HOUSE OF COMMONS

Education Committee

Oral evidence: Special educational needs and disabilities (roundtable), HC 968

Tuesday 20 Nov 2018

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Watch the meeting

Members present: Robert Halfon (Chair); Ben Bradley; Marion Fellows; James Frith; Emma Hardy; Ian Mearns; Lucy Powell.

Questions 141-168

Witnesses

I: Amanda Batten, Chair of the Disabled Children's Partnership, Tara Flood, Director, ALLFIE, Jean Gross, Chair, Bercow Ten Years On Review, Steve Haines, Executive Director for Policy and Campaigns, The National Deaf Children's Society, John Harris, journalist and parent of a child with SEND, Dame Christine Lenehan, Director, Council for Disabled Children, and Mark Lever, Chief Executive, National Autistic Society.

Written evidence from witnesses: To be agreed and published at a later date.

Examination of witnesses

Witnesses: Amanda Batten, Tara Flood, Jean Gross, Steve Haines, John Harris, Dame Christine Lenehan, and Mark Lever.

Q141 **Chair:** Good morning, everyone. Thank you very much for coming. This is going to be an informal session, and that is why we have interspersed everyone. So it is not going to be like when you watch some Committee sessions. Just for the benefit of those watching outside I think we will all introduce ourselves—for the benefit of the internet and the parliamentary TV and so on. My name is Robert Halfon. I am Chair of the Education Committee.

Ian Mearns: Ian Mearns, MP for Gateshead and member of the Committee for several years now.

Lucy Powell: Lucy Powell, MP for Manchester Central.

Mark Lever: My name is Mark Lever. I am chief executive of the National Autistic Society.

Amanda Batten: I am Amanda Batten. I am chair of the Disabled Children's Partnership and chief executive of Contact.

James Frith: I am James Frith, MP for Bury North.

John Harris: I am John Harris. I am a reporter and columnist for *The Guardian*. I write quite regularly about SEN and I also have a son who is autistic and therefore has special needs.

Marion Fellows: I am Marion Fellows, MP for Motherwell and Wishaw—international observer on the Committee.

Tara Flood: My name is Tara Flood. I am director at the Alliance for Inclusive Education, which is a disabled-person-led organisation.

Ben Bradley: I am Ben Bradley. I am the Member of Parliament for Mansfield.

Dame Christine Lenehan: I am Dame Christine Lenehan. I am director of the Council for Disabled Children and I am representing the Special Educational Consortium, chaired by Kate Fallon.

Jean Gross: I am Jean Gross. I am an independent consultant with a long background in all aspects of SEN. I have recently chaired the "Bercow: Ten Years On" review of services for children with speech, language and communication needs.

Emma Hardy: Emma Hardy, MP for Hull West and Hessle.

Steve Haines: I am Steve Haines. I am the director for policy and campaigns at the National Deaf Children's Society.

Chair: Thank you. James.

Q142 **James Frith:** I refer Members to my entry in the register of interests.

We are going to kick off. This meeting has a conversational style so, please, there are no wrong answers. We want to encourage freedom of conversation. We are going to start with quite a heavy subject, though, with the implementation of the 2014 Act—the successes, the challenges, what has worked, what hasn't worked and what the good intentions of the Act were. The question is: what has worked well in recent years, post the 2014 Act? What was key in the implementation? What was lacking in it? Some prompts here: money, energy, expertise and will. Who would like to kick off?

Dame Christine Lenehan: I would like to start off with success. I find if we do not start with success, we never touch it; we just look at challenge. Our interest is that we are also a strategic reform partner to the Department for Education, so we have worked with the reforms from inception into legislation and now into delivery. I still believe seriously that the reforms are the right reforms in terms of putting parents at the centre of what is going on, encouraging and looking at the voice of children themselves and inter-agency working. While there remains a challenge for a whole range of reasons, I will give you one example of success. When this part of the Children and Families Act 2014 was going through the House, you will know that there were over 1,000 amendments as we tried to get it right. One of the things we came in with and ended up with was a role called "designated medical officer", which we invented as part of the process of the Act. The role of those people was to act as the link between health and the local authority, given the challenges that lots of families see.

Four years on, we now have 140-something; there are nine local areas at the moment that do not have a designated medical officer. The rest have one. They are paid for by health or they are jointly commissioned, and they are the problem-solvers for health in the system, understanding how to meet the needs of children's individual EHC plans and looking up into the system at the massive challenge that is commissioning. If you look at the evidence from the inspection reports, what you see is that where good designated medical officers are present, we have much less health challenge than we do in areas where they are not. That one role is one of our successes.

Steve Haines: One of the other successes we have seen is the local area inspections. They have been able to work alongside health and education to look at the progress that children are making. Whether we have seen significant changes in accountability is unclear. Touching on Christine's point a minute ago about parental involvement, we recently did a survey of about 1,000 parents of deaf children and young people. Only 4% of them felt they had seen improvement since the reforms, and 82% were concerned about funding. While we have had some very positive developments in the intent of the legislation, it has not seen the funding and support sit behind it to make them a reality.

Amanda Batten: I would like to echo that. The aspirations of the reforms are good—to put parents and children at the heart of decision making, to join up a more holistic approach across education, health and care and to have a clearer, more consistent system from 0 to 25. Those are good things, and if we can make those things happen they will make a real difference for children and families. You have already hinted in your question that the reforms were introduced at a time of austerity. I know the Committee is aware of the pressures on the high-needs funding block. That needs to be resolved in order for the reforms to be a success. There are also wider pressures on the SEN budgets in schools and particularly on health and social care funding. The Act was supposed to bring those services together, but some of the pressures on health and social care funding risk undermining some of the positive intent of the Act.

I will follow Christine’s lead and start with some successes. One of the things the reforms did was to enshrine the principle of putting children and families at the heart of decision making. They did not invent or introduce parent-carer participation, but they did put it on a stronger footing. When you are making very broad comments like this, you have to caveat them, and of course there are a lot of individual experiences where that is not working and areas where the joint working between parents and local authorities is really hard. Nevertheless, there are parent carer forums in nearly every local authority in the country. That network is 90,000 strong. It is a very active network and there are a lot of parents who have worked incredibly hard to try to make these reforms a success. In a report this year, in 56 of those local areas parents are saying that they have a co-productive relationship with the local authority on decision making. That means they are equally engaged in decision making. That is going in the right direction, so that is a good thing. Involving parents at a strategic level around decisions is so important.

