

Education Committee

Oral evidence: [Special Educational Needs and Disabilities \(SEND\)](#), HC 1248

Tuesday 28 March 2023

Ordered by the House of Commons to be published on 28 March 2023.

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Members present: Ian Mearns (in the Chair); Caroline Ansell; Miriam Cates; Mrs Drummond; Anna Firth; Nick Fletcher; Andrew Lewer; Mohammad Yasin.

In the absence of the Chair, Ian Mearns was called to the Chair.

Questions 1 - 41

Witnesses

I: Mike Hobday, Executive Director, Policy and Campaigns, National Deaf Children's Society; Dr Nicola Crossley, CEO, Liberty Trust and SEND Representative, ASCL; Tim Nicholls, Head of Influencing and Research, National Autistic Society; and Dr Daniel Stavrou, Assistant Director for Education, Council for Disabled Children.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Examination of witnesses

Witnesses: Mike Hobday, Dr Nicola Crossley, Tim Nicholls and Dr Daniel Stavrou.

Q1 Chair: Good morning and welcome to the Education Select Committee. The Chair, Robin Walker, sends his apologies; I'm afraid he is unwell. Today's session is a non-inquiry session examining the Government's SEND improvement plan. We will be hearing evidence from four witnesses this morning. I ask the witnesses to introduce themselves, beginning with Daniel, please.

Dr Stavrou: Thank you. My name is Daniel Stavrou. I am Assistant Director for Education at the Council for Disabled Children, but I should say at the outset that today I am here in my capacity as Policy Vice-Chair of the Special Educational Consortium. We are a membership group of organisations in the sector, including trade unions, disability charities and parent carer groups. In fact, two of my colleagues over here today are SEC members.

Dr Crossley: Hello. I am Nicola Crossley, the CEO of a small multi-academy trust for specialist schools, but I am here today as the SEN representative for the Association of School and College Leaders.

Tim Nicholls: My name is Tim Nicholls, and I am the Head of Influencing and Research at the National Autistic Society.

Mike Hobday: Good morning. I am Mike Hobday, and I work for the National Deaf Children's Society as Director of Policy and Campaigns.

Q2 Chair: Just for ease, is it okay if members refer to you by your first names? Thank you very much indeed. The purpose of a session such as this is to gather evidence from stakeholders. That helps us to frame the evidence and our questioning for Ministers at a future stage when we are talking about the subject. That is what we are here for this morning, so good morning.

My first question is: what do you think are the biggest issues facing the SEND sector, and will changes proposed in the Government's SEND improvement plan in early March tackle them?

Mike Hobday: I think the Government's improvement plan lays out very well a vicious cycle of late investment, underinvestment, parental dissatisfaction and the consequent battle that parents too often feel in ensuring that their children get the education that is most appropriate for them. The challenge is very clear. Will it help? I think it is very much a work in progress. In an ideal world, we would have had the evidence that the Government are going to collect over the next two years previously, and we would now be in the position of implementing best practice. There is a sense of frustration that the evidence-gathering process starts now; none the less, it is critical that we get that evidence. I think what the improvement plan holds out is the hope that in two years' time we will



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have a much better system, but there is a big journey between now and two years' time.

Tim Nicholls: In terms of the biggest issues, I agree with Mike around the point that, generally speaking, some of the Government's work has diagnosed the problem quite well. What I would say about the plan so far is probably that the prescription of the treatment is not there yet. If we look at some of the huge issues that end up impacting autistic children, it is money into the system, funding, and especially getting that money to the right place. There are some ambitions within the plan to improve the experiences of kids with SEN going through mainstream schools, but very little detail about that how would happen. For autistic children, we know that a cohort of kids can struggle at school because there is no specific resource there to enable them to have good educational experiences.

Underpinning a lot of the things is the workforce. I am sure we will have a lot to say about workforce today overall, but in terms of the experience of autistic children, what we hear loud and clear from autistic children and their family members is that there is not the understanding and training within all school staff. We are not just talking about teachers. It is important that we take an all-school approach to be able to support the children day to day. Over half of autistic children told us that it was the thing that made the biggest negative impact on their day to day school life, and seven in 10 told us it would be the thing that would make the most difference to make it better.

The overall assessment of the plan at the moment is it points in the right direction in a lot of places, but it just isn't enough to touch the sides.

Dr Crossley: What our members are reporting is that recruitment and retention continues to be a concern across all phases and stages of education, particularly in specialist provision. We are losing support staff and specialist staff at a phenomenal rate, and across the sector we are experiencing the teacher recruitment crisis. Our members are also reporting that, post pandemic, issues around social, emotional and mental health have escalated. That level of complexity is making it tricky for them to manage the level of needs across all different phases and in the classroom.

There is also a little bit of a concern from the sector around how we get the right provision for our SEN children when it has not been working for so long. You will see from your own data that the attainment gap has been around 40 percentage points at every key stage and phase for the last 10 to 12 years. It is very welcome that the plan is looking to address the provision and the capacity and the workforce. The concerns being put forward is that the timeframe might be too long, because there have been huge waits and huge issues in the sector for so long that there is a little bit of fear that remains. We are talking about potentially national standards coming in by 2025 and yet we will have had a series of cohorts of children who will have experienced the raw end of the sector.



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Our members are saying that they welcome the plan, they think it is going in the right direction. They are concerned about the timeframes and a risk around there not being cross-party consensus because SEN is always the add-on.

Dr Stavrou: With respect to the latter part of the question, namely our assessment of the improvement plan, our members have sent me here today with an undiluted message that they are very disappointed by the plan. If I touch upon some of the aspects where we think there are challenges, the first and most obvious one possibly is the funding aspect. That cuts across all items, beginning with the workforce, but also in capital funding, for instance, which is non-existent for FE. I don't want to repeat what my colleagues have been saying, but we have a recruitment and retention crisis, especially in the early years workforce, and nothing has been done about that. The same goes for the specialist workforce.

With respect to the problems in the sector, although I agree that some of the diagnosis in the plan is adequate, it does leave out a couple of things that are important to raise. One is that, by and large, our members believe that the current legislative framework—the SEND Code of Practice, the Children and Families Act 2014 and, importantly, the Equality Act 2010—is fit for purpose. We believe the main problems associated with that are around gaps in compliance and misapplication, and that is not touched on. There is some talk obviously about accountability, but we don't believe that suitable steps are taken to respond to it.

Another thing that is entirely absent from the plan are the wider steps necessary to create that cultural change to true inclusive practice. Here I am talking about some larger policy and practice around things like behavioural policy, attendance and exclusion policies, and curriculum assessments. We believe the system at the moment is non-inclusive, too rigid and does not allow for acknowledgement and recognition of the achievements of pupils with SEND. In fact, we believe it disincentivises schools to take on pupils with SEND—for instance, if we talk about the Progress 8 measures. I am touching on this a bit telegraphically at the moment because I am sure we will go down into detail a bit later.

One more point I will make, if the Committee will indulge me—I know it is slightly repetitive—is it may be important to keep children and young people at the centre of this conversation. A child in reception at the moment, if they require the expert knowledge of teachers or school staff to identify and meet emerging needs, we know from DfE's own data that 41% of teachers believe there is not sufficient training on SEND. In the core content framework for initial teacher training, which I took the trouble to look at again a couple of days ago, the approach to SEND knowledge is minimalistic to the extreme, and surely is not sufficient. In fact, I believe it has been further diluted since 2016.



If a SEND child requires specialist intervention from health professionals, at the moment 35% of children wait over 18 weeks on speech and language waiting lists, for example. We can stop and pause on that quite astonishing piece of data. The Royal College of Occupational Therapists surveyed its workforce and over two-thirds of them report that their own workforce is understaffed and at times significantly understaffed. If the SEND pupil then applies for an EHCP, we know that 40% of applications for EHCPs in 2022 took longer—at times significantly longer—than the 20-week statutory timeframe. At best, nothing at all will change for this pupil before they reach year 3, so they move from EYFS to key stage 2 without any material change whatsoever. I think that encapsulates the degree of disappointment in the sector from the inclusion plan. My apologies for sounding slightly negative.

Q3 Chair: Thank you very much. Some of us have been around a long time and we have heard an awful lot of this disquiet before, certainly about investment and parental dissatisfaction. I think even parents who have managed to get an education, health and care plan for their child or have been through the process then express disquiet because the plan itself looks like a resource-led plan as opposed to a needs-led plan. That is something that we are already aware of.

I was on the Committee in 2019 when it produced its report on its inquiry into special educational needs and disabilities. I don't think I am blowing the trumpet of the Committee particularly, but I do feel at the time it seemed to be a well-received report. Given the fact that that report was produced in 2019 and the Government did not react too positively to its recommendations, we then had the production of the Green Paper and now this improvement plan, but, as has been outlined, the improvement plan comes with a two-year evidence-gathering period. How will we bring in the proposals in the plan, which are set to be delivered by 2025, if we are still gathering evidence until 2025? I must admit, I don't understand how that is meant to work. Does anybody have any insight into that?

