

## **Written evidence from Matt Keer**

### **Summary**

1. From 2011 to 2018, the Department for Education allocated at least £550m and probably as much as £600m into implementing the SEND reforms. This investment was not put into front-line SEND support – it was intended to smooth the process of moving from the old SEND system to the new.
2. The largest blocks of this DfE investment were given to local authorities in the form of annual SEND reform implementation grants – £223m between 2014 and 2018. These grants were not ringfenced - local authorities were free to use the money as they wished. No official agency meaningfully monitored impact, or even checked whether the grant money was used lawfully.
3. It has been possible to work out how local authorities used most of this grant money, using Freedom of Information requests and council spending data. Analysis of this spending indicates that this £223m investment has been broadly ineffective in driving fundamental SEND system change.
4. Most of the tracked grant spending was allocated in the general direction of SEND, and some local authorities used elements of it innovatively. For the most part though, LAs over-invested in temporary workers and outsourcing firms, and under-invested in training and joint working with health. As a result, system change is still barely being embedded at local authority level.
5. Some LAs abused their DfE grant allocation. A significant minority used large sums of grant money to defend parental appeals to the SENDIST Tribunal, instructing solicitors, barristers and legal consultants. Others made implausibly lavish use of hotels and conference facilities to host meetings.

### **Recommendations**

6. The Department for Education is investing a further £300m in SEND system change over the next two years. Again, the vast majority of this sum will not be ringfenced, and Ofsted / CQC inspectors are not tasked to monitor how effectively DfE SEND grant money is spent. This needs to change. Local authorities should account for their use of this grant money during local area SEND inspections, in the same way that schools account for their use of Pupil Premium budgets.

7. The National Audit Office should be tasked to examine whether the public money that has powered the SEND reforms has been used effectively, and whether it can be used more effectively in the future.

### **Background**

8. I am a parent to two awesome profoundly deaf children. My children have been taught in mainstream schools, specialist units, and they are now at a wonderful special school for the deaf. As their parent, I have over 15 years' experience of the English SEND system, and I have seen the best and worst that the SEND system can offer. I write occasionally for [the parent-led Special Needs Jungle website](#), and I help other parents navigate the SEND system. I do not conduct any paid work in the SEND sector.

### **Evidence**

9. This evidence aims to inform three aspects of the Committee's 2018 enquiry into special educational needs & disability:
10. The transition from statements of special educational needs and Learning Disability Assessments to Education, Health and Care Plans;
11. The level and distribution of funding for SEND provision; and
12. Assessment of and support for children and young people with SEND;
13. The evidence also contains some information relevant to one other aspect of the enquiry:
14. The roles of and co-operation between education, health and social care sectors

### **Funding the SEND Reforms**

15. There is no single source of official information showing how much public money has been spent on SEND reform implementation.
16. The process of transition to the new SEND system began in 2011. In theory at least, it ended on 1<sup>st</sup> April 2018. What information is out in the public domain indicates that the DfE has spent at least £550m on the process of SEND reform design and implementation, and probably as much as £600m.

17. According to an [FOI response from the DfE to the legal firm Boyes Turner](#), the process of SEND reform implementation had already cost the DfE at least £483 million by the spring of 2016. This included nearly £17 million spent on the SEND Pathfinder pilot process that ran from 2011 to 2015, and £465 million allocated in payments to (and through) local authorities to implement the SEND reforms through to the 2016-17 financial year. Since then, the DfE has injected around £70-120m of further funding into the SEND reform implementation process from early 2016 through to the end of the 2017-18 financial year.
18. Even over a seven-year period, £600m is a substantial resource investment. By way of comparison, [the NAO recently estimated](#) that the process of converted maintained schools to academies cost £745m from April 2010 to January 2018. It should also be remembered that this investment was earmarked for SEND system change. It was not earmarked for front-line SEND provision.
19. The DfE distributed this funding through several channels. Some of it went into dozens of separately contracted services: funding and support for Parent Carer Forums; for parent advice and information support services; and for spreading SEND best practice across schools. Many service suppliers have produced impact statements for the work that they have done.
20. The largest single chunk of DfE investment went directly to local authorities, in the form of SEND reform implementation grants. These are detailed below.

