. The message was simple: a child's experience of support and care is only as good as the worst part of the system. Everyone needs to work together to ensure that all parts of the system are delivering excellent support.

Four key messages emerged from the office's work:

- 1. Children are ambitious, but do not always have excellent support.**

Strong ambitions are a key theme to emerge from all the children the office works with. Children are – universally – keen to do well at school, make friends, get good jobs, and lead a fulfilling life. The system must match the ambitions of the young people it is designed to support. Unfortunately, many described

not always having good opportunities and were particularly concerned about future access to employment and further education.

2. The SEND system should work for *all* children.

Children with special educational needs or disabilities is an extremely broad and diverse group. Every child has needs and objectives which need to be addressed, and some young people have special needs which require additional support. Some needs are relatively minor or exist for only short periods whilst others are lifelong. Regardless of a child's characteristics, where they live in the country, or their level of need, the SEND system needs to be able to provide them with the right support at the right time.

3. Children want services to work together to provide seamless support.

A child's experience is only as good as their worst interaction. Children need education, health and care services to work together cohesively and to a consistently high standard. Many children with SEND are concerned about their support now and in the future. Some described in detail the challenges they had to overcome to secure their existing support packages, and many were keen to make sure that the support they were promised was delivered seamlessly in whatever setting they were in.

4. Children don't always feel understood.

Some children said that they didn't feel listened to by the adults around them, for example their teachers or social workers. Children wanted to be understood without stigmatising labels which can be marginalising and isolating. Children told the office that adults should know the things that can make a difference to them in their learning (for example, class size, fidgeting toys, and proper breaks) and implement these things consistently when they have been agreed. It is vital that children's wishes and feelings are a central part of the process, and whenever a child does not have a parent to support them in being heard, that high-quality independent advocacy is available⁵.

These four core messages from children have been developed into three over-arching ambitions for the Government's SEND Green Paper. These are:

Ambition 1: Ensure all children and young people get support that reflects their ambitions

Children, their voice, and their aspirations should always be at the centre of plans to improve their care. Children and families often describe a sense of powerlessness over the organisation and delivery of their education and care. As one girl said:

'Asking a child [...] because without asking you won't know the pivotal thing [...] and it needs to be reviewed regularly' - Girl, 13, with autism.

To ensure that children and young people get the support they need, the Children's Commissioner recommends:

- A strong focus on timely EHCPs, with delays closely monitored by Ofsted and the Care Quality Commission (CQC) through a strengthened SEND inspection.
- Updated statutory guidance to lay out the different forms of support available at different levels (for example SEND funding and EHCP assessments); how these link together and what children, families and schools can expect at each level, in a form that is easy for children and families to navigate. The aim of this guidance should be to make the move between different categories of support as seamless as possible.
- This statutory guidance should include the Parent Pledge, and how this interlinks with other types of support children can access.
- The digitalisation of EHCPs should be used as an opportunity to reform the way EHCPs are drafted:
 - Personal targets set for children and young people should be specific, measurable, achievable, relevant, and time-bound (SMART).

- Targets should be co-created with children and their families.
- More focus should be placed on the voice of the child, and digitalisation. creates opportunities to this more creatively, and to update it more frequently
- Improved advocacy for children to shape and challenge their support. The office believes every child applying for an EHCP should have the opportunity to get support from an advocate if they or their family wishes to challenge the decisions being made, or the process for deciding decisions. Access to good-quality independent advocacy will empower children to shape their plans; improve the quality of plans and reduce the need for slow and expensive challenges through the SENDIST Tribunal.

Ambition 2: Children getting timely and effective support, locally, with a focus on early intervention

Children want practical help, not labels. At present the system is overly focused on diagnostics; this often delays help and can inadvertently increase thresholds. The sooner an additional need can be identified, the sooner support plans can be put in place – this could range from a few speech and language intervention lessons to support a child to catch up or an assessment and diagnosis for an EHCP. As one young person the office spoke to said:

'People coming into school from autism charities, awareness groups coming to schools and educating kids. Particularly kids in primary school. It might even lead them to an earlier diagnosis, knowing what to look out for. Earlier diagnosis is really important. A later diagnosis is really hard' - Girl, 12, attending mainstream school with an EHCP.

To re-focus the system on timely and effective intervention, the Children's Commissioner recommends:

- Increased training for the early years workforce so they can provide early intervention for children who are failing to meet key developmental benchmarks.
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- Easier access to speech and language therapists in early years settings.
- Children who are below the age of formal education rarely have an EHCP, if an additional need or developmental delay is identified before school, these children should be automatically entitled to free childcare hours.
- Supporting schools to be able to identify children who require additional needs. This is most effective when schools work in families of schools so best practice and expertise can be shared across areas and cohorts of students.
- Children with an unidentified additional need often attend poorly. Persistent absence should be used as a trigger for considering additional need.