Q143 **James Frith:** Was enough done at the outset to make that a standardised experience? Certainly in Bury, we are only just getting around to that. That has been a transformational partnership, as you talk about, but it was not guided by the legislation or funding. Do you think that they didn’t do quite enough to knit the thing together?

Amanda Batten: I think, as you are hinting, that it is a journey to get those relationships right, and some areas are further down the line than others. There is Government funding to support the programme, and we are a delivery partner in that.

My reflection is that, where the joint inspections have shown that things are not going well, poor partnership working with parents is often at the heart of it. You see it in all the written statements of actions. Where it works, it has taken time and effort. Things take a lot longer when you do them in partnership, because you have to involve more people. It is not always easy.

However, where it works, I think it can be transformational, and I think the key to the reforms' success is embedding that culture change; we all know that anything around culture change and leadership takes time. So no, it is not perfect everywhere, but it is something that we have to hold on to in order to make the reforms work.

Q144 **Chair:** In terms of children with special educational needs who do not have an education, health and care plan, what is your feeling about the funding available in schools for that, especially if, in one year, a school accepts more children with special educational needs?

Dame Christine Lenehan: I think that the fundamental criticism of the implementation of the Act is that it is concentrated almost wholly in its first three years on the 2.8% of children who have EHC plans. The Government's pressure for transfer was almost a sort of necessary evil in the system, to get children away from statements and on to EHC plans.

However, having that level of pressure in a system that did not have the flexibility or funding means that our worry is that the other 12% of children who actually need SEN support are not yet getting it in the way that they should. It is not clearly defined or well enough understood in schools. We are clear that that remains an area of significant challenge.

Q145 **Chair:** If one school in an area accepts more children with special educational needs, or just by chance has more over one year, will it possible for that school to fund that properly?

Steve Haines: Only 17% of deaf children have education, health and care plans. Whether the school has the resources, mostly within their own budgets, to include those deaf children, to make sure that they get the right outcomes, is obviously less clear when you do not have that legal recourse through the plans themselves. It is essential for low-incidence needs that local authority support for specialist services is provided to schools—people like teachers of the deaf, who can ensure that a school is able to do the work. Agreeing with Christine, we have had a lot of focus on the administrative move from statements to ECHPs. What has happened to the vast majority of children is much less clear.

Jean Gross: On the issue of SEN support at school level, not only is it a matter of timing of where the focus has been on EHCPs or school support, in some areas the focus on EHCPs has actually reduced provision for children not on that level, particularly in relation to therapies. We have evidence from the Bercow review of speech and language therapists saying that they cannot work with children who do not have ECHPs now, so it may have made it worse.

You asked if schools have enough money. I think there is evidence that, if they are inclusive and they have a large number, they get better at meeting special needs. It is a circle, isn't it? They welcome parents when they come, instead of saying, "Well, the school down the road is perhaps better for you." Those schools do attract more and, inevitably, they will not have enough money to meet those needs. As long as we have the situation where, if a child goes to a special school or becomes excluded, schools do not have to spend £6,000 of their budget on them. That is an absolutely fundamental problem if you are a school head.

Q146 **Chair:** Has any of you made an assessment of the shortfall of schools for children with special educational needs who are not on an EHC plan?

Jean Gross: The shortfall in funding?

Chair: The overall measurement.

Jean Gross: No.

Q147 **Emma Hardy:** I want to concentrate on the parent experiences, because in some of the evidence that we have heard, parents have said that they do not have the energy to fight for their children anymore. I wondered how typical that was of parental experiences. I am very interested in the Bercow report, but I would also like to hear from some people who have not spoken yet.

Tara Flood: My organisation does not run a helpline for parents, but we have noticed in the last two or three years since the reforms that there has been a real spike in parents getting in touch with us. I would say that the majority are at the end of their tether. They come to us and recount the most appalling experience of struggle, fight and battle—and of feeling embattled.

A lot of this revolves around the myth of parental choice—the idea that suddenly parents have choice. No one is thinking about the fact that the existing system does not allow that at all. The problem is that parents of disabled children and young people, including, for us, children with SEN, can often have choice, as long as it is the choice that the local authority and school or education provider wish that child and that parent to have.

Therefore, the choice is there, but the minute the parent says, "Actually, we want something different," particularly if they want their young person in mainstream with all the right support, they often find themselves isolated, labelled as a "difficult" or "unreasonable" parent, and left to—I am going to say fight, because you used the same word, Emma. They get into a hugely expensive and very adversarial battle for what is allegedly described as choice. It is really problematic, and there is a perfect storm in terms of schools struggling with league tables and funding, and parents struggling to get the right support for themselves and for their young person, and yet still being expected to talk about having choice and having a new aspiration for their children.

I would add my concerns about the reforms. There are some successes. We really welcome the 0 to 25 extension, but we really worry about the cliff face that used to be 16, 18 or 19 now moving to a disabled young person's 25th birthday. We also worry about the missed opportunity, if I can say that, to not amalgamate budgets. So, yes, the duty to work to joint commission between education and health and social care is great—absolutely—but to not amalgamate the budgets has left parents fighting against exactly the same issue: who is going to pay for what?

John Harris: When I first, as a parent, collided with the old statementing system, partly because I am a political journalist, I suppose, I quickly understood the bigger picture, which was that I was dealing with a dysfunctional system of rationing in which the central criterion was which parents could push the hardest. Because I am a reasonably well-educated and well-resourced person who can read nine pages of text and spew out an approximation of them in two minutes—that is what I have been trained to do—I could just about play the system successfully.

But from reading about and being networked into groups of other parents who do not have those skills or do not have the time—this also applies to people I know, who were and are failed by the system—irrespective of the good intentions that have been mentioned so far, and the fact that provision in theory runs up to 25 and encompasses health and care and so on, it seems that the new system, partly because it was enacted at a time of austerity, which continues, is failing.

