

Children's Commissioner's Submission

Department for Education SEND Consultation

May 2026

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Foreword from Dame Rachel de Souza

As Children's Commissioner, I have a statutory duty to ensure that children's views are heard. And so I want to begin, as I always try to do, with something that a child told me. I was working with a group of children, and I asked one of them what they wanted from their support service.

One child explained that what they wanted was a letter. Not to confirm they'd rocketed up the waiting list – they were quite realistic about that – but just to confirm that they were still on the waiting list. Confirmation that someone, somewhere in the system, was thinking about them.

It was a powerful reminder of how often the support systems that children rely on are all too often cold at best, and absent at worst.

In the last two years, multiple bodies, from think tanks, to teaching unions, to parliament itself, have published reports on SEND. Each of these had a theme in their title; that there was a 'SEND crisis'.

But crisis, to me, implies surprise, or forces beyond our control. I believe that if this is a crisis, it is a man-made one. I want us to remind ourselves that the system that ensures England's most vulnerable children can access their education being allowed to slip into 'crisis' is not something that just happened. It is a colossal failure of public policy, and must never be allowed to happen again.

It is clear that the existing system is not working as intended. Regardless of how well the 2014 reforms may work on paper, the fact that we are where we are indicates that something has to change. The outcomes for children with SEND are simply not good enough. The adherence to the timelines set out by law is simply not good enough. The existing system is not delivering the kind of support that children need.

One of the elements of our current system that I find hardest to see is the way it pits parents and professionals against each other. I have spent five years speaking to children, parents and professionals about SEND. No one I speak to is unreasonable. No one seeks bad outcomes for children. Everywhere I turn I see good people, trying to do their best in a system that over the course of a decade has warped into an inherently adversarial one. Nobody seems to have actively chosen this system, but now everyone appears to be trapped inside it. Local authorities under impossible financial pressure use legal teams to contest needs. Schools, insufficiently funded and inadequately trained, have to triage needed resources. Families, exhausted and frightened, become the kind of fierce advocates that institutional systems are very bad at hearing.

The person in the middle of all this is, of course, the most important one: the child who needs extra support to succeed in education.

There is no shortage of analysis of these problems. The submission that follows makes some proposals for how to fix this struggling system. But let me outline the principles that I believe must underpin any genuine reform.

The first is fidelity to the research. The proposed plan to tie action on SEND to what we know works, to upskill staff, and to put government money and backing towards a greater understanding of how to support children with additional learning needs is a welcome step in the right direction. We must act early; not necessarily in terms of a child's age, but rather when needs begin to make themselves clear. The false economy of the current system, in which early under-investment produces vastly more expensive crisis intervention downstream, must change.

The second is a clear understanding of roles. Teachers do incredible work, but as talented as our teaching workforce is, we cannot expect them to be experts on their own subject area, experts in pedagogy, learn 300 names, and be experts in every type of need. The new system must ensure that children are

supported by professionals where they need them, and that those professionals have the time and resources to actually work with children, not to fill forms or shape systems.

Third is a unified system. For too long, the SEND system has been defined by its adversarial nature. This plays out in the conflicts between parents, local authorities, and schools, but it also plays out at level of state actors. Children's health and education and social care are commissioned by different bodies, funded through different routes, governed by different frameworks, and – let me be utterly clear here – too often driven by competing priorities. This, too, must change.

Fourth, this system must be inclusive. This term, inclusion, is referenced a great deal in the government's proposals. The new system must ensure that all children with additional needs and barriers to learning are supported. As I made clear in The Children's Plan, this must include children who our existing system knows too little about, and offers too little to – such as children who are bereaved, children in kinship care – as well as children with identified learning needs. The role of diagnosis in this system must be clearer, and where children have needs that are clearly diagnosed and generally understood, additional support should be offered on an automatic basis. We must look at special schools not as somehow separate to our education system, but as a vital and important part of the whole.

Finally, the new system must produce a change in our culture. Culture change is difficult to do. It is a nebulous ask. I am aware of that. But I know it can happen, and I know the power of changing a culture. I know this because as a teacher, a headteacher, and then a trust leader, I watched as the culture in education changed. I was part of this change. During my years on the front lines of education, the expectations we had of pupils rose, how we spoke and thought about classroom practice changed for the better, and so too did the outcomes of many of England's children.

The SEND system covers a range of children. Some need additional support, and with that will learn and thrive in mainstream schooling. Others will have needs so complex that a special school is right for them. Regardless of where a child is educated, they should expect high standards, with a focus on what they can do, and should not be approached from a position that starts with what they cannot do. Those standards might look different from other children's, but nonetheless should be high. We need to create a world that is just as thrilled to see a young person in a special school learn to better communicate or to take on tasks necessary for more independent living as a mainstream school is to see all 9s at GCSE.

I return now to that child who just wanted a letter; who just wanted to feel seen. They must be at the heart of the new SEND system. The most important change of all needs to be how we listen to children. When we consider the success of the reforms, we must consider if we have created a world where the systems that children rely on feel warm and responsive.

Children must feel safe, supported, and cared for. They must have a voice in this new system. Interventions must be explained to them and their families. There must be space for a conversation. Children's faith in this system must be restored.

That responsibility is colossal. So too is the opportunity.

Twenty years ago now, England's education system tried something new. Heads like me were asked to be part of it. We were told "these schools are failing, we need you to change them, and we will work with you to make that happen." That was an enormous burden, certainly – but it was also an enormous gift.

I believe the same is true now.

The system is failing. We must work together to change it. The future of education and, I would argue, of English childhood itself, will be shaped by how adults in positions of responsibility decide to engage with this moment. It must be the end of all of our care and effort to ensure that these reforms truly are generational.

England's children deserve nothing else.

Executive Summary

The Children's Commissioner makes a series of recommendations throughout this submission. Key recommendations, by theme rather than question number, include:

Evidence:

- An evidence base for pastoral intervention should be created, with funding given to the EEF to assess what works for pastoral intervention and establish a clear corpus of knowledge regarding effective interventions in this area. We must apply the same energy and intellectual rigour to key pastoral challenges as we have to pedagogy and curriculum, and develop a robust evidence base and pride in good practice when it comes to how to engage parents, how to boost attendance, and how to support children going through challenges outside school.

Accountability:

- A new set of National Professional Qualifications (NPQs) for Pastoral Work at both practical and strategic level, and SEND teaching under the 'Specialist NPQs' section, to enable school staff to upskill in these areas. The SEND NPQ would differ from the existing SENCO NPQ owing to a different, less strategic focus – instead being centred on teaching and classroom behaviour management.
- National minimum standards for Experts at Hand provision are set and published, so families know what they are entitled to regardless of postcode.
- The new system accountability includes monitoring regional variation in Targeted Plus access, workforce, and outcomes, and publishing this data publicly.
- Local Opportunity Mission Delivery Boards, as proposed in the Commissioner's Children's Plan, should be the vehicle through which local authorities and ICBs are held jointly accountable for Targeted Plus delivery, with shared outcome metrics for children's attendance, attainment and wellbeing.

- Empowerment of the Local Government and Social Care Ombudsman to look at cases where parents of children receiving Targeted Plus support have issues with decisions made about their children's education. There should be a backstop for the new system, to allow for a sense that, as the evidence base builds, redress is not being removed. If the Government is confident that a new evidence-focused approach will yield positive results for far more children (a position the CCo does not dissent from), then it must allow parents the ability to challenge decisions robustly while this system is put into place, with faith in the evidence presumably meaning that in the medium-term, parents will not need to use it.
- The Children's Commissioner will ensure that central to this role will be listening to children across England, hearing their views on the SEND system, and reporting this back to Government. The Government should be required to provide a full published response to the Commissioner's findings, so England's children can know that they are listened to at both a personal and a systemic level.

