

Written evidence submitted by Jackie Ross

1. I am concerned about the barriers and blocks which would have been raised to limit the level of understanding of the Select Committee of Inquiry on SEN as to why some local authorities have been poorly performing. --Especially in relation to Newham.
2. While working there as Head of the new Integrated SEND Service, (April 2016- to Sept.'17) I warned senior leads verbally and in written papers that the Service (which I felt had been poorly designed) was in crises, (with evidence, including data) and made recommendations but very little was ever actually done, although a strategy was developed- and my papers were edited to be passed to members. I accept that my message was possibly embarrassing, especially as a considerable time had been taken to develop and 'design' a new service which was established on poor foundations – and were wider reaching. Parents, carers and head teachers knew the score. The feedback from leadership on 'soul searching' in relation to poor performance targets achieved by the service took little account of the issues that had been set out.
3. The issues in Newham could not be solved by any one person alone and seniors had budget pressures but what I considered a SEND crisis needed a completely different approach but also quite an ordinary one.
4. The paper presented to the Select Committee by Newham does not reflect good understanding of the situation. I do think any inquiry into why a local authority is performing so badly needs to include the voices of families and head teachers, otherwise you are getting a corporate 'take', or a stance which might not reflect robust understanding, however well-intended. There is a strong and robust Parent/Carer voice in Newham as well as a very active and able group of head-teachers.

What challenges do you face in discharging your statutory duties towards children and young people with SEND? Is this enough to lead to satisfactory outcomes for children and young people with SEND?

- a. Challenges

Newham Response:

- i. Education, Health and Care Plans.

5. LBN has followed an approach of inclusive provision for children in the borough, largely without the need for Statements of Special Educational Needs. The change in legislation and increasing expectations of families significantly increased demand for Education, Health and Care Plans (EHCPs). This has resulted in a large backlog of assessments and challenges in ensuring high quality EHCPs are prepared in a timely way.

6. Jackie Ross Response:

7. The 'approach of inclusive provision' was neither inclusive nor suitable. This is because there has been a longstanding legacy of unmet need for those children/young people with high levels of need who would have received statements or EHC Plans, if they had been resident in other local authorities. In 2017 this came to just over 1200 children and young people.

8. In Newham, the culture had been one which promoted a notion of 'inclusion' whereby assessment and issuing of statements /EHC Plans, as well as placements in special schools were viewed as exclusive and therefore to be avoided. But there had been nothing put in place instead to

ensure children/young people's entitlements. Professionals and schools were discouraged from requesting statutory needs assessments to decide whether a children/young people should have statements/EHC Plans. The SEN Team were directed to keep children/young people out of the special school, despite statutory rights of parental preference and the need to then ensure home tuition while seeking a mainstream school.

9. Children and young people with high needs may have been allocated significant amounts of High Needs funding, but this allocation did not meet their entitlements as it:

- Was not based on robust specialist assessment to understand their individual needs.
- Was not subject to monitoring and review.
- Did not lead to a support plan setting out their entitlements to:
- provision to meet their special educational needs and make support progress towards achieving outcomes.
- Their voice in terms of their aspirations.
- Offered no statutory entitlements in terms of admissions to school places.
- Provided no 'portability' of provision which a then 'statement' or EHC Plan would provide should the child/young person move to another borough.
- Provided little or no join-up with health services as there was no formal route for health to either know where a pupil was placed nor to input through formal assessment and planning.

10. The outcome was that children and young people with significantly high levels of need were not placed in suitable provision, but instead had been put into local resource provisions, which, in the main were not fit for purpose as there was a lack of specialist expertise, resources, and appropriate space. Although designated as 'resource provisions' these really are 'special units' as for many pupils in them there was little access to the mainstream school. But neither was there suitable education within them, apart from a very few pockets of good practice.

11. In 2015 Newham launched its new integrated service for children and young people 0-25 years old. There had been some time spent service planning prior to my arrival at the time of its launch. This had included stakeholder discussion, HR involvement, consultation with employees, senior management and members, posts re-appointed etc.... The service was established with good intentions -- to facilitate joint ways of working to ensure children and young people would achieve positive outcomes. However, I became very quickly concerned that the service would not live up to expectations as it was not fit for purpose within to deal with what I considered were the borough-wide challenges as outlined above and the challenges within the service itself. The design of the service in terms of capacity, skills resources did not demonstrate awareness of these issues.

12. The issues which I have outlined above in relation to what Newham has set out as an 'approach of inclusive provision' led to specific challenges for service delivery:

i. EHC processes and plans: The service was constantly inundated with requests to deal with crises situations - usually placement breakdowns - for children and young people who had complex needs but were often without statutory EHC Plans (neither did they have SEN Support Plans). But there was no capacity factored in to adequately intervene where these children and young people were in crises nor to carry out assessments. The view had been that these children/young people could be 'included' in education. But in fact, they were not. These vulnerable children and young people were not accounted for in service design, as they were not on the statutory 'caseload'. However, there was the expectation that they

would be overseen by the statutory assessment team within the service - not for assessment but to solve crises situations and provide placements. Neither staff capacity nor placements were easily available.

ii. High needs funding-I put in place processes to ensure that the legacy of awarding high levels of funding (over £20k) to children and young people with complex needs without specialist assessment was changed, by ensuring that specialists carried out at least a file read and request for specialist input as set out in the Special Educational Needs and Disability Code of Practice 0-25 years. This put considerable pressure on the service which had not been set up with the resources to do this. Any efforts to systematically monitor these allocations in the past were no longer evident. There had been no planned team capacity planned to do this.

iii. Lack of appropriate school places for children/young people with complex SEND. Children and young people with complex needs were placed in resource provisions in mainstream schools, but more often without the necessary support. Funding alone was not enough. There had been little forward place planning.