Dr Crossley: I do not have insight into it, but it is certainly something that our members are concerned about because it feels like we are continually talking about SEN and we are continually gathering evidence and data. What families and children and practitioners need is the action to get on with it. You are right that the 2019 report was very well received. If you recall, that came out at the same time as the Timpson review into exclusions. All of that was very welcome, but then we had the gap.

The sector and the members that we are talking to are concerned about more evidence gathering, particularly when we are talking about things around TAs, for example—this big focus on, "Let's explore how TAs are deployed." We have had 10 years of that research done by UCL and Rob Webster with the Maximising Impact of Teaching Assistants project. It is also funded by the Education Endowment Foundation. There is a little bit of frustration across the sector in that we seem to be looking at the same old issues over and over again, when we just need something to be



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implemented. Colleagues were saying also that the 2014 reforms were the right ones, but it was around the implementation that wasn't as successful.

Q4 Chair: To paraphrase a previous colleague that sat in this seat, in a nutshell, would it be true to say that the evidence largely already exists; it needs to be updated, but we don't need brand-new evidence gathering?

Dr Crossley: Yes. The evidence is in the sector. There are experts out there who have been doing this for years. With the Warnock report, SEN is only 40 years old in terms of what we know and understand, so it is still relatively new as a science, but there are enough experts in the field to be able to draw upon them.

The other concern that members have is around: while they are looking forward to a refinement to the EHCP process and that standardised process, why does it take another two years to digitise it? We know what we need in there and we know where is variability across localities. Let's just get it done.

Q5 Chair: I will just digress momentarily. Can I ask you all this question? Have you seen any significant differences between the Green Paper, the review and the improvement plan? If so, what are they?

Dr Stavrou: I think there are a number of changes. Probably two of the most notable ones are around the slightly contentious issue of the mandatory mediation on the tailored list of schools, which—if I use slightly political language—has been softened to a degree, but still remains a significant concern for the sector, because we believe they both undercut current rights and protections under the SEN framework.

I also picked up that there has been some reference to responses from the FE sector in particular around its concerns. Again, its frustration is that, while it seems to have been almost quoted in the revised improvement plan—namely, the journey from the Green Paper to the improvement plan—the solutions were not there. One example is around the disadvantage funding, which is a recognised issue for those pupils in FE who do not have a high level of needs. That has been recognised in the improvement plan yet there are no concrete steps, beyond that slightly vague phrase of, "We will continue to engage with the sector." There are some refinements or nuancing, but I don't think in any way they are concrete steps.

Mike Hobday: I would point to one significant improvement from the Green Paper to the SEND implementation plan, which is the new understanding and emphasis about the significance of the specialist workforce in supporting families and children. We are delighted that the SEND implementation plan has promised a new apprenticeship route in order to train more teachers of the deaf. Teachers of the deaf are the key link in improving early years support, working with a new hearing family of a deaf child, supporting deaf awareness and deaf-friendliness within a



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nursery or school environment and supporting attainment for deaf children, yet numbers of teachers of the deaf have fallen by 19% since 2011. It is very pleasing to expect that the apprenticeship route will increase numbers of teachers of the deaf, but it is frustrating that it will be two years before the apprenticeship course starts and two years after that before the first qualified teachers graduate. One of the things that the Government could do to help is invest in accelerating the training of more teachers of the deaf in order to raise attainment levels among deaf children.

Tim Nicholls: To pick up where Mike left off around the specialist workforce, there is the commitment in the plan to train more SENCOs. To have higher specific qualifications for them is a huge issue. It is an important way of getting understanding into schools and embedding it in the leadership of the schools. That was positive, but if we think about the progression from pre-SEND review through the SEND review to the outputs, what are we seeing? We have probably seen a bit of a scaling back of the ambition over time. I think there has been a welcome step back from some of the more controversial opinions, which I hope means that concerns from parents and the sector were listened to.

Daniel mentioned mandatory mediation, which is one of the biggest ones there. We thought that could be absolutely catastrophic, because the power dynamics in that situation are already heavily skewed against families. Also in the Green Paper there were allusions to looking at adjusting the threshold for when a child gets an EHC assessment. At the National Autistic Society we know that four in 10 parents are turned away the first time they ask for an assessment.

If you have an autistic child who has a diagnosis of being autistic, they pretty much meet the threshold for being assessed for their needs. Whether or not they get an EHC plan, they trigger the threshold for an assessment. That just shows how broken the system has been, so changing that threshold to raise it would have been catastrophic for families, so we are very pleased to see that changed.

Essentially this is far too late in the process, as other speakers have alluded to. We are left in a situation where we face the consequence of children who are starting at reception now, or started at reception a couple of years ago, having their entire school lives impacted by this. We will have a lost generation of kids with SEND who had poor educational outcomes. That will impact them and they will have poor employment outcomes and we will not have broken the vicious cycle that has started.

Dr Crossley: I don't think that our members are reporting any surprises. It was pretty much what they had expected. The feedback that we have received is that they would have liked a little bit more detail around what universal provision in mainstream looks like, because that feels like where there are the greatest gaps. What we understand from schools across the country is that, when you get that EHCP, it is very clear what



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provision should look like and what those targets are. Where we are particularly experiencing difficulties in mainstream is where you have children in SEN support. They do not have that formal plan, so it is a little bit of a lottery in terms of the quality of the teaching to be able to provide that support that allows them to access the curriculum.

I would pick up on one thing that Tim said around the SENCO NPQ. I would appreciate it if we could have a look at more of that to understand the rationale between moving from the current NASENCo award, which is already quite comprehensive. Where there has been some feedback, again it is around the variability. This is the issue with the system. That it is dependent on where you are as to what sort of provision you get. In the same way, the NASENCo award is rather dependent on the provider that you access for that training. It could be very detailed and it could include placements at specialist provision or it could be just a very theoretical approach.

The placing of the NPQ was different and not necessarily what we expected. Where is it going to be placed alongside the other NPQs? If it is to be aligned with senior leadership, great, because that is raising the profile. If it is aligned with middle leadership then no. That is what we were looking for because we do need that to be raised across the sector as an important role.

Q6 Chair: A very short answer to this question: one of the things that has been outlined to the Committee on a number of occasions is the lack of time spent in initial teacher training on special educational needs and disabilities. If we could see more time being diverted to SEND in initial teacher training, would you all welcome that?

Dr Crossley: Absolutely, yes.

Mike Hobday: Very much.

Tim Nicholls: We saw movement on that a good few years ago. The ITT framework was updated; SEND and, in particular, autism were included. That was then removed. That is a baffling decision and we think that needs changing.

Chair: As a layperson, it seems to me that, if we spent a little bit more time on initial teacher training, you might get more teachers deciding to go into special educational needs as a specialism.

Dr Crossley: What we sometimes see in the sector is that we are relying on the goodwill of people to step up and do that role rather than see it as a real career choice, yes.

Q7 Chair: Lastly from me, thinking about what is in the plan—which is to be delivered in two years' time, by 2025—if you could bring something forward from the main course to the starter part of the menu and have it delivered sooner, what would it be?



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Dr Crossley: Standardisation of EHCPs tomorrow.

Mike Hobday: Immediate investment in supporting more teachers of the deaf.

Dr Stavrou: I would second the EHCP point, simply because that is one of the very few points that our members unanimously agree is a positive one. There is a lack of investment and I don't think that is in the improvement plan, therefore you cannot bring it forward.

Tim Nicholls: I would agree on EHCP plans. Also, we have to look at the SEN support cohort. That will require extra investment. Although it is not in the plan, it is something that Government needs to still be doing.

Q8

Mrs Drummond: This leads on from that because our last Committee report said SEND provision was a postcode lottery, and highlighted inequalities between different groups of pupils. Do you think the proposed national standards do enough to improve the quality of provision and reduce inconsistencies in provision between the areas, but also between the different groups of pupils? SEN covers a massive and wide range of children.

Dr Stavrou: If I may come in first on this, we have grave concerns about the national standards concept. I know that our colleagues from IPSEA and indeed from the Local Government and Social Care Ombudsman sat in front of this Committee and explained the misconception. It is not the case at the moment that there are not national standards that are supposed to be complied with legally. The problem is the misapplication and the lack of compliance around them. I will state it again: we believe that the current legislative framework is fit for purpose, and if it was applied, the SEND system would have looked much better.