Ambition 3: Consistent, excellent experiences for all children wherever they are in the system

Young people with SEND deserve excellent care and support regardless of what stage of their life they are in. Transitions can be stressful for children, whether that's moving from primary school to secondary school, from alternative provision back to mainstream, or from school to employment. When these are not managed well children can miss out on prospects and be left without adequate care. Access to excellent alternative provision, good employment opportunities and well-funded support ensure that young people can gain the skills and, crucially, the confidence to succeed. As one young person the office spoke to said:

'When I was at mainstream I was predicted no GCSEs but then I came here and got C's and B's, two passes at maths and English. I never thought that would happen to me' - Boy, 16, attending college with an EHCP.

To provide a consistent, excellent experience for children wherever they are in the system, the Children's Commissioner recommends

- No child should go without an education because an alternative provision placement cannot be secured. Mainstream schools should be given the resources to support children with SEND, and if alternative provision is required then this should be available from day one.
- There should be no 'cliff edge' or sudden end of alternative provision support when a child reaches 16. Local authorities should have the statutory duty to arrange alternative provision for those young people with SEND aged between 16 and 18.
- Government implements an overarching framework for alternative provision which outlines how every child will receive outstanding education and (if appropriate) help back into mainstream school. Alternative provision settings should be considered within the SEND inspection framework.
- Ensure that mainstream schools are better equipped to support young people with SEND. This should include more support for schools looking to develop in-house alternative provision offers and encouraging more schools to work together via their family of schools or academy trusts to provide good quality alternative provision.
- Develop new ways for mainstream schools to offer a variety of subjects and skills training to young people with SEND which aligns with the bespoke training provided in specialist settings.
- The Supported Internships Programme should be better utilised so that employers can offer young people with SEND structured and paid work experience placements with pathways to long-term job security.
- A new cross-Whitehall body should be established to drive through reforms across education, health, and social care. There should be a relentless focus on delivery which brings together practitioners and experts and draws on children's experiences, voices and outcomes.

- Ensure that Government plans for a new funding formula for schools recognises the disparities between SEND provision in different local areas and supports additional provision in mainstream schools.

Ambition 1: Ensuring children and young people get the support they need.

Children, their voice, and their aspirations should always be at the centre of plans to improve their care. Through conversations with children and analysis of EHCPs from two local authorities, the CCo has found that the current SEND system is disjointed, lacks common standards, and rarely provides opportunities for children with SEND to express themselves.⁶ The children and young people CCo spoke with for this report described a sense of powerlessness over the organisation and delivery of their education and care, in a system which all too often fails to place the child at the centre of decision-making. As one girl said, asking the child about their care is crucial:

'Asking a child [...] because without asking you won't know the pivotal thing [...] and it needs to be reviewed regularly' - Girl, 13, with autism.

EHCPs which are fit for purpose

For those young people who require specific care above and beyond what a nursery, school or college can provide from their existing resources, accessing an EHCP is essential in outlining what support a young person can expect to receive. An EHCP is a legally binding document which gives assurances over a child's education and usually comes with additional funding from a LA to source support - typically lasting until the young person is aged 25.⁷ For many young people with SEND, an EHCP is a lifeline, without which, they would not be able to access an education or lifelong opportunities.

Unfortunately, the challenges young people and their families face often begin right at the start of their care journey. In the office's conversations with children with SEND, many described the difficulty securing an EHCP and the impact this had on their lives:

'My EHCP, it took 3 years to actually get one, it got pushed back. My parents and [special school] had to fight for us to get one. When I got one me and my mam went through it but it was ages ago. It was a

pain to get one. I was not getting no help for my education they want us to do well' – Boy, aged 16, attending a special school.

'The most disappointing thing is that we still don't have an EHCP, I don't know how to get it or any support. I feel like we've just fallen off a cliff' – Mum of girl, aged 12 with Autism, attending mainstream school.

By law, the entire process of securing an EHCP should take no more than 20 weeks, but the reality for thousands of children, is that it takes much longer. In the 2021 calendar year, 59.9% of EHCPs were issued within 20 weeks, meaning that around 24,800 children waited longer than 20 weeks⁸. There were vast and inexcusable differences in the time children spent waiting for an EHCP to be issued depending on the local authority they lived in. In Cumbria, for example, 85.2% of EHCPs were issued within 20 weeks, compared to 5.9% in Hampshire.

Similarly, too many young people are failing to get access to an EHCP because they are waiting for a formal diagnosis of a special need or disability from a doctor or medical professional. Delays to the setup of EHCPs is unacceptable and each local authority which misses its targets should have to report to the Secretary of State for Education to explain what measures it is taking to ensure that legally binding obligations will not be consistently missed. At the same time, joint Ofsted/CQC inspections should scrutinise closely the time it takes for young people with SEND to secure EHCPs, and those local authorities failing to meet their 20-week obligations given clear direction about where to deliver improvements.

