

Written evidence submitted by Surrey County Council

The SEND (Special Educational Needs and Disabilities) system in England faces several well-documented challenges. Below is a summary of the key issues from Surrey County Council's perspective followed by some proposed solutions to address these challenges.

Our main point is that there is a need for a **root and branch review with legislative and systemic changes across the education and health care system that supports all children**, not just children with SEND.

1. Rising Demand plus Complexity of Needs

- **Increases in the number of Education, Health, and Care Plan (EHCP) Requests:**
There has been a significant increase in requests for EHCPs, straining the resources of local authorities (LAs), schools and education settings.
- **Complex Needs:** More children and young people present with complex or multiple needs, including autism, mental health conditions, and social, emotional, and mental health (SEMH) needs.
- **Inclusion in Mainstream Schools:** There are widespread inconsistencies in the ability of school and education settings to be inclusive.

2. Funding Constraints

- **The system incentivises education settings to say they 'cannot meet needs':**
Schools are able to externalise the costs of meeting additional needs by indicating that they cannot meet needs. The costs then fall to the LA because the schools block element of the Dedicated Schools Grant funding is not used to meet those SEND needs, and the transferred costs exceed the capacity of the High Needs Block.
- **Unsustainable Spending:** Costs for independent and non-maintained specialist placements have risen, and mainstream schools often report insufficient funding for SEND provision.
- **High Needs Block Deficits:** Many LAs including Surrey are facing severe deficits, in their high needs budgets, driven by rising demand and the increased cost of specialist placements, alternative provision and education other than at school (EOTAS).

3. Inconsistent Support and Provision

- **Geographical Variability:** The availability and quality of SEND support vary significantly between LAs and sometimes within LA areas, leading to a "postcode lottery."
- **Inequity in the System:** The needs of the most vulnerable children are often overlooked or become secondary to those children and parents who are more able to advocate on their own behalf.
- **Delayed EHCP Processes:** Many LAs struggle to meet statutory timelines for issuing EHCPs, resulting in delays for families seeking support. This can relate to the challenges around staffing of statutory processes, such as Educational Psychologists, further compounded by the need to seek advice from non-local authority services such as health practitioners, for which the LA has no levers of control.
- **Fragmented System:** Collaboration between health, education, and social care services is often weak, leading to gaps in provision and a lack of clarity about accountability and responsibility for provision. This is further impacted by the challenges around information sharing across services.

4. Over-reliance on Specialist Placements

- **Insufficient Mainstream Inclusion:** Many mainstream schools and education settings struggle to include children with SEND and other additional needs, citing a lack of resources, training, and specialist staff. Some settings also have differing priorities related to their Ofsted judgement and performance league tables, both of which disincentivise inclusion of children with SEND and additional needs in mainstream settings.
- **Specialist Setting Capacity:** Increasing reliance on specialist settings and alternative provisions, often outside the local area, has driven up costs and placed pressure on families. This is further compounded by the costs of transport to the setting which fall directly on the LA general fund budget.

5. Parental and Professional Dissatisfaction and a High Number of Tribunals

- **Adversarial Relationships:** Tensions between families and LAs have eroded trust and created an adversarial culture. These adversarial relationships also exist between LAs and schools/educational settings, education settings and parents, LAs and other partner organisations (health), parents and health providers etc. The current system creates a climate where there are multiple barriers to working well together.

- **Appeal Rates:** There is a growing number of tribunal appeals, with parents often challenging EHCP decisions, reflecting dissatisfaction with LA decision-making or local provision.

6. Workforce Challenges

- **Shortages of Specialist Staff:** There are not enough educational psychologists, therapists, and SEND specialists to meet rising demand within the current system.
- **Training Gaps:** Teachers and education staff often feel underprepared to support children with SEND effectively.

7. Accountability and Systemic Issues

- **Ineffective Oversight:** Current accountability mechanisms are seen as ineffective, with unclear roles and responsibilities between LAs, schools (academies and local authority maintained), other education settings and other stakeholders. This is exacerbated by inspection systems which, in schools and education settings:
 - undervalue inclusion and privilege attainment over belonging.
 - permit parental satisfaction to be prioritised above data about outcomes.
 - fail to scrutinise local schools' individual contribution to the wider system and its gaps.
- **Limited Outcomes Data:** There is insufficient focus on long-term outcomes for children and young people with SEND, such as employment, independence, and community participation.

8. Impact on Families

- **Stress and Uncertainty:** Families often report that navigating the SEND system is exhausting, time-consuming, and emotionally draining.
- **Financial Burden:** Many families face additional financial pressures when providing care or funding private assessments and support.

9. Pressure from Broader Education System

- **High-Pressure School Environment:** Schools and other education settings who focus on league tables and academic performance sometimes feel incentivised to exclude or avoid admitting children with SEND.
- **Exclusions and Alternative Provision:** Children with SEND are disproportionately excluded from school, often ending up in less supportive alternative provisions.