The other point about the national standards and asking us to respond to them are that, like other aspects of this document, there was very, very little detail, so we don't know what we are commenting on when you ask us about the national standards. For instance, to put one very specific point forward, we are not clear what the relationship is, or if there is one, between these national standards and the practice guidance, which was supposed to come out—at least step 3—by 2025. There is a significant lack of detail. We believe the national standards might also dilute the protections currently afforded to families and children; for instance, the person-centred approach. Because we do not know what additionally, if at all, these national standards will bring forward, there is no way that we can support them.

Mike Hobday: We have a different view on national standards. Just as you asked in the question, parents of deaf children regularly say to us that the current system of support for their children is inconsistent. Because they are generally new to deafness, they do not have the expertise and understanding of what support might be available. They don't know what reasonable adjustments to ask for that their children are



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legally entitled to under the Equality Act. For this reason, we welcome the principle of national standards, which have the ability—if done right—to codify and to spread best practice with the DfE's official endorsement.

As part of that, we very much want to see a specific national standard on support for deaf children. Ministers have announced that there will be a national standard about autism, but the needs of deaf children are specific and there are specific things that can be done in order to ensure that they get the very best start in life and, subsequently, nursery and school education.

Tim Nicholls: Daniel laid out the case very well. It is difficult to sit here and comment on something when there is so little detail. I will take the opportunity to say that those links to the existing rights and entitlements will be particularly important, because we do not want to see an erosion of rights by stealth through alternative national standards.

The Children and Families Act is good, but not implemented; the SEND Code of Practice is what should be followed. If we are in a situation where the national standards will flex any of those things, there is a risk of autistic children, and all children with SEND, ending up in a worse situation. We already see pockets of local practice sometimes diverging from that. If we end up standardising some of that, there is a real risk.

Q9 **Mrs Drummond:** Nicola, I think the ASCL is in favour of this; is that correct?

Dr Crossley: Yes. The devil is in the detail and, as colleagues have said, the detail is not quite there yet. If you look at page 21 at the start of chapter 2, the concern is that there is a feeling that we don't quite know what those national standards will be. By the end of 2023 we will start testing some elements, and then, by the end of 2025, we will have a significant proportion published. It feels like there is no knowledge base to say, "This is what the national standards will be. This is what it will look like and we are going to pin our flag to the mast." There is just a little bit of concern. Yes, we want national standards, we want an end to the postcode lottery, but from the paper it feels like the authors have no knowledge of what those national standards should be.

Q10 **Mrs Drummond:** Also, the implementation plan says that the national standards will mean that fewer children will need to access support through the EHCPs. Is this acceptable? Is it going to be a positive outcome?

Dr Crossley: It is a huge concern. What we notice—and what you will see from the national dataset—is that the numbers with SEN in our schools has gone up significantly year on year, so post pandemic and with all of the delays, it feels like our mainstream colleagues are being left to try to manage everything to prevent people going into specialist provision or to prevent an EHCP. Our members are saying that their feeling is that it is a cost-saving exercise rather than thinking about the



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children's needs. There is no question but that more mainstream schools should be more inclusive and be able to manage a wider level of SEN need, but that does require additional training and additional funding.

When the paper talks about more reviews that are being undertaken and the fact of bringing forward mediation et cetera, I think we need to look at what is being spent so far. Tribunals have a huge success rate—I think it was 96% or 97% last year—so that £10 million, if you think it is £2,000 per assessment, is coming out of that high-needs budget. If we can put that back into the support that is needed in mainstream, maybe that is the answer. There has been such a gap over the last three years, particularly because of covid and the complexity of need is increasing, and I think mainstream schools are under pressure of how they will meet that divergence of need.

- Q11 Chair:** On that, Nicola, with the preponderance now of education, health and care plans being successfully contested at appeal, it does seem to me from so many people that I have spoken to that education authorities go through this process with parents because they hope they will give up, because it is about resources. Therefore what happens is that education, health and care plan appeals tend—not entirely, but tend—to have parents behind them who are more sharp-elbowed, more understanding of the system and better resourced or better understand how to get through that process, and that is skewing the policy sometimes away from the kids who have the greatest needs. Am I wrong in saying that?

Dr Crossley: It is very tricky because there are so many local authorities and so many different ways in which things are being applied. From the local authorities that I have worked with, they are also working under incredible difficulties and financial challenges, if you think about the safety valve programme that is in place. They are all experiencing challenges but they want to meet need. The paper is correct in terms of this adversarial nature that has been created over time as a result of families battling for what is right for their child, as any parent would.

I think it is about the way in which the funding has been applied. If we go back to funding in the SEN notional budget within schools, that has never been signposted or earmarked for SEN provision, so there is a problem right at the centre of how we are funding SEN. I don't think necessarily that the LAs are fighting back against the assessments. I just think that they are all fighting against the challenges of the system and not having the capacity or the funding to be able to meet the need.

- Q12 Chair:** Given the scenario I outlined, I seem to remember that we did have a recommendation back in 2019 that there should be an independent advocate to help parents navigate the system. Would you agree that that would be a good idea?

Dr Crossley: Yes, and there are some areas where that has worked very well. However, there is a caveat to that, as with everything, that there could be perverse incentives. Yes, in the round that is a great principle



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and we want parents to have the support that they need so that children get the support that they need. However, it is too simplistic to identify whether one person or one body is at fault. We have just got in a pickle around SEN over the years.

Q13 Mrs Drummond: Do you think standardisation and digitalisation of the plans will help that, and it will make the process easier and maybe a bit clearer to everybody?

Tim Nicholls: Sorry, can I ask for clarification on that? Are you still asking in relation to whether children can be better supported on SEN support before they require an EHCP?

Mrs Drummond: Do answer the previous question as well, if you want, because you did not get a chance to. We got side-tracked, yes.

Tim Nicholls: Nicola gave a brilliant answer to that, to be honest. It is simply the case that, in theory, it is not necessarily a bad thing for people to be better supported. However, they have to be better supported in order to avoid EHCPs, otherwise you are escalating need and someone will end up in crisis. We know that with autistic children, even when you get to the very acute end of things going wrong and people hitting crisis, admissions into mental health hospitals are increasing.

In terms of digitalisation and standardisation of EHC plans, it could make a real difference. Again, the devil is definitely going to be in the detail, but we are in a situation at the moment where 70% of parents tell us they are not happy with the support that comes out of the sausage machine. Unless we change the dynamics of how that support is arrived at and ensure it is properly person-centred and needs-led, rather than financially driven, you are going to have exactly the same sausages coming out at the end of the sausage machine but faster.

Mike Hobday: To give an example of where money is presently being spent in the wrong place, the big advantage that deaf children have is that in the majority of cases their deafness is identified immediately at birth through the newborn hearing screening programme. That is a real opportunity to provide in-depth support to the family, 90% of whom are hearing, to enable them to bring up their child in a rich language and communication environment in order to set their child up to succeed at nursery and at school. If we get early support for children right that is where efficiencies in the system are going to emerge.

Q14 Miriam Cates: Tim, I want to pick up something you said about a lost generation of children who arrive at school, do not get the right support and diagnosis and then potentially miss out all the way through school life. Are there any studies that compare the outcomes for, let's say, an autistic child with adequate SEN support and without adequate SEN support? I realise it is difficult to measure: what do mean by "good outcome"? GCSEs are crude, but are there any studies like that that show the difference good SEN support can make?



Tim Nicholls: I am not entirely sure of something that directly compares the two, but we have done extensive research in terms of the status quo and we have a fairly good picture of how poor things are for autistic children at the moment. Then there is a study being done in Bradford around early intervention—essentially doing what we all know works: getting in as early as possible if a diagnosis assessment is needed and then an EHC assessment and not having to wait between the two.

What we see an awful lot is that people are told to go away and get a diagnosis. They sit on the diagnosis waiting list for three years and then come to the authority and say, “We have the diagnosis,” and then they have to wait another one to three years to get an EHC assessment. That is six years. A kid is almost going to be ready to move to senior school by the time the support is put in place.

If we could front-load the investment around that early intervention, which is demonstrating very positive outcomes, we know it would work. My one note of caution around that is that we know that the financial situation at the moment leads to perverse consequences of crisis-led funding, essentially. You put the money where it is most needed, so we are seeing more money go into the high-needs block and in specialist schooling. There needs to be proper funding made available to allow you to jump-start that early intervention, because we cannot just move money from one to the other. Either way it is a difficult choice of which group of children do you fail. I think that is the situation that people on the ground have at the moment.

Q15 Miriam Cates: What you are saying is that, if a lot of that money was repurposed, for example, spent in the early years picking up needs, training early years professionals—not necessarily specialists, but just people who are in the classroom anyway—and then supporting children in those early years, you would not need so much high-needs provision further down the line and crisis-led provision?

Tim Nicholls: That is absolutely true. It is a classic invest to save argument.