CCo supports the government's proposal to work with Ofsted/CQC on their plan to deliver an updated Local Area SEND Inspection Framework, with a focus on arrangements and experience for children and young people with SEND and in alternative provision. CCo recommends that this new inspection framework must also have a focus on attendance and hold a similar weight to CQC grade that is awarded to care and health performance in local authorities. There needs to be a statutory power for intervention and plan for improvement if the SEND provision in a local authority is rated inadequate, and an equally strong intervention method for Integrated Care Systems; where SEND standards are inadequate, local

health bodies should also be compelled to write to the CQC to explain how they are working with the local authority to drive up standards if progress is not sufficient. The Secretary of State for Health should be able to direct interventions, as the Secretary of State for Education can with local authorities. Improved inspection of services, coupled with greater accountability, can help ensure that no young person who needs an EHCP is left waiting without a Plan for their care in place.

Ensuring young people with SEND get the right type of care

When young people do require support, it is not always clear what provision is available to them or which will best suit their needs. Information on thresholds to access care are not always easily accessible, and details about what the exact funding arrangements could be put in place are vague. The education and healthcare systems need to have the flexibility to respond to all children who need support, no matter how intensive their requirements may be, and provide certainty and confidence to young people and their families.

Presently, there are three distinct types of care support exist which young people can access: (i) the Parent Pledge, as outlined in the School's White Paper, which is funding for young people falling behind in English and Maths and which is drawn from existing school budgets; (ii) SEND funding, which is the amount within a total school budget set aside for pupils with SEND, and which is usually capped at £6,000 per pupil with SEND; and (iii) EHCPs, wherein specific funding for support does not have to be articulated and no upper funding cap for support exists. It is not clear, at present, how each of the three sources of funding and support are linked, and many families struggle to understand what type of support they can expect to receive at each level of care.

To bring added transparency to this area, the CCo recommends that the Government introduce statutory guidance so that families understand what level of care they should expect from Parent Pledge, school SEND, and EHCP funding. As an example, for a pupil with SEND, at present it is unclear whether resource to fund the Parent Pledge and additional support in English and Maths will be drawn from their SEND budget. It is also unclear whether the Parent Pledge will be a written plan of action,

devised with a teacher and the child, or an internal funding arrangement organised solely by the school without opportunity for child input. All support should be tailored to the child and provide them an outlet through which they can express their views on what works (and does not work) well for them in terms of delivery of care. Statutory guidance in this space would ensure that *all* young people and their families know what they should expect from each level of intervention in terms of financial support and additional provision, and who it should be provided by.

One benefit of clearer statutory guidance could be additional support for schools, including mainstream provision. By articulating what schools should do to deliver SEND and specialist support, funding formulas can better ensure that schools get a fair deal and are able to support all the children in their settings who may have additional needs.

Supporting children in care

By law, all children in care should have a Care Plan that explains how a local authority will best look after them and which outlines the individuals who have responsibility for the welfare of the young person, this includes a Personal Education Plan (PEP).

In some cases, the local authority, and in other instances health, will have joined up working between education and care. This is particularly important when a child has an EHCP or needs one. However, this is far from consistent and the CCo want to see more joined up working across the country. Digitisation and sufficient data sharing should assist teams to work together better.

CCo is also aware that problems are exacerbated for those children who are housed 'out of area' by the local authority. This is because when a child is housed out of area, their corporate parent (the local authority who has moved them) is responsible for their Care Plan, but the local authority where their new accommodation takes ownership over their EHCP. Such fragmentation of accountability can lead to children in care failing to get the support they need or the right type of alternative provision. The CCo through its Help at Hand service are familiar with many children in this situation who have no school place at all. To counter this, the CCo recommends that EHCP and Care Plan be, in effect, bound together

so ownership stays with the local authority taking on the role of the corporate parent and who, along with the local Virtual School Head, is best placed to make decisions about where a young person is housed and the type of educational support they can receive.

Using technology to put the child at the centre of decision-making

The delivery of Plans for every child could more easily be achieved via the standardisation and digitisation of the EHCP system. This is an ambition which the CCo has previously undertaken research on and shared with the Department for Education.⁹ It is therefore welcomed that the Government is looking to modernise the way in which information is recorded and young people and their families are involved in the design and delivery of EHCPs. The digitisation of EHCPs should include the introduction of nationwide templates and electronic 'live' versions of EHCPs, which will make the recording of a child's needs easier and allow for children's own interests, views, and opinions to be easily recorded.

