



# Education Committee

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From Robert Halfon MP, Chair

The Rt Hon James Cleverly MP  
Secretary of State for Education  
Department for Education  
London  
SW1P 3BT

12 July 2022

Dear James,

## **Re: The Government's SEND Review and its impact on children and young people with SEND**

As you will be aware, the Committee has a particular interest in children and young people with special educational needs and disabilities (SEND) and the challenges they face. As part of our work on this we held a [one-off session on The Government's SEND Review](#) on Tuesday 24 May 2022. We are writing to draw your attention to several issues raised during this session, and to highlight the Committee's views on [the SEND Review](#).

[Our session](#) focused on several areas, including the impact of the Government's proposals on addressing the adversarial nature of the current SEND system, parental choice, accountability, and funding. The Committee found the session valuable, but also concerning.

The Committee welcomes some of the Review's proposals such as standardised and electronic Education, Health and Care Plans (EHCPs), and more educational psychologists. While the Committee would have preferred the Review to be published sooner, we understand the need to ensure that it took into account the ongoing impact of Covid-19. However, we share our witnesses' concerns about the significant pressures on the SEND system, and the extent to which the Government's current proposals will address those pressures.

In 2019, the previous Education Committee conducted an 18-month inquiry on SEND in 2019, which received over 700 written submissions, and identified many of the issues with the system that were highlighted in the SEND Review. The previous Committee's [report](#) made several recommendations which the current Committee believe could help make the SEND system more accountable, easier to navigate, and less adversarial for parents. This includes a neutral role supporting parents to help navigate the system, a direct line for parents and schools to directly appeal to the Department for Education, expanding the powers of the Local Government and Social Care Ombudsman to within schools, and focusing school inspections more on SEND.

## **Early Intervention**

One of the main points raised repeatedly by our panel of expert witnesses was the importance of early intervention for children with SEND. We heard that early intervention could help save money in the long run compared to spending later when issues are more entrenched and therefore more difficult and expensive to resolve. We also heard that early intervention could help gain parents' trust early on in the process.

[The SEND Review](#) recognised that the system is increasingly less able to deliver early interventions due to capacity and funding being directed to “the specialist end of the system”. The Committee welcomes the SEND Review’s proposal to “targeting spending more at strengthening early intervention”. However, the Committee would be grateful to know more details about this proposal, such as the amount of funding available and whether this would mean a redirection of resources away from those with the most complex needs.

The Committee also notes the Review’s commitment to “build on ‘what works’ initiatives ... seeking to include trials on screening approaches to support early identification of special educational needs.” We would welcome robust evidence on the extent to which a universal screening approach, together with an improved offer of SEND training for all teaching staff, could support more effective early intervention.

## **Lack of accountability**

An issue raised repeatedly by our panel of expert witnesses was the lack of accountability in the SEND system and the lack of incentives for schools and local authorities to fulfil their legal obligations. We know that [in 2020](#), 96% of Tribunal cases were found (at least partially) in favour of parents and carers. This is not indicative of an accountable system that is functioning as it should.

We heard that a key issue with the current SEND system is that schools are incentivised to focus on attainment, attendance, and good behaviour, which for good reasons can be challenging areas for some SEND pupils. This disincentivises SEND inclusion in schools.

The Committee would be grateful for clarification about how exactly the Schools White Paper will work in conjunction with the SEND Review to incentivise the inclusion of children and young people with SEND. In particular, the Committee would like to know more about any work the Department has done to ensure that attendance and attainment performance measures do not disincentivise the inclusion of children and young people with SEND within schools.

We welcome the improvements that were made to the Ofsted inspection framework in 2019. However, we have heard that the framework could be strengthened further to incentivise SEND inclusion. We know that the legal obligations for inclusivity already exist, however not all schools are fulfilling these obligations and we heard that Ofsted could play a bigger role in monitoring and reporting on this. The Review states that “to be judged outstanding, settings must show that children and young people with SEND achieve exceptionally well.” The Co-Chair of the National Parent Carer Network suggested in our session that schools should not be able to be rated good or outstanding by Ofsted if they are not also rated good or outstanding with respect to SEND. We ask the Government to consider this proposal, along with any changes to the framework that may be required to enact it.

We also heard from the Local Government and Social Care Ombudsman about the structural issues regarding his powers, which weaken overall accountability in the system. This includes, not having powers to investigate concerns within schools (only local authorities), not having any powers over pupils with SEN Support (only those with EHCPs), and not having any “own-initiative” investigative powers (can only investigate complaints that come to them which can disproportionately exclude disadvantaged groups). Our predecessor Committee [recommended that](#) the Government brought forward legislative proposals to allow the Ombudsman to consider what takes place within a school, rather than—in his words—only being able to look at “everything up to the school gate”. The current Committee is concerned that the Local Government and Social Care Ombudsman’s role was not discussed in the SEND Review. We would be grateful to know if the Government is considering any changes to its role.

The Committee welcomes the SEND Review’s proposal to work with Ofsted and the Care Quality Commission to help deliver their plan for an updated Local Area SEND Inspection framework. However, we agree with our predecessor Committee, who felt that the SEND system could be more accountable if:

- parents had access to a neutral role to help navigate the system,
- there was a direct line for parents and schools to appeal to the Department for Education where local authorities appear to not be complying with the law,
- the Local Government and Social Care Ombudsman’s powers extended within schools,
- and Ofsted inspections focused more on SEND.