Additional Needs and Pastoral:

- The refreshed areas of development are a necessary improvement to the SEND-specific framework, but they should be accompanied by a broader additional needs framework that encompasses the full range of barriers children face. This should link to needs arising from those barriers into the areas of development, and be taken into account during the development of the new evidence base for the areas of development.
- A new set of National Professional Qualifications (NPQs) for Pastoral Work at both a practical and strategic level, and SEND teaching under the 'Specialist NPQs' section, to enable school staff to upskill in these areas. The SEND NPQ would differ from the existing SENCO NPQ owing to a different, less strategic focus – instead being centred on teaching and classroom behaviour management.

Individual Support Plans

The Commissioner's position is that ISPs must carry a clear statutory duty on settings to implement, review, and update them, rather than simply producing them.

In addition, ISPs should:

- be regularly updated, with a very clear timeframe for review that is consistently met, with focus on the ability of schools to realistically meet any proposed timeframe.
- 1. be accurate, and involve children and families via increased child voice mechanisms to ensure that they are accurate.
- 2. contain both a child's needs and the results of existing Assess, Plan, Do Reviews (APDR), so there is a clear trail of what interventions have been tried and what a child has benefited from.
- contain a short overview of the purpose of interventions, and why interventions have been approved. These overviews do not need to be exhaustive, but should provide families with a concise snapshot of what is going on, so that they can discuss it with their child's school or SENCO if they wish.

Funding

- Any reform that moves more funding into mainstream budgets must be accompanied by robust requirements for schools to account for the outcomes they have achieved for children with SEND. The Children's Commissioner's office (CCo) would support a requirement for this information to be published in a form that is accessible to parents and carers.
- The specialist sector must be protected and properly funded in parallel. Moving more funding into mainstream budgets must not be accompanied by the assumption that demand for specialist provision will fall commensurately, or that specialist settings can be repositioned primarily as resources for mainstream schools rather than as providers of education in their own right.

Consultation Response

Q1. We want children, young people and their families to be involved in making better, evidence-based decisions about SEND, both in their local area and across the country.

How can we make sure children, young people and their families have a genuine say in these decisions?

Since taking office, the Children's Commissioner, Dame Rachel de Souza, has engaged with over a million children. At the time of writing, she has just launched her third and final mass survey of England's children, *The Big Future*.

As part of her last survey, *The Big Ambition*, the Children's Commissioner engaged with 367,000 children and adults. It received responses for around 39,500 children with a special educational need and/or disability, and almost 14,000 children with a social worker. Around 390 children who responded were living in secure settings and around 300 in mental health hospitals.¹

The most important voice in the system is the also the one that it is currently worst at taking into account – the voices and views of children.

While it is by no means perfect, existing Parent Carer Forums do offer a mechanism for the integration of parent voice into the SEND system. The proposed SEND reforms should consider throughout how to listen to and integrate the views of children.

Children should be 'having a genuine say' and there are two points in the system where this can and should occur.

The first is a direct say. All new ISPs should have a section where children are asked their views about their needs, and their views about what kind of help they would like. This does not currently happen consistently, as the Children's Commissioner has found.² It is also essential to make children feel like the system is working for them, responsive to their views, and has their best interests at heart. It is important

to note a key distinction here; that asking children what they think does not necessarily mean that systems have to agree with them. Decisions should be made in the best interests of children. A child who has difficulty reading might not particularly like phonics. The system does not have to turn away from the evidence in response, but rather view it as an opportunity to understand why a child might not like phonics, or at least explain to them why the school has taken the decision that they have. It is far better for a child to be heard out, told 'no', and explained to, than to be met with a wall of silence.

The second is a systemic say. The purpose of the Children's Commissioner is to protect and promote the rights of children and make sure that their voices are heard. The Department for Education has undertaken some consultation with children, but consultation about something as important to children's lives as the SEND system should be an ongoing process. The Department for Education has proposed that the Children's Commissioner should have an oversight role as part of the new SEND system. The Children's Commissioner will ensure that central to this role will be listening to children across England, hearing their views on the SEND system, and reporting this back to Government. The Government should be required to provide a full published response to the Commissioner's findings, so England's children can know that they are listened to at both a personal and a systemic level. Q2. How can we make sure that high-quality evidence and best practice inform decisions about SEND? Please share examples.

There is significant common ground between the positions in *The Children's Plan* and the Government's consultation on the fundamental issue within the system regarding evidence. The Government acknowledges that EHCPs 'are too often low quality, poorly written, and include interventions not underpinned by evidence' and that 'inconsistent approaches to identifying and meeting needs lead to widespread variations across settings and communities.' *The Children's Plan* agrees with this view.³

There is a lack of clarity on what effective practice is, where support is regulated, and what good value looks like. There is no shared accountability, funding or outcomes framework that meaningfully supports agencies to work together.

It will be essential that the expert panels are fully resourced, and are able to commission reviews from what works centres in order to produce a robust evidence base for interventions. Evidence bases are not static things. These centres should have a long term strategy for their continuation, as they should continue to exist and be funded to generate evidence.

It will be equally essential for there to be a robust evidence base for understanding whether the SEND reforms themselves are being implemented effectively. A clear outcomes framework for what success looks like for children with additional needs, covering their school attendance, attainment, measures of wellbeing, as well as longer term outcomes will be essential. The Children's Commissioner will ensure that her oversight role assesses how the reforms are affecting the outcomes of children with additional needs.

Q3. How can we ensure that children are best supported by the Universal offer?

Schools should be inclusive by design. The Universal Offer should enable schools to provide effective support to children who need additional support at school whether because of short term learning needs or broader practical barriers to learning. Universal support means ensuring truly high quality provision of pastoral support in every school, and targeted support with trained specialists on specific needs.

One of the biggest opportunities for the Department as part of this process will be in the creation of the new SEND code of practice. The CCo view is that there is not enough understanding across the system about proven interventions for a range of needs. This is exacerbated by the lack of clarity around what inclusion will, or should, look like. The first thing that can and must be done is the dissemination of what we know works.

The Universal offer must also be truly universal. *The Children's Plan* demonstrated that too often, schools simply do not know enough about children's lives. The report is clear that this is not the fault of schools – the mechanisms that would enable them to know just often don't exist. For example, across all state-funded mainstream schools, 60% of schools could not report on exactly how many children had experienced the bereavement of a loved one, 62% could not report exactly on how many lived in unsuitable accommodation, and 43% could not report exactly if their children had a parents/carers in prison.⁴ All of these can impact a child's education. The Universal offer, therefore, must not just focus on what we currently understand by SEND but a far broader range of additional needs, which may or may not overlap with our current definitions. This support should simply be available, without requiring diagnosis or additional assessment to access it, and interventions here should be treated as seriously and robustly as others.

To facilitate the above, the system of Unique ID set out in *The Children's Plan* should become a major government priority. *The Children's Plan* proposes that every child should have details of their education and their wider needs on a Unique ID platform. For many children, this will simply be a modified version of their school report – for others, a vital hub to ensure that when they interact with state services, those services have a proper understanding of their lives. Schools, like wider children's services, often struggle to provide the support children need because they don't have a clear understanding of their situation or needs. Too many of the processes that would allow schools to know things about children's lives are either time consuming, informal, or both. Even relatively easily identifiable, clear, and ongoing needs – such as having a parent in prison – are often not shared with schools.

A Unique ID would require input from across services, and mean less, not more, data collection for schools. The system would allow, for instance, the imprisonment of a parent to be noted on a child's ID by the justice system, with a portal for schools to access this information. The outcome would be reduced time for school pastoral leads trying to find out what is happening at home, and instead simply accessing the portal. This is referenced throughout this consultation, for while it is a technically difficult task, it is the single most important thing that the Government could do to help children with additional needs.