The digitisation of the EHCP system should be seen as a wider opportunity to more fundamentally rethink how EHCPs are completed. Plans often lack structure, do not include input from a child or young person, and regularly include outcomes which are not time-bound or relevant to the child. Section A of an EHCP provides the opportunity for a young person with SEND to talk directly about their own views, interests, and aspirations. However, research by the CCo into just under 650 EHCPs across two local authorities found that responses to Section A were sometimes missing or written in third person. In one local authority, one in five (18%) Section As made no reference to the child's hopes and aspirations, one in ten (9%) Section As did not discuss what was working well for the child in terms of their existing support, and for most questions in Section A, around half didn't feature statements written by a child in the first person.¹⁰

Frustratingly, the majority of children the CCo spoke with for this report had never seen their EHCP or knew what was in it. Even in those cases where families did have a copy of an EHCP, it was not always easy for a young person to understand what provision it included. CCo research found that the average length of an EHCP was around 5,000 words, taking around 50 minutes to read out-loud to a child with

SEND, who themselves would not have access to an easy-read or child-friendly version.¹¹ The frustration this causes for young people trying to learn more about their care was clear when the office spoke to them:

'It's my healthcare plan. I should be the one in charge of what's going to be put in it.' – Boy, 16, attending college with an EHCP.

'Adults might think one thing is important as an outcome but you might not think it's important. I'd want to be involved in setting the outcomes' – Boy, 15, attending a special school.

More needs to be done to ensure that EHCPs are child centred. Standardised Section A templates would ensure that the child, or someone on their behalf, can write in the first person about their aspirations, and EHCPs should only be agreed once the child or their parent/carer has indicated that they are content that it sufficiently captures the views of the young person. EHCPs are only as good as the objectives they set and outcomes they deliver, which are usually laid out in Section E of a Plan. Disappointingly, the office's research has shown that experts and practitioners are spending too little time with young people setting unrealistic goals. As some of the young people the office spoke to said:

'[Section E] I get that adults wants us to achieve but us as young people we also have our own goals [...] I get that parents want to be involved but I also think us reaching our goals and reaching theirs is too much' – Girl, 15, attending a special school.

'I think the goals that adults set for you [Section E] isn't as important as the others, because I feel like they're not really goals if they are set by someone else.' – Boy, Age unknown.

The system needs to move to a position whereby EHCPs are co-produced with children, who have an opportunity to talk about their own ambitions with people who they trust, describe what's going well with their own care, and set outcomes with timeframes which are realistic to their own conditions rather than determined by arbitrary timeframes such as academic or calendar years. As one girl told us:

'I think often plans get made and then it's not actually possible for a child to do the plan [...] because plans get made and in theory you need this, but when it gets to the point where you need the plan [...] the plan fails [...] it has to be easy enough for you to be able to do it [...]' - Girl, 13, with autism.

Outcomes in EHCPs should be SMART: Specific to the needs of the child; Measurable so that progress can be logged; Attainable within the scope and ambition of the young person; Relevant to the child's age and circumstance; and Timely so that progress can be easily and regularly reviewed with reference to more short- to medium-term goals. Digitised EHCPs should also prompt practitioners to make sure that the targets they are setting align with the SMART framework and do not unnecessarily refer to generic or long-term timelines. As digitised documents, EHCPs should allow young people and their families to regularly update on their progress via portals and electronic routes, using different formats such as pictures, audio to word input, as well as written records.

The digitisation of EHCPs also creates potential data sharing benefits. The Children's Commissioner fully supports plans to create a Consistent Child Identifier to better enable colleagues from schools, local authorities, health agencies and third sector partners to identify children across systems and better understand a child's historical data by gathering known information about them in one central repository or access point. However, the CCo is conscious that it may take some years to test and implement an identifier. Digitising EHCPs will make information sharing across health and education practitioners faster and less burdensome. Needs will be more quickly identified, and it will be easier to understand where specific health issues overlap with special educational needs. Whilst the use of a digitised EHCP system will not, on its own, solve the complex data sharing issues which partners face, it will certainly contribute to the more efficient and timely sharing of information.

Improved advocacy so every child gets the support and care they deserve

The delivery of care for young people with SEND is not always seamless. Children and young people need advocates and accountable individuals in place to make sure that the care and support they deserve is implemented in full and provided promptly without delay. For a lot of young people,

alongside their families, it is their teachers or social workers who are their champions. Several children the CCo spoke to mentioned their social worker as a source of support, including one boy in a focus group who told us:

'My social worker, she's always sorted thing out, she's contacted my mum, my dad, I think she's a really good person to speak to because I think she'll help me with any situation I have' – Boy, 17, attending further education provision and a specialist school.

However, in a minority of cases, the relationship between children with SEND and their social workers breaks down or young people feel that the quality of care they are receiving is insufficient. As one young person the office spoke to said:

'I don't feel supported by my social worker...I've never seen them, they've never phoned. I don't think my parents have ever seen them either' – Boy, 16, attending an Independent school with an EHCP.

In such cases, local authorities are required to commission independent advocacy services for those in receipt of health services who wish to make a complaint. However, as the Children's Commissioner's Help at Hand advocacy and children's rights service found, children with disabilities often face problems accessing advocacy because of long waiting lists, limited or no provision to children living out of area, and difficulties with children access services without referral.¹² Clearly, more needs to be done to ensure that when services are not outstanding, children have an outlet they can turn to share their concerns.