One of the key ways in which I see it failing is that same dysfunctional system of gatekeeping. It varies across local authorities, but you tend to find a great wall of paperwork. Before you even think about applying for statutory assessment and beginning to get the provision that you need, you will be faced with an almost impossible wall of paperwork.

If you are well resourced enough to complete that paperwork, what happens in many cases—it happened in mine in the old system, which in this sense is almost identical to now—is that you get a straight knee-jerk refusal. There was absolutely no way that my son did not require significant extra help at school, but we were told that he was not entitled to any. You end up in the somewhat heartbreaking situation of having to insist, as against what the local authority tells you, that your child cannot do x, y and z. It is very difficult for a parent to say, “Well, he can’t make friends. He can’t hold a pen.” Obviously, you want to be optimistic and emphasise all the positives.

All of that carries on, and you end up with huge numbers of people—many of whom I am in contact with, and we all know and read about them—who are at their wits’ end as has been said already. That is irrespective of the good intentions in the legislation and the good intentions of the people behind it. I remember, very early on in the process, going to see Sarah Teather at the DFE, and Edward Timpson later on, and their good intentions were unquestionable, but the execution of this leaves a huge amount to be desired, and I would say that we are faced with a system in crisis.

Mark Lever: I would echo John’s experience. He is speaking about the parent of an autistic child, and the National Autistic Society is surveying parents all the time. Our survey last year found that over 40% of parents had had their request for an EHC plan refused. The point about gatekeeping is really well made: you are already seeing a way of managing the number of people that go into the system. But then if you look at what is happening with full-panel tribunals, you see there has been an 80% increase, and autism is the single largest element of that. Parents have a circa 80% success rate at tribunals, which must tell you something about the quality of the decision making before they even get to tribunal. As John says, while there are well-resourced, capable parents who can make a case for their child and probably get good provision, that should not really be the case. When you look at the lack of resource in the system, you cannot help seeing how much resource is being spent on tribunals and how much is being spent on batting parents away, when it could actually be spent on providing a better education.

Jean Gross: But is the solution necessarily a better education, health and care plan system? I would suggest that what was missing for you, John, and what is missing for parents, is a good school system where you have expert people—a local team of real experts who can come into a school—particularly for autistic children with challenging behaviour, which happens when you get sensory overload. They can actually provide expertise to the school. That might be a better solution.

Mark Lever: I absolutely agree. That should be the fundamental starting point. You should have mainstream schools providing better training for their teachers and better support for the children and young people there—I am thinking about autistic children, but also all other children—so that parents feel that their needs are being met. The reason parents try to get an EHC plan is because they feel as if the funding is not there to meet their child’s needs. The guidance says that the reason for going for an EHC plan should be that the child “may” need special support. In a lot of cases, parents are not getting that in the mainstream set-up.

John Harris: There is another thing that is overlooked when it comes to parents applying for EHC plans. There is the business of things being fleshed out, and there should be specific provision, but one of the things that tends to happen is that local authorities avoid any specificity in plans like the plague. But if you manage to get that, it delivers one thing that is essential—for any parent, but for parents of kids with special needs in particular—which is a large measure of certainty and stability, and the sense that you can hold institutions to account. Without that, and with the best will in the world, and with the best mainstream school in the world, you don’t know what is going to happen two or three years down the line. In fact, the course of education policy and of education funding since my son started at school has proved that to be exactly right. I often use a cliché when I talk about having a child with a plan, which is, “This is all I have.” It feels like that.

Jean Gross: I do appreciate that. But suppose the school accountability system—which we should talk about—were better, so that you as a parent could have a guarantee that the school will be held accountable for what it is and is not able to do. I think we push so much on to you. If I were a parent, I would completely agree: I would want a plan now, but there is an issue around how we always focus on how to make those plans better, or have more of them.

Another issue is that it is not totally new. I have been in SEND a long time, and there always has been a tension and a pressure. If you have what is meant to be a needs-led system, in which any family who feels there is a need can access funding, then a needs-led system does not match with a finite budget. Local authorities cannot shift any of that budget now. It was reasonably sensible a few years ago. Local authorities said to schools, "Okay if you ask for more and more EHCPs, we will take that off your schools budget. If you push against this golden pot of money, that is the consequence—there will be less for everybody." But now that they can't do that—they can't interfere with the school's pot of money—that has made a big difference. You now have a hard divide.

Q148 **Emma Hardy:** I just want to ask Jean about the Bercow report 10 years on, and about all of the children who do not qualify for EHCPs and are not getting the speech therapy that they need. Would you like to comment on that?

Jean Gross: Yes, 86% of children with speech, learning and communication needs do not have an EHCP. They are part of the large group. We reported most parents waiting. A third were waiting over a year for speech therapy, and another 20% were waiting over six months. There is a perception from the speech language therapy profession and from health visitors that there has been a systematic decline in health spending on that service.

Mental health is another case in point. The system gets tested at that boundary between health and education, as Christine knows. Much will depend in future on whether we can unlock health's focus on children, and on children with SEND in particular. If we can't do that, we will continue to struggle.

Q149 **Ben Bradley:** We touched a little on tribunals, on some of the challenges there and on the amount of cases that go to tribunal. Do you think the Act has had an impact on that, and what are the reasons for that? There is an element of thought in terms of whether it has increased people's awareness of the ability of the support. Has it made parents more likely to come and ask for it? Is there a higher expectation as a result from parents as to what they might be able to access? What is the reason for that tribunal?

Steve Haines: Touching on the previous point as well, the intention of this legislation, the Equality Act and even going back to the evidence given by Baroness Warnock to this Committee about the original intent of the legislation, where you saw parents and local authorities in partnership, should be that this is an opportunity for a parent to have the support that their child needs within the school of their choice.

What we actually see is an enormous amount of money going into administration and adversarial conflict. After years of experience, it is totally understandable when parents probably set themselves up to feel that needs to be the case. When we ask parents, we find about two thirds don't feel that they have the information about the quality of services. It is not just whether they are there, but whether they are the right ones and that parents are getting what they need.

