

Written evidence from ASSET

1. ASSET is a registered charity established to support parents of children with special educational and disabilities which has been in operation for over ten years. We have assisted in over 250 cases in many different Local Authorities in England and provided training courses to a number of Parent Carer Forums. ASSET is therefore in a position to identify the good and sadly, much bad, practice in the way support is currently provided for children with SEND.
2. The reforms (Children and Families Act, 2014) were introduced in a time of austerity when Local Authority budgets were shrinking. The aims (Section 19, putting the child and the family at the heart of the process) are aims which ASSET wholeheartedly endorses. However the funding given to local authorities to support the implementation was not ring-fenced and this meant that the reforms have not, in many local authorities, achieved the improvement, including raising achievement and expectations, that many had hoped would result from the introduction of the new SEND framework.
3. ASSET wishes to submit the following response to the four substantive issues raised by the Parliamentary Inquiry.
4. CYP: Child or Young Person
5. **Assessment of and support for children and young people with SEND**
 - 5.1. In ASSET's experience many mainstream schools do not understand the new graduated approach through 'Assess, Plan, Do, Review'. Schools were used to School Action and School Action Plus graduated response, with external professionals being engaged at the second stage.. The pressure on school budgets, and the mistaken 'urban myth' that the school needs need to demonstrate how they have spent £6K on meeting a child's needs before requesting an EHC needs assessment for a child, has resulted in many children 'slipping through the net' at primary. By the time they reach secondary school, the children have often become disengaged and developed behaviour problems. While many of these have ASD, these have also included those with ADHD, Dyslexia and Speech and Language Disorders. We believe this has contributed to the sharp rise in Exclusions and the number of children now being Home Educated (EOTAS) which is all to often not something the parents have chosen to do, but because they feel they have no choice.
 - 5.2. There is a lack of knowledge about the SEND framework (including EHC plans) in Early Years settings. Only those with the

most obvious needs (especially medical, with clear diagnosis) appear to be identified at this stage. In addition, there is pressure on Early Years by many local authorities not to refer children for EHC needs assessments until the year before they start school. This means that many children do not receive the targeted early support, including Speech and Language therapy, that would make such a difference to the rest of their educational careers.

- 5.3. The Local Offer. Local Authorities are required to have a Local Offer on their website which is supposed to contain all the information parents of children with SEND require to make informed decisions, including clarity about what a local mainstream school should be able to provide to meet the needs of a child with SEND without an EHC plan. Unfortunately, it is our experience many Local Offer websites are difficult to navigate, are not legally compliant and lack clarity.
- 5.4. The establishment of Academies, in particular, which function outside of local authority control have often been a problem for children with Special Educational Needs and Disabilities – sometimes with Admissions but particularly for those pupils with ‘hidden disabilities’ such as ASD and ADHC, where unmet needs result in behaviour problems. There has been a high incidence of pupils with special educational needs (including those with EHC plans) being excluded. In some cases, the schools fail to understand their duties under EQA 2010 to make reasonable adjustments for pupils with special educational needs and disabilities.
- 5.5. As part of the Green Paper consultation process prior to the Children and Families Act 2014, ASSET argued for the separation of the assessment process from the local authorities who were going to be, ultimately, responsible for making provision in EHC plans. We argued that this could have been organised on a regional level. The separation would have encouraged assessments (particularly Educational Psychology) being undertaken away from local authority policies and control. Currently it is common practice for Educational Psychologists, engaged to undertake what is supposed to be a psychological assessment, not to undertake ANY standardised tests. Instead the Educational Psychologist arranges to attend a meeting at the child’s school and, after observing the child for a very short time (10 minutes) then speaks to the parents and school staff – and writes up their report which then forms the basis of the EHC plan (or no EHC plan is issued on the basis that the school can meet the needs of the child without the need for an EHC plan). Without any formal assessments being undertaken, this Person Centred approach tends to result in a lack of robust professional evidence being collected via the statutory assessment process.
- 5.6. ASSET is aware of many parents who have made a ‘reasonable request’ for their child to have a Speech and Language

assessment as part of the statutory assessment only to be informed that unless their child is already receiving therapy they won't be able to have an assessment. The same applies to a request for an Occupational therapy assessment.

