

Solace response to the SEND Review

Overview

Solace welcomes the Government's review and commitment to improve outcomes for children and young people with special educational needs and disabilities (SEND) and those in alternative provision.

Solace is keen to engage with discussions about and/or further proposals for reform which improve the wider system – but changes to legislation must be carefully considered to ensure they do not create problems of their own.

As a group of chief executives and senior managers we have a unique overview and understanding of how policies work in a place, while we also play a crucial role in galvanising not just the whole council but the wider system, including other public, private, voluntary and community sector partners.

Following consultation with our members, the key messages we wish to feed into the National Review are outlined below. We would of course be very happy to discuss any of these points in more detail with the Review team, if that would be helpful.

The key issues/points

Solace welcomes the:

- Shared ambition to address the 'vicious cycle of late intervention, low parental confidence and inefficient resource allocation';
- Clarity on roles of the LA and integrated partners - local accountability and influence over placements through local inclusion plans;
- Focus on Early Years and greater inclusion of mainstream schools for pupils with SEND;
- Additional capital funding to