Q4. How can we ensure that children in the Targeted layer, are best supported?

There will inevitably be some crossover between the children in the Targeted layer and children benefitting from the Universal offer. As such, the details regarding the SEND Code of Practice and the need for an effective use of Unique ID set out in the previous section (Q3) are equally applicable here.

One way of achieving inclusion is the application of things that we know work that are consistently applied to every child. The other is the integration of various forms of adaptation into classroom practice. These are in tension with each other, because these approaches are borne of fundamentally different views of what inclusive practice would actually mean in a classroom environment.

The view of the CCo is that the Universal offer should, wherever possible, mean the former definition. Schools should endeavour to be inclusive by design.

As referenced throughout this submission, the Children's Commissioner's opinion is that the current system has very low levels of trust in it from parents and children. Part of regaining that trust needs to be setting and then meeting expectations. Every child and parent should have a good idea of what the various layers of support actually mean, what they will confer in terms of support, and how this support will be delivered.

A starter definition for these could be, for instance:

- **A good school** is one that helps as many children as much as possible.
- **Universal layer:** Help for children who need it, without need for diagnoses or an ongoing plan.
- **Targeted layer:** A learning difficulty that the school thinks it can help child overcome, and is best placed to support, but that will need formalising with an ongoing plan.
- **Targeted Plus layer:** A learning difficulty where school needs some additional support to provide help to deliver an ongoing plan.
- **Specialist layer** - a child who needs ongoing and complex multi-agency support.

Q5. How can we ensure that children in the Targeted Plus layer, are best supported?

The Targeted Plus layer is, in effect, the population *The Children's Plan* most urgently spoke to. These are precisely the children who currently fall into the gap between what schools can provide alone and what only the EHCP system unlocks.

The fundamental issue for Targeted Plus could quite possibly simply be the availability of relevant professionals.⁵ *The Children's Plan* confirms the scale of the existing gap: schools cited a lack of specialist staffing as the second biggest barrier to implementing EHCPs. More than a quarter of secondary schools, and almost a third of primary schools, said they were unable to provide access to extra teaching assistant support as a reasonable adjustment. If the Experts at Hand workforce is not built in parallel with the system redesign, Targeted Plus risks becoming an entitlement on paper with no professionals to deliver it. The new system, when considering workforce supply, should consider the fact that professionals must be sufficient to deliver interventions, not simply provide guidance and training to schools. Workforce supply should be taken into account by independent oversight of the SEND system, and there should

be transparency about the number of roles, who is employing them, and who oversees their interventions.

As referenced elsewhere, the CCo has fundamental concerns with existing commissioning practices in many areas. The consultation's proposal for local authorities and Integrated Care Boards to commission the Experts at Hand offer in collaboration with local settings, health partners and families is a sensible structural approach, but this local commissioning must have national standards.

Given that the children in this layer currently can fall through the gaps of existing support, it is essential to clearly outline what the thresholds are for Targeted Plus, whether it is an individual right that a child has rather than a duty to provide placed on schools, and that there is some form of legal redress.

As such, the CCo makes four recommendations:

3. National minimum standards for Experts at Hand provision are set and published, so families know what they are entitled to regardless of postcode.
4. The new system accountability includes monitoring regional variation in Targeted Plus access, workforce, and outcomes, and publishing this data publicly.
5. Local Opportunity Mission Delivery Boards, as proposed in the Commissioner's Children's Plan, should be the vehicle through which local authorities and ICBs are held jointly accountable for Targeted Plus delivery, with shared outcome metrics for children's attendance, attainment and wellbeing.
6. Empowerment of the Local Government and Social Care Ombudsman to look at cases where parents of children receiving Targeted Plus support have issues with decisions made about their children's education. There should be a backstop for the new system, to allow for a sense that, as the evidence base builds, redress is not being removed. If the Government is confident that a new evidence-focused approach will yield positive results for far more children (a position the CCo does not dissent from), then it must allow parents the ability to challenge decisions robustly while this system is put into place, with faith in the evidence presumably meaning that in the medium-term, parents will not need to use it.

Q6. How can we ensure that children in the Specialist layer are best supported?

From a child's perspective Specialist Support should be for children who need a different approach to provision in their education to benefit, not interventions (universal), additions (targeted), or outside additions (plus).

Children with EHCPs should keep them. This response has referenced issues with EHCPs in other sections, and they are by no means a panacea, but they are often hard won documents that provide a measure of legal redress for parents. The system should allow those with EHCPs to pass through education fully, with the new system applying for new entries into the education system.

As referenced elsewhere in this response, there must be investment in special schools. They are not an appendix to the 'real' education system – they are a key constituent part to it, as educational settings where children receive absolutely vital education. Certainly, as referred to later, the Government can and should regulate the ISS, including on prices, but the presumption that more children can be educated in mainstream schools should not drive a lack of interest or investment into the special school sector.

There is a delicate needle to thread for some children in this layer when it comes to standards. There should always be high standards for education. For some children in this layer, the expectations will be more 'traditional' – in line with mainstream education, but accessed via a different route.

On the one hand, for other children, applying the standards of mainstream education and the same *approach* to standards is not appropriate. Some children in this layer, for instance, may never learn to write. This layer, then, should be just as thrilled to see a young person learn to better communicate or to take on tasks necessary for more independent living as a mainstream school is to see all 9s at GCSE.

On the other hand, the children in this layer should expect high standards, and should not be approached from a position that starts with what they cannot do. Those standards might look different from others, but nonetheless should be high.

Children in this layer may also have complex health needs. Right now, there is not enough good system working between health and education. Analysis of EHCPs completed by the Children's Commissioner's Office found that only 10% of health outcomes on EHCPs were completed.⁶ While health and education are supposed to work in tandem for these children, too often health is the absent partner, with education left to shoulder an unfair and impractical level of the work required to support children.

Q7. How do you think early years settings, schools, and college can best support the mental health and wellbeing of children and young people?

Schools should be places where children feel safe, supported, and have things that they enjoy doing.

The most clear structural barrier that the education system faces in supporting pupils is that it simply does not know much about their lives. This also marks a fundamental disconnect between actually existing state systems and the way that children view the professionals they speak to.

Across all state-funded mainstream schools, 60% of schools cannot report on exactly how many children had experienced the bereavement of a loved one, 62% cannot report exactly on how many lived in unsuitable accommodation, and 43% cannot report exactly if their children had a parents/carers in prison.⁷

The most important work that schools can do in this area is simply improved pastoral support. As *The Children's Plan* clearly sets out: while mainstream pedagogy has been the subject of considerable interest in terms of what works, there has been comparatively less focus on what works for SEND and pastoral provision. The Commissioner calls for the same level of rigour underpinning forms of pastoral support as there is for pedagogy, with evidence reviews undertaken by What Works centres and specialised qualifications on pastoral work.

The CCo makes these recommendations:

1. An evidence base for pastoral intervention should be created, with funding given to the EEF to assess what works for pastoral intervention and establish a clear corpus of knowledge regarding effective interventions in this area. We must apply the same energy and intellectual rigour to key pastoral challenges as we have to pedagogy and curriculum, and develop a robust evidence base

and pride in good practice when it comes to how to engage parents, how to boost attendance, and how to support children going through challenges outside school.

2. A new set of National Professional Qualifications (NPQs) for Pastoral Work at both a practical and strategic level, and SEND teaching under the 'Specialist NPQs' section, to enable school staff to upskill in these areas. The SEND NPQ would differ from the existing SENCO NPQ owing to a different, less strategic focus – instead being centred on teaching and classroom behaviour management.

Q8. Do you agree that the refreshed 'areas of development' will support educators to understand and address barriers to learning and participation? Please explain your answer.

The CCo partially agrees.