Every child with an EHCP should be signposted to an advocacy service, so that if they have concerns about their care and support, they can contact someone independent who will be able to support them and their families. This could include by providing advice on how to make a complaint about the way an EHCP has been completed or an assessment undertaken, provide advice on how to co-produce and complete EHCP and other care documents, and ensure children understand and exercise their legal rights (especially if they are living away from home). Research into children's agency, participation and empowerment has continued to stress the importance of children and young people's advocacy services

and the benefit, by way of expert advice and lived experience that children's involvement can deliver to services and decision-making.

Overall, current education, health, and care provision for young people with SEND fails to provide common standards which place the child at the centre of decision-making. Digitisation of EHCPs should be used as an opportunity to ensure the voice of the child is at the centre of decisions about their care, with the option of independent advocacy support for every child.

The way forward

The CCo has identified the following priorities to address these challenges:

- Local authorities who on average, do not meet the 20-week target to set up an EHCP, should be obliged to write to the Secretary of State outlining what measures they are introducing to drive up standards.
- The new Ofsted/CQC Local Area SEND inspection framework must also have a focus on attendance and hold a similar weight to CQC grade that is awarded to care and health performance in local authorities. There needs to be a statutory power for intervention and plan for improvement if the SEND provision in a local authority is rated inadequate.
- New statutory guidance to make it clearer to young people, their families, and schools what support and funding they can expect from different types of intervention, and how different interventions (for example SEND funding and EHCP assessments) are linked, so that no child in need of help is left without appropriate support.
- Digitisation of EHCPs which prompt practitioners to ensure that personal targets are SMART, and which has a particular focus on timebound objectives relevant to a child's individual circumstance.

- Improved support through advocacy for every child. Every child, via their EHCP, be guaranteed an advocate who can make sure they are getting the support they are entitled to and deserve, and who can make sure their views are represented to adults looking after their care.

Ambition 2. Ensure children get timely and effective support, with a focus on early intervention.

Early identification and intervention are essential for children to have their needs met and to avert the risk of conditions worsening or behavioural side effects developing. This can take different forms, from the early years home visit programmes to school-based measures. As the National Association for Special Educational Needs found, early identification of SEND leads to timely sourcing of effective provision and can help to narrow the educational gap between pupils with SEND and those without¹³. The sooner an additional need can be identified, the sooner support plans can be put in place. Support plans can range from a few speech and language intervention lessons to support a child to catch up or an assessment and diagnosis for an EHCP.

Government research on supporting SEND in education found most pupils have their SEND need identified soon after starting formal education (after age 5).¹⁴ Yet there are a significant number of children starting school with significant development issues, such that they are not at their expected development levels in more than half of the 17 development indicators assessed through the Early Years Foundation Stage (EYFS) profiles. This is about 14% of all children, rising to about 1 in 5 children in the most deprived communities. These children have significant development issues across multiple domains (e.g. language, emotional regulation, comprehension, physical development), and they are starting school significantly disadvantaged in their ability to participate in education.¹⁵ Research has shown that children who have not met the expected level on half of their early learning goals through to the end of primary were not doing as well as their peers in both education and social outcomes.¹⁶ The government needs to provide appropriate training for the early years workforce so that they can better identify and manage SEND. If children receive the additional support that they need before they even get to formal school age, then they are less likely to be starting already behind their peers.

Children who fall behind in the early years are more likely to be excluded from school or have support from social services in subsequent years.¹⁷ The Children's Commissioner's Attendance Audit was a deep

dive into the extent of, and reasons for, persistent absence in England. The Audit found that the system as it is now with the lack of effective intervention can often lead to a cycle of exclusions for some of our young people which can mean more time out of the classroom and more lost learning.¹⁸ If the system can get intervention right at this stage of a child's education, then it can prevent other, connected, needs from manifesting.

The Children's Commissioner supports the DfE's proposal to increase the number of staff with an accredited Level 3 SENCo qualification in early years settings to improve SEND expertise. This upskilling will require investment and practical support for schools to be able to achieve it. CCo expects that the £7 billion top-up funding announced in the Schools' Budget will be spent, at least in part, on improving SEND provision so that any needs identified by practitioners can be effectively met in existing settings. Improved provision at an early age can ensure that young people with SEND do not see their needs deteriorate. The system must ensure that as the number of young people requiring SEND support or an EHCP continues to grow, that money and expertise does not get pulled away from early intervention support, especially in mainstream settings.

High quality early years assessments are vital in effectively providing early intervention for children who need it. Health visitor checks are vital in identifying needs and getting children the right support. Children need highly skilled health workers and enough to provide regular visits for all children, wherever they are in the country. This is why the Government needs to bolster the health visitor workforce to ensure that these checks are in person and of a high quality. However there is evidence that not all children are receiving all the mandated health-visitor checks, or that checks are not being undertaken by a suitably trained professional. The problem appears to be more acute in areas of high deprivation. This reduces the chances of developmental issues being identified at the stage where intervention is likely to be most effective.

