

Written evidence submitted by Council for Disabled Children, Special Educational Consortium

The impact of COVID-19 on education and children's services **A response from the Special Educational Consortium**

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

Summary of feedback:

- Serious inequalities in access to education have been magnified by the restrictions during the pandemic and significant variation in local and school practices.
- As pupils return to school, there needs to be a period of reintegration with a focus on restoring wellbeing, securing missing therapies and individual planning for all pupils with SEND.
- The SEND Review needs to come out of 'cold storage' urgently, and focus on re-designing the parts of the education system that are contributing to the significant and growing inequalities in educational entitlement.

Our feedback covers 3 distinct periods of the pandemic:

1. During lockdown
2. During the Reintegration to schools and settings
3. For the future

1 - During lockdown:

- There is growing evidence of the impact of lockdown on the wellbeing of children and young people with SEND. Many children with SEND have lost the support to their learning and development that was set out in their education, health and care (EHC) plan, or the tailored SEN support that their school was making for them if they had no plan. Combined with the loss of normal daily routines, this has had a significant impact on their wellbeing and behaviour and on the wider wellbeing of their family. For children with SEND who rely on key interventions such as physiotherapy and speech and language therapy to manage or alleviate the impact of their condition, there has been an impact on their physical condition as well, with some children experiencing higher levels of pain in consequence.
- The temporary modification to the Children and families Act 2014 (CFA) brought in by the Coronavirus Act 2020, relaxed local authorities legal duty to secure the provision set out in an EHC plan. Before the initial modification notice was made, on the 30 April, the closure of schools had led to many children receiving little, or no, support. The notice arrived in the context of highly variable practice. A significant concern for SEC is that any support for children with SEND which is not a legal requirement is less likely to be provided, and children's needs will escalate as a result. It is becoming apparent that these 'temporary' measures will have created significant and long-lasting effects on many children who have the greatest needs. The downgrading of the absolute requirement to secure the provision in an EHC plan to an expectation that local

authorities will use their 'reasonable endeavours' sends a message that this support is not vital and is expendable. Although these modifications come to an end at the end of July, there needs to be the acknowledgement of their impact, and the need not only for provision to be fully in place from August, but individual assessments to address where children and young people need additional support to cover what they have missed over several months.

- The term 'reasonable endeavours' has been open to highly variable interpretation. Before the Secretary of State issued the modification notice, there should have been greater clarity and specificity on exactly what schools and local authorities were expected to do to support children with SEND during this period, and what parents could expect. Whilst we know what 'reasonable endeavours' might entail would vary from child to child depending on their needs and the availability of professionals/provision, the confusion caused would have been reduced by better detail and clarification of what was, and wasn't acceptable. While the guidance that accompanied the legal changes gave some examples of potential mitigations or alternative support, it did not clearly explain what constitutes 'reasonable endeavours' and contributed to the variation in practice.
- One of the clear and constant messages we have received is the huge variability nationally in practice and support – by schools, health services and local authorities. We know that many schools and professionals have developed highly creative responses to make provision in alternative ways – including regular contact with the home, virtual transition videos, online speech and language classes, and provision of differentiated work for pupils at home. However, we also know that many children and young people have not received an adequate level of support – with issues arising from lack of contact from their school and LA, undifferentiated work being sent home, lack of suitable (or in some cases any) risk assessment, and even some schools/settings using risk assessments to prevent children from attending their school or setting.
- Although many children and families have been able to access much of the online and virtual support that has been made available, there have also been digital inequalities for families who have not been able to engage either through lack of equipment or

connectivity. This will remain an ongoing concern as isolation and lack of face-to-face interaction may well continue for some families beyond September. There seems to be an assumption that everyone is online and can access online provision – schools and local authorities need to be assessing the extent to which children with SEND are able to access online resources and have the required equipment, and then must be looking into solutions or adaptations for those who cannot. There are also specific concerns for the support of deaf children (especially those without EHCPs) as the online provision on offer is often completely unsuitable if BSL or captions have not been part of the package.