### **Parental choice and personalisation**

During our session we heard that the SEND Review’s proposal to provide parents with a pre-tailored list of settings to select from for their child was the proposal which “created the most concern amongst parents”. This is because parents have concerns that the school that is best for their child may not be on that list. This is particularly concerning in areas where there are limited suitable placements. While the Committee would welcome an end to the “postcode lottery” of provision, and is in favour of equitable access to support no matter where children and young people may live, we have heard serious concerns about the potential risks posed by a one-size-fits all system. As Ali Fiddy from IPSEA [told us](#):

*The current position is to work out what an individual child’s needs are and put in place the support that meets those needs. What the reforms appear to be saying is, “Work out what the standard provision is for this level of need and give the child that.”[...] The fact is that special educational provision is not standard—the clue is in the name. It is special. It is unique. It is different. It is individualized.*

The Committee would be grateful for some additional information about this proposal, including who exactly is responsible for tailoring the list and what options would be available to parents if the school they believe is best for their child is not on that list (for example would they need to take this to the SEND Tribunal).

Our predecessor Committee heard concerns that EHCPs were not being prepared in a timely manner, and only 59.9% of new EHC plans made during the 2021 calendar year (excluding cases where exceptions apply), were issued within the 20-week time limit. This is not good enough. As part of the Government's reforms to streamline the EHCP system, there must be effective enforcement and redress when Local Authorities fail to provide EHCPs within the statutory timeline.

## **Funding**

Throughout the session we heard that lack of resources is a key issue in the SEND system. We also heard that the money that is available is not being used as effectively as it could be because as outlined in the first section of this letter, not enough is being spent on early intervention and too much is being spent "when families get to crisis".

The Committee welcomes the £70 million for the delivery and implementation of the SEND Review proposals but is disappointed to see that detailed costings for the proposals included in the SEND Review were not set out in time to fully inform responses to the Government's consultation.

On 11 May 2022 the Public Accounts Committee held an [oral evidence session](#) on the SEND Review. When questioned about how some proposals such as [digitising EHCPs](#) would be funded, the Permanent Secretary confirmed that it was possible this would need to come from local authorities' existing SEND budgets. In addition, she suggested that the Department had not yet estimated a cost for this policy proposal, nor for the overall package of proposals in the SEND Review ("we will work through what the cost-benefits are").

The Committee would be grateful for clarification on whether local authorities will need to fund the SEND Review's proposals from existing budgets and whether the Department has estimated the net financial impact of its package of proposals in the SEND Review. We would also like to understand what work the Department has been doing to understand the level of funding needed to ensure that children and young people with SEND receive the support they rightly expect and are entitled to.

## **Disadvantaged children and young people with SEND**

As you will be aware, the Committee is particularly focused on disadvantaged children and young people and were concerned at the lack of discussion about this cohort with SEND and the challenges they face within the SEND Review. The Committee would be grateful for details about how the Department plans to provide targeted support for these children and young people.

The SEND Review recognised that "for too many families their experience of the SEND system is bureaucratic and adversarial, rather than collaborative" and that "parents and carers with access to financial and social resources are often better placed to navigate the system and secure support for their child".

The previous Education Committee's [SEND report](#) recommended a neutral role to help all children and young people navigate the SEND system. We heard support for this recommendation during our one-off session, and that "there could be some real benefit in a neutral advocate". This role could be based in and funded by the Local Authority, although Government would need to ensure that structures protected the independence of the role and ensured that potential conflicts of interest were minimised.

The Committee believes that this recommendation could particularly benefit disadvantaged children whose parents have fewer resources to navigate the process, and we call again on the Government to consider how this role could fit into the emerging SEND landscape.

## **Employment outcomes**

Witnesses emphasised the importance of getting children and young people with SEND ready for work. Witnesses expressed concern about the lack of attention given to this issue and employment outcomes more generally in the SEND Review. The Committee shares these concerns.

One witness suggested that in order to focus attention on employment outcomes, the E in EHC plans should stand for “employment” rather than “education”. This would ensure young people with SEND can access work opportunities with the necessary reasonable adjustments (which are currently restricted to accessing education in EHC Plans in their current form).

The previous Education Committee’s [SEND report](#) raised concerns that supported internship opportunities are only open to young people with EHC Plans. This means that the vast majority of pupils with SEND (77% in [2021](#)) are excluded from supported internships. The Committee suggests that this barrier is reconsidered and that supported internships are opened up to as many young people with SEND as possible.

To conclude, when our expert witness panel was asked to provide a score out of ten for the SEND Review, the responses ranged between two and five, indicating a low level of support. We are concerned that, if key stakeholders believe the Review to be a “wolf in sheep’s clothing”, the likelihood of realising its ambitions will be low. The Committee would like to know exactly how the Department plans to engage with stakeholders, and in particular parents, to ensure that the final proposals will have the wide-ranging support and buy-in which is essential for their ultimate success.

We would be grateful to receive a response to this letter by Monday 29 August so that the Committee can consider it.

Yours sincerely,

**Robert Halfon MP**

**Chair of the Education Committee**