The current areas of need are structured around professional and clinical taxonomy rather than classroom experience. The proposed areas of development are more closely mapped to the kinds of difficulties educators actually observe in classrooms. A child with ADHD who struggles to regulate their attention is far better described by Executive Function than they are by, for instance, SEMH.

The Commissioner has argued that no child should be pushed towards a medical diagnosis for behaviours that are natural responses to the challenges they are facing in their lives, and no child should think they are the problem for feeling sad, or different, and these new areas, with their strong focus on how difficulties or conditions will manifest educationally, are sensible.

The Commissioner's most fundamental disagreement with the areas of development is with their scope. The five areas of development are all developmental and functional domains. They do not include the situational and circumstantial barriers to learning that the are equally significant, but effectively invisible.

In her Children's Plan, the Commissioner has called for the education system to adopt a broader conception of need based on a new definition of 'additional needs', covering children's contextual needs which will affect their learning, as well as developmental needs.⁸

A child whose learning is disrupted by housing instability, bereavement, having a parent in prison, or experience of domestic abuse does not fit neatly into any of the five areas of development, because these are circumstantial rather than developmental conditions. *The Children's Plan* found that 60% of mainstream schools could not report how many children had experienced bereavement, 62% could not report on how many lived in unsuitable accommodation. If they get any help at all under the current system, it is because these children are currently squeezed into SEND categories that do not fit them. The new areas of development do not seem likely to resolve this problem.

The CCo offers qualified support, therefore, with one recommendation in this section:

1. The refreshed areas of development are a necessary improvement to the SEND-specific framework, but they should be accompanied by a broader additional needs framework that encompasses the full range of barriers children face. This should link to needs arising from those barriers into the areas of development, and be taken into account during the development of the new evidence base for the areas of development.

Q9. What arrangements would best support effective joint working between early years providers, Best Start Family Hubs, health, local authorities, and parents for children with SEND in the early years?

As the CCo has set out multiple times, the single most important intervention that the government can make in this regard is the speedy implementation of an ambitious vision for a single unique identifier for children.⁹

Schools, like wider children's services, often struggle to provide the support children need because they don't have a clear understanding of their situation.

This was clearly set out in the CCo report *The Children's Plan* that even relatively easily identifiable, clear, and ongoing needs – such as having a parent in prison – are often not shared with schools.¹⁰ Our hope is that the Unique ID opens the door for a new era of data sharing where the data impacts children.

It should not be the job of schools to collect this information, or of children or their parents to have to keep repeating it. A Unique ID would require input from across services, and mean less, not more, data

collection for schools. The system would allow, for instance, the imprisonment of a parent to be noted on a child's ID by the justice system, with a portal for schools to access this information. One outcome would be reduced time for school pastoral leads trying to find out what is happening at home, and instead simply accessing the portal. The successful roll out of the new Unique ID is fundamental to building an education system better equipped to support children with a range of additional needs.

This new Unique ID system should help systems to work together for the betterment of children's lives, and via enabling better working across services, allow for a shared accountability framework for children, focused on their outcomes, that brings together health, education, and social care.

Q10. How can the early years foundation stage (EYFS) two-year old progress check and the Healthy Child Programme development review be improved so that children's needs are identified and supported more quickly? Please share examples.

While EYFS guidance sets out that reviews should be integrated where possible, there is very limited data about how often this is happening – evidence from 2020 suggests that it is rare.¹¹ For every child receiving funded early education provision, their reviews should be integrated and data should be collected on how frequently this is happening. In order for these reviews to be jointly carried out in person, health visitor numbers must be increased to ensure reasonable caseloads.

EYFS is a very broad stage of education, looking at a range of outcomes for children. This makes it a highly useful place within the school system to set a cultural expectation that children will receive something that looks like the universal offer – school level interventions – as they begin their educational journey.

In addition, the roll-out of a Unique ID is critical for ensuring that data on children can be joined from their two year check to their EYFS Profile and later educational outcomes. This kind of data join-up is essential for evaluating the effectiveness of the check at correctly identifying needs and putting in place support, and for improving it based on this evaluation.

Q11. What should the top three priority areas be for building and sharing evidence within the National Inclusion Standards?

The National Inclusion Standards should take mass application as their primary basis, and as such should cover:

1. Clarity: A clear definition of SEN that is consistent across all areas, built on a new SEND code of practice
2. Access: Availability of provision to all children
3. Quality: Established understanding of best practice

The Children's Plan found that schools' use external partners to provide resources, which raises potential questions about cost, quality and consistency, commissioning structures, and the level of regulation and oversight. 30% of secondary schools had external provision for their mental health counsellors, and standards must apply to internal and externally provided services.¹² National Inclusion Standards must address this directly, and support schools across England with new commissioning guidance for external provision.

Q12. What are the most important issues for national training to cover, to help support children and young people with SEND?

The most fundamental and most neglected training need across the workforce is a clear, shared, and legally grounded understanding of what constitutes special educational need, how it relates to but differs from disability, and what the graduated response actually requires in practice. Teachers may not be confident in this, particularly given that definitions and thresholds for SEND are contested. Regardless, teachers should go into every lesson with a complete and secure understanding of what SEND is, and how it might manifest.

They should receive training on the relevant areas of development, and how they might relate to weaknesses in their subject or Key Stage.

Some of the training will not necessarily be SEND-specific. Improving practice around pedagogy will help children with SEND, but it will also be useful for almost every child. Quality-first teaching, with high expectations for both pupil outcomes and their own professional practice, is within every teacher's remit. National training must give teachers the knowledge and confidence to develop their practice. Of course, not every need can be met in a mainstream classroom, but that does not mean that high quality teaching should not be the first lever that schools reach for when considering how to help children with SEND.

There should be clear delineation between a 'ordinary' classroom teacher a SENCO or specialist. However, there should be training on the manifestations of the most common form of SEND. At the moment, that is Speech, language, and communication needs, though this may change in future. National training must give all staff a working understanding of how language difficulties present, how to adapt communication in the classroom, and when and how to refer for specialist support.

Finally, the evidence shows that transitions, especially from primary to secondary, are the points at which children are most likely to experience disengagement from education.¹³ Work is being undertaken by the EEF to consider how to ameliorate this.¹⁴ For all pupils, but especially those with SEND, transition planning is hugely important and should be built in to teacher training as an essential professional skill: how information is transferred and used, how relationships are built before a child moves setting, how receiving institutions adapt their practice for incoming cohorts with identified needs, and how the first weeks in a new setting can be designed to establish rather than destabilise. As referenced elsewhere, and highlighted in the Commissioner's College census report, post-16 transition also deserves specific attention given the issues with data sharing in the transition from school to college.¹⁵

Q14. How should the Special Educational Needs Coordinator (SENCO) role evolve to better meet the needs of children and young people with SEND?

One of the key differences between the existing system of SEND provision and the proposed new system is the evidence base and the proposed adherence to the evidence base. As such, the SENCO role should move further towards one of growing expertise, where the SENCO role is as the conduit for evidence from the national evidence base, with real expertise in evidence synthesis, the APDR cycle, and strategic overview of SEND provision.

The Children's Commissioner's *Children's Plan* shows that around one in ten primary schools and almost one in five secondary schools have one member of staff who acts as the SENCO, DSL, and Mental Health Lead.¹⁶ The Government should stipulate that going forward, the SENCO should be one role wherever possible. All of the above roles are important. While having one member of staff cover them can theoretically mean one single source of support within schools, all of the above roles are significant enough, especially in the context of an explicitly more inclusive mainstream education system, to be more than enough for a single member of staff.

Q15. What would provide assurance for families that an Individual Support Plan (ISP) is high-quality and contains the essential information?