- There was an expectation that children with EHC plans would undergo a risk assessment process led by the local authority to determine whether children and young people would be best suited to education at home or in the school setting. For many children this has simply not happened, or happened without their involvement. Although wanting their child to continue with their education at school, many parents at this time have been extremely anxious about infection (and bringing infection back home to vulnerable family members). A thorough risk assessment process was expected to work through any issues which might prevent a child with an EHC plan from attending school, and in addition would clarify what might be put in place to give them as much support as possible in the circumstances. It is clear that a large number of children either didn't have a risk assessment, or one was undertaken without their, or their family's, involvement. In some cases we have heard that risk assessments have been used to keep children out of school rather than bring them back safely, using (potentially discriminatory) reasons such as how the child washes their hands or concerns about social distancing.
- Effective support at key points of transition between phases and stages is vital for all children, and in particular those with SEND. A poorly planned transition can lead to provision that is not well-tailored to meet a child's needs and ultimately to a lack of engagement and learning. This, in turn, can easily escalate into exclusion, poor attendance and, ultimately, poor outcomes. The pandemic arrived just as schools and settings were planning this key transition support. Although attempts have been made to support this process virtually (tours of schools on video, online discussions with

children and families) the impact will be felt for some time to come. There are particular concerns for young children who have, or may have, SEND, who are in early years settings and are going into Reception. For them, not only there has been a loss of planning and preparation but also the loss of time needed for observing and assessing children to better inform the receiving school. This loss of a thorough transition process this year will have a significant impact on children, parents and professionals. DfE, with local authorities, schools settings and families, need to consider the likely impact of this loss of preparation for transition, and put in place compensatory measures accordingly.

- The restrictions brought in because of the pandemic have had a range of effects on the wellbeing of many children and their families, depending on both the circumstances of the families and the amount of support available to them. For families, the impact on wellbeing may arise from bereavement, financial hardship and loss of family support networks; for children with SEND the impact on wellbeing may further rise from social isolation, loss of provision and disrupted routines. These concerns can often manifest themselves as deterioration in behaviour and challenging behaviour, in turn having a further impact on family wellbeing. All plans for reintegration need to fully consider the issue of wellbeing both on individual children and young people, and on their families. As part of the ongoing support to remedy the impact of lockdown, government must develop clear and appropriate guidance on mental health and wellbeing support for children as they come out of lockdown and re-enter their schools and settings. Alongside this needs to be increased access for children and young people to counsellors and relevant mental health resources.
- During times such as these the need for updated and clear national guidance is crucial. Whilst we acknowledge the attempts made by Government departments to try to provide adequate and appropriate guidance, many professionals have also felt that the volume of this, and often the timing (released on Friday afternoon/evening for implementation the following Monday) of either new or updated guidance has put great pressure on staff who are already struggling to do their work and keep abreast of national updates. There have also been concerns raised that in some places the lack of

clarity (as well as the amount of guidance) has contributed to the national picture of variability.

2 - During the Reintegration to schools and settings:

- Whilst the impact of the restrictions on many children and their families has been problematic, we should also acknowledge that a proportion of children and young people with SEND will have responded positively during lockdown - particularly those who have had access to a personalised and well-designed virtual provision with appropriately differentiated work sent home. We are also aware that for some children the ability to engage effectively in their annual review has been enhanced by the review being conducted virtually, with the child or young person being able to contribute from their own home. However, for many whose experiences of lockdown have been primarily negative, the impact on their return to school is likely to be difficult, particularly for those whose experiences have led to a deterioration in their behaviour. The priority for reintegration therefore needs to focus addressing underlying wellbeing issues.
- It is vital that those supporting the reintegration of children with SEND are fully aware and committed to their responsibilities under the Children & Families Act (CFA) and the Equality Act. Without this awareness and focus, there is a risk of compounding the underlying problems with an overlay of discrimination. It is well documented that children with SEND are more likely to present behavioural issues which lead to exclusions from school, and more likely to have poor attendance. As they return to school, those children who have experienced a deterioration in mental health and wellbeing during lockdown are more likely to demonstrate the challenging behaviours which put them of risk of exclusion. These risks increase if they are dealt with through the prism of the disciplinary process, rather than as pastoral, SEN or disability issues. For successful reintegration there needs to be an understanding of the underlying wellbeing issues and a positive whole school ethos, not a 'zero tolerance' approach to discipline.