For deaf children, in particular, the nature of low incidence makes it much harder to compare, because you might not necessarily know another parent who has a deaf child. In fact, if you do, that deaf child possibly has very different needs from yours.

What we need to invest in is the quality of those services—the local authority support to be able to provide those services—building that capacity within schools. I know that there are efforts with whole-school SEND and others to do that, and that is very welcome, but how much money is getting poured into administration rather than support? We have that concern.

The other thing is whether the money follows the individual. We are not yet seeing that. It is really unclear when you get to those transitional points that Tara mentioned—16, 18 and the movement into work at 25. There are very different funding streams going on there. How can parents best support that?

How can we invest in parents having the highest possible, broadest possible aspirations for their children in the world of work? It feels like there are so many areas that need to be invested in, yet we are stuck in pouring that money into barristers and paperwork and conflict.

Dame Christine Lenehan: Can I take you back to tribunals for an analysis? I think it is really interesting. What the Act did was set expectations, and the expectations it set of parents in the system were reasonable. Then austerity hit, and the system went into chaos. Where we are now is a sort of chaotic system where there is a whole range of expectations and a real variation in tribunal rates.

There are some authorities where tribunals are through the roof, and within those authorities, if a family goes to tribunal, the local authority almost just walks away. In other authorities, there are very few tribunals. Some of that comes back to what Jean was saying. If you have got a clear, good system of education, where families understand that their child’s needs are being met and that people are working towards meeting those needs, then they don’t need to fight the system. But where that grounding is not place, things escalate really quickly.

We have a number of concerns about tribunals. Last year, the Government asked me to do a report into children in residential special schools and colleges. I was very worried that, in some of the schools I went to, the children were 100% placed by tribunal decisions. I think there are concerns about that. For me—I have a background as a social worker—we are making children the problem in this, not the situation they are in. We are looking at nine-year-olds being transferred 120 miles for education. There are some fundamentals about how we view that system that we need to look at. There is something about the sheer amount of money we are spending in that system—it was £500 million last year for residential special schools—on 2.3% of the population. There is a class issue. The people who go to tribunal are white and middle-class and educated, so there is in-built unfairness in the system.

Q150 **Chair:** And they have to fund it. The people on low incomes cannot fund tribunals.

Dame Christine Lenehan: It is interesting, because the tribunal judges will always tell you that access to the tribunal is free. Theoretically, in law, it is, but we have seen this upping of the ante—"I'm getting a barrister. You're getting a barrister." There are the stories that come through.

I have one plea for your recommendations. I have a real thing about tribunals—I apologise—but what we are not getting out of the tribunals at the moment is any feedback at all. What the tribunals used to do was they produced a yearly digest that, in effect, said, "Not going into the individual detail, these are where the trends are with cases this year. These are where some of the issues are." For example, what percentage of tribunal cases rest on school transport? Quite a lot of tribunal decisions at the moment are resting on access to social care. There is a whole range of things. I think that if you are going to spend that much money on tribunals, you have to have it as a service improvement tool. I want to go back into local authorities and work with them and their families and say, "These look to be the trends. Where is your policy taking you? What does a reasonable baseline look like?" We will never have a world where a gold standard for everyone exists, but we need to be clear on what the baseline is.

Q151 **Ben Bradley:** I agree. I very rarely have a surgery go by that does not have someone with a school placement or an SEN-related issue. You are absolutely right: in my community, it tends to be those less well-resourced, working-class families who come to me. The better educated, middle-class ones can go and fend for themselves.

To follow up on what you said, there seems to be a clear response around local authorities and their ability to communicate and to manage expectation. There must be variation across different authorities in their ability to match the rhetoric with the reality and to manage that with pairing.

Do you think there is also a parental angle? I met my local authority about that this week, and they said that they have a real challenge. They feel that they are trying to be inclusive, but they have a lot of examples where they have put resources into mainstream schools and parents want their kids to go to specialist schools. The local authority is concerned about inclusivity and separating them from mainstream. Is that going to prevent them from getting into work in the future? Do you think that is an element?

Mark Lever: It goes back to what Jean said. If you have mainstream education properly provided for, you will have more children and young people with SEN going into mainstream education. Autistic children are three times as likely as children without SEN to be excluded from mainstream schools. That instantly puts a barrier up for parents. In the reforms, when we spoke about local authorities publishing their local offer, parents were really encouraged by that. What tended to happen in most local authorities was that it was just a list of what was already there.

There was almost a missed opportunity for local authorities—let us not forget that they are under a lot of pressure themselves—to step back and start to plan, look at the data and look at the numbers of people with SEN in the local authority.

Local authorities need to think, "How do we develop a long-term plan, rather than just producing a list that is a pick and mix for parents to go to?" I think one of the big challenges is to get out of this reactive cycle, pull yourself back and say, "This is the need we have. This is how that need is going to change over the next 10 years. How do we start to develop a provision that takes in mainstream schools, independent schools and special schools and knits them together so that we have the best possible provision?"

We know through the number of autistic children who are excluded, go to tribunal or are in special schools that that plan is not there. One of the reasons we are calling for a national education strategy for autism is because we know that it would make a difference. At the local level, local authorities are under so much pressure that they do not have that time to step back and put that plan together, but it would make a massive difference.

Jean Gross: One of the real factors in the stripping out of local authority funding is the lack of expertise. You need local strategic leaders. You have one in Manchester. There are some, but many have left. Every restructuring to save money means that people go—often the older people with wisdom—so we no longer have that strategic, local leadership to say, "Okay, we have a rise in this need or that need. What is the long-term plan?"

John Harris: It is not over-emphasising the broken-down state of local authority children and education departments to say that as a parent, or as a school for that matter, you often feel that there is nobody there at all. If a maintained school or an academy—I know several cases of this and have had experience of it myself—is trying to make contact with the local authority children and education department on an urgent matter of funding, it can be six weeks before a reply comes through. When you have schools that are financially independent, as academies are, and they cannot just borrow the money out of their own funds and so on, that becomes a very pressing matter. I was given the mobile number of the relevant person in our local children and education department, who was great when I could get hold of her, but I knew full well that they were shedding staff at such a rate that she had an impossible workload. Therefore, any meaningful communication became impossible.