13. There were specific issues within the service. The bringing together of three teams (the statutory assessment team, disabled children's social care and the post-16 transition team) under the remit of one service could potentially have had benefits of integration. But this also brought together the unaddressed challenges for the three groups of children and young people previously, who had in common:

- lack of adequate assessment of their needs
- lack of clear planning for meeting their needs
- lack of review of their needs
- lack of robust records
 - --overall lack of statutory processes
- while at the same time, a number of these children and young people had received large amounts of funding, which had been on-going, with no review, or time limits. (And not surprisingly a budget overspend for which I put financial controls in).

14. And again, the design of the service did not take into account these challenges and therefore did not establish capacity and skillset to address them.

15. For the statutory assessment team in particular, challenges included:

A) Many children and young people (1200) were in receipt of a high level of funding for one year at a time and this was carried forward without adequate planning and review-

- Some children and young people had highly complex needs but no plans (either statutory or non-statutory).
- Some had serious medical conditions, but no health care plans.
- Some were placed in schools with funding, but a lack of EHC or SEN Support plans means lack of proper transition and recruitment of staff and equipment to meet their needs.

16. This impacted on statutory assessment team time as there was constant placement breakdown, which called for reviewing and monitoring of these vulnerable children and young people who were in crises, and on-going liaison with schools. There was a constant demand for crises intervention which was understandable.

17. The funding system was expensive, inequitable and inflexible (and for a year at a time and only two high levels rather than a more graduated approach), while government guidance encouraged flexibility and non-lagged systems. I did present a paper to change this, and I also ensured greater accountability in the system while there, ensuring that educational psychologists and other professionals read the applications for funding. This led to a long-drawn-out delay in decisions, but at least decision-making was more robust.

18. B. Lack of school places:

- There was an inadequate number of places because there was need for greater specialist place planning to meet complexity of needs.
- Head teachers were concerned that they could meet the most complex needs-
- JFK Special School had poor building facilities compared to special schools in other local authorities. Some young people needed more space as they grew bigger but there was no other option available and they could no longer have their needs appropriately met in that school building.
- Funding levels were not adequately set matched to expectations or needs.
- There was the need for the local authority to take a lead as a strategic commissioner with all specialist settings and establish clear expectations and relationship with schools with Resource Provisions. (A strategy was written)
- Children/young people with High Needs funding but without EHC Plans did not have the same entitlements to school admission as those with statutory plans.

19. I did on a number of occasions escalate the issues upwards, including in the mayor's review of the service. -- There was never feedback and it is disappointing to see that the situation must have continued.

High needs Budget

Newham Response

20.11. The High Needs Budget is significantly overspent. Meeting our responsibilities towards children with SEND and their families cannot currently be achieved through the HNB alone and is therefore placing pressures on the council's finances.

Jackie Ross Response:

21. The allocation of High Needs Funding was based on SENCO cluster meetings. But there was very little specialist expertise input despite the borough employing able specialist teacher experts centrally. These teachers were never really involved in actual assessment in order to help decision-making. Allocation of funding was not part of a support plan and instead the focus was on allocating teaching assistants on a one-to one basis. The effective deployment of teaching assistants which ongoing research has shown has better impact on children/young people's progress was not evident.

22. Owing to the culture of excluding the offer from JFK special school, there had been little interest in seeking support to embed good practice, nor in fact any recognition of the good practice in the school. This school was judged outstanding by Ofsted. The work of the head teacher there, as well as the Executive Head, Diane Rochford, -and her review on assessment-were given little consequence culturally within Newham although this was starting to change with new leadership. (Please see my papers in Appendices 1 and 2).

Outcomes:

Newham Response:

23.17. Educational outcomes are generally good at primary level for children and young people in Newham overall, including those with special educational needs and disability,

Jackie Ross Response:

24. Outcomes at key stage 2 for pupils in Newham are presented. However, the number of pupils on High needs Funding within in this figure is not offered, and neither would this data show progress of those pupils on High Needs Funding who did not participate in Key Stage 2 assessments. It is these children and young people are not visible in data tables and sit outside the narrative. And there would be over 1200 at least.

Is the assessment threshold for an Education, Health and Care Plan too low?**Newham Response:**

25. No. LBN believes the threshold is appropriate for a small group of children with high needs, provided timely and sufficient support is available for children with lower levels of need.

Jackie Ross response:

26. However, there has been a culture which has left a legacy of children and young people with unmet needs, when they might otherwise have had statutory entitlements set out in a legal plan. This is a significant underlying issue and appears not to have been understood.

In your authority, do you consider that there is enough focus on children and young people with SEND who do not have an EHC Plan?**Newham Response:**

27. Within Newham, there has been an emphasis on supporting children with SEND in mainstream schools wherever possible without issuing Statements of Special Educational Needs or EHCPs.

28. In practice, this has meant that high needs funding has been available to schools to support children and young people with SEND but without an EHCP. Pupils often receive funding more quickly than in other areas, as a full EHCP assessment is not required in order to receive support through the High Needs Budget.