Dr Stavrou: If I may hijack the question in a slightly different direction, I think you are maybe after hard data and numbers, but I would like to point to a recent study by the ONS, which I think was published in November, about the experiences of pupils with SEND in secondary education. Again, in a way this is in the interests of bringing back the voices of children and young people to this conversation. They have reported very clearly that when their needs are not met in mainstream schooling, they react by being angry and frustrated, and by being distracting to their classmates. The ultimate end game here is obviously they become excluded from school, which leads us possibly to a topic of conversation later around AP.

This is more qualitative, I suppose, than the numbers that you are asking for, but I think it is very clear. What educationalists like the people on the



panel know intuitively is true has been demonstrated both in hard data like Tim presented, but also in these qualitative first-person accounts. It is not nuclear science, as the saying goes, but it has also been demonstrated by people testifying about their own experiences. The investment in mainstream universal provision, what is called “ordinarily available provision”, is the way to support most pupils.

If I may just go back to your question about the EHCPs and the reduction in numbers, I think Nicola did an excellent job in putting forward a cohesive response. I will just add to that that clearly our members would welcome a reduction in EHCP numbers if this were simply a fringe benefit—I am moving into the land of the aspirational here—of a well-resourced best practice mainstream provision. There is concern that in the implementation plan there is a drive, first of all, to cut the cost incurred by increasing EHCP numbers. We know they have increased 50% since 2016 and they have increased also disproportionately more than SEN support.

We know also there is an issue around that targeted level, that mid-level of targeted provision. There probably are ways to reduce the intensity of that increase, but it has to begin from the point that this ordinarily available provision is sound and is well resourced.

Mike Hobday: There is a wealth of international evidence about the benefit of early support for the families of deaf children. It is obvious because the parts of the baby’s brain that deal with communication are developing over the first two to three years, so support that helps the family to bring up their child will be very critical. If we get that right, deaf children will be set up for success.

At the moment there is a massive attainment gap for deaf children. The Government’s target is 90% of children reaching expected standards by the age of 11. Last year the attainment figure under that measure for deaf children was 44%, so 56% of deaf children are not getting the support they needed. There is very good evidence about how early years support can help that, which I can follow up in writing.

Chair: Before you move on, I think Anna wants to come in on a supplementary.

- Q16 **Anna Firth:** A problem that has beleaguered special schools in Southend, and I am sure across the country, is the issue of in-year funding. We have an excessive demand for the number of place available. We have some brilliant special schools who do their best to take extra children—often two, three, four, five extra children in the year—but they do not get the funding for those children until the subsequent financial year, putting them in deficit and eroding the experience for all the children in the year in which they have done their best to help and take new children. There has to be a way we can solve this and it would help across the whole piece.



Mike Hobday: I suspect Nicola is the expert on the panel.

Dr Crossley: Thank you. I think we are also experiencing that and our members are reporting that as well. It also comes at the lower levels. When you have SEN support and you are tapping into the high-needs block for top-up funding, that is often where it is the biggest issue, so potentially with your south-eastern schools, particularly if they run assessment places, they are being assessed in the specialist provision without having the funding. This is why I think that there are calls from the sector to review how funding is allocated, and whether we need the SEN notional funding to be revisited and thought about and to follow the child or whether there is a funding that needs to be given to an institution to be able to deal with in-year admissions and outreach work.

I am not sure, but that is where there is value in doing more research into how we should be funding it so it is sustainable going forward. All of our members report that those sorts of in-year admission queries are a concern because they cannot fund it, particularly if there is a request for one-to-one support for a child. You do not have the staff or you cannot get them quickly enough. You then fall back on supply staff. Then you have that inconsistency for the child and you see that present itself in behavioural difficulties because you do not have the consistency that is needed for the child to get the support. Funding is a real issue that we could look at in more detail.

Anna Firth: Does anyone have anything to add to that?

Tim Nicholls: First, to declare an interest, you do have some fantastic special schools in your patch; I used to work at one of them. Additional to what Nicola was saying there, there is something very important to remember here about the experiences that kids have had up until that point.

We know that autistic children are twice as likely to be excluded than their non-disabled peers. We know that managed moves are a huge thing. We know that off-rolling is a massive issue, as are informal exclusions. There is often a lot of baggage—a better word might be distress—that is going along with the child at that point. Therefore, you might need even more support for a bit, especially for autistic children, where the transition can be particularly anxiety-inducing.

What are schools going to do in that situation, where they are taking on a child who suddenly gets seen as expensive, an additional drag on the budget of the school? That can set the tone for when a child is entering a new school, which we all know is a very difficult time.

Mike Hobday: Just to add to that, I hear from the families of deaf children that the same issue applies when they move home in the middle of the school term. There can be an expectation that the whole assessment process is gone through again, even though there is a very clear statement of their child's needs.



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- Q17 **Miriam Cates:** Mike and Daniel, I think you have both said that you do not support the proposals for introducing the system of funding bands, so grouping together similar needs and applying a kind of funding formula for them. What are your specific concerns with that and what would you propose as a better alternative?

Dr Stavrou: It goes back to the point I have made a couple of times around the fact that there is concern that this undercuts the current legislation, especially that person-centred, tailor-made approach to provision. Local authorities quite often employ their own system of bands and tariffs for the kind of provision they commission and what kind of expense they expect to incur on it.

I know that our colleagues from IPSEA have spoken about the SEN Code of Practice at length. I am not a legal expert, but I am very familiar with the code. It states explicitly—in fact, it uses the term—that local authorities are not to use a blanket approach to provision. This basically is exactly what it is.

I have to caveat that by saying that I do acknowledge that it is common sense to understand that local authorities will need to better regulate their spending. I know there is a lot of work done around that by DfE, for instance, in delivering better value. However, I think the journey to there in an individual case where a pupil is facing a rigid system that is not needs-led but is moving backwards from the funding available, presents a great risk. I think it undermines what is currently a pretty solid system if it were to be implemented.

- Q18 **Miriam Cates:** I completely see your point. However, you have all said that you want to move away from a postcode lottery system, so there has to be some way of at least setting boundaries around what the expected spend would be for a particular need. I completely understand that at the end of this are real children with real needs who need bespoke care, but from the Government and local authority points of view, they have to be able to budget. What would be a better way of doing it? I can see Nicola wants to come in, but if you want to.

Dr Stavrou: Yes. To repeat what I said earlier, it is about implementing the current SEN Code of Practice and the current legislation. Some nuancing around the funding could be better and better commissioning can definitely be worked on. I don't think things are perfect, but to undermine the current legislative framework for the purpose of saving money is erroneous.

Before we move on, touching upon something you mentioned earlier about redress. At the moment, families do not feel that they have redress in these cases. That in part is driving the dissatisfaction, the adversarial nature of the system that in turn impacts local authorities to act at times out of defensiveness. One way that we believe can move things forward is to allow the local government ombudsman jurisdiction into complaints against schools. We have suggested that several times.



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Dr Crossley: I am conflicted with this. I completely see the understanding and the need for standardised tariffs and banding, but again we have that complexity within the system that has independent sector schools as well. They are free to design their fee structures in any way they see fit. We have variability in the specialist support that is available in individual schools, which would therefore take the tariff up.

From an interested outsider's perspective, I am interested to see what the future looks like for independent provision in that respect, because it is clear that the independent sector does often charge more than the state sector. What will happen to them? Their provision is still valuable and is still meeting the needs of thousands of children up and down the country, but if we have this standardised approach what will happen to them? Is there going to be an unintended consequence? Do we close them immediately and the children all go into state provision? Then we must find places for children. Again, that is where the funding is complex.

I agree in principle with having that standardised tariff, but the provision should be the provision and that should be what it costs. Because we have such a complex system at the moment, I do not know how we get to that normality and standardisation over time quickly.

Mike Hobday: The principle is attractive. I totally understand; it looks very neat, but it is made complex by a couple of things. One is that need sits on a spectrum, rather than in a series of blocks and need is likely to ebb and flow over time.

There is a real risk that this could add an additional layer of conflict into the process, so a family argues about which band their child is in, as well as what support they receive. Of course, it is right and proper to look carefully at money spent to ensure we are getting the best value from it. I struggle yet to see how this approach is going to deliver what the Government are rightly looking for.

Tim Nicholls: I agree with the things that have been said, so I will not restate them. One of the flaws essentially in the system that makes things very difficult at the moment, and why I can see banding becomes attractive, is that we do not use data about need well enough to commission. There is not the look across a place to see what the needs are of the children who live in that area, what places we need and what we can share. The structures within the system do make that complicated as well. As Nicola said, there are independent banded schools and the National Autistic Society provides some of those. There are also multi-academy trusts, and they may not be coterminous with local authority budgets.

All of those things make the situation very complex, but unless we do use that what could be very rich data to commission more intelligently we do not have the underpinning to tie in all of the things that Daniel was speaking about, around having needs-led commissioning to it. That is something that we could look at improving, because then we would



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probably avoid the need for banding, which runs the risk, as we have heard across the panel, of being a blunt and imprecise instrument.