The issue of individual ISP quality is more of a systemic issue. A 'quality' ISP is simple – it is a document that is accurate, reflects the child's actual needs, and proposes a course of action that is rooted in the best available evidence, and that actually occurs. One of the fundamental issues with the existing system of SEND support is that documents promise much and the system delivers little. A key part of rebuilding trust in the system is that children and their families must see tangible improvements. 100% of a medium-sized package of support is better than 0% of a large one.

Much of the proposed reforms' improvements are based on the establishment of an improved evidence base that is more systemically applied. Families may be reassured by the existence of this new evidence base. Some of them might take longer to feel reassured, but come to see the improvements that it brings. At all points of this process, families and children must be brought along. Schools should both listen to children directly, as set out in Q1, when making their plans, but also take the time to explain to parents the evidence behind the interventions that they are deploying, as well as take the time to discuss previous interventions that may not have worked.

Containing the essential information is something that should be improved on in the new system. The blockages and failures of the current EHCP system means that many of them contain information that is simply untrue, or woefully out of date.¹⁷ ISPs should fix this problem. They should be accurate and more frequently updated than EHCPs. On the topic of assurance, given the low level of systemic trust, this review process should focus relentlessly on delivery, not ambitious timeframes. As an example, it is

far better to offer a review every 6 months, and deliver on that timeframe every single time, than it is to say it will be monthly and rarely hit that level.

The CCo recommends:

1. ISPs are regularly updated, with a very clear timeframe for review that is consistently met, with focus on the ability of schools to realistically meet any proposed timeframe.
2. ISPs are accurate, and children and families are involved via increased child voice mechanisms (as referenced elsewhere) to ensure that they are accurate.
3. ISPs contain both a child's needs and the results of existing APDR reviews, so there is a clear trail of what interventions have been tried and what a child has benefited from.
4. ISPs contain a short overview of the purpose of interventions, and why interventions have been approved. These overviews do not need to be exhaustive, but should provide families with a concise snapshot of what is going on, so that they can discuss it with their child's school or SENCO if they wish.

Q16: How can we ensure Individual Support Plans are clear, concise and practical for professionals to use?

The single most useful thing that the Government could do in this regard is to implement the vision of Unique ID set out in *The Children's Plan*. This would reduce the volume of manual data gathering about children's lives that professionals would have to do, as well as introducing a host of new data that is not currently available or considered when looking at how to approach educational support. Right now, a professional has no way of knowing for certain that the pupil in front of them has disengaged from learning due to some sort of unmet need, or because their mother has just died, or their father arrested at the family home. By widening the scope of the information given to professionals and reducing friction in data gathering, Unique ID would allow for better, quicker, more informed decisions.

Q17: How can we best support transition for young people with SEND, so that they are well supported into post-16 provision and further education, training or employment?

The automatic backstop of a place in college as outlined in the post-16 white paper needs to be supported by timely information sharing from schools and local authorities so colleges can meet their young people's needs. In addition, local authorities should ensure adequate review of EHCPs in preparation for transition out of school, ensuring it is up to date, relevant and shared with colleges. This review should be triggered by the first day of Spring term in Year 11.

In addition, there should be greater joint working between mainstream schools and colleges, as set out in the recent Children's Commissioner's College Census report.¹⁸ This will both improve transitions between KS4 and post-16 options, and allow for colleges to work with mainstream schools to share best practice and work together on broader curriculum options where those are appropriate for learners, especially those supported by the Targeted Plus or Specialist tier.

Q18. How can we make sure that every area can meet the full range of the needs of children and young people through Inclusion Bases?

This question has been answered via some of our other responses. The most important thing that the Government should do in this regard, however, is to make clear which pupils can be reasonably supported through Inclusion Bases, and thus will be, and which children will not.

The main benefit of the approach will be consistency and efficiency - by setting out what provision should be available, what is evidence based, who should pay for it, and doing workforce planning. Settings and areas should be supported to meet vast majority of needs in inclusion bases.

Q19. How can we make sure that Inclusion Bases help children and young people succeed in mainstream settings?

The first and most important element of these bases will be the hardest to ensure – namely, that high expectations are maintained for every child who enters them. The biggest risk, and one that the DfE must be cognisant of, is that Inclusion Bases cannot be lower standards environments. There must be strong links with mainstream classes, active reintegration wherever possible, and an Inclusion Base must never be the default for any lesson. There is no reason why, for instance, a child cannot do their English lesson in an Inclusion Base, to access SaLT and additional teacher time, and then Maths and Physics in a mainstream classroom.

There must, therefore, be a *presumption to mainstream*. In the above example, the child has speech and language needs, with reading proficiency far below expectations for their age. The role of the Inclusion Base is to improve this child's reading and in doing so ensure that children can access the high-quality classroom practice delivered via the Universal Offer.

There is currently no specific enforcement mechanism for parents under the proposed changes, with global accountability occurring via Ofsted inspections. This places huge amounts of pressure onto Ofsted for the reforms to work.

The second - a reactive say - refers to the ability of children and their families to seek redress when the system does not deliver acceptable outcomes. This is an area of concern for the CCo.

Under the current system, regulation 43(f) of the Special Educational Needs and Disability Regulations 2014 states that the SEND Tribunal has the broad power to “continue to maintain the EHC Plan with amendments...so far as that relates to either the assessment of special educational needs or the special educational provision and make any other consequential amendments as the First-tier Tribunal thinks fit”.

This is set to change under the proposed reforms. As the White Paper sets out: ‘Parents and young people will be able to appeal to the Tribunal against a decision that the child or young person has not met the threshold for one of the new Specialist Provision Packages, and therefore an EHCP. Parents and young people will also be able to appeal for a decision from the Tribunal if they believe that the package

identified for the child or young person would not provide sufficient or suitable support and that they should have a different package.

In short, tribunals will have their powers significantly changed to a 'quashing' function.

Clearly, the existing system is not working. A new system that hews more clearly to established evidence bases is a positive outcome for children and young people, and it seems highly likely that under the existing system, there are extremely poor and badly evidenced interventions occurring.

A large part of the failure of the existing system is cultural. The Children's Commissioner has heard from children about their sense that the existing system has too few consequences for failure.¹⁹ The failure rate for local authorities at tribunal varies, but has not been below 95% for years.²⁰ The tribunal system has shifted from being a forum for redress to effectively a constituent part of the system's process for many children and their families. This is a structural failing within the existing system.

However, the tribunal's theoretical role - that is, as a function to allow challenge to provision - is a good one. Given the low base of trust that these reforms start from, the obvious gap in 'having a say' is for children who will receive ISPs and sit within the Targeted or Targeted Plus layers. Targeted Plus is of particular interest here, as it will comprise two groups of children: those who might have needed an EHCP to get support under the current system but did not get one, and those who have an EHCP now but will not under the current system. For the latter group, the lack of clear accountability and redress relative to their existing provision may be an area of concern, and as such the CCo recommendation is:

- 1) Empowerment of the Local Government and Social Care Ombudsman to look at cases where parents of children receiving Targeted Plus support have issues with decisions made about their children's education. There should be a backstop for the new system, to allow for a sense that, as the evidence base builds, redress is not being removed. If the Government is confident that a new evidence-focused approach will yield positive results for far more children (a position the CCo does not dissent from), then it must allow parents the ability to challenge decisions robustly while this system is put into place, with faith in the evidence presumably meaning that in the medium-term, parents will not need to use it.

There are also legacy issues with the proposed changes, as Inclusion Bases will likely serve a mixture of children who may have had an EHCP under the current system, children who may have been educated

in Alternative Provision (AP) under the current system, and children who would have received no support under the current system.

Many children in AP have SEN, indeed in 2024/25 78% of local authority arranged AP placements were due to 'setting named on EHC plan'.²¹ Despite this, there has, notoriously, been no clear national plan for AP. The purpose of AP is not clear, and the outcomes are suboptimal.