- The Government has not extended the modification of the duties in section 42 of the CFA beyond the end of July. It is imperative therefore that from the 1st August children and young people who had provision and support withdrawn or modified over the previous months, have that provision and support reinstated. Similarly, the temporary changes to the statutory timescales relating to Education, Health and Care needs assessment and plan processes which are due to end on 25th September, need to end as planned (or earlier). This requires a return to the timescales set out in CFA. Local authorities, schools and settings need to be speaking to one another, and with parents and CYP, to prepare to return to these timescales to ensure that all affected processes, support and expectations return as the law requires. The DfE needs to monitor what is happening in each local authority area with respect to these duties, and offer additional support to areas which are struggling to fulfill these obligations.
- As children return to schools and settings it is important that families who have continuing concerns about their child's health receive positive support to explore how their child can return to school safely, rather than face prosecution or penalties. Recent government rhetoric designed to encourage the return to school seems to suggest there will be little allowance or discretion with this issue. LAs and schools must also be reminded of their support duties for such children, and they need to be having conversations as early as possible to try to work with such families where there are concerns about a child's return to school.
- Where earlier risk assessments have not been carried out jointly or effectively to support children's attendance at school during lockdown, ongoing concerns that were not identified and addressed will make the reintegration process more challenging. Where this is the case, this will potentially create more work for professionals, more challenges for families and potentially more problematic behaviour in schools and settings. It is imperative that DfE monitor the reintegration of children with EHC plans, especially in relation to exclusions and attendance, to ensure that reintegration is addressed positively, provision is reinstated and additional measures are taken to address the impact of lockdown.

- The experience of learning that individual children have had during lockdown has been hugely variable – related to the quality of the support and activities provided by families, schools and LAs. The activities and support which have worked well (or not) during lockdown should be explored when planning individual reintegration support. It is highly likely that approaches to support and learning may have to be tailored to individual and/or small groups of children for some time yet, and these also need to be designed to give priority to pupils with SEND. For some children with SEND it may be that an adapted or blended curriculum will be put in place, at least temporarily. Schools and local authorities (and DfE) may want to examine the successes and failures of the range of 'virtual' support on offer, and consider whether any of the most effective of these could be implemented as part of a regular system of support for children and young people with SEND.
- During reintegration, the safety of all pupils and staff needs to be a top priority. In order to bring children back safely to school DfE (and other government departments) must provide proper advice on PPE and social distancing with regard to those with additional needs such as PMLD, those who require intimate care and pupils who rely on sign language and/or lip-reading. For example, communication for virtually all deaf children and young people, including those who use sign language, relies in part on being able to see someone's face clearly – whether this is for lip-reading, understanding facial expressions or for understanding non-verbal communication. Face masks and coverings therefore present a number of significant challenges for deaf children and young people. Part of the solution for these children is for the Government to review the commissioning and availability of clear face masks, and guidance on face masks and coverings should highlight the impact these have on deaf people, along with deaf awareness tips for how this can be mitigated.
- Additional support which will be available through the £1 billion 'catch-up' package announced in June is welcome, although we are concerned there are no specific references to children with SEND when this was announced. This lack of focus could lead to this group of children, with significant needs during reintegration, being overlooked

or thought of as having their own tailored provision and miss out on this package of support. In addition this funding is only available to schools and not to FE colleges, including specialist colleges. Unless additional funding is provided to these settings, some of our young people with the most complex needs will be excluded from funded catch-up support, despite the difficulties they will face in re-establishing routines and self-regulation techniques, and the need to address skills regression resulting from a lack of face-to-face education and/or therapy during lockdown. It is important that how this package is used is monitored by DfE in order to ensure money is spent effectively, and there is a clear understanding of the impact it has made.

- There are many considerations which need to be addressed if we are to make reintegration a success. There should be local reintegration plans which focus specifically on the practicalities of the reintegration of children with SEND in order to ensure that all key issues are covered. These should include how specialist support will be restored, how therapies will be reinstated and how children's wellbeing will be addressed by services. Plans should be co-produced to ensure a broad understanding from staff, families and children of what will be happening locally to support this process.