Q19 **Mohammad Yasin:** The previous Committee's report highlighted a lack of accountability within the system, so the Government have put forward some proposals to strengthen the accountability for SEND provision, in particular the updated SEND inspection framework and the ladder of intervention for local areas. Do you support this proposal from the Government?

Dr Stavrou: To begin with on the positives, yes, the inspection framework is in train already and is a positive development. We have to wait to see what the impact of that will be.

In respect of the other accountabilities, there is also a proposal around having a dashboard, which again I think is difficult to argue with. The more data we have, as long as it is nuanced—and of course there is a question as to what exactly will be the type of data on it—and is non-controversial. Of course, a change will be driven by the people in the institutions, as opposed to the data standing on their own. Those two proposals are positive.

In respect of the case-led accountability, as I said earlier we think that the involvement of the Local Government and Social Care Ombudsman in investigating complaints in schools would be a positive and tangible step forward. That same ombudsman I know sat in front of this Committee and, apart from the astounding 96% figure we have on tribunals, he also commented that he has upheld over 80% of complaints sent to him. That is another part of the system and—to restate the obvious—parents do need the confidence that there will be redress around these matters. At present I do not think that is the case.

Dr Crossley: Across the sector there will be a welcoming of greater accountability that is tempered and measured. We have all seen the issues around Ruth Perry and the inspections in the recent weeks. The whole sector is linking together in support of what has happened there.

What we are noticing is that when special schools, in particular, are inspected they do not always get that specialist inspector who has come from an SEN background. I do think that Ofsted is cognisant of this and is recognising that, as with anybody, we are all suffering around capacity and staffing.

There is a need to upskill inspectors. There needs to be that greater consistency. From what we have noticed, particularly around the revisions to the area inspections, we need to have a focus on SEN by SEN practitioners. It is not enough to leave it to the area inspections and then say that SEN has been covered. We do need to ensure that, in the normal day-to-day operations of school inspections, it does have a targeted focus on SEN that is not tokenistic and delves into the detail but is also undertaken and conducted by people who come from the sector.



In recent years some of our members have said that it has felt a bit combative in terms of the inspection regime, and they welcome a collaborative improvement approach. This is why ASCL is looking for the removal of gradings to inspection. We are not saying get rid of inspections at all. We welcome inspection; we need that accountability and that challenge, but we do need to ensure that we are challenged by the right people to be able to do that and move the schools on.

Tim Nicholls: Nicola has put it very well. A couple of the biggest issues are around ensuring we have an inspections regime that is properly informed by inspectors who understand autism well enough and are also able to communicate with children to find out what they want in a way that those children will communicate with them. A lot of autistic children have complex communication needs as well, so we do not have a system yet that does that well enough. Other than that, I defer to Daniel's points because I would be duplicating.

Mike Hobday: Colleagues on the panel have spoken about accountability at school level, but accountability also applies at local authority level. As the Chair said, the present accountability mechanism largely consists of individual parents and families rightly fighting for their child. That is not an accountability mechanism. We welcome the decision that the Ofsted-CQC inspection should be permanent, especially given the number of problems those inspections have found; in local areas, the fact that there is going to be a guarantee of reinspection is helpful.

I observe in the implementation plan on page 74 that, "The Department will consider mechanisms to ensure that we are able to be more robust with any partner that fails to meet their statutory responsibilities". I am sitting here thinking of the 96% of tribunal cases where the finding is for the family against the local authority. I wonder what accountability mechanism the Department is proposing for those local authorities that needlessly put families through this process. This phrase "consider mechanisms" has an awful lot to be expanded on. There is something important there that is worth probing.

Dr Stavrou: A couple more comments. On the back of what Mike said, the other phrase that is used is "ladder of intervention". Again, I think this speaks to the lack of detail in the sector. We are guessing or second-guessing what this might mean.

One more point on the positive: also, the proposal to ensure that schools will not receive a 'good' or 'outstanding' in their Ofsted report unless they are good or outstanding in respect of the SEN provision I think that is a positive thing, which SEC has also called for. Of course, we need to understand what it means to receive a 'good' or 'outstanding' in respect of SEND. It goes back to what my colleagues have spoken about: do the inspectors know enough about the specifics of supporting SEND pupils? By and large that is a positive development.



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engaging with Ofsted. Do you know how those discussions are going and are you satisfied that the new framework will improve accountability?

Dr Stavrou: In short, the answer is yes. Our dialogue with Ofsted has by and large been successful. Policy is not dictated by us nor Ofsted. It is driven from above, but as I said the move to increase the profile of SEND in these inspections is a positive one.

Q21 **Mohammad Yasin:** As identified in the civil society alternative report to the UN Committee on the Rights of the Child, one of the main concerns is that, although there is a greater recognition of children's mental health issues, the sharp increase in the number of children with mental health problems exacerbated by the pandemic and the lack of services means that children often struggle to access them due to the high threshold and long waiting times.

In my constituency of Bedford, we have been waiting for years for promised capital government funding for an inpatient mental health facility for adults and children and for a 200-place special educational needs school. I am pleased that, with pressure from local councillors, the school has finally received the go ahead. What is the impact of long delays in funding announcements for the planned projects and services for the children in need?

Dr Stavrou: I think you might be quoting from the same study. The fact is that 44% of children or thereabouts wait longer than a month for mental health interventions. This is often cited as an "in the wake of the pandemic" phenomena, the increase in needs. However, it is also widely recognised that these needs were sometimes under the surface but definitely present before.

To answer your question directly, what we see in schools, early years settings and in FE, is when these needs are not met, that clearly has a direct impact, with pupils simply not feeling they are able to go back to school—I know this Committee is conducting an inquiry on persistent absence—because the school is not equipped to deal with their emerging needs.

As a side comment, I would add to that that there is a question around the application of the Equality Act and the anticipatory duties in particular. The bottom line is still the same. These needs are not met and they usually or often will escalate either to being persistently absent or to deteriorating behaviour patterns, again moving to that other question about AP and what the role of that is in the mainstream system.

The figures are quite startling. We know that we have almost 7% of pupils with an EHCP in some way out of the mainstream education system. By "mainstream" I mean with autism specialists. Either they are awaiting provision or they are electively home-educated or what used to be called NEET. This is clearly not good enough. The impact is direct and present to us all.



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Dr Crossley: This is huge for us across the sector. NHS modelling prior to the pandemic suggested that one in nine children in our classrooms would suffer from some sort of mental ill health. During the pandemic that went up to one in six. We anticipate that going up even further.

The impact on the children is quite substantial. This me speaking personally, rather than on behalf of ASCL, but what I notice is this battle between mental health needs and academic. It is not a binary thing that we should focus on. It is not an either/or. We need to think about the whole child. The important thing to note is that we have all experienced trauma in the last three years in whatever shape or form, and how we deal with that is something that is going to continue for the next few years. My concern is also around our staff and our practitioners because, if they are not well-supported, how can they provide support to the children who are traumatised, who have experienced difficulties?

What we see in the classroom, and particularly in specialist settings, is an increase in emotionally-based school avoidance. We are seeing increased complexity of need. That is putting further pressure on the workforce because, perhaps as an example for Tim's schools, where they are focused on autism, they are now finding more complex needs where it is autism plus, and that "plus" is social, emotional and mental health. We then need to think about how we address the needs of the workforce so that they can meet all these additional needs.

As you say, particularly within your constituency, the waiting times and access to CAMHS are just shocking. There was one example I was given a few years ago—probably at the height of the pandemic—where we were advised, because of the pressures on the system, that unless the child had a plan for how they might enact the taking of their own life, they did not meet the threshold. It is frightening to think that we must wait for children to be at crisis point before there is any support.

We would love for there to be a focus on mental health, but not to see education as the panacea. We do not have all the answers and we are not necessarily the best placed, but a way forward could be introducing more counsellors in schools, more approaches where we are working closely with mental health and healthcare providers. That is where the 2014 reforms have not always been as successful. That co-production and that idea that we work across agencies was great, but in the implementation we do not always do that, and we sometimes work in siloes. We need healthcare to support us in the education sector as well.

Tim Nicholls: That long tail of the collective trauma is an incredibly important one. Even if we look back to before the pandemic, 71% of autistic children at any one time also have a mental health problem such as anxiety or depression. It is avoidable. Too often it is a symptom of lack of support in the rest of their school life. If you improve the system and you improve someone's special educational needs being met, you will



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improve their mental wellbeing because they will feel safer and happier at school. We know that the levels of that are far too low.