There will need to be a clear vision for what the purpose of Inclusion Bases is. Existing practice in some schools often currently includes 'Inclusion' areas that have a multi-functional use, and as such serve no child particularly well. Special consideration must be given to ensure that Inclusion Bases do not continue this. Children should be interacting with Inclusion Bases on a purely proactive basis, for instance for interventions around learning or behaviour, or due to exhibited needs. They should not, under any circumstances, be used reactively in response to poor classroom behaviour. Schools may wish to have a separate space for this, but it must not be the Inclusion Base.

Q20. Through the Experts at Hand offer, we want to ensure that mainstream settings can get quick specialist support for children and young people.

What arrangements are needed between local area partners (education, health, social care) to deliver this Experts at Hand offer effectively?

Unique ID, as proposed in *The Children's Plan* is the single most important factor in ensuring that various elements of the state can work together for the betterment of children's outcomes. Insufficient data sharing regarding children's lives and needs is frequently cited in a range of negative outcome reviews, and this kind of reduced friction in data sharing would allow the services children interact with to actually understand their lives.

The Children's Commissioner has said elsewhere that 'school is where children are, where they should be, and where they most want to access support'. This is true, but not all children are in school, and school isn't always going to be the place where support is accessed or recommended. As such, there should be one single referral route, or single referral platform, that all the above services have access to.

There should be an element of proactivity built into the work of Experts at Hand. In some cases, this might mean information cascading – proactively helping schools who are reporting or anticipating a spike in children with sensory needs to consider their classroom environment or create a more predictable learning environment, for instance. In other cases, this should mean early intervention – not in the context of the child’s life but rather in terms of how soon after a problem is suspected that identification and intervention occurs.

Joint working by various actors in the system would also benefit from a joint commissioning framework, as most recently set out in the Children’s Commissioner’s report on children waiting to leave hospital.²² The Department of Health and Social Care (DHSC) and Department for Education (DfE) must develop a joint commissioning framework for ICBs, local authorities and schools to ensure flexible commissioning and the effective delivery of services. In time the funding for these commissioned services should come from a joint fund established for children with complex needs by DHSC and DfE. Joint commissioning should allow for children’s care and support to follow them across settings – from home, to school, to hospital, with mandated funding contributions from both sides.

Q21. What needs to be in place so that children and young people with low incidence, highly complex needs can always access the right specialist placement?

Wherever possible children with highly complex needs should be given automatic EHCPs. This should be the case for both children with highly complex, low incidence needs, and comparatively higher incidence, lower variance needs (for instance, Down syndrome). These plans should still be subject to review to ensure that children are getting best possible provision for them.

The special sector is a vital part of our education system. Naturally, mainstream should be inclusive, but there are some children who will not have their right to an education met if they attend a mainstream school – moreover, they might not be able to attend one simply due to the complexity of their health needs.

As stated elsewhere in this consultation, the special sector must not be treated as a secondary, junior partner to the mainstream schools of England, but instead viewed as an essential part of the ecosystem, as a hugely important sector that allows children to have their fundamental, non-negotiable right to an education met. Special schools should be places that feel safe, enriching, and supportive for children, as

every school should. They should provide the best possible education for children who attend them, with high standards and expectations.

This work should be supported by the establishing of a joint statutory fund for children with the most complex needs, as set out by the Children's Commissioner's recent report on children waiting to leave hospital.²³ This should be delivered at a regional level, through Regional Care Cooperatives (RCCs). As RCCs are rolled out across the country they should align with the footprints of the newly reorganised ICBs which in turn should be part of the RCCs.

Q23. We propose that EHCPs will guarantee educational provision set out in a Specialist Provision Package, with day-to-day provision captured in Individual Support Plans.

What is needed to make these proposals work effectively?

Various commentary on existing EHCPs are clear that they can be very poor documents.²⁴ They can have copy and pasted sections, the wrong child's name, or provision the child has outgrown or never needed.²⁵ As such, an EHCP that serves as a legal underpinning, with a more reactive ISP that allows a child's need to be captured and responded to, could be a better system.

The fundamental question is whether ISPs will carry genuine accountability. They must not become the new SEN Support: under-scrutinised and inconsistently delivered. The Commissioner's position is that ISPs must carry a clear statutory duty on settings to implement, review, and update them, rather than simply producing them.

This is also another use case for the Unique ID and shared digital platform the Commissioner has consistently advocated for. Without a shared data infrastructure, vital information cannot be shared between agencies, and children's support records are routinely lost at transition points. A digital ISP is only as useful as the system that ensures it is accessible to every professional who needs it.

Q24. We propose creating a more direct route to Specialist Provision Packages and EHCP assessments for children under 5 with complex needs.

How can we make sure this works in practice?

There are some conditions that the system knows about, and can make an informed and reasonable assumption that children with that condition will have difficulties in certain areas – for instance, children with Down Syndrome will usually present with gross motor dysfunction.²⁶ Children with clearly identifiable and understood conditions, such as the most common trisomy disorders, should receive an automatic EHCP.

As stated elsewhere, allowing data on children to be joined from their two-year check to their EYFS Profile via a Unique ID is critical for evaluating the effectiveness of the check at correctly identifying needs and putting in place support, and for improving it based on this evaluation. For children with specific health needs at an early age, this kind of data sharing would be hugely useful.

Q25. What would you expect to be considered as part of the needs assessment, for example evidence and expert or professional input?

The child's own account of their experience, needs, and aspirations, structured age-appropriately and supported by an advocate or communication specialist where needed, must be a part of the input process. This can be complemented by parents' and carers' full account of the child's needs.

Evidence from all settings the child attends, not just school. For all children, it should include any health settings where the child is known due to regular treatment. For pre-school children this must additionally include childminders and early years settings.

There should, naturally, be multi-disciplinary professional input: educational psychology, speech and language therapy, occupational therapy, paediatric assessment, and others included consistently where appropriate to a child. Not all of the above need to be involved for every child, but none should be off the table. The list should be led not by local availability or capacity but by child need. These professionals can and should be commissioned via Experts at Hand.

The most important element, however, should be the voice of the school, or any other institution that can provide evidence of the child's previous response to interventions and support. The most important thing for children is that their plans travel with them, but also that the evidence of what has been tried before does too. All assessment must be built on the back of this graduated response from APDR cycles, rather than from scratch.

The success of any needs assessment will depend as much on the clarity of what is being assessed as much as the process of assessment. Children, families, and professionals will need to be supported by a clearer definition of need in any new assessment process.

Q26. What factors should LAs take into account in proposing to parents and young people a list of potential settings to name on a plan?

The child's own expressed preferences should be taken into account for any and all decisions regarding their education.

Proximity and transport are factors, particularly for children with sensory or anxiety-related needs, where long or unpredictable journeys can undermine the effectiveness of any provision.

As recommended above, there should be clear data on outcomes for proposed settings, their attendance, exclusion, and outcome data for children with similar need profiles, and this should be published and made accessible so that parents can make genuinely informed comparisons.

Q27. What information and support do parents need to make a decision about which setting will be best for their child?

Parents need two things above all: accessible information, and independent support.

Parents cannot make meaningful choices without knowing two things – firstly, what are their child's needs, and secondly, what does each setting offer for children with their child's specific need profile. To secure the first, parents need an accessible digital record of their child's needs, as part of a Unique ID platform, and a working understanding of what is best for that particular need, or a brief overview of the evidence – again, digitally accessible and plainly put. For the second, parents need each proposed

setting's outcomes data for children with similar SSPs, published in plain language, information about specialist staff ratios, therapy provision, and physical environment, and what proportion of children feel safe, supported, and have something to do that they enjoy at school.