### **The SEND Reform Implementation Grants**

21. The DfE issued five separate SEND reform implementation grants to local authorities between April 2014 and March 2018, totaling £223m. [A further £29m of SEND implementation grant money](#) will be doled out in this financial year.
22. The [terms under which these SEND reform implementation grants are supplied](#) are remarkably loose:
23. The grant money is not ring-fenced; local authorities are free to spend it how they wished, and they have no obligation to spend it on SEND reform implementation.
24. There appears to be no meaningful external monitoring of how local authorities spend this grant money, or any official evaluation of its impact. The DfE does not monitor SEND reform implementation grant spending, and

there is no evidence to suggest that Ofsted / CQC local area SEND inspectors evaluate it either.

25. It seems bizarre that central government invests so much money into SEND reform implementation, and yet shows so little interest in what return it receives on its investment. So I decided to take a look.
26. Using Freedom of Information requests and published council spending data, it has been possible to track the use of £158m of the £223m in grant money doled out to date – just over 70% of it.
27. There are several reasons why it's not been possible to track all grant spending:
28. Many LAs provided at least some useful data on their spending - but some failed to provide a full breakdown across the whole 2014-2018 period.
29. Some LAs refused to provide a functional breakdown of their spending.
30. Several LAs told me that they couldn't account for the way in which they used their DfE grant money - because they didn't track it themselves.
31. Nonetheless, with 70% of this spending tracked, it is possible to draw some firm conclusions about what the grant money was spent on – and how effectively it was spent<sup>1</sup>.

### **What was the grant money spent on?**

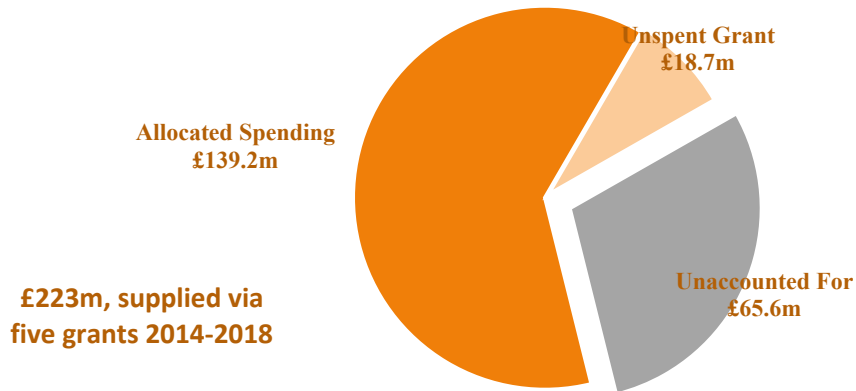
32. Almost all local authorities used the majority of their DfE grant money to expand existing SEND administrative capacity. About three quarters of the tracked grant spending was allocated to bringing additional staff in – mostly SEND administrative workers and team leaders, primarily recruited to handle the process of converting statements of special educational need (SENs) to Education, Health & Care Plans (EHCPs).
33. Many LAs also used the grant money to bring in extra specialists (such as Educational Psychologists) to support the EHC needs assessment process, and many recruited extra managers for short-term projects, such as setting up programmes to prepare children with SEND for adulthood.

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<sup>1</sup> The data used to conduct this analysis consists of over 300 FOI response documents and 8,370 line items of collated council expenditure. The data hasn't been attached to this document, but is available on request.

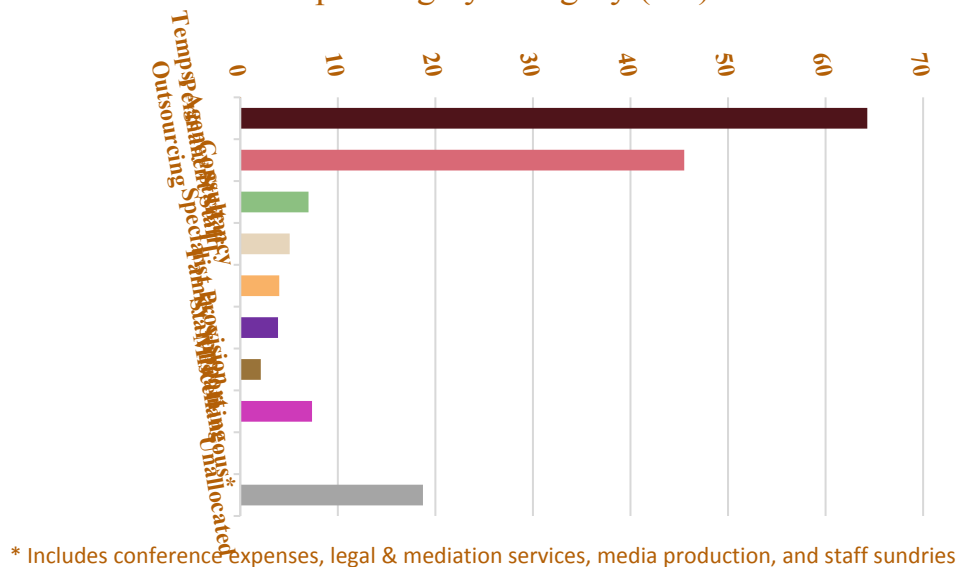
34. The character of this investment matters. Most of the tracked £108m personnel spend went on temporary workers and agency staff, brought in on short-term contracts to perform specific duties. Recruitment agencies have done very well out of the SEND reforms, dominating the league table of private sector recipients of DfE grant money. LAs also sourced temporary workers from other quarters: many EHCPs have been written by school staff and student trainee educational psychologists.