It is worth flagging how strongly this links to issues that other Select Committees have been looking into, around the use of in-patient mental health beds when it comes to autistic people and people with a learning disability. Currently around 200 autistic children and young people are in a hospital, and many have been there for an awfully long time. If you track back through their life, you often find an exclusion at the start of that stage. Things started to go wrong with things not working at school. We should not expect schools to do everything, but there is something around making sure that where we have mental health teams going into schools—we are supposed to be setting up mental health teams in schools—they are equipped to deal with the children who have special educational needs as well as a mental health problem.

What is the different support that you need to give an autistic child who is experiencing anxiety or depression, for example, if you are using traditional talking therapy methods, but in times of high stress they find it difficult to communicate verbally? These are the skills we are not equipping those mental health workers in our schools to deal with at the moment. Unless we do, we will see a perpetuation.

Mike Hobday: Briefly, to add to the very sensible things my colleagues on the panel have said, as you would imagine, we survey deaf young people about a range of issues. We find that their levels of stress, of impaired emotional and mental health, are significantly higher than Government statistics show for the youth population as a whole.

In a number of cases, we have also found that the emotional distress is very much linked to the deafness of the child and to communication problems in society. One of the consequences of that is a crying need for a mental health service where the therapist understands the consequences of deafness and what that means for a child. We have worked with the NHS on deaf CAMHS services, but there is still not enough capacity for that across the UK.

Chair: I am conscious of time, so we do need to move things along a bit, if you do not mind. Nick, please.

Q22 **Nick Fletcher:** Thank you for coming here today. This is specifically for Tim and Mark, especially as we are struggling with time. Will the proposals on the workforce and training do enough to ensure that teachers and school staff are able to support young people who are autistic or deaf?

Mike Hobday: The quick answer to that is: not yet. I have spoken about teachers of the deaf as the critical building block, supporting the new family and supporting the mainstream environment to teach a deaf child in a positive and deaf-friendly way, with things such as encouraging the teachers to face the class rather than the whiteboard when they are



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talking, having good acoustics, more carpets and curtains in classrooms. I have mentioned the 19% fall, and I think Ministers recognise that there is an issue here that needs to be tackled, but again it is a trajectory of support. The apprenticeship for qualified teachers of sensory impairment, including teachers for the deaf, will be helpful but it will be four years before those teachers are in front of a classroom on a full-time basis.

Tim Nicholls: The short answer is no. What we have in the plans so far will not do that. We know that half the children tell us that lack of autism understanding is the worst thing about school. We know that seven in 10 autistic children say that the single thing that would make the biggest difference would be having a teacher who understands autism.

While it is not a silver bullet, you are not going to solve all the issues by having mandatory autism training across all schools; it is the foundation on which all the other improvements need to be based. That would work across SEND as well. I am talking specifically about autistic children, but understanding is going to underpin everything.

The National Autistic Society thinks this was a missed opportunity to embed that level of understanding in the system, and it does need to be something that is truly embedded, because as I said it is the foundation. We look to the Government still to look at what the means are for rolling out a mandatory approach to training for staff, in the same way that they have their health and social care, around autism. We have seen the recognition there. This could go a long way to improving the overall performance of the SEND system, if we started getting things right for a large number of autistic children who at the moment are missing out on what could be some fairly low level support in the classroom.

Take a step back from that to consider what that must feel like for the children in question, who are not feeling that they fit in or are understood, who are getting into trouble for being themselves. That is the kind of environment and culture you can change with the right level of training and understanding.

Q23 **Nick Fletcher:** Very briefly, what would that training look like for a teacher? Is it a week course, a day course? What is it, for low level?

Tim Nicholls: Partly, that must depend on who the person is. I am not even talking just teachers here. Everyone from the school maintenance staff through to the governor need to have an understanding, because they have an important role to play in the children's lives.

There are great models out there of teacher training. The Autism Education Trust is a fantastic example. It is a partnership between our charity and Ambitious About Autism that the Government have funded to do autism teacher training. They run local hubs around that. We need to see that rolled out across the country. Where there is the will, it is great that people have the will to do it; it can lead to real change in that area. How do we take that and make it national?



Q24 Anna Firth: Many of you have expressed concerns about the proposal in the SEND review for mandatory mediation. The improvement plan states that it will do further testing before deciding whether to make it mandatory. What are your views on this approach, and what alternative would you suggest to mitigate the adversarial nature of the SEND system, which lots of people have mentioned to us in previous evidence hearings?

Dr Stavrou: If I may begin, I have touched on this a couple of times, so I will not repeat myself. The approach taken at the moment carries one particular risk, which is that if you happen to fall into those testing areas, and especially if you come from an English as a second language background or a low socioeconomic background, you might end up believing that this is the law already, when in fact it is not.

I am probably stating the obvious, but the notion of forcing someone to take mediation seems to be counterintuitive, and most of the people in the sector strongly agree with that sentiment. That approach is problematic and the way around it—again at the risk of being repetitive—is around implementing the current legal framework. As the ombudsman said in front of this Committee, in a way it is a bit of a distraction. The problem is what is happening upstream. The conflict around the resolution at the end of it is a by-product of the problems upstream.

I do not want to evade your question. I think if this has to be tested out in some way, which of course we object to, the important point would be to ensure that families have the right kind of support to understand their standing legal rights and that they are not coerced into taking part in this experiment.

Tim Nicholls: Another thing on that, the issue that a lot of us have is this is not the answer to the question. If the question is: how do we stop so many things breaking down so that they go to tribunal? This is not going to do it. This adds another delay along the way. Frankly, if you are a parent at the moment who has already had to face a significant delay to get an assessment, what effect is saying, "Well, you now must wait for your tribunal hearing another few months" going to have on you?

That is an important part, but it is also important to bear in mind that, when things have reached this stage, relationships between councils and parents have often broken down a bit. Parents certainly do not feel listened to, and things can appear very financially driven. In some situations that is absolutely going to be the thing that is driving something.

Think about the power dynamic. Who holds the power? The local authority. Who is very much feeling on the other side, at the sharp end of it? The parents. If you transplant that into mediation, what difference is that going to make, or are you entrenching the situation where essentially people will not feel listened to, they end up going to tribunal



anyway and still get to that 96% of people receiving a finding, eventually, in their favour?

The better way to look at this is how to improve the system to avoid the need to appeal in the first place, and a lot of that will involve tackling the backlog in assessments, making sure that assessments are leading to well-funded support, and making sure those assessments are high quality.

Mike Hobday: Very briefly, mediation is a good thing. More mediation is a good thing; mandatory mediation is neither ethical nor practical.

- Q25 **Caroline Ansell:** We have heard in the course of this session just how fiercely some parents have had to battle for their children. They are hugely important to the wellbeing and outcomes of children, and education is a partner. My question is around parental choice. We have already heard some of the concerns around the proposal for the tailored list of settings in the SEND review, which Daniel described as “softened”. Does the SEND improvement plan do enough to alleviate those concerns? You said “softened” and that there was a risk of undermining rights. Your further thoughts on that.

Dr Stavrou: I might have chosen a slightly different phrase here. “Softened” simply to the extent that it is now going to be postponed and only trialled in the same way as the mandatory mediation. In essence, the concerns remain the same. Again, the code of practice is quite clear that parents should receive a draft ECP, as opposed to a final one, and the place for the school should remain blank for them to fill in.

The tailored list proposal undermines those rights and again in the context—if I am allowed another minute to expand on this—of the wide-ranging concern that much of this exercise is around cutting the number of EHCPs produced to begin with and cutting the expenditure, for instance about moving people into specialist provision, obviously this is a clear and present danger to SEND and parent carer groups in particular.

It is often in the sense that not much is likely to happen to many parents over the next two years, but this proposal is still very much on the table and to be frank we would like to see it removed.

- Q26 **Caroline Ansell:** If you set aside the concerns that this is driven by cost considerations, if you look at it through a different prism, what do you think it is trying to achieve? What benefit?

Dr Stavrou: One thing it is probably trying to achieve is to narrow down the list, so as the name suggests, it can be tailored to those provisions that are available and suitable and therefore possibly even reduce the extent of conflict further down the line, so if you have a realistic proposition of what the places might be. Again in itself this does make some sense, but we are concerned about the choice aspect and about limiting the choice for parents.



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Generally speaking, I do not think there is ill intent necessarily on the part of local authorities around this at all. I think local authorities are hard-pressed and it is a matter of problems in the degree of resource available, and places.

Q27 Chair: Is there a presupposition within this that for this to work effectively in any particular area, supply would have to outstrip demand significantly?

Mike Hobday: The thing that we still do not know at this stage of the proposal is whether the tailored list is designed to illustrate choice or to restrict it. If it were to illustrate, that would be positive. Again, I take deafness as a low incidence condition. We do not expect every local authority to have within its boundary specialist support for deaf children who have a higher level of need.