Parents will also need access to independent advocacy and support to navigate the process. The SEND system is often experienced by families as adversarial, and via her Help at Hand service, the Children's Commissioner has seen first-hand how important advocacy is for children and their families.¹ Too often, the systems in front of them are something families must fight rather than a service they can trust. SENDIASS (Special Educational Needs and Disability Information, Advice and Support Services) must be adequately funded and proactively offered to every family at the point of receiving a list of settings. The remit of the Children's Commissioner should be expanded to include children with a named setting on their SSP, to allow Children's Commissioner's office staff to advocate for these children and make representations on their behalf at an individual level.

Q28. What do you think is the right maximum length of time for a temporary placement in Alternative Provision (AP) schools? Please explain your rationale.

The CCo does not have a fixed position about the specific length of time and is open to other expert views on the specific time period best for temporary placement.

The problem with the existing system is not overly long maximum lengths, however, but rather that there is simply no enforcement of set times. Unregistered AP is currently intended to be used as part-time, short-term placements for children who have often disengaged from mainstream education. Yet the average placement lasted 276 days, or 39 weeks, and placements for children with EHCPs were longer term on average than other placements.²⁷ In short, if the Government does not define 'temporary', or does not have a clear plan for enforcement, then placements will not be temporary.

¹ Help at Hand is the Children's Commissioner's advice and assistance service for children in care, children who have a social worker or are working with social services, children living away from home and care leavers. The Help at Hand service publishes annual reports on their work, all of which can be found on the Children's Commissioner's website.

The question is therefore not about what the ideal duration is, but about what oversight and enforcement structures can make any duration limit real.

The CCo recommends that the registration, regulation and national standards framework for AP settings, that the Commissioner called for in July 2025 must be implemented as a precondition, and a clear framework for enforcement set out by the Department for Education for any settings, LAs, or educational groups (such as MATs) who breach the set duration.²⁸

Q29. We have set out our plans to regulate Independent Special Schools (ISS) sector.

Do you agree that these proposed changes will lead to suitable placements being available at a fair cost? Please explain why.

This entirely depends on other actions. The CCo view is that the existing ISS sector provides a fundamentally important public service, and educates many children who need highly specialised provision in their education.

There is also profiteering in this sector, which is an affront to children's rights perspective and a highly inefficient use of public money.

Children who require specialised provision should receive it. Whether that happens via the existing ISS or via state-managed institutions is for the government to decide, but the goal of government should be a state system that can meet the needs of every child in England. If the government wishes to move away from utilisation of the ISS, then the mixed model set out for social care in the 2022 Independent Review of Children's Social Care (henceforth the 'Macalister Report') offers a basis for state intervention in the existing market for special school places. The Macalister report recommends utilising a mixed tax and investment model to, over a sufficient timeframe, phase out private provision and introduce new state capacity in social care, a model that seems replicable in the SEND system.²⁹

If the ISS continues to be a major vehicle for children to receive their education, then this sector should be regulated. Where placements are funded by the state, that should be done through regulated prices with clear accountability mechanisms. If this is predicted to, or does, result in market exit from existing

providers then the DfE should publish a plan setting out how they intend to replace this capacity or otherwise ensure that the children attending these settings would be/will be educated.

Q30. How should settings be held accountable for how they spend their Inclusive Mainstream funding?

The CCo considers the Inclusive Mainstream Fund (IMF) to be a hugely welcome investment into English mainstream education. In many ways, the ambition of the fund echoes the call of the Children's Commissioner in *The Children's Plan*, to move towards a system where children simply receive support with any additional needs that they have as part of a properly resourced education system, rather than being forced down a path of diagnosis.

The Government's Inclusion Strategy requirement asks schools to report on how they deploy their IMF; in other words, to tell the Government what they spend it on. But there needs to be a much greater focus on how effectively they are spending it. The CCo, however, is concerned about some of the downstream impacts of this approach.

As such, the IMF's success should be measured via tangible outcomes. The CCo recommends that Inclusion Strategies be required to include measurable outcome commitments against at minimum:

- Attendance rates for children with SEND or additional needs, reported separately from whole-school figures.
- Rates of exclusion and internal isolation for children with SEND, including informal exclusions.
- Attainment progress for children in the various subcategories of SEND need (like School Support) at key stages.
- Rates of persistent absence for children with SEND.

This must also be subject to external scrutiny via Ofsted. The inclusion judgement that is part of Ofsted's framework must explicitly assess how IMF has been deployed and whether it has made a measurable difference to outcomes for children with SEND and additional needs. This requires Ofsted inspectors to be trained specifically in SEND inclusion, and inspection toolkits must include outcome data analysis

alongside observation and document review. As part of inspections, whether schools' IMF spending is evidence-based should be assessed. This can include testing and evaluating promising practice on which rigorous evidence is not yet available, if outcomes are positive. The overall emphasis should be on outcomes.

This methodology can include adherence to third party research, and children's outcomes must be the priority metric over all other considerations.

Q31. Do you agree that more SEND funding should sit directly within mainstream budgets? Please explain why.

For all the concerns around the growing rates of SEND identification in schools, it is easy to forget that a higher proportion of pupils were identified by schools as SEND in 2010 than they are today. In 2010, the figure sat at 21.1% of all pupils.³⁰ Today's rate is 19.6%.³¹

The current system creates perverse incentives that work against children. Top-up funding puts a clear incentive on schools to identify need, and to say that they cannot meet that need through existing provision. In turn, this creates adversarial dynamics between schools and local authorities. Schools are motivated to say they cannot meet need. Local authorities are motivated to say they can. This argument then goes back and forth, with children stuck in the middle of it.

A system in which more funding sits within mainstream budgets, with schools genuinely resourced and expected to meet a wider range of need as part of their core offer, has the potential to meaningfully change this dynamic. Moreover, it could also encourage the kinds of approach set out throughout this response – namely, that really good teaching delivered by great, highly motivated teachers is the best thing for most children.

The first thing that will need to be ensured is the level of resource available to schools. If the quantum of funding does not meet the level of responsibility to provide placed upon a school, then this will leave schools having to make very difficult decisions, and children no better off. As such, the Government must ensure that the quantum of funding is appropriate to what the system needs.

In addition, there will have to be a clear decision made around how this funding's impact is measured. Funding that sits within mainstream budgets is harder to trace to individual children than funding

allocated through EHCPs and high-needs top-ups. Many heads, or MAT leaders, in England have considerable autonomy. As seen with Pupil Premium, top up funding often just gets used to plug holes in the budget elsewhere, with the Sutton Trust reporting that just under half of schools have to use their Pupil Premium in this way.³²

The CCo therefore recommends that:

1. Any reform that moves more funding into mainstream budgets must be accompanied by robust requirements for schools to account for the outcomes they have achieved for children with SEND. The CCo would support a requirement for this information to be published in a form that is accessible to parents and carers.
2. The specialist sector must be protected and properly funded in parallel. Moving more funding into mainstream budgets must not be accompanied by the assumption that demand for specialist provision will fall commensurately, or that specialist settings can be repositioned primarily as resources for mainstream schools rather than as providers of education in their own right.

Q32: In relation to pooled funding, we propose that every school becomes part of a local SEND group.

Do you agree that this proposal aligns with our aim for all schools to be part of high-quality, community-based trusts?

There is insufficient detail about how 'all schools to be part of high-quality, community-based trusts' will be achieved to offer a full answer.

Q33: How should disagreements about membership, provision, or funding in groups of schools for SEND be resolved?

In *The Children's Plan*, the Children's Commissioner recommended that: 'There should be a Director of Education for every local authority, who would lead on commissioning wider services to ensure that every child in an area can access education in that area, keeping young people within the areas they

live, and reducing reliance on out-of-area placements.’ This function would work with local health services, and Directors of Children’s Services – to ensure provision of special and residential school places. These Directors should be empowered as statutory officers alongside DCSs, with the capacity and authority between these two roles to:

- Manage admissions to special schools.
- Ensure sufficient provision in their area.
- Lead on attendance and school engagement in their area.
- Support and intervene where needed in system planning, such as in early years education, school places, SEND, and Early Help.
- Manage the Virtual School’³³

This role should be implemented and play a key part in local SEND group planning, with disputes resolved by the Director of Education.