29. The number of children identified with SEND in Newham (11.9% in 2018) is lower than the England average (14%). We are working with schools to explore whether there are factors that are contributing to under-recording of children with SEND and to ensure that children with lower levels of SEND receive the attention and support they require to thrive at school.

Jackie Ross Response:

30. As above, there are children with significantly high needs who might have funding but there is no assessment, provision, planning or monitoring of their progress. The high number of complaints and crises phone calls into the service reflected this. The resources to disseminate good practice borough-wide assessment and planning need to be embedded. Newham, in its written evidence, points out 'LBN believes the threshold for the assessment for an EHC Plan is not too low 'providing timely and sufficient support is available for children at lower levels of need'. However, 'timely and sufficient support' was not available, and those pupils with High Needs Funding did not necessarily

have lower levels of need than those with EHC Plans. Despite having specialist teacher experts within the borough, they were not at the centre of the requests for High Needs funding for children and young people—their assessment of the individual children and young people was not a requirement.

31. As I pointed out above under “Challenges: Education, Health and Care Plans”:

32. Children/young people with high needs may have been allocated significant amounts of High Needs funding, but this allocation did not meet their entitlements as it:

- Was not based on robust specialist assessment to understand the child/young person’s needs.
- Was not subject to monitoring and review.
- Did not lead to a support plan setting out their entitlements to:
 - provision to meet their special educational needs and make support progress towards achieving outcomes.
 - Their voice in terms of their aspirations.
- Offered no statutory entitlements in terms of admissions to school places.
- Provided no ‘portability’ of provision which a then ‘statement’ or EHC Plan would provide should the child/young person move to another borough.
- Provided little or no join-up with health services as there was no formal route for health partners to either know where a pupil was placed or to input through formal assessment and planning.

33. The outcome is that children and young people with significantly high levels of need are not placed in suitable provision, but instead have been put into local resource provisions, which, in the main are not fit for purpose as there is a lack of specialist expertise, appropriate resources, and appropriate space. Although designated as ‘resource provisions’ these really are ‘special units’ as for many pupils in them there is little access to the mainstream school. But without ‘specialist teachers’, so not really even ‘special SEN units’ as there is not suitable education within them, apart from very few pockets of good practice.

34. In one particular school with a ‘resource provision’, children with and without SEND were in the playground together—all might look wonderfully inclusive to some observers, —but the poignancy was the fact that those pupils in wheelchairs had their heads down and were floppy—revealing that they were not receiving appropriate physio.

35. The head teacher of the same school asked me to visit urgently one day as she was worried a pupil might be about to die, especially as an email from health said his prognosis was terminal and that he might not have many months. I told her to call an ambulance and his parents. When I arrived, the child was shuddering with his eyes rolling, his father had arrived and said this was usual at home and he was not about to die. Neither the head teacher nor I were satisfied, in the light of the email and lack of a health care plan. I called a meeting with health authorities (local and Great Ormond Street) at the school to set out a health care plan. The child did not have an EHC plan and indeed had no plan of any sort at all! One senior health colleague commented that without EHC Plans, it was hard to keep track of which schools the pupils were in.

What level of training do the case officers in your SEND team have?

Newham Response:

36. As part of LBN’s renewed approach to developing a highly skilled and experienced workforce, we are investigating more formal qualification-based training for our staff. To date,

training has been provided through in-house training such as legal updates, sessions run by senior members of the team for subjects such as writing EHCPs, or Council-provided training for customer service.

37. This has been complemented through staff attending external training provided across London such as courses run by Mott Macdonald or IPSEA. LBN are looking at accessing the NASEN run BTEC course for SEN Officers this year to further develop the skills within the team.

Jackie Ross Response:

38. The issue is wider than training of the SEN Team. Too often, SEN Teams are at the forefront of accountability for all that does not work in a local authority, whereas in fact it is an issue of leadership, or what leadership is empowered or not to do. The request for further capacity made in 2016 and 2017 did not get answered in any substantial, although it may be now. The low achievement of statutory deadlines for finalising statements/ EHC Plans was not due to lack of staff skills but lack of capacity to meet demands of caseload. The paper '**Making the 0-25 Service fit for purpose**' pointed out this need for more capacity. But this request had been made beforehand and was indeed a continual one which was largely unanswered.

Do you consider that your social care and education teams work well enough together?

Newham Response:

39. Within LBN there is a 0-25 SEND service. The SEN Team Disabled Children and Young People's Team and Specialist support services are managed by a single Head of Service, enabling good working arrangements.

Jackie Ross Response:

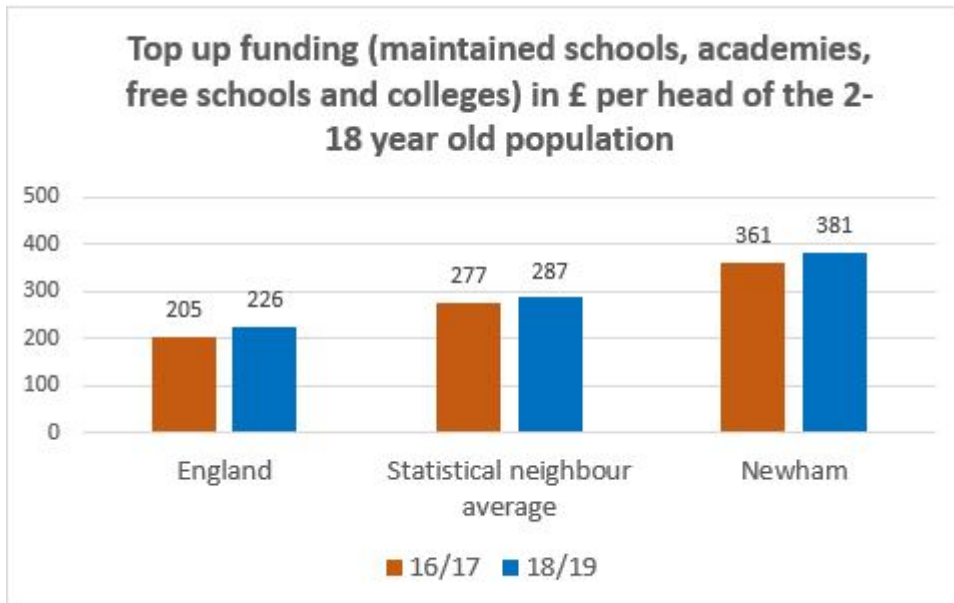
40. When the 0-25 SEND service was launched, it was called 'integrated' but was not fit for purpose. Planning for the design did not take into account the Newham context, nor the 1200 children and young people who were given significant amounts of High Needs funding with little assessment, planning and monitoring. Outcomes for this group remained invisible.

41. During my time in Newham, there was a dominant cultural legacy of an overriding focus on '**place**' rather **than quality of provision to facilitate positive outcomes for children and young people: The comparative spend on top-up funding to mainstream and independent providers in relation to statistical neighbours and the England average.**

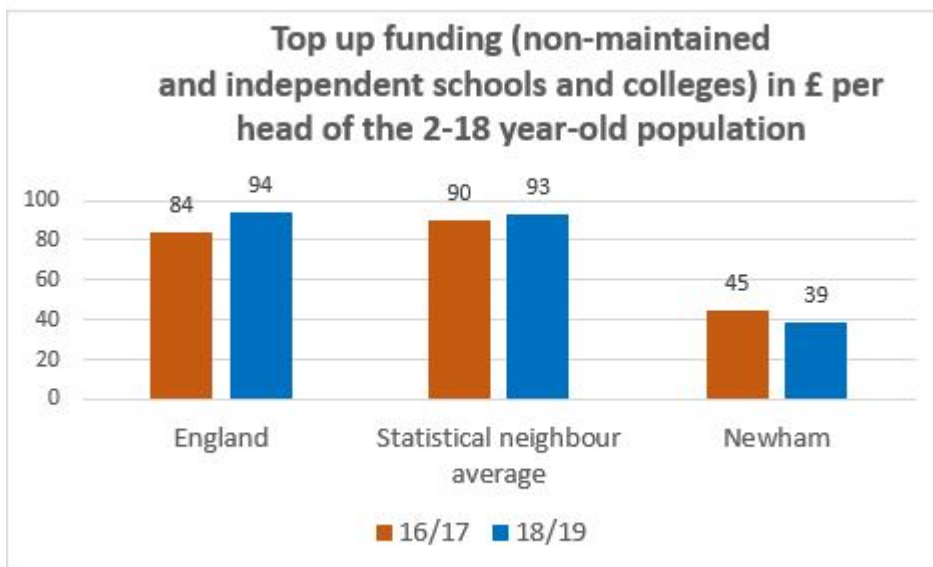
42. Publicly available data on budget spend shows that Newham - compared to statistical neighbour and England averages - had a pattern of higher spend in relation to top-up funding for maintained schools, academies, free schools and colleges, and a lower spend in relation to top-up funding for non-maintained, independent schools and colleges. However, although Newham's top-up spend pattern has been one which evidences greater use of placements in local provision there was no demonstrable approach to measuring impact of spend on outcomes, and as mentioned, there was also lack of robust planning for those pupils. This pattern took no account of national good practice (e.g. the Rochford review) in relation to curriculum, pedagogy and assessment. The focus was on '**place**' rather **than quality of provision to facilitate positive outcomes for children and young people.**

43. I have compiled the following charts based on nationally published data from the Section 251 Budget Out-turn tables, I have also compared the 16/17 and 18/19 budget periods to assess

whether or not there has been a change in the spend pattern between 16/17 and the budget period in which Newham's presented to the Select Committee (18/19).



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46. These charts show that there is a similar pattern of spend on top-up funding between the 16/17 and 18/19 budget periods. In comparison with statistical neighbours and England averages, Newham's spend on top up was and remains:

- higher to maintained schools, academies, free schools and colleges
- lower to non-maintained and independent schools and colleges

In terms of variations between the budget periods 16/17 and 18/19:

47. In the 18/19 budget period, Newham's planned spend is slightly higher on top-up funding to maintained schools, academies, free schools and colleges, and slightly less on non-maintained independent schools and colleges than in the 16/17 budget period.

48. What is of significance, are the details of the top-up breakdown in relation to special schools and mainstream providers, showing little difference over the time period in a pattern of spending.

49. For maintained schools, academies and free schools:

- A significantly higher amount of top-up goes to primary and secondary mainstream schools in Newham than in statistical neighbouring boroughs and the England average top-up spend to these settings.
- A significantly lower amount goes to the special school. This is not surprising in that there was a legacy of viewing special schools as exclusive.