- 5.7. As a result of an 'incomplete' EHC needs assessment, a child may be denied an EHC plan or the EHC plan that is issued contains no specified or quantified provision. It is still common to see the phrases such as 'regular', 'access to' and 'opportunities for' – when local authorities were asked by the DfE in 2014 to avoid using such unhelpful terminology which dilutes the legally enforceable quantification of provision in Section F of the EHC plan.

6. The transition from statements of special educational needs and Learning Disability Assessments to Education, Health and Care Plans

- 6.1. We have been involved in over 100 transfers from statements to EHC plans over the past four years. In our experience the local authorities have largely ignored their duty to undertake assessments where updated reports are clearly needed.
- 6.2. Parents have not received a notice informing them that the transition was due to take place. Or they received a notice only for nothing to happen. Sometimes Transition Reviews were combined with Annual Reviews without the parents being informed.
- 6.3. Deadlines are regularly missed. In some cases, a local authority has taken over 10 months to issue a draft EHC plan after the Transition Review was held. This means that the next Review is due within a few weeks of the final EHC plan being issued.
- 6.4. In many instances, particularly in the rush to complete transfers before the deadline of 31 March, the contents of statements were 'cut and pasted' into EHC plans relying on out of date professional reports.
- 6.5. Local authorities have been allowed to design their own EHC plan templates. This has resulted in chaos – with parents being unable to identify different sections of the EHC plan. This left them without any way of checking whether the EHC plan was legally compliant. It is not unusual to see EHC plans which are over 50 pages long – making the whole document difficult for teachers, let alone parents, to access and understand what they need to do.
- 6.6. Different types of Plans. We have come across many different types of Plans – My Plan, My Success Plan, Person Centred Plan etc.). This is very confusing for parents who mistakenly believe their child has been issued with an EHC plan. They lodge an appeal only to find the Plan they have received is not an EHC plan. Local authorities have the power to provide

additional funding to schools to support additional needs. However, without an EHC plan in place, there is no right of appeal, the provision and funding is not ring-fenced and can be removed at any time.

- 6.7. In most cases there is no assessment of Social Care needs undertaken as part of the EHC needs assessment. There is often a response from Social Care to say the child/Young Person does not 'meet the threshold'. This is then reflected in the EHC plan, under the Social Care sections as the CYP having no social care needs – when there has been no assessment to establish whether or not the CYP, or indeed their family, have social care needs. ASSET had concerns, with the introduction of the new statutory guidance regarding the assessment of children called 'Working together to Safeguard Children'. Whilst strongly endorsing the need for safeguarding, this has meant that families with disabilities run the risk of having no assessment at all or having an inappropriate type of assessment undertaken because the child's needs are not understood – or may be viewed solely through the prism of child protection without understanding the impact on a family of trying to support a child who may not sleep, has severe behavioural issues, may not have any extended family or friends who can help etc. We have had reports of families being told a Section 47 assessment may be undertaken, especially where a parent is seeking an expensive residential placement. We hope that the increased judicial oversight as a result of The National Trial will ensure that children with disabilities (a) have an appropriate social care assessment as part of a statutory assessment or (b) that the Tribunal will order the relevant Social Services department to undertake an appropriate social care assessment where the Tribunal believes this to be required.

7. The level and distribution of funding for SEND provision

- 7.1. If an EHC plan is issued, a mainstream school is supposed to provide the first £6K (Element 2) with the local authority providing the 'top up' funding (Element 3). However, many schools simply do not have the 'notional' funding available which deters schools from submitting requests for pupils to have an EHC needs assessment. Again this means vulnerable children do not receive the additional support or specialist therapy they need in order to access the curriculum.
- 7.1.1. It seems that the financial threshold of £6K is being applied at the wrong stage I.e. when a request for an EHC needs assessment is made rather than when the local authority makes a decision to establish whether it is necessary for the CYP to be issued with an EHC plan.

8. The roles of and co-operation between education, health and social care sectors

- 8.1. Education: the EHC plan has always been, since the CFA 2014, led by Education. Even with the introduction of the National Trial relating to decisions (apart from Refusal to Assess) made by Local Authorities from 3 April 2018, any appeal must still include an appeal against one or more of the Education sections of the EHC plan. Any health provision which 'educates or trains' a CYP will continue to be a special educational provision and should still be recorded under Section F. We continue to see parents being told that Speech and Language therapy is a Health provision because it is provided by the NHS.
- 8.2. Social Care. Given that Social Care is a department within the same local authority and Education, it might be expected for there to be partnership working between Education and Social Care. At present it is our experience that Social Services do not appear to understand their legal duties and many CYP are not having a Social Care assessment as part of their EHC needs assessment. Given that a child who is likely to require an EHC plan has an 85% likelihood of being a 'Child in Need' this means that children and their families are being denied the vital support they need at home. In addition, if there is no involvement by Children's Services while the child is at school, then trying to get Adult Social Care to undertake an assessment of a young person can be problematic – especially if a young person of 18 – 25 is seeking a placement in a specialist residential college.
- 8.3. Health. We have found it is very hard to obtain clear information about the type of needs that would qualify a child to receive Continuing Care funding (funding provided by the NHS for children with complex medical needs). There is a huge variation in how the guidance is interpreted by different CCGs. In addition, many local authorities do not share the same geographical boundaries with their colleagues from Health. Some local authorities have several CCGs to communicate with, which adds to the difficulties in achieving integrated services for an individual CYP who may have complex needs requiring an integrated approach from all three services.
- 8.4. Access to Education: one of the main changes of the CFA (2014) was that a young person could have the protection of an EHC plan until they reached 25. As no additional funding was provided to support this extended age range there has been a lack of real choice open to people with complex needs of 19 – 25. Many special schools end when the young person becomes 16. Most FE colleges offer a restricted range of appropriate courses over two or three years. They may have an opportunity to access some part time courses post 18 but most will not lead to qualifications that the student could use to start employment.

- 8.5. The Outcomes in EHC plans are often written in terms of short-term Outcomes. If the EHC plan does not include relevant Outcomes which include the development of independence and life skills, including employability skills with appropriate provision in Section F there is a risk that the EHC plan could be ceased because the local authority concludes that the Young Person has achieved their Outcomes in their EHC plans.
- 8.6. Transition to adult services. While there is a legal right for a Young Person to continue to receive support from Children's Services until support from Adult Social Care is in place, this is now regularly being ignored in several local authorities with support from Children's Services being withdrawn when the Young Person becomes 18 before the Young Person has been assessed by Adult Social Care.
- 8.7. In many local authorities there is an expectation that a Young Person with an EHC plan attending FE college will have the same three day timetable as their peers. It is our hope that the National Trial which will enable Social Care assessments to be ordered as part of an appeal, where the Tribunal agrees there is a need for a Social Care assessment.
- 8.8. Supported Apprenticeships. This has only worked for very few young persons with EHC plans. The Apprentice Levy paid by businesses of a certain size to claim back a proportion of the levy paid in return for offering apprenticeships. However, in order to qualify, the apprenticeship must lead to a Level 3 qualification. This may be unachievable for many young people with EHC plans, whose complex needs may mean the young person may not be able to achieve more than a Level 2 qualification.
- 8.9. Supported Internships. These are not paid and involve a rotation of three placements. Neither Supported Internships or Traineeships count towards the Apprenticeship levy.
9. One issue we feel might help Young Persons with EHC plans in the 19 – 25 age range is through having a Personal Budget (funded jointly between Education and Social Care or on a tripartite basis where there Health needs) which meets their needs and enables them to achieve their Outcomes. We are aware of some that are happening through Adult Social Care where the adult is able to fulfil their aspirations to have a job, or pursue a range of chosen activities. However, in these cases, the adult's family have had to take the lead in designing the programme, setting up a business and ensuring the safety and wellbeing of the adult.

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