There is high variation across the country in regard to frequency and length of health care visits and the proportion of children receiving high quality visits.¹⁹ Good quality health care visits are vital, and that must be made consistent across the country.

Children's schools and their parents or carers often rely on medical professionals to provide a diagnosis before they can access appropriate support. This support should not be dependent on a medical diagnosis but instead defined in a holistic way by professionals who understand SEND support and the cohort of children they are working with. The Children's Commissioner would like to see less emphasis on medical diagnostics, and more emphasis on what practical support is required to help a child participate in education and society. Often this expertise will be medical, but no child should be waiting for practical help because of delays with medical assessments.

Historically, the role of identifying SEND in pupils has fallen on practitioners such as teachers.

Many young people with SEND who CCo spoke to recognised how important teachers have been in their life, and when asked who gave them the most support, one child answered:

'Teachers at this school, they care more than my last school or social worker' – Boy, 16, attending college with an EHCP.

The SEND Code of Practice, produced by the DfE, highlights the importance of practitioners listening to parents and carers to understand their concerns and to help with the analysis of a young person's needs.²⁰ However, the relationship between parents or carers and practitioners and teachers is not always strong and teachers do not necessarily have the right training in place to identify the myriad of issues a young person may be grappling with or the specific needs they require. As one young person the office spoke to said:

'Teachers aren't trained to help us' – Girl, 13, attending a mainstream school with an EHCP.

If teachers aren't equipped with the tools to support children with SEND, it is unlikely that they are going to be able to spot when a child with undiagnosed SEND might be struggling. Another young person described how a teacher's inability to identify their SEND requirements meant they were incorrectly identified as a student with behavioural issues:

'My previous school was not good "the consequence room with booths where kids would sit from 9 to 2:30, not allowed to go to the toilet, get a drink, anything, no work to do. For kids like me with a disability it just doesn't help' – Boy, 15, attending a special school.

The headteacher of a special school in Oxfordshire cited that it was all too common that a child would develop challenging behaviour due to a late SEND diagnosis. When these children do finally have access to a special school and/or specialist support, teachers are spending too much time focussing on behaviour management rather than teaching. It was only once the child had their needs met, they could begin to re-engage with learning properly. This results in lost learning time making outcomes harder to reach. Teachers need to know and be looking for signs, such as poor attendance or persistent absence, that a child might need additional support and be issuing this as a trigger for intervention.²¹

CCo supports the Government's commitment to deliver a transformed professional development pathway for teachers. Teachers need to be able to recognise behaviours in the classroom that could suggest an undiagnosed additional need. There needs to be better resources for teachers on what support is available for these children and where to get it. CCo believes that the Government needs to go further and develop its proposals to establish an Institute of Teaching to include a SEND Faculty which can research and share best practice about how to identify SEND, make effective early interventions and provide the right support. As one young person the office spoke to said:

'There should be a school for teachers, where they learn how to teach children with SEND' – Boy, 17, attending a special school.

The way forward

The CCo has identified the following priorities in addressing these challenges:

- There should be national and local action plans to reduce the number of children beginning school with EYFS scores of less than 26 (representing multiple developmental issues). This should

be a joint Department of Health and Department of Education action plan at a national level, and a local level, should be a joint NHS and local authority action plan.

- Upskilling of the teacher workforce to be able to spot and diagnose children with additional support. Teachers in mainstream schools need to be empowered with more information about how children with SEND can be more effectively supported.
- Increased training for the early years workforce so they can provide early intervention for children who are falling behind before they start formal education. This will enable all children to start from the same capabilities when they start school age five.
- More availability of speech and language therapists in early years settings when a need is identified.
- Currently, there is no way to link children at age two to their school results making it difficult to monitor an individual child's developmental progress or analyse data to understand what interventions work. The introduction of a consistent child identification number could be used to track a child throughout the entirety of their education to resolve this issue.

As children who are below the age of formal education rarely have an EHCP, if an additional need or developmental delay is identified in an early years setting, these children should be automatically entitled to free childcare hours.

Ambition 3. Consistent, excellent experiences for children wherever they are in the system.

Young people with SEND deserve excellent care and support regardless of what stage of their life they are in. All transitions can be stressful for children. Whether that's moving from primary school to secondary school, from alternative provision back to mainstream, or from school to employment. When these are not managed well children can miss out on prospects and be left without adequate care, so there should be the resources and planning in place to ensure that no child with SEND sees their talents go unharnessed or opportunities unfulfilled.