Take resource provisions, which is the halfway house between a special school and a mainstream school. There are 230 of them across England, so sometimes there will be deaf children for whom the right placement is a deaf class in a mainstream school in a neighbouring local authority. Local authorities can at times be unenthusiastic to showcase provision in the neighbouring local authority. If this was about illustrating specialist provision that would be a welcome thing and would enable more children.

The implementation plan says many were concerned that the proposal could reduce choice. The Department was aware that there was a risk that Daniel is right, and yet chose not to explicitly say, "That is not the purpose of the tailored list". Now, if it really was about illustration, it wouldn't half have been helpful for the plan to say so explicitly.

Q28 Caroline Ansell: Understood. I think that brings me to a point that Nicola had made about there being some positives around information for parents, but who produces the list? Where are we at with that question within what has been published to better understand who is driving that?

Dr Crossley: It is difficult when we have the suggestion that we will have inclusion partnership boards and that they will meet to consider the local context. That is welcome, but it needs full representation from everybody within the sector.

Drawing on what colleagues have said as well around the issue around the tailored list, I can see that there is this golden thread of standardisation in trying to ensure consistency of practice and consistency of access to provision, but, drawing on Mike's point as well, this potential for lack of availability and causing families further disappointment by their choice not being available, or if parents and families are given free rein to choose what they want, are they the right ones, given the education provision that is being offered, to say which is the right thing that can be offered at that time?



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I do not mean to say that parents do not know what is right for their children because of course they do, but it may be that at that point in time a different type of provision is more appropriate for their child.

Q29 **Caroline Ansell:** Who would lead on that?

Dr Crossley: This is where it looks like it is the inclusion boards in terms of who is going to be on there. That is crucial and it needs to ensure that everybody who is involved within that locality—I hate the phrase “key stakeholders”—has a voice,

Q30 **Caroline Ansell:** Who would be the key stakeholders?

Dr Crossley: Local authorities, MATs, families; get in healthcare. It is about repeating what is in the code of practice about co-production and ensuring that everybody is included. There are also the providers themselves. What we have noticed from our own research at ASCL is that there are a lot of unregistered providers still out there. Ofsted is still looking at those. Some of them do not have to be registered because of the numbers of children that they are dealing with or the length of time that they are providing support, but there is so much variability out there. I do not think we have a full grasp of what is there. Again, the question is about who is going to go on the list.

Q31 **Caroline Ansell:** Looking at the Chair, we only have time for Tim to make a contribution then I think we perhaps need to move on.

Tim Nicholls: To express some further concerns, I do not think there is a huge history in the SEND system of making good lists. If we look at the local offer, I once heard it described by a parent as, “It might exist in some form somewhere but you cannot have it.” We run the risk here essentially of creating a menu where half of the items are crossed out because there are not enough spaces at them, because we have not done that prerequisite of ensuring that there is sufficient supply to meet the demand. We have not done the intelligent commissioning.

We run the risk here of entrenching some of those combative aspects of the system if you are presented with, “You can have one of these,” but none of them is right.

Chair: And if a place unexpectedly becomes available, it is a daily special on the menu. Thank you.

Q32 **Andrew Lewer:** The improvement plan sets out a proposal to support young people’s transitions post-16, particularly investing in supported internships, but also about publishing more guidance. What is your view on those proposals within the plan and what do you think needs to be done to ensure that young people with SEN do not miss out on those opportunities?

Dr Stavrou: I will begin by saying that I recommend that the Committee speak to representatives of the FE sector directly. It is a sector that is often overlooked and I think they have a lot to say about it. It is also a



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sector that is good at doing inclusion. Only 10% of pupils with EHCPs in FE are specialist provision, so I definitely think it is worthwhile looking seriously into how provision can be expanded and better.

The internship announcement as I understand it was something that was in train anyway before the improvement plan. I hope I do justice to my colleagues from the sector when I say that FE's main concerns are as follows. First, there is no commitment at all to capital funding. They are in a really difficult position in respect of their estate. They are also concerned about non-regulated specialist provision as well. That needs to be looked at as a matter of urgency, again picking up on something that came out from the panel earlier.

There is another host of challenges around the disadvantage funding. It is a bit complicated, but broadly speaking that is the pot of money that funds pupils in FE who have special needs but do not have high-level need. It is in a way equivalent to SEN support in schools. The calculations are quite complicated but the material I have seen suggests that for the same pupil with the same level of need they receive about half the allocation that a school would. There is a big issue around that pot of funding.

Lastly on behalf of my colleagues in FE, the improvement plan speaks about the regional expert partnerships, the REPs. It is not clear from the plans that FE will have a place around the table at all, so my plea for you here is: if you want to hold FE to account, FE must be part of that conversation. It stands to reason you cannot really plan for transitions if one part of the transitioning is absent from the conversation.

Dr Crossley: To add one short point, not necessarily around supported internships but certainly around provision at post-16, what we would be interested in is how this links to the conversations we are currently having around defunding of BTECs. That is one of our concerns because it seems counterintuitive if we are trying to ensure that there are appropriate pathways for all and then we reduce the BTEC offer. That is something that we would like to be reconsidered.

Tim Nicholls: One small point particularly on supported internships, which are positive and can be a great opportunity for autistic young people looking to head into the world of work. That is that we should not looking too restrictively on who can have them. The guidance that was originally put out very clearly restricted this access to it to those children who have an EHC-plus plan, so we are instantly saying to half the cohort of kids who have SEND, "There is this thing, but you cannot have it." There could be tremendous benefits from widening access.

Mike Hobday: We regularly hear from deaf young people that transition points in their education, such as the transition from school to college or work, are particularly challenging. I think Ministers are absolutely right to pick on the principle of transition and to have transition standards developed. We think those could be helpful if we get them right. What



getting them right to our mind would include are clear responsibilities on schools and colleges to work together, including with appropriate specialists to ensure that disabled young people receive information about reasonable adjustments in work, about post-16 work-based training opportunities, such as apprenticeships, and employment schemes such as Access to Work and Jobcentre Plus programmes. If we get that right it will be a big step forward.

Andrew Lewer: Tim has already mentioned extending supported internships to people without EHC plans. There is obviously a funding implication in that. Is anyone going to surprise me by saying they do not agree with Tim and that those supported internships should be extended regardless of EHCs? No. Thank you.

Q33 **Chair:** Our inquiry on careers education, information, advice and guidance showed that frankly the provision was patchy at best across the sector, but we have also heard that young people with special educational needs and disabilities do not receive the same level or quality of careers advice as other children in the system. Does the improvement plan do anything to address this and, if not, what more could or should be done?

Dr Crossley: I do not think it goes into a huge amount of detail, but I think the sector needs to acknowledge what they could do themselves, and I am including myself in this. The Gatsby framework has been used really well over the last few years. That includes also the SEN toolkit.

Chair: In some places.

Dr Crossley: In some places, yes. The SEN toolkit that accompanies that is also really positive, but not everybody knows about it. I was writing about it a couple of weeks ago to raise the profile of that. It is about making sure that the careers guidance is looked at through the lens of SEN and ensuring that that early identification is at Year 7, thinking about their careers offer, what it might look like, ensuring that there is not a glass ceiling for our SEN children and that they do understand that they can enter any walk of life with the appropriate support. For me it is about going back to the Gatsby framework tool and specifically the SEN tool to ask, "How are we adapting this for our children?"

Q34 **Chair:** I would argue that we must be ambitious on behalf of children with special educational needs and disabilities and that careers education, information, advice and guidance is probably more important for them than it is for other youngsters, particularly when it comes to transitioning to a next stage. Is that something that the sector will think about lobbying on quite hard?

Dr Crossley: I think so. Particularly when a lot of our SEN children are not necessarily going to automatically go down an academic route, the idea around vocational support and work experience, supported internships, all of those things are beneficial. That is why I think the Gatsby toolkit is useful, because it does drive home you need to have those conversations in year 5, year 6, moving it on to transition at year



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7. It is those transition points for our SEN children that are so important, so that they do feel supported to be able to go on to the next stages.

Tim Nicholls: The National Autistic Society has recently set out what we want for our long-term vision for what society that works for autistic people looks like. One of the key tranches of that, how we phrase it, is “Maximising autistic power”. That is an incredibly important thing. It is not only about the choice in agency, for you to be able to choose what kind of job you want to do, because who are we to tell you what kind of job you should do. It is also about ensuring that autistic people are in every boardroom, that they are around the Cabinet table. These are the important things. That is a long-term goal and it starts with all the things that Nicola was just saying.

What we need to do as well, and I do think training and understanding underpins all of this, is tackle the poverty of aspiration—that is how we have had it described by parents before—within the system, as to what an autistic child can go on to achieve, harness their talents and build on their strengths with a really solid understanding of what they want to do and what their skills are, and help them to become or have the adulthood they want.