50. For non-maintained and independent schools and colleges:

- Less is spent on special schools but there has been an increase from £0 to £39 per head of the 2-18 year old population, from 16/17 to the 18/19 budget periods, while at the same time there has been a reduction in the use of primary and secondary schools in this sector.

51. High Needs Budget and amount per head of the 2-18 year old population.						
Budget period	16/17 budget period			18/19 budget period		
	Newham	10 closest Statistical neighbours	England	Newham	10 closest Statistical neighbours	England
Top up funding (maintained schools, academies, free schools and colleges)	£361	£277	£205	£381	£287	£226
<i>Early Years (mainstream)</i>	£0	£5	£2	£0	£7	£2
<i>Primary (mainstream)</i>	£161	£52	£48	£166	£67	£53
<i>Secondary (mainstream)</i>	£86	£38	£28	£98	£31	£31
<i>Special schools and academies</i>	£59	£150	£101	£67	£158	£111
<i>PRUs and AP academies</i>	£38	£17	£15	£35	£15	£16
<i>Post School (mainstream)</i>	£16	£15	£13	£15	£8	£15
Top up funding (non-maintained and independent schools and colleges)	£45	£90	£84	£39	£93	£94
<i>Early Years (mainstream)</i>	£0	£1	£1	£0	£0	£1
<i>Primary (mainstream)</i>	£29	£6	£6	£0	£1	£1
<i>Secondary (mainstream)</i>	£16	£5	£7	£0	£2	£2
<i>Special schools and academies</i>	£0	£58	£52	£39	£65	£74
<i>PRUs and AP academies</i>	£0	£5	£3	£0	£6	£3
<i>Post School (mainstream)</i>	£0	£15	£16	£0	£1	£0

52. The spend on placements and top-up funding should be measured by the impact of placement and provision on outcomes for the children and young people.

53. I presented the 16/17 data to leaders and for the mayor's review of SEN. In a paper for senior leads, I posed the following questions: 'How well are our children and young people with SEND doing? Are they making progress? Is the spend value for money? –I concluded that the answer was 'no'.

Placement of pupils with high levels of need:

54. ***Pupils with Severe Learning Difficulty:*** In January 2017, Newham had the second lowest percentage of pupils with Severe Learning Difficulty (SLD) in its special school, JFK, compared to

statistical neighbours. This was lower than the England average by 11.3%, and lower than the London average by 8.8%

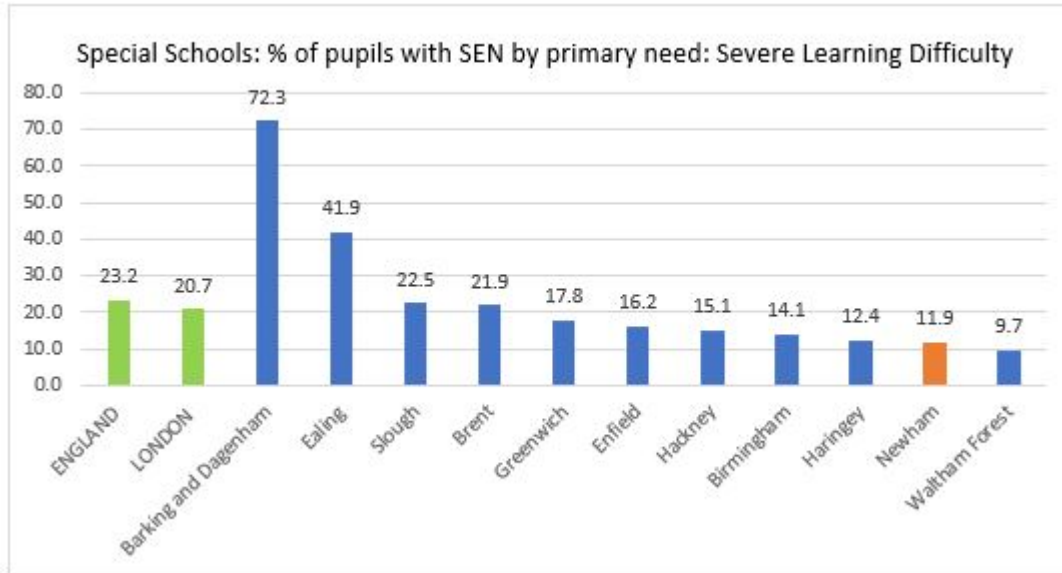
55. However, Newham had the highest percentage amongst statistical neighbours of pupils with SLD in state-funded secondary and primary schools. This is 1.4% higher than the England and London average in secondary school, and 0.7% higher than the England and London average in primary school.

56. The dominant placement pattern of pupils with SLD in mainstream schools in Newham was not matched to better opportunities for them to make more progress in these settings than in its special school -- JFK --which obtained outstanding in Ofsted. 'Place' does not ordain success in meeting need—The excellent progress made by pupils in JFK (Ofsted 2017) also was not being achieved in mainstream schools for this group of pupils.