Building smooth transitions

More needs to be done to create smooth transitions between different school environments. For example, moving from primary to secondary school can be challenging for young people with SEND because of the nature of their support network, such as teachers and teaching assistants. Some children mask their emotions or behaviours when changing schools, adopting coping mechanisms which make it more difficult to detect potential needs.

CCo spoke with young people with SEND who have faced exclusion because it has been decided that their care cannot be managed within a mainstream setting. As one young person the office spoke to said:

'Why is it straight away exclusion, exclusion?' - Boy, 15, attending a special school.

Standards on transition need to be updated to ensure that movement between schools is as hassle-free as possible. The standards should focus on ensuring that no child goes without an education, and the CCo recommends that no young person with SEND in a mainstream school should face exclusion without another placement in an alternative setting having been confirmed. As outlined in the Children's

Commissioner's Attendance Audit findings, if or when exclusions of any type do occur, a child's needs should be assessed to identify any additional support they may need.²²

Standards on transitions should also focus on making sure that, if a young person is moving between primary and secondary education, or from alternative provision back to mainstream, they have had the opportunity to meet with the teachers, carers, practitioners, and adults who will be supporting them, and have been able to shape what their new routine will look like.

'Before I started here I had a choice and my mum asked me that day which school would you like to go to and I chose [school name] because I'd had a tour before and it looked quite good and I thought that maybe I'd be OK here' – Boy, 19, attending further education provision at a special school.

Young people transitioning between schools should be offered time-limited or transition places in alternative provision if they feel that the setting, they are moving to does not have sufficient structures in place to deliver adequate care.

Improving alternative provision

Alternative provision exists for when pupils, who because of illness or other reasons, cannot receive a suitable education in their mainstream setting. Currently, when pupils need alternative provision, there is no statutory requirement outlining when it should begin, and some young people in need of alternative provision placements are not always guaranteed a place on day one of their exclusion from mainstream. The delivery of alternative provision needs to be vastly improved. Where a child with a social worker is excluded from a mainstream setting, whether that be temporarily or permanently, they should be in alternative provision from the first day. This would ensure that where there is a safeguarding vulnerability or concern, the child is in the classroom. The postcode lottery whereby some local authorities provide alternative provision to age 19 and some do not needs to end. Currently, local authorities are not obliged by statute to arrange alternative provision for pupils aged 16-19. This should change so they have a duty to provide alternative provision in the 16-19 age bracket and so that young people at secondary school leaving age with SEND do not face a 'cliff-edge' in support or difficulty accessing further and higher education institutions.

Alternative provision is not an isolated strand of the education system, but an integral part of the schooling experience for many children. As outlined in the Commissioner's recent Attendance Audit, studies suggest that only 1% of students who complete their GCSEs in alternative provision settings achieve five 'good' GCSEs including English and Maths.²³ The system should do all it can to raise these standards and should aim for all alternative provision settings to offer outstanding care and support. The Government's plans for a SEND inspection framework must take account of the need to regularly inspect alternative inspection provision. The Commissioner also supports the Government's plans to create a bespoke alternative provision framework to focus on ensuring children in alternative provision make progress with their education, and can reintegrate into mainstream education where possible, and alternative provision settings should demonstrate how they are aligning, meeting, or implementing this framework. To meet the objectives of the framework, alternative provision settings need to be properly resourced, with teachers and staff trained in managing the additional needs of the children and held fully accountable for the quality of provision and student attainment.

The CCo recommends that alternative provision should aim to be a short intervention with placements reviewed every six-weeks. Alternative provision is not a long-term alternative to education in a mainstream or special school. To improve the transitions into and out of alternative provision, it should be co-located within families of schools, so that the child does not lose the supportive network of teachers and pastoral staff whom they are already familiar with.

To remove the over-reliance on alternative provision, particularly for children with SEND, all schools need to be schools for children with SEND. This means ensuring that every school has a co-ordinated pastoral strategy which pulls together safeguarding, mental health, SEND and behaviour into an integrated approach, with a focus on supporting children to be in school, and to thrive in school.

Improving employment opportunities

One of the most daunting transitions for young people with SEND can be the move from care, mainstream, or alternative provision settings into employment. In 2021, the UK Government launched

the UK National Disability Strategy, which included commitments to help young people with SEND access traineeships and apprenticeships.²⁴ Whilst the Strategy shows that action is underway to help young people with SEND into employment, more needs to be done to address the stigma and apprehension that many young people feel about leaving education or care support and entering the job market. One young person the office spoke with said:

'Some jobs are fussy, some jobs would not hire people with special needs, I think people discriminate against people with special needs, people with special needs can do stuff but people think we're weird'
– Girl, 15, attending further education provision at a special school.

Recent studies have shown that young people with SEND are significantly more likely to be employed after school when they have had some form of work experience.²⁵ Many of the young people CCo spoke with highlighted that they were often reliant on volunteering roles as a form of work experience as the first step on to the employment ladder. Some young people with SEND experience challenges moving away from unpaid work to paid employment, often because of the false perception that young people with SEND are less productive than their peers without SEND. As one young person the office spoke to about work told us:

'People these days need to learn we're equal and we can do what's best and we are very capable of ourselves' – Boy, 17, attending further education provision at a special school.