### DfE SEND Reform Implementation Grants



35.

### Tracked Grant Spending by Category (£m)



36.

### 37. DfE SEND Reform Implementation Grant Spending: Top 10 Private Sector Payees, 2014-2018

38.	<b>Enhance EHC</b>	39.EHCP Writing
40.	<b>Capita Business Services</b>	41.Business Process Outsourcing
42.	<b>Idox Software (Open Objects)</b>	43.IT
44.	<b>Permanent Futures</b>	45.Agency Staff / Specialist Recruitment
46.	<b>Baltimore Consulting</b>	47.Agency Staff / Specialist Recruitment
48.	<b>Guidant Group</b>	49.Recruitment / Outsourcing Specialist
50.	<b>Tribal Education</b>	51.Consultancy / Education IT
52.	<b>One Education</b>	53.Education Consultancy
54.	<b>Matrix SCM</b>	55.Agency Staff
56.	<b>Gatenby Sanderson</b>	57.Recruitment Consultancy

58.LAs also used their grant money to outsource EHCP writing on a large scale - the biggest single private sector recipient of DfE grant money was an EHCP writing company. The practice of outsourcing EHCP writing is controversial, for several reasons:

59.The SEND reforms are supposed to be 'person-centred.' That principle is impossible to implement when the person writing your child's EHCP is a freelancer working hundreds of miles away - a person who has never met your child, and never will.

60.Parents are almost never informed in advance that production of their child's EHCP has been outsourced. The outsourcer cannot produce a plan without a great deal of personal sensitive data about the child - and whilst the best EHCP outsourcing firms are scrupulous about secure data handling, in most cases it is unlikely that parents have explicitly given the LA permission to hand their child's personal and medical records over to a third party. At least one LA (Trafford) handed large quantities of personal data to an EHCP writing firm without securing explicit parental permission. Trafford are highly unlikely to be the only LA that has done this.

61.The EHCP outsourcing business model does not incentivise quality work. Most firms are paid per plan, and most employ freelancers who are also paid per plan: the more plans a freelancer produces in a day, the more money the freelancer earns. It is unclear how much freelancers earn, but EHCP writing firms typically charge LAs between £50-80 per plan, and the freelancer will take a cut of that. Spend a whole day writing an EHCP, and the freelancer will probably not bring home more than minimum wage.

62. Whilst LAs spent a great deal of DfE grant money on expanding their workforce, they spent tiny quantities on training. Just £2.3m of tracked spending – 1.5% of the total – was allocated to training over the 2014-2018 period. Local authorities spent over three times more grant money on consultants than they did on training.
63. Training is absolutely vital to any system change process – especially the SEND reforms, which included a new Act of Parliament, two new sets of statutory instruments, a new 300-page Code of Practice, and entirely new workflows to assess and deliver special educational provision. In order to make this work, LAs needed to train and retool a highly fluid workforce in the new ways of working – collectively, tens of thousands of in-house staff and hundreds of thousands of school staff.
64. This is exactly what the DfE grant money was intended to enable – and yet LAs spent bafflingly little of it on training. This failure to invest in workforce training is fundamental to the failure across many aspects of the new SEND system; undertrained, temporary SEND administrators and managers, trying to apply existing organisational culture to a new set of processes.
65. Another key feature of the new SEND system is its emphasis on joint working: education, health and social care, working in harmony to deliver better outcomes for children and young people with SEND.
66. Arguably, joint working is the most challenging facet of the SEND reforms to deliver. Despite this, local authorities have deployed very little of their DfE grant money to make it happen. Just 3% of tracked grant spending was invested in improving joint working between education, health and social care services.
67. LAs made much better use of their grant money in a different sector – IT spending. LAs spent comparatively little of their grant money on IT – roughly £5m in the 2014-2018 period – but many invested it effectively in new enabling capabilities, such as case management software. Some LAs (Kingston & Richmond, Bristol, and Cambridgeshire) used their grant money to trial innovative new IT-led ‘wiki’ approaches to collaborative EHCP production.
68. However, not all IT investment was as successful as it could have been. Most LAs used some of their grant money to set up the ‘Local Offer’ websites required by the SEND reforms – but whilst many Local Offer websites look

technically impressive, Ofsted & CQC local area SEND inspections have repeatedly pointed the limited content and utility of Local Offer sites.