Tara Flood: A lot of local authorities are using the language of inclusion as a cover for cost-saving, losing staff and losing expertise. For me, the real issue is that we have a needs-led education system rather than a rights-led education system. Parents often have to get into this awful, competitive round of who has the most significant needs, and whoever that is may or may not get a certain amount of funding. All the pressure goes on to parents—no one has yet talked about the impact on young people.

Amanda Batten: I just want to come back to your question. You were touching on that narrative around parental expectation. There is a danger in that narrative—that feeling that parents have unrealistic demands and are driving these very high-cost placements. In my experience, I don't think that is quite what is happening. I was listening to a parent last week who said that there is this feeling that parents want a Rolls-Royce or a Ferrari—these really high-cost placements—but actually they just want a Ford Focus. They want something that starts, is reliable and gets from A to B.

James Frith: Or the phone answered.

Amanda Batten: Yes, I guess so. The challenge is when that Ford Focus is not available. I do not want to overstretch the analogy, but when you have no car and you get into crisis, if you feel that your choice is between something inadequate or the Rolls-Royce, then I guess that is what gets you there.

Q152 **Ben Bradley:** But do some authorities get this right? We talk a lot about the funding aspect. I am very conscious that, in Nottinghamshire, we are on the wrong end of the funding formula, because of historical spending and various other things. We get about £390 per pupil in SEN funding, whereas Kent gets £620 for the same thing per pupil. Are places like Kent doing better with the money or is there much more to it?

Amanda Batten: Of course provision is different in different schools, and that is often down to leadership. Obviously, the money is really important, but it is also about leadership and culture.

James Frith: But isn't it also because we increasingly have a kind of crisis-first or crisis-only approach to statutory services. This relates to your point that parents are actually pursuing the Ford Focus, but they end up having nothing, which then costs a lot more to rectify by cost off-rolling or out-of-borough provision.

Chair: Before you answer, I am going to bring Lucy in, because it is quite related.

Q153 **Lucy Powell:** We are going to move on to the impact on pupils and children, rather than the parental or other impact. My question is about that early intervention point that James was making. We talk a lot about EHC plans, but there should be that provision and SEN support, and other things further upstream. Obviously, funding is a key issue, and we cannot have this conversation without talking about what is happening to school funding alongside this, but what other things would you like to see, other than funding? You can say funding as well; I don't want to stop you saying funding. Can we look to draw down and draw further upstream that provision and support, so that we are not increasingly pushing children on to EHC plans as the only means of getting what's needed?

We know the threshold is quite high because of the gatekeeping points that have been made and so on. What more could be done? A pupil premium style thing? A smaller budget, linked to a pupil, that is SEN-accountable? Have you got ideas on that?

Steve Haines: Early intervention for deaf children, especially from birth, is hugely important. Making sure that early years provision includes deaf children is massively important. The opportunities to encourage that language acquisition in the early years will certainly help the child with their progress through school in the later years.

Something we have been pushing for a lot is the use of radio aids, a connection between a teacher and the child's hearing aid. It is almost like a microphone system that allows the child to have the undivided attention of the teacher, even if their back is turned. It is really important for parents as well. If you are driving in the car or you are pushing the buggy, you can still have a connection with the child. These need to be provided by local authorities. They are quite expensive. There is an issue of availability and whether it can be in the school or taken home. We have seen some real progress in that provision, but we are still looking at only around 60% of local authorities providing them. Simple bits of technology can make a massive difference in the early years.

Q154 **Lucy Powell:** There is probably a lot more we could do in the early years—perhaps people will come on to say that—but if we are always putting the onus on a local authority decision for extra resource, we are nowhere, because that resource is getting smaller all the time. You gave the example of Manchester, but next year that could be the thing that has to go, so what else can we do?

Mark Lever: There are things that go back to basics, such as teacher training. This year we are really pleased that initial teacher training will now include a specific focus on SEN in general and autism in particular. That makes a massive difference, because one of the reasons why so many autistic children get excluded from school, with all the costs and energy associated with that, is that teachers struggle to understand behaviours. If you start at the beginning and have a specialist trained workforce, things will get better. We can think about technology, which is obviously important, but there are some really basic things we can get right. School design is one thing. We can make schools more inclusive through better school design. We can have teachers who understand behaviour by including SEN and autism in initial teacher training. There are some really basic steps that we can put in place to improve things in the long run.

Dame Christine Lenehan: Mark is right. One of the things that we are short of at the moment is really good evidence and dissemination of what works for these children. There is a clear gap about understanding what works.

Q155 **Lucy Powell:** Do the EEF do that?

Dame Christine Lenehan: They only just began quite recently to get engaged in SEN and disability, but we really want to push a what works approach, because Mark is right. For the vast majority of children who are excluded, a what works approach is really important, whether that exclusion is fixed term, informal or permanent; whether they are excluded because people do not understand their behavioural cues and what's behind them; whether it is because you can't hear the teacher and your way is to do this; or whether, because you are an autistic child, sensory overload means that's it; you've had it. You're on your way out.

Going back to early years, that is where parents and professionals have their first coming together—their first understanding that this is a child with extra needs. The relationships between parents and professionals from the outset become the basis of whether parents decide to trust or not. One of the things we've lost in reorganisation upon reorganisation of the health service is really good child development centres that brought therapists, social workers and teachers together in one place. It is like watching the death of Portage, which was again and again the most popular intervention for young children under five. We are watching local authorities take that out as budgets bite. It worked because it was a one-to-one intervention with a professional who understood the child and said, "Let me help your child grow and succeed."

Q156 **Lucy Powell:** There is definitely an opportunity in the early years to identify things that can support the school, so we might have that in our life chances.

John Harris: I just want to reiterate what people have said about early intervention, which is the one imperative that runs across the various fields with which we are familiar. The system as a whole—this goes way beyond education providers—is so far behind, to an extent that is sometimes mind-boggling.