- **Ofsted Focus:** The historical focus on individual academic outcomes for children at the exclusion of other outcomes such as personalised education, collaboration, and preparation for adulthood and work has made it difficult for SEND children to feel included and belonging to their local school or education setting and community.

Recent Reforms and Proposals for Improvement

The government's 2022 Green Paper on SEND reform acknowledged many of these challenges, proposing measures such as:

- A more inclusive education system.
- Standardised EHCPs to reduce inconsistencies.
- Increased investment in specialist provisions and mainstream inclusion.
- Strengthening partnerships between health, education, and social care.

However, these did not go far enough in addressing the current and future systemic challenges in the SEND system and across the education system more broadly.

Possible Solutions:

1. Strengthening Inclusion in Mainstream Schools and other Education Settings

- **Removing Education Health and Care Plan Needs Assessment for children under 5 years:**
 - This will avoid early and potentially incorrect labelling of children when early child development is incredibly varied.
- **Strengthening and clarifying the legislative expectations around:**
 - inclusion in mainstream settings
 - use of specialist provision
 - widening the range and characteristics of distinct levels of funded SEN Support in education settings, so that there is a limit to the provision that needs to be offered and funded by a Local Authority.
 - the questionable benefit of maintaining EHCPs until the age of 25 years.
- **Ordinarily Available Provision (OAP) and Reasonable Adjustments:**
 - Education settings need clearer guidance, support and understanding around the delivery of SEND provision that they must provide at distinct levels. To support this there needs to be national clarity and consistency on what the OAP offer must

be and how it must be delivered with clearer guidance and minimum expectations around what 'Reasonable Adjustments' would encompass at an education setting, including early years settings.

- To support this process all children with an SEN support will continue to have an Individualised Education Plan (IEP) which will ensure consistent information is available to share with families, professionals, Local Authorities etc.
- **Clear accountability for inclusion:**
 - Incentivise inclusion by revising performance metrics (e.g., league tables) to reward schools and education settings that successfully support children with SEND.
 - Ensure Ofsted inspection frameworks have inclusion as a main inspection focus.
- **Better funding for mainstream schools and education settings:**
 - Ensure all funding for SEND provision and support in mainstream settings is fully ringfenced and cannot be used to fund anything else in the education setting.
 - Where children and young people cannot be supported in mainstream settings, change financial rules so funding follows the child, funded from local school budgets to pay for specialist provision.
 - Ensure all mainstream secondary provision have resource bases or other small group provision to accommodate the needs of children for whom large secondary school settings do not meet their needs.
- **Increased training for staff:**
 - As a result of dated training programmes, new teachers are currently taking up teaching roles without the appropriate skills to be able to effectively identify, assess and support a variety of SEN, particularly around Neurodiversity (e.g. autism), and working with children and young people with Social Emotional and Mental Health needs (SEMH). A comprehensive SEND-specific training for teachers, education leaders, support staff and governors is required. This will include rolling out the professional development recommendations of the white paper 'Opportunity for All' (2022), or similar.
 - Review teacher training curriculum and qualifications to ensure a much greater focus on children with SEND and how they can be supported to thrive beyond the proposals seen in 'Opportunity for All'.
 - Include SEND training as a core part of ongoing professional development programs particularly for teachers who lack experience in this area of work.

2. Improving EHCP Processes

- **Streamlining, standardising and significantly reducing the use of EHCPs:**
 - There is potential to widen the range and characteristics of distinct levels of funded SEN Support in education settings, so that there is a limit to the provision that needs to be offered and funded by a Local Authority via an EHCP [only long term, complex and enduring needs within a specialist setting – with clearer criteria on what this category would include]. Therefore various ‘levels’ of funded SEN support which have specific criteria attached would be under the control of the education setting.
 - Implement the national template for the much smaller number of EHCPs required on this basis to reduce variability between local authorities and to permit for consistency in information sharing when a child moves to another LA.
- **Digitally enabled and efficient systems:**
 - Use technology, including artificial intelligence (AI) to help streamline education, health and care needs assessment requests, plans and annual reviews to reduce delays and improving transparency and consistency for families.
- **Boosting workforce capacity:**
 - Increase funding for educational psychologists, SENCos (Special Educational Needs Coordinators), and caseworkers to reduce bottlenecks in the EHCP process.
 - Introduce national training and development qualifications and programmes of learning for SEND officers and managers, such as new SEN apprenticeship programmes.
 - Give clear guidance on the roles and responsibilities and work/caseloads for SEND officers.

3. Better Funding and Financial Reform

- **Reforming the high needs block:**
 - Review funding formulas to ensure sufficient resources for local authorities, factoring in rising demand and inflation.
- **Exit Strategy for Safety Valve and related agreements:**
 - Transfer safety valve debt and other High Needs Block deficit balances to the national balance sheet. Recognise for all affected LAs that these High Needs Block deficits represent demand exceeding resource in nationally funded programmes; rectifying this imbalance should not fall to the LA.