Young people with SEND should not have to rely on unpaid volunteering or work experience to prove their worth. Mainstream education should expand their skills offer, especially at the post-16 level, to align more closely with the qualifications and subjects available to students at special schools. Many of the special schools the CCo visited offered practical employable skills such as cooking/catering, landscape gardening, and horticulture. Not only were these subjects and training popular with young people with SEND, but they also provided experience which made access to paid employment easier. The CCo recommends that, to accompany these subjects, there should also be qualifications appropriate for children with complex SEND. It's important for young people with SEND to have their work and efforts recognised, just as in the rest of the education system. Therefore, a framework for how to make

qualifications accessible for young people with SEND would undoubtedly raise the confidence of young people and make their transition to paid employment smoother.

The Government should ensure that every young person with SEND receives tailored career support before they leave education, so they can identify and understand where their skills lie, and which sectors or potential employers would be most beneficial or suitable for them. In addition to this, the CCo recommends that more companies and employers of all sizes, via the Supported Internships Programme, should explore ways of offering young people with SEND structured and paid work experience placements with pathways to long-term job security. Young people with SEND are ambitious for their futures, and it is everyone's responsibility to ensure that the infrastructure and support is in place which allows them to succeed.

A renewed approach to funding

Ultimately, the recommendations made in this paper need to be implemented fully and at pace. Responsibility for these actions rests with Government (both centrally and locally), health partners, and third sector bodies. The recommendations in this paper are designed to be implemented across all of England's 24,454 schools, 151 local authorities and 42 Integrated Care Systems, and therefore CCo recommends that the single cross-Whitehall body look to create bespoke guides to support practitioners on the ground, provide advice for parents, carers and families on the updated SEND system, and most importantly support children via easy-read materials to help them navigate the SEND system and understand how it applies to them.

Structural change should also be accompanied by reforms to the way in which SEND funding is decided. At present, each mainstream school has a notional SEND budget, which is the amount within their total school budget set aside for pupils with SEND. Currently this amount is calculated by the school's local authority. CCo welcomes the Government's plan to introduce a direct National Funding Formula for mainstream schools to ensure that every school has the resources in place to support children with SEND. At the same time, the CCo is clear that the funding formula should take account of the disparities

which exist from one local area to the next. One school or local authority may have more children with EHCPs requiring additional support, or less alternative provision places, than its neighbouring local authority or school, and so funding solutions for SEND must focus on ensuring that every pupil gets the support they need. Moreover, as outlined in Ambitions 1 and 2, any new funding formula should ensure that mainstream settings get the resource they need in order to directly deliver excellent SEND provision.

Reform needs to build smooth transitions for young people with SEND as they move around the education system and across different settings. Alternative provision must not become an element of the education system where standards are allowed to drop. New pathways to employment for young people with SEND need to be developed which utilises their skills, trains them appropriately, and provides a recognised route into gaining employment. And DfE needs to think fundamentally about what SEND funding, which supports all of this, should aim to achieve.

The way forward

The CCo has identified the following solutions to address these challenges:

- Mainstream schools should be given the resources to support children with SEND, and if alternative provision is required then this should be available from day one.
- If alternative provision is required, the young person should be told why, and an adult should explain how their care and education will be supported in the new setting.
- Local authorities should have the statutory duty to arrange alternative provision for those young people with SEND aged between 16 and 18, so that there is not a 'cliff-edge' or sudden end of support for young people once they leave secondary school or reach the age of 16.
- Ensure that alternative provision settings are considered within the SEND inspection framework.

- The Government should implement an overarching framework for alternative provision which outlines how every child will receive outstanding support and (if appropriate) help back into mainstream school.
- Ensure that mainstream schools are better equipped to support young people with SEND. This should include more support for schools looking to develop in-house alternative provision offers and encouraging more schools to work together via their family of schools or academy trusts to commission good quality alternative provision.
- Develop new ways for mainstream schools to offer a variety of subjects and skills training to young people with SEND which aligns with the bespoke training provided in specialist settings. Design new qualifications and/or ensure that existing qualifications are accessible to young people with SEND so that their hard work and skills can be formally recognised.
- Via the Supported Internships Programme, national employers should offer young people with SEND structured and paid work experience placements with pathways to long-term job security.
- A new cross-Whitehall body should be established to drive through reforms across education, health, and social care. The body should ensure that Government speaks with a single voice and that SEND policies are aligned.
- There needs to be a relentless focus on delivery which brings together practitioners and experts and draws on children's experiences.
- A new funding package for schools should be devised which acknowledges the disparities in SEND provision between local areas and ensures mainstream provision can deliver excellent SEND provision.

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