For example, when my son was three, we saw an NHS paediatrician for the second time. By that point, I had read quite a lot about autism. I said, "What are we going to do?" He said, "Well, go away, enjoy bringing your son up, come back in a few years, and then we will really know what we are dealing with." That is a verbatim quote. I would not compare autism with disease in any way, but it is not unlike telling someone with a burgeoning chronic condition, "Come back when you're really ill." I said to him, "I keep reading about early intervention everywhere I look." He looked rather panicked, and that was that.

About four or five years after that, on a reporting job, I was standing outside a Sure Start centre in Kensington, one of the most deprived parts of Liverpool. It struck me from talking to parents there that they were doing a very good job of identifying signs of autism among pre-school kids and putting some of those interventions in place.

Incidentally, my son was also failed by his independent nursery school. When we went back to them and said, "Look, it turns out he was autistic, and in retrospect it was stark staringly obvious," they said things like "We didn't want to worry you," and "We thought he was one of those borderline cases." Again, those are verbatim quotes.

Those are good instances of early intervention completely failing or being non-existent, yet in Liverpool I met parents—very loquacious, articulate and assertive people, but not *Guardian* journalists—who had been reasonably well catered for. Unfortunately, I was outside that Sure Start centre because it was threatened with closure, but that does give you an indication of what is possible.

Within all this, there is a bigger cultural tragedy. I can only talk about autism, but it is about the level of understanding of what autism is, of what a hugely diverse set of experiences and conditions it denotes, and of what one can do through the education system to successfully teach kids with autism. Our understanding of that is huge compared with where it was even five or 10 years ago, and it would be nice if the system were open enough to soak some of that up. The problem is that if the system is closed by default and does not really want anything to do with assertive parents—who incidentally have their uses, much as we malign them; they are the people who know about innovative therapies and all the rest of it—if the first thing that the system does is say, "No, go away—we don't want to know," the lag until any institutional embrace of those therapies and educational techniques will be huge, and so it is proving.

I would not use the words "lucky" or "fortunate", but my son has something approaching what he needs. However, there is a tragedy in seeing what most schools put in place and knowing where our level of understanding of autism in education actually is.

Q157 **Lucy Powell:** So that is the "what works" point.

John Harris: Yes.

Jean Gross: I think there are two meanings of "early intervention". I am absolutely with you that children with more complex needs do not need to be sent away and told that it will get better. However, the Committee might want to consider supporting a recommendation that the Science and Technology Committee made a couple of weeks ago.

Lucy Powell: Yes, they have just had their early intervention inquiry.

Jean Gross: There are a lot of children whom we do not much talk about, including children with social, emotional and mental health needs, and children with moderate or severe learning difficulties. They do not have a national or royal society, they often do not have articulate parents, and they often get missed out from the debate. For some of those children with social, emotional and mental health needs, what is needed is for you to support a recommendation that says, "Let's do more to support parents with early attachment and early parenting skills." Those are the big things, and then there are nurture groups in primary schools—things like that. There are two meanings of "early intervention", and you might want to consider the bigger-picture one, as well as the complex needs one.

I just want to pick up on the point about teacher training. I cannot count how many times I have heard it said over the last 40 years that there needs to be more on SEN in initial teacher training, and a lot has gone on to try to make that happen. My view is that most initial teacher training is about the length of a pregnancy, so there is not enough time to cover very much, other than the basic craft of teaching.

Where we need to position this—this was one of the Bercow recommendations—is in early career development. The Government are doing quite a lot of thinking at the moment about what we do with teachers in their first two or three years of teaching. I think that there are big gaps there, so what we want is more on SEN and disability and on working with parents. You can never fit this into a year or nine months, but how to work with any parents, but especially disadvantaged parents, parents of children with SEN, and those with English as an additional language, are the big things that we need to push to be comprehensively covered in the first three years of teaching.

Personally, I would not say that you should become a chartered teacher until you had got those things under your belt. By under your belt, I mean—

Lucy Powell: That's great. Just finally—

Chair: Let's get a move on. Just very briefly, if you can. Thanks.

Amanda Batten: We have run our helpline throughout the implementation of the reforms, and we have lots and lots of calls on timescales not being met—just local authorities not following the law. But among all that, the top call category has always been children who do not get the support they need at SEN support school-based stages. You talked about the implications for those children. We have a high volume of children who have anxiety, who are perhaps school refusing or end up being excluded informally. The point I want to make is that the thing that would help, linking particularly to the reforms, is a code of practice. It would be helpful to revise that. The SEN support section of that could be a lot stronger and a lot clearer. That might help parents hold authorities to account.

Lucy Powell: That's a really good recommendation.

Q158 **Chair:** SEN is what you are saying.

Amanda Batten: The SEN support levels, yes. That section of the code of practice.

Q159 **Ian Mearns:** On the education, health and care plans, obviously following on from statements of special educational need, we have had evidence from many other people and the term "rationing" has been used already this morning. For years and years, either statements or plans have, in many respects, been based on resources, rather than the actual needs of children, so what are we going to do to resolve that? How are we going to get plans written that more closely reflect the needs of the child, as opposed to the resources that are available within the particular setting?

In the last analysis, what we need is a solution for children here, as opposed to a method of rationing out meagre resources from a local authority perspective.

Chair: Just to come in on what Ian is saying, from the figures we have been given, 40% of parents are waiting 18 months for an education, health and care plan, when it should be 20 weeks. Is that just a question of resources, or are there other reasons for it?

Ian Mearns: Additionally to that, we had a session in this room a fortnight ago about local authority and school budgets, and there was one suggestion that the £400 million for little extras could have been put into the high needs block, which might have been some cavalry coming over the hill. But that isn't the case. That would not be a solution, but it would be an assistance. We have also seen, just this week, an article published that says that local authorities in the last four years, since the Act was passed, have spent £100 million defending special educational needs tribunals. It is all money going out of the system.

Dame Christine Lenehan: There is a fairly simple short-term recommendation that would be helpful, which is to issue a national EHC plan template, following consultation. Part of the challenge we have is because there was no national template. People have interpreted the law beyond where the law exists. They have issued poor practice, on part A, which is the needs of the child—"This is me, this is who I am" and whatever—to be an integral part of planning. In poor local authorities, it disappears over the hills somewhere. So there is a fairly straightforward thing, which is to design and deliver a national EHC plan template.