69. Most local authorities invested their DfE grant money in the general direction of SEND, with varying effectiveness. However, a significant minority of local authorities abused their grant allocation - using it in ways that could not have possibly benefitted children and young people with SEND and their families.
70. Nineteen LAs used DfE grant money to pay for legal services – instructing external solicitors, barristers and expert witnesses, and paying the salaries of in-house Tribunal case officers. Two LAs (Lewisham and Northamptonshire) each spent around £100,000 of their grant money on legal fees.
71. Most of this expenditure will almost certainly have been directed squarely against families appealing to the Special Educational Needs & Disability Tribunal. Not only will this have caused families immense stress, most of this expenditure will have been wasted. [HMCTS data shows that LAs lose over 86% of SENDIST decisions.](#)
72. Other LAs also made profligate use of their DfE grant money. Some used the grant to conduct mock local area SEND inspections. One local authority in the South-East brought some of their recently-retired SEND managers back into the fold on £500 per day consultancy fees. Another LA in the South-West spent a five-figure sum on personality testing for its SEND management team. Many LAs spent tens of thousands of pounds on off-site meetings, breakfast get-togethers and away days at hotels.

### **Conclusions & Recommendations**

73. Viewed from the perspective of a parent who has spent 15 years in the SEND system, the reforms ushered in with the 2014 Children & Families Act have not been a success. Families are having to fight harder than ever before to secure the provision that their children and young people are entitled to. In practice, the new system is no more capable of ensuring that education, health, and social care needs are met than the old system was – largely because it has many of the same structural flaws baked into it.
74. To get us to this point, government has spent around £600m of public money. Not on front-line SEND provision. Not on extra school places, specialist teaching, or therapy. This £600m has gone almost entirely on greasing bureaucratic wheels. And bar a few honourable exceptions (such as [the Whole School SEND project](#)), this £600m revenue injection has failed to deliver.



75. Barely anyone seems to have noticed that hundreds of millions of pounds have been pumped into SEND system change. Barely anyone seems to have noticed how little impact this investment has made. And worst of all, no-one in a position of authority seems bothered about it.
76. Local authorities will tell you that they don't have enough funding to deliver SEND provision. Right now, they have a point – the High Needs Block is in meltdown across England, for reasons both within and beyond local authority control. More funding for the front-line is necessary – but it is not sufficient, because the SEND system is still incapable of channeling this funding in ways that meet needs lawfully. They had money to change their ways of working. They blew it.
77. Well-paid people will tell you that the new SEND system still needs time to bed in. If that's true, it's not for lack of fertiliser. Key players in the SEND system have been given plenty of fertiliser- £600m of it – and by tracking what happened to it, it is evident that it has been largely wasted.
78. Nonetheless, more fertiliser is coming down the slurry pipe. Three more SEND grants - with a collective value of £300m - are being issued to local authorities over the coming two years. Like their predecessors, these grants are not ring-fenced, and nobody in authority is likely to scrutinise what impact this new money will have.
79. In my view, that needs to change. For what it's worth, I'd recommend the following:
80. Ofsted & CQC are responsible for inspecting local areas to assess the effectiveness of SEND reform implementation. As part of this process, inspectors should insist that local areas account for their use of DfE SEND reform implementation grant money - showing what impact their spending has had, and how they plan to use it in the future. Ofsted already do this in school inspections for Pupil Premium funding – it would be logical to extend this principle to local area SEND inspections.
81. The National Audit Office recently examined the arrangements used to convert schools to academies: the DfE's approach to conversion, the robustness, cost and speed of academisation, and the system's capacity to cope with change. The attempts at SEND system change are consuming comparable resources to academisation, but the use of public money to achieve this has gone largely unexamined. The NAO should be tasked to examine whether the public money that has powered the SEND reforms has

been used effectively, and whether it can be used more effectively in the future.

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