Mike Hobday: You said, Chair, that proper careers advice is probably more important for young people who do not have an obvious route or do not know what they are looking for. I am struck by that. We recently surveyed the parents of deaf young people aged 14 to 18. We found that only one in 10 of deaf young people received careers advice tailored to their needs. One-third were getting no careers advice at all.

National standards on transition could help, but there is a lot that could be done outside, so the careers hubs, including SEND representatives to ensure joined up support with schools, colleges and employers, the National Careers Service being required to promote and provide access to advisers with specialism in disability through its helpline and live chat service. There is a lot more we could do to set up deaf and disabled young people to succeed from the start.

Q35 **Chair:** There is a lot being said there. Does the improvement plan do anything to address this?

Dr Crossley: It absolutely raises the profile, and it is a feature of it. We need to build on that more. With the whole of the plan, what our members are saying is that the devil is in the detail. We would like to see what that detail looks like for all areas of the plan, and that includes for post-16.

Tim Nicholls: In many ways, it is a microcosm for the plan as a whole because it says some things. However, because of the scale of the challenge that is in front of us, it is not enough.

Chair: Yes, the skeleton looks nice, but we need to flesh it out a bit.



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Thank you very much. Miriam, please.

- Q36 **Miriam Cates:** We have heard previously about the difficulties that local authorities have in creating new special schools. We hope that this plan will improve that situation. Would you like to comment on the situation, in terms of supply and demand of special school places and whether the plan will improve their situation? Nicola, I will come to you.

Dr Crossley: Yes, the issue is the timescales again. A number of our members are reporting that they are oversubscribed. We have pressure on the system. As the Chair has suggested, in-year admissions is a concern. What we notice—and I think this is across mainstream as well as specialists—is increased parental dissatisfaction and, therefore, a demand for more specialist places. Obviously, with the new wave of free schools that are likely to be announced, that is very welcome, but we don't think it is enough. There are also the timescales and the delays that come with that in terms of bidding for it, the build and so on.

- Q37 **Miriam Cates:** To clarify, you are saying that it is not necessarily the level of intensity of the need of the children that is changing. Their ability to be well served by mainstream or their parents' perception of it is what is forcing the demand?

Dr Crossley: I think it is a combination.

- Q38 **Miriam Cates:** A combination of both?

Dr Crossley: Post-Covid we are seeing more complexity of need and more primary and secondary need. There is a backlog of statutory assessments, so that is creating more pressure on more places. There are in-year admissions that are coming through as a result of maybe parental dissatisfaction or inappropriate placements in mainstream. Perhaps it is this perfect storm of a post-Covid impact, children struggling in mainstream and needing that specialist provision and there are not the places available. There is concern in the sector that the new wave of schools that have been announced will not be enough and we have the pressure right now. That is very tricky to manage.

There are quite a lot of schools that I am working with and within our members where the request is to go over plan, because obviously you can do that with an EHCP. The more schools that are being asked to take on more, the more that impacts on capacity and being able to provide a good enough education.

Miriam Cates: Thank you. Would anybody else like to come in on that?

Dr Stavrou: Nicola gave us a pretty exhaustive response. I might zoom in on one aspect on the backlog in assessments. We know that pupils who are waiting a long time for an assessment are basically trapped in a time zone, where oftentimes the school itself will say, "We are waiting for an assessment" and they are basically frozen, without their needs being met.



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Then we have an unrealistic understanding or an unsubstantiated understanding of the need, but also—and I alluded to this earlier today—that escalation of need as well, which might suggest specialist provision is needed, which would not necessarily be the case. The utmost urgency at the moment is to look at that gap in specialist provision within mainstream, because that feeds in later on into the wider picture of our specialist provision.

Dr Crossley: We do not need a label to be able to support our children. If anything can come out of the plan it is about more inclusive schools across the system. We do not need the label. We just need to know where the gaps are with any child in terms of their learning and to be able to meet those needs.

Mike Hobday: I would make the point that specialism works at a number of different levels. Most deaf children are taught in mainstream schools. Across England there are 18 special deaf schools, so not a large number, but there are 230 resource provisions where deaf children spend some time in the deaf unit and some time in the mainstream classes.

That number of 230 was 260 six or seven years ago, so the number of mid-level specialist places is going down. That creates the risk either that children will win tribunal cases to go to more expensive specialists or are inappropriately put back into a mainstream school that is not yet able to support them, so a plea to think of levels of specialism as well.

Chair: I was at a meeting in my own constituency on Friday, where there was a discussion about opening up a couple of new special educational needs units within the authority. The consensus in the room was, "If we open five, they will be oversubscribed by tonight," so it is a bit like that, I am afraid. Lastly, Flick, please.

Q39 **Mrs Drummond:** Yes, last question is about the early years. The SEN implementation plan has listed ways to support early years staff. I think Ambitious about Autism has recommended that the SEND workforce include mandatory CPD for all staff in early years. As Mike said, it is very important to pick up all these issues very early. The earlier you can pick them up, the more support you can get in. Do you think the steps in the plan are enough to ensure early years practitioners are better trained to support young people with SEND?

Dr Stavrou: My impression from the early years sector, in particular, is that by and large they are quite pleased with the fact that there is a higher profile for early years in this plan and that is welcome. I think they are broadly welcoming the level 3 SENCO award and the expansion of 5,000 more places. I think that has universally been welcomed.

One of the issues around that is that too much focus on a SENCO might be slightly misguided, especially if you think about small settings. Inclusion is about the whole setting approach and there is a great concern around the general level of SEN knowledge in the workforce.



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The other point to make about early years—and again, I believe you heard testimony in this Committee last week—you will appreciate the wider concerns in the sector have very grave implications on the SEND aspect of it, namely, because there is such an acute recruitment and retention crisis, it is very difficult to talk about the specialist knowledge of practitioners when they are missing so many of the said practitioners.

On that, I do not think that the plan does enough. I think it goes some way towards acknowledging the importance of professional knowledge in early years. That has to be a good thing. Again, the SENCO level 3 is welcome, but I don't think it touches the sides of the level of the crisis in the workforce in early years.

Dr Crossley: I would add that the plan itself talks about the training running until August 2024. I would be looking to see if we could extend that further because I do not know whether we will have as much and as many people as necessary accessing that training in that short time span.

Linking in with what Daniel said, I completely agree around the need to get in there early. The early language acquisition is very important. Therefore, the funding that is being put forward around early language and support for speech and language therapy is needed, particularly post-Covid. I know it is getting a little bit tiresome talking about Covid, but it is still a very real and present danger. What we are noticing in the early years is that language acquisition has those deficits and so that needs to be focused on.

Mike Hobday: Because deafness is a low-incidence condition, we would expect early years professionals to be committed to deaf children and to have a broad awareness about how to support a deaf child, but they are not going to be experts. One of our disappointments is that there was a very welcome item in the Green Paper that said that relevant professionals—and to our mind that means teachers of the deaf—would be involved in the two-year checks that health visitors lead. Strangely, that has been omitted from the implementation plan and we are quite disappointed by that.

As we have been talking about it over the last couple of years, the idea seems to have gone down very well with families. It is increasingly happening on the ground and health visitors and teachers of the deaf are working together, but it would have been great to have the endorsement of that approach in the implementation plan.

Tim Nicholls: Broadly speaking, the rollout of extra training for SENCOs, certainly in early years, is positive. However, I share Nicola's concerns about how rapidly that will come out. It is particularly important because, for parents of autistic children, this is possibly the time when they are going to be starting to think, "I think my child might be autistic" and so if we start the intervention then, the trajectory could look so different. It is very important.



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I would say that, apart from that, it is the point that not everything can lay on the shoulders of the SENCO here. That is why at the National Autistic Society, we think that when we are looking at mandatory training, we are not just talking about the school years. We need to be looking at early years as well there because it will be crucial.

Q40 Mrs Drummond: That should be mandatory for all early years' practitioners and not just SENCOs?

Tim Nicholls: Yes, but at an appropriate level to the job.

Q41 Mrs Drummond: Yes, to at least have some information and some training about what to look out for, particularly in the early years.

Tim Nicholls: How to support children who are autistic as well. It is not just going to be a case of identifying it. It will be supporting autistic children's communication differences, their sensory needs; any number of different things.

Chair: Thank you very much indeed. As we said at the outset, taking evidence from you this morning is about helping us to frame our questioning of Ministers at a later date about what their proposals are and how they plan to implement them.

One last question from me: is there anything that you should have said that you have not said already? No. You might look back on this and think, "That is a question I would have liked to answer" or, "This is a question I would like to see put to a Minister", so please do let us know in due course.

Thank you all for coming along this morning and giving us your evidence and giving up your time. It has been very greatly appreciated by us. We will now close and go back to our other duties. Thank you very much indeed.