I think that the decisions beyond that almost become political. There is some stuff we can do on quality, and we work with local areas on that, but when you hit those political barriers about "What are we prepared to spend to deliver this service?", we run into a challenge. The template stuff is easier.

Tara Flood: I would agree in terms of a template, but one that starts from the principle within the Children and Families Act about the presumption for mainstream, and then being really clear about what that means. The SEND code of practice isn't clear about that. It needs to be clearer. It needs to be much more attached to the UN convention on the rights of persons with disabilities. In terms of what it means for young people and getting it right for them, Coventry University are publishing a research report next Friday, highlighting just how un-young-person-friendly the education, health and care planning process is. They have a series of recommendations that have been written by young people about what they want to see changed. What they are really saying is simple: they just want to be involved in it, and not have the kind of tokenistic gestures that are happening at the moment.

Mark Lever: There is something about getting the basics right in this. The guidance is all about putting the child at the centre of the process. It is about hearing the parents' voice. It is getting education, health and care around a table to put the plan together, and that is just not happening. In some areas, it might be happening, but we have certainly got lots of stories where parents say, "He has an EHC plan but we had no involvement in it." In some cases, it is just education that is involved and there is no sign of health or care. I would suggest that there is perhaps a big capacity issue in the system there, for people in health and social care. Certainly, the intention, to have a three-way planning process, with parents, with the child at the heart of it, just is not happening.

Q160 **Ian Mearns:** Has anything happened in terms of youngsters who are not in the planning process but are exhibiting symptoms of having special educational needs in one shape or form? We used to have School Action and School Action Plus funding, and that has gone out the window. Schools now have got to find a lot more before youngsters are getting their special educational needs properly identified.

Dame Christine Lenehan: That goes back to Amanda's point. We really are not clear what good SEN support looks like. Under the old system, there was a sort of grading system—this is what a graduated approach to teaching looks like, this is how you identify needs and this is what you do. We took that away to replace it with SEN support. Because of the focus on EHC plans, I don't think we have actually done enough about what it looks like. I have seen the odd really good example of what good SEN support looks like for SEMH pupils, for example, and I have seen the odd example of what good SEN support looks like for autism, but I haven't seen a consistent approach to what good SEN support looks like.

The important thing about really good SEN support is that it takes us back, again and again, to the quality of the teaching; it is about the quality of the individuals and the quality of the leadership, and then the quality of the relationship between that school and the parent. There is something fundamental about getting that bit of the Act right.

Q161 **Ian Mearns:** In terms of the recognition process, and taking on board what was said earlier on in terms of initial teacher training and early CPD in schools, I think that has to be both done sensitively and be properly resourced, because we already have a recruitment and retention problem for teachers. How are we going to get over that particular hump unless we have a proper plan to do that?

The other question I want to put into that is whether there are enough educational psychologists, for instance, coming through the supply route. Local authorities used to have top slicing to fund the training of educational psychologists to make sure that they had enough. They never did, but at least there was some back funding. I think that has been evaporated.

John Harris: When I did a lot of reporting about cuts in Newcastle, I was told twice that Newcastle now had one educational psychologist.

Ian Mearns: Sorry, that is a little village across the river from me—*[Laughter.]*

John Harris: Well, I bring you news. That is what I was told, and it did not surprise me because it harks back to what I said earlier about the hollowing out of children and education departments. Incidentally, that is not only because of austerity—it is also one of the effects of the academies and free schools programme, under the guise of these departments not having anything to do, which is not true. That has really been the pretext to hollow them out even more.

I wanted to agree very wholeheartedly with what has been said about somehow making the system more uniform, as much as I am an enthusiastic localist—I am not a statist person at all. One way in which this great archipelago of completely different frameworks for EHCP manifests itself is that it is impossible to give people advice. They will call from one particular locality and say, "Well, I am faced with this." I know from talking to people who are on helplines that they will say, "Well, I've not dealt with that before. I can talk you through systems 1 to 16, but you appear to be system 17, which we have not dealt with before."

Very often, with the best will in the world, and I don't know whether cynical is the right word, these things are replete with trapdoors. They are very, very difficult to navigate and so advice is really at a premium. If you cannot give it because the systems in place are so widely diverse, the parent feels even more isolated.

Q162 **Chair:** I think back to what you said at the beginning about it being hard enough if you are an eloquent parent working for *The Guardian* and know how to work the system or lobby, but if you are a normal person who does not necessarily know to lobby your MP—

Lucy Powell: John is definitely not normal.

John Harris: Someone said to me before I came here that about half of this is what they called an equalities issue. That is absolutely right. Imagine if English is not your first language, which we have not touched on. How on earth do you begin to navigate these systems? I have no idea.

Jean Gross: I once did a small piece of research that correlated the number of pieces of paper supplied by the parents with the funding supplied through what was then the statement. There was a strong correlation. The bigger the parental contribution, the more money came.

Q163 **Lucy Powell:** Really? You weigh it, basically?

Jean Gross: The weight of the evidence—

Q164 **Ben Bradley:** It seems there is a broad consensus that there is a challenge of diverse, different systems. The feedback I get locally is that there is a particular challenge with health in that there is no statutory way for the local authority to drag health back in once they have written the plan and they can just clear off. I was going to ask if that was something that is reflected across the country, but it seems there is a different issue depending on the system and the locality. Is there a broad consensus that this needs to be a more centralised, Government-led thing and taken off local authorities?

John Harris: No, I was not making that argument at all. That would make things infinitely worse.

Lucy Powell: Obviously in Manchester we have devolved health. The only part of the country that has devolved health is greater Manchester, and it is working much better there.

Ben Bradley: We need centralised guidelines.

Q165 **Chair:** Before we move on to the next topic, just one more comment from Amanda.