Any dispute about membership, provision, or funding within a SEND group must be subject to a maximum 30-working-day resolution window at group level, with automatic escalation to the local authority and then to the regional Schools Commissioner if unresolved. During any active dispute, provision for affected children must continue uninterrupted, to avoid disputation becoming a mechanism for reducing costs.

Q34: How can we ensure the most effective use of these local partnership groups?

There are two benefits to grouping schools together, when it works well. The first is that the group can become a layer that absorbs administrative burden, taking various pressures away from frontline services and individual schools. The second is that these groups can act as engines of school improvement, agreeing on ethos, setting a culture of aspiration, and sharing learnings as they emerge.

There can be considerable variance in deprivation within a relatively small geographical area, with Kensington and Chelsea’s in-borough inequality one example of this.³⁴ *The Children’s Plan* found that provision of educational psychologists, speech and language therapists, school nurses, and mental

health counsellors varies across the country by region, but also, crucially, by deprivation level.³⁵ Local SEND groups could address this directly, by collectively commissioning specialist staff, sharing expertise across schools, and deploying specialists where need is greatest rather than where individual school budgets happen to be largest. This is the most practical and immediate value the group model could deliver, and it should be the primary focus of group activity in the early years of implementation.

Q35. Which stakeholders are important for the success of local partnership groups, and why?

The Commissioner's position for some time has been that a child's experience of the UK state is only ever as good as their worst interaction. It is no good for a child to have good healthcare and a mould-wracked home and failing school. This was demonstrated by *The Children's Plan*, which documented clearly how children's needs cross institutional boundaries between education, health, social care, housing, and family support.³⁶

A SEND group that operates only within the school system will not be able to meet the needs of children whose barriers are not primarily educational. Education being formally recognised as the fourth statutory safeguarding partner is a recommendation from *The Children's Plan* that would establish co-operation on safeguarding, and this could set a cultural basis for working together that paves the way for further working. As referenced earlier in this consultation, health and education in particular should work together to ensure that the needs of children are met, and with the outcomes of children at the core of this joint work.

The Commissioner's Help at Hand casework shows that parents experience the SEND system as adversarial, with poor communication from local authority SEND teams and push back from schools who do not feel that they can meet a child's needs common themes for Help at Hand casework.³⁷ As referenced multiple times across this submission, there is very little faith in the system from parents and children, and as such, they are key stakeholders. Parent Carer Forums already exist in every local authority and have significant lived experience of education and SEND systems. They must be full members of local SEND groups, with access to the same data as professional members, and with protected time and resource to participate meaningfully.

It stands to reason that mainstream and special schools will be part of these groups, but the CCo recommends that Alternative Provision and EY providers should also be included. As shown in the Commissioner's work on alternative provision, AP is effectively a 'shadow SEND system' in many cases.³⁸ As such, it should be brought in as a key stakeholder for local partnership groups. EY providers should also be present, because late identification is one of the most expensive and damaging features of the current system.

Q36: How can we build stronger collaboration and a culture of improvement through local SEND strategic plans?

The Children's Plan provided the most comprehensive national picture yet of what is actually happening in schools in terms of the support provided to pupils and top concerns of schools, and it showed that good intentions and published strategies have not prevented a system in crisis.

The new SEND system should mean a clearer understanding of children's needs, of what provision should be available at each level of support, of what works. That means that within local areas, strategic plans should focus on delivery and meeting needs within tighter parameters of what support children are entitled to.

That will be further supported by a clear outcomes framework, similar to how Government has looked at social outcomes contracts in other areas. As referenced elsewhere in this consultation response, the focus must be on children's outcomes rather than system inputs. Too many existing local SEND strategies are structured around what agencies will do, rather than what children will achieve. A strategic plan that builds a culture of improvement must start from a clear, publicly stated ambition for children's outcomes and work backwards from there. Outcomes could include:

- attendance rates,
- attainment at key stages,
- rates of exclusion,
- rates of persistent absence,

- transition outcomes at Y6-7, Y11+, and Y13+,

All providers in an area should have to contribute to local approaches to information sharing. Local SEND strategic plans should include a formal knowledge-sharing function: peer reviews between schools, shared CPD, joint practice development sessions, and clear links, facilitated by Government, to What Works evidence as it becomes available. The framing set out in *The Children's Plan* is instructive here, as the Commissioner called for the same level of rigour underpinning pastoral and SEND support as exists for pedagogy, with evidence review and generation undertaken by What Works centres.

Q37. What information, advice and guidance can best support children, young people and their families to ensure greater fairness across the system?

The most important thing that can ensure fairness is knowledge. It is hard to have an opinion on that which you know nothing about. A balance must be struck between ensuring that parents and children have enough knowledge to meaningfully have an opinion on their SEND provision, while not expecting children or their families to become self-taught experts on SEND.

Helping people to navigate state systems without needing to be experts is what a good advocate does, and advocacy is used elsewhere, for instance children in care.³⁹ The Government should extend an opt out model of advocacy provision to all children who receive support via the Targeted Plus, Specialist tier, or have an EHCP. To facilitate this, the Government should establish a new independent, national advocacy service to ensure genuinely independent and high-quality advocacy for children and young people, with a minimum qualification standard for non-instructed advocates. As well as teaching advocates about the legal framework for children's rights, non-instructed advocates should be trained in how to support children with complex needs and disabilities.

As such, children and their families should have access, at a system level, to data on waiting times and SEND outcomes across their area, compared to both:

- the national average, and
- their area 5 years ago

This will allow them to understand both where their local area sits in relation to the rest of England, and the direction of travel, and allow them to make an informed decision about if that is acceptable and hold local decision makers to account.

They should also have access, at a personal level, to:

- Short, clear explainers on how and why decisions were reached around what provision applies to their child. This should include, as it would for a medical intervention, discussions around pros and cons, and the strength of evidence.

Q38. Do you agree that a SEND specialist (e.g. a SENCO) should sit on the school complaint panel, when the complaint relates to SEND support and provision?

Please explain why.

Yes, with qualifications.

Existing provision is sometimes not well-evidenced, and some existing interventions have very weak evidence bases.⁴⁰ Moving to a better evidenced system is a real positive, but for many parents and children this may well be experienced as a loss, if it means the cessation of existing provision. The SENCO should be the person in the school system best able to explain the approach taken by the school and the evidence base behind their and the school's decision.

As such, a SENCO's presence is crucial, to ensure that children and their families have the best possible chance of understanding why decisions around provision have been made, the likely outcomes of various interventions that a school may choose to draw from, and the rationale behind any changes to interventions that a child may experience.

As referenced above, the CCo view is that efforts should be made across the system to ensure that at all points, children and their families understand the decisions that have been made around the evidence applied to SEND interventions.

However, panels should not be sole vehicle through which all complaints are addressed. Local authorities can incur costs in contracting independent people and panel members to support delivery

of the process. There can be trouble getting enough panel members. All of this makes for a costly and less efficient panels process. The very act of a panel process often means people recounting distressing things in front of different people. Moreover, panel discussions could be viewed as adversarial, a dynamic the SEND system would do well to consciously design out where possible. A first port of call would be a robust and resourced complaints process, based on the Complaint Handling Code set out by the Local Authority and Care Ombudsman.

Q39. This consultation outlines a series of measures intended to reform the SEND system. Some of these measures have already been finalised, and this is clearly indicated within the document.

With this in mind, is there anything further you would like to contribute to help inform the remaining proposals that are still under consideration?

No.

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**11th Floor, 64 Victoria Street
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