- **Fair funding:**
 - Ensure equitable distribution of funding to support children and young people locally to reduce the reliance on expensive out-of-area placements.
- **Address excess profits being made by private education providers** (Non-Maintained Independent Sector - NMIS):
 - Consideration should be given to converting all private / profit making specialist education settings to maintained settings to disincentivise companies from making profit from education. There is no justification for profit-making involvement in settings that are solely funded by the state.
 - Removing the right of appeal for Non-Maintained Specialist Placements, where a maintained placement can meet needs.

4. Increasing Provision to Increase Capacity to Meet Needs

- **Expand local specialist placements:**
 - Invest in building new resource bases within mainstream and specialist settings to meet rising demand locally.
- **Review placement criteria:**
 - Promote a tiered system of support, ensuring children access the right provision without unnecessary reliance on specialist placements introducing the banding proposals made within [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan](#).
- **Promote partnership with non-maintained providers:**
 - Work collaboratively with independent and non-maintained settings to manage costs and ensure quality to support sufficiency nationally to meet changing and increasing needs.
- **Improve school assessments to support better identification of needs:**
 - Implement school-based assessment tools beyond curriculum assessments to improve understanding of need e.g. use of assessments for reading, comprehension, spelling, numeracy, and language in the education setting.

5. Strengthening Multi-Agency Collaboration

- **Integrated care partnerships:**
 - Align health, education, and social care services under the geography of the education system to improve joint planning and delivery of support.
- **Clear roles and accountability:**

- Clarify statutory duties for each partner in the SEND system, ensuring robust accountability for delivering coordinated services. This will include equity in meeting both a child's physical and mental health needs (parity of esteem), to be overseen by the Department for Health and Social Care.
- **Strengthen information sharing guidance:**
 - Review and strengthen information sharing guidance for children with SEN as part of the introduction of changes associated with vulnerable children not accessing education/missing from school.
- **Improve early intervention:**
 - Clarify expectation and funding arrangements for early intervention defining responsibilities of partners and schools for early identification, intervention, and support.
 - Invest in preventative services like speech and language therapy, CAMHS (Child and Adolescent Mental Health Services), and occupational therapy to reduce later demand for EHCPs. This would be supported by clear policies from the Department of Health and Social Care.

6. Building Parental Trust and Engagement

- **Enhanced communication:**
 - Support and guide the establishment of clear, transparent communication channels with parents and carers that are consistent between local areas.
- **Mediation and support:**
 - Strengthen mediation services and provide independent SEND support and advocacy for families to reduce adversarial relationships.
 - Consider making mediation a mandatory offer before accessing a tribunal.
 - Reconsider the SEND tribunal process entirely and replace with mediation or other dispute resolution mechanisms that do not privilege families with higher social/cultural capital and the financial resources to retain legal advisors.
- **Simplify processes through statute or SEN guidance:**
 - Reduce bureaucracy and make the SEND system simpler and easier to navigate for parents by reforming the SEN support, OAP, Inclusion offer in schools and if EHCPs remain in place simplify the EHCN assessment, planning, and review processes.

- **Streamline Admissions Process:**

- Ensure that children and young people with an EHCP use the normal admissions process within a LA.

7. Workforce Development

- **Upskilling specialists:**

- Plan nationally to increase the availability of training for specialists such as therapists, educational psychologists, and SENCos. This could be further enhanced through programmes of mentoring and coaching for staff new to role.

- **Flexible recruitment models:**

- Offer flexible roles and attractive packages to recruit and retain SEND professionals.

- **Enhance SENCo Role:**

- Elevate the status of SENCos and ensure they have adequate time, resources, and training to fulfil their responsibilities.

8. Reducing Exclusions and Improving Alternative Provision

- **Zero-exclusion policies:**

- Incentivise schools financially and through inspection frameworks to adopt inclusive behaviour management strategies, reducing the use of exclusions for children with SEND.

- **Maintaining accountability for children:**

- Ensuring the originating education setting remains accountable for the outcomes for any child it excludes.

- **Improved alternative provision (AP):**

- Invest in national high-quality AP programme that focuses on reintegrating pupils into mainstream or special education where appropriate.

9. Data-Driven Decision-Making

- **Enhanced data collection:**

- Collect detailed, consistent data on SEND needs, outcomes, and costs to inform local and national policy.

- **Monitoring outcomes:**

- Shift focus from processes to outcomes, tracking the long-term progress of children with SEND in education, employment, and independence.

10. Cultural and Structural Reforms

- **Promoting an inclusive and nurturing culture:**
 - Embed inclusion as a core principle across the education system, with a "whole school" approach to supporting SEND pupils.
- **Simplified governance:**
 - Clarify governance structures and responsibilities to reduce fragmentation and improve oversight between different governmental departments.

11. Long-Term Planning

- **Forecasting demand:**
 - Use demographic and need-based projections to plan future capacity in schools and services.
- **Supporting transitions:**
 - Improve support for transitions between school phases and into adulthood, focusing on preparation for employment, further education, and independent living.

January 2025