Amanda Batten: Just that integration between health and social care and education was one of the key bits of the reforms, and it is one of the bits that really has not delivered. There is a huge amount of variation locally and a huge range of different working relationships. I think some of the cuts in health and social care are going a little bit under the radar. They might be news stories locally, but that is very varied. The consistent thing is families telling us that either they have experienced cuts to health and social care for disabled children, or they know of specific cuts that are on their way. That will really undermine the reforms.

There is a case for looking at some of the complexity around the frameworks and the law around health and social care for disabled children, which is based on 10 different Acts of Parliament and goes back 50 years. The Care Act 2014 tidies all that up for adults but it did not look at children. There is a need to clarify rights and entitlements and to consider whether more needs to be done in that space.

Chair: We will move on to the last topic now, which is post-16 support.

Q166 **Marion Fellows:** I come at this from a position of ignorance, because the system is totally different in Scotland and my personal experience is as an FE lecturer in our local college, where most departments really wanted to get people with SEN needs in, because they got more funding. You could get six students in and only have to deal with six students, but get funding for 12, perhaps. I understand that that is not really how it works here—that there is a real dearth and there is a wall that students hit, either at 16 or 18, but certainly at 25. Does anyone have more experience to add to that?

Chair: Can I come in on that question? It is related. Is it your feeling that the EHC plans, although they are supposed to extend to 25, are actually being stopped when students reach 16, and that even if they are continued, in essence colleges are not getting enough funding, for example, if the pupil then goes to college?

Steve Haines: Our sense—speaking as a one-time FE lecturer myself—is that despite the intent of the reforms to go from 0 to 25, there is just no clarity about what is happening at 16 or whenever you choose to move into further education. A lot of young deaf people are almost caught in the churn of further education, because there is not an effective way beyond further education either. What seems to be really unclear, and what despite our digging we cannot seem to find out, is where the money is supposed to be flowing through. It is quite clear how schools are organising this—indeed, there are systems in further and higher education to make that support—but a lot of deaf young people are entering further education unclear about what support is available to them. There is no clear transition between what they had at school and what they move to in further education. The intent of the Act was, of course, to bring together the systems, but there is no evidence of where the money has flowed to support that.

Tara Flood: I also think there is a misunderstanding about what the presumption for mainstream looks like in FE. There is a real issue about how FE colleges are using the money, in that in our experience they tend to lump all those young people who require significant levels of support to learn together in some sort of best value way and say, "We can get five young people with one support worker, rather than one-to-one support workers." That really stops choice, in terms of what course of learning the young person may wish to pursue.

We then see the majority of disabled young people, particularly those with learning difficulties, just being placed without any decision making on their part about their preparation for life, employment or adulthood. This has all been covered in many inquiries before, but that leads to a sense of being on a roundabout and never moving forwards. Supporting internships were seen as a way out of that, but those are now predominantly for young people with learning difficulties. There has been no real focus on what is preventing apprenticeships from being inclusive.

Mark Lever: There is a cliff-edge at 19, when it is perceived that maintaining an EHCP is no longer necessary because there is no opportunity or no likelihood that the individual will achieve any greater outcomes as a result of it. Perhaps I am being slightly cynical about it, but that is a quite easy way of rationing funding at that point. A lot of parents that I meet tell me that they battle all this way through until 19, when they find that the ECH plan will be dragged away, and then they are left at the mercy of adult services and adult social care provision, which is another battle.

It just feels like it is fairly arbitrary at the moment. As Tara says, there just is not enough thought given to some of those really innovative programmes. You can identify examples around the country where that works, but there just is not enough thought given to it and to the support required for those young people who, at 19, have great potential and, with a bit of extra support, could move into the adult world far better equipped than they do at the moment.

Q167 **Chair:** Is it general consensus that, despite the EHCP applying to post 16 and up to 25, it is not working because there aren't the resources or because the plans are being taken away?

Dame Christine Lenehan: There is huge variability in it, and a number of court judgments have muddied it. The whole issue about what an educational outcome looks like for a 22-year-old is not clear. The code of practice on this is not clear. The intent is the right intent, but there have been a number of interpretations in the law that have further muddied it.

I think that holding on to the principle of going on to 25 is absolutely right. We know that lots of our young people need additional help in that journey to settle into adulthood, so I would be reluctant to go down a road that almost says, "This isn't working so we are not doing it anymore."

One thing that we also have not got right is the interaction between the Children and Families Act 2014 and the Care Act 2014 and trying to understand when young people are better served by an assessment from the adult services part of the world or the children and families part of the world, and what that means for the outcomes of the young person. That is not clear enough. We have a muddied picture. However, we also have some young people at 22, 23 or 24 who are succeeding.

Q168 **Ben Bradley:** Are you saying that their being in education up to 25 needs to be valued, but is not currently? Or that they should be in adult social care?

Dame Christine Lenehan: I am saying that lots of our children are still learning. We do not have clear, valued and appropriate pathways into adult learning for a number of these young people, as Tara says, so they otherwise go on endless life skills courses. We do not put enough support around it. We have a pulling apart because of a lack of funding. FE says that it is not education, so they will not pay for it, and social care says it is not social care, so they will not pay for it, and so on. We really do not have clarity about what a good future looks like for this group of children and how we best support that.

John Harris: One anomaly here, so far as I understand it, is that EHC plans have no force in universities. That is a huge issue. It struck me when I was alerted to it as an almost absurd anomaly that must, in practical terms, be cutting off access to higher education for lots and lots of young people.

Dame Christine Lenehan: It was one of the issues that the lobby lost. We pushed strongly for the Government to take EHC plans into university. The Government at the time refused to accept that amendment on the grounds that the disabled students allowance existed within universities and plays much the same role. In the early months after the legislation was passed, the disabled students allowance was cut.

Ian Mearns: There is another aspect to this, bearing in mind that these are also health and care plans. It is the weight that these plans carry when a recipient of a plan is then confronted with an application for benefits at a later stage in life.

Chair: Thank you very much indeed. Your evidence is absolutely invaluable to us. I thank you for what you are doing as well. This will be a long inquiry; we will report next May or June. We have quite a few sessions to come. We all really appreciate this.

Ian Mearns: If in the aftermath of this session you think of anything that should have been said but was not, please let us know.

Chair: Yes. Thank you.