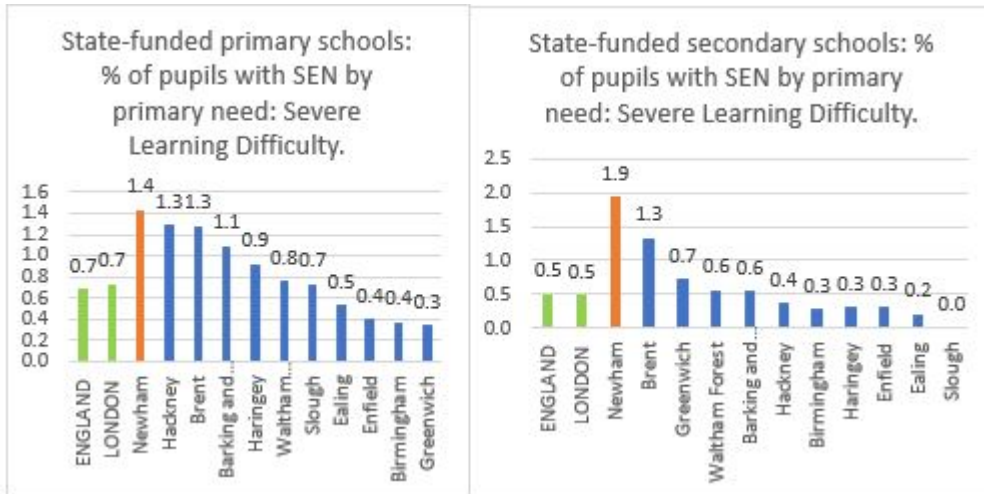
57. Unfortunately, placement of pupils with these needs in mainstream schools did not equate to:

- Better opportunity for pupils to have their needs met and therefore achieve positive outcomes in mainstream schools. --this was not evidenced by progress and achievement, nor the means to ensure this through robust planning, specialist input and resources.
- Better resources in relation to workforce skills-pedagogy, curriculum and learning environment.

Placement of Pupils with Severe Learning Difficulty (Jan.2017):



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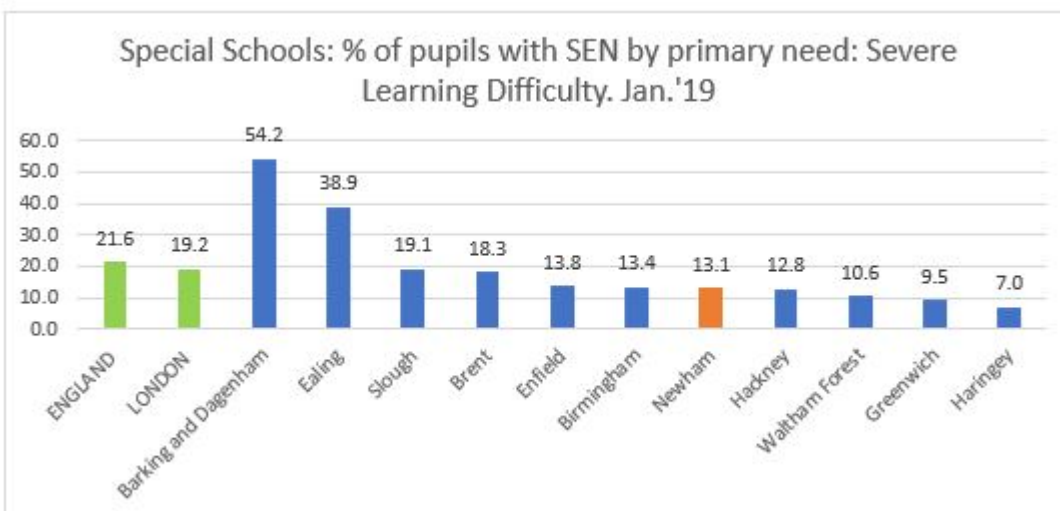
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Where is Newham now in relation to placement of pupils with Severe Learning Difficulty?

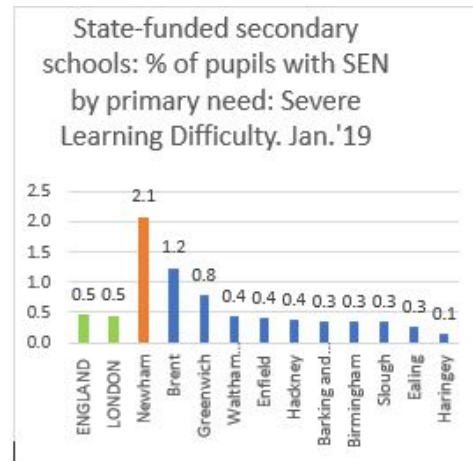
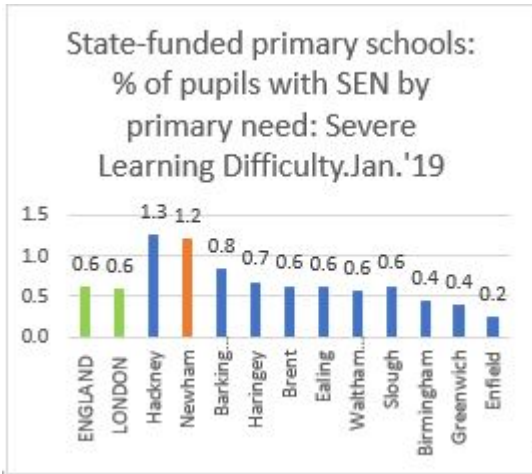
60. The latest data from the January 2019 census shows the following:

- Newham still places a lower percentage of children and young people with Severe Learning Difficulty in special school. The percentage is lower than the England and London average but has increased from January 2017 (at 11.9%) to January 2019 at 13.1%).
- Newham has a higher percentage of children and young people in primary and secondary schools with Severe Learning Difficulty than the England and London averages, and is the highest amongst statistical neighbours for their placement in secondary schools, and the second highest amongst statistical neighbours for placement at primary school.
- 61. The issue is, not place, but quality of provision. Are mainstream primary and secondary schools meeting the complex needs of their pupils - and any better since 16/17?

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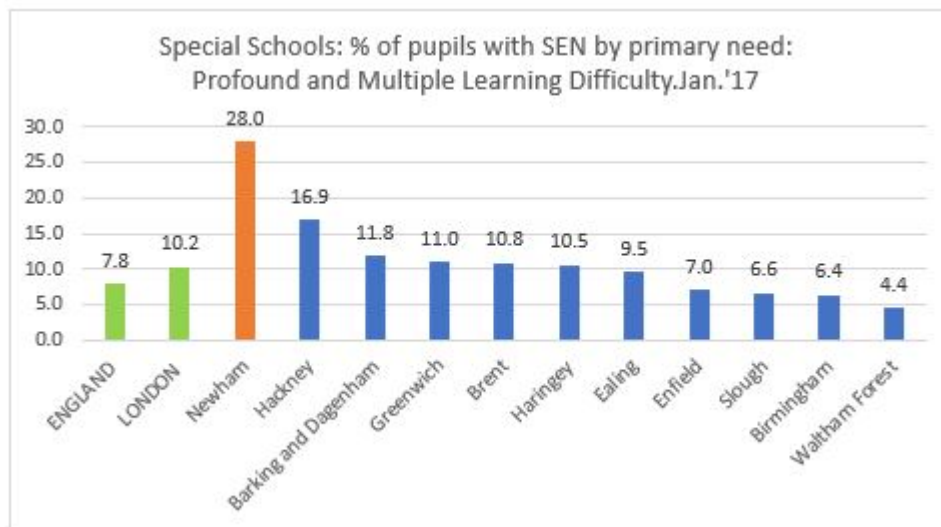
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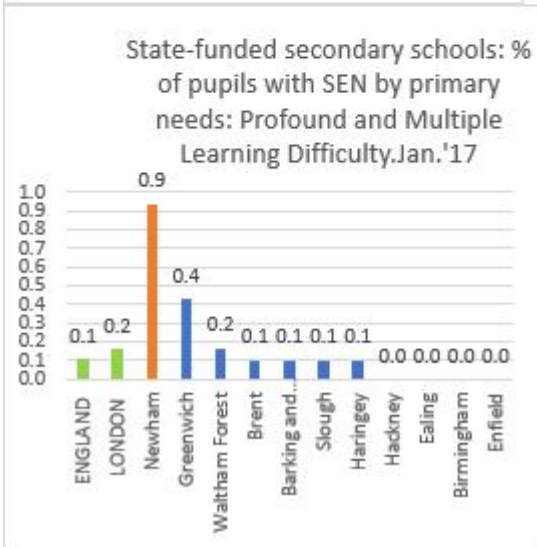
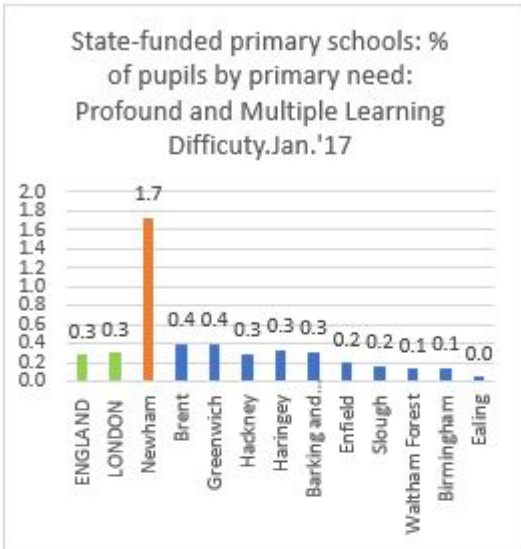


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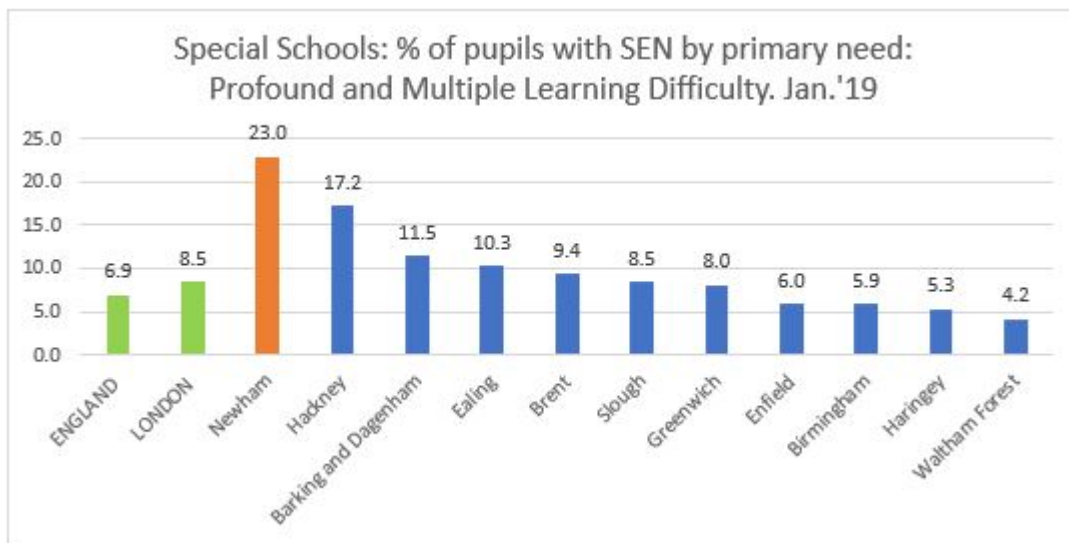
64. **Pupils with Profound and Multiple Learning Difficulty:** Although Newham had (in January 2017) the highest percentage of pupils with Profound and Multiple Learning Difficulty in its special school compared to statistical neighbours (17.8% higher than the London average) and 20.2% higher than the England average), it also had the highest percentage compared to statistical neighbours of pupils with PMLD in both secondary and primary schools.

65. Placement of Pupils with Profound and Multiple Learning Difficulty (in Jan. 2017) was as follows:

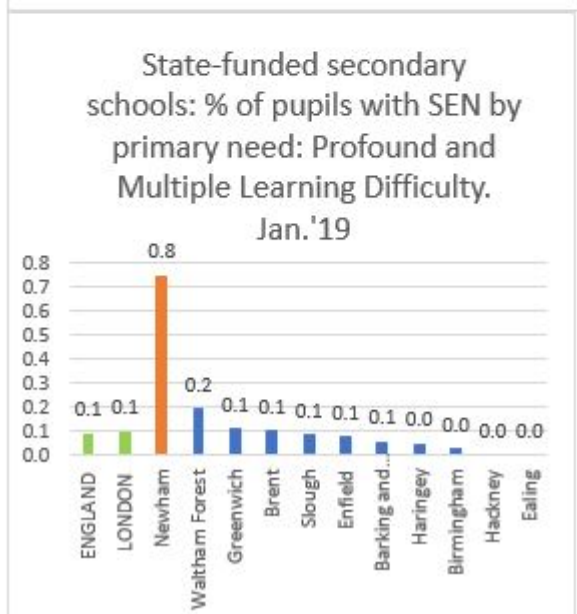
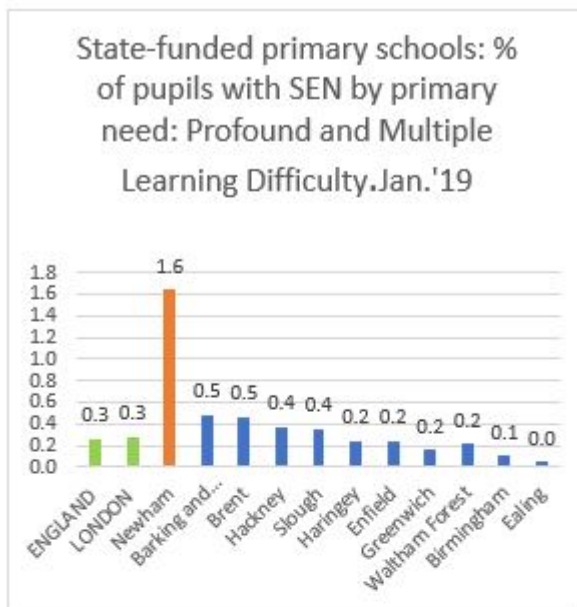




Where is Newham now in relation to placement of pupils with Profound and Multiple Learning Difficulty?



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69. Newham has a high number of children and young people with Profound and Multiple Learning Difficulty in special schools, as well as the highest percentage amongst statistical neighbours of placement in primary and secondary mainstreams schools. Data does not show whether the placing authority for the special school is Newham or another local authority. Does this continued placement pattern show evidence of impact of placement?

70. Conclusion: The placement of pupils with Severe Learning Difficulty as well as those with Profound and multiple Learning Difficulty has been by default rather than design. The distribution pattern and allocated top-up funding did not in 16/17 denote commonality between settings to successfully meet needs so that pupils achieve positive outcomes.

71. The question that needs to be considered is: To what extent does 'place' equate to robust pedagogy? Or is it a paradigm? Is 'parental choice' based on type of 'place' or understanding of pedagogy? Is there not a moral imperative to communicate the importance of pedagogy to inform

choice for parents who can therefore make judgements on type of place according to quality of pedagogy?”

72. Only when this is unpicked will the dichotomy between ‘place’ and ‘pedagogy’ be resolved, and then local knowledge and skills would be better utilised to improve the quality of ‘place’ and provide a flexible range of provision to meet need, so that Newham children and young people can achieve positive outcomes.

73. I disseminated to leaders these questions and my conclusion. The 18/19 top-up spend and placements patterns are in the main continued. But has there been improvement-i.e. is there a greater amount of progress for the most complex and vulnerable children and young people- who fall below the radar of the national curriculum? Are they better planned for and do they have the appropriate resources to ensure their needs are being met?

74. The presumption of mainstream education in law, and the impetus to ensure children and young people are educated as far as is possible within their local community is balanced by parental preference, the role of both special and mainstream schools as set out in the ‘Special educational needs and disability code of practice 0-25 years’, and the success of local authorities in developing good quality local provision and support, and robust planning for sufficiency of places which are genuinely suitable for children and young people with complex needs. This involves recognition of the entitlements of children and young people with SEN.

75. Children and young people of Newham with complex needs have entitlements and I do hope this paper in can in some way bring about justice for them.

September 2019