3 - For the future:

Planning for the future, or even guessing how things might look even in 6 months' time, is a challenging task. But, there are some overarching issues which we feel are highly likely to be relevant in the long term:

- The SEND Review is a key opportunity to look at systematic issues across SEND, with the potential to bring about significant long term change. There has been little mention of this review in the last 5 months, and is vital this review does not just pick up where it left off, but incorporates the long term issues that the pandemic has added to the challenges of effective national support for children with SEND. There are a number of key education policies that currently work against the best interests of pupils with SEND:

policies on curriculum are not inclusive; access considerations are not consistently addressed; assessment policies do not always recognise progress and achievements; they are disproportionately taught by those who are least well qualified; they are disproportionately excluded from school. This amounts to a significant compromise of their educational entitlement. The review must also continue to engage with a diverse range of stakeholders incorporating schools, LAs, third sector organisations and children and their families.

- Ofsted's role is particularly important: Government should ask Ofsted to undertake a thematic review of the quality of provision for pupils with SEND in schools in the wake of COVID, 10 years on from 'A statement is not enough'. The combination of the impact of COVID and the ongoing concern of the widening SEN/non-SEN gap offers an opportunity to say that no school gets a 'good' or better judgement following an Ofsted inspection if their provision for pupils with SEND is not judged as at least 'good'. We know the weight a successful Ofsted judgement brings to schools, and this focus could change the priority some schools give to children with SEND.

In conclusion, following Philippa Stobbs' evidence on behalf of SEC at the Education Select Committee formal hearing on 1st July, we received a number of letters from parents. With consent, we attach in the appendix one example which sums up the feelings and views of many who have been in touch with us.

Chris Rees

Coordinator, Special Educational Consortium

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Appendix

Hi

I have just read a short article where you have talked about how families of SEND children feel abandoned. This brief insight published made me feel not as alone in this.

My 14 year old son has ADHD, is raised in all traits and after me asking for help and fighting the system for 11 years he was finally diagnosed on 28th February this year. I'm sure you can understand some of the terrible experiences we have had while fighting for this.

As a result of his assessment and diagnosis all professionals involved have expressed their shock at how well he has done in not being expelled considering the severity of his condition.

I must say we have felt judged and let down by the education system since he started school, however, I most certainly feel abandoned now.

My son is in year 10, was struggling to keep on top of his studies and come to terms with what his ADHD means for him when the pandemic hit. To begin with I saw this as a golden opportunity to tap in to his abilities and learning style. However, with both my husband and I juggling full time work as well this has not been easy. There has been no extra support provided for him from his school, the teachers don't even mark and feedback on the work he does do nor use it to identify areas he is struggling to plan his next lesson. He has no offer of face to face provision like his peers as he has had to drop all his subjects except maths, English and science to give him the best chance to pass these and so does not need to attend for practical lessons as per the schools offer. I've asked the SEN Co if they could arrange something for him alone or part of a small group, as I'm sure he's not the only one, only to be told this is not possible with no reason. I've asked his subject teachers if they could provide extra live lessons, or weekly catch ups via video chat again

for him or as part of a small group, as he's not going to be the only one struggling, to be told they're not allowed to do this.

For the past 3 weeks he has had live lessons on Google meet twice a week, which have been great, but it's not enough.

Due to this lack of support I'm not sure how anyone with his needs is going to be able to return to school, catch up, stay on top of lessons being offered and then pass his GCSEs. Passing these were always going to be a mammoth challenge for him, but now I cannot see how this will be possible and every time I ask or suggest something that might help I'm simply told no.

We're all living through this pandemic and I do not wish to pass judgement on the staff who have been working hard through a minefield of the unknown and moving goal posts but I have to consider my sons needs over this and his needs simply are not being met, again.

If you've made it to the end of this email, I appreciate you are very busy, I'd like to say thank you. I hadn't meant to share so much I simply wanted to echo what I saw in the article as our own experience.

Thank you for reading our experience, thank you for speaking out so families like us and those with far more challenging situations don't feel so alone, abandoned, ignored and frustrated with a system that seems to repeatedly let our children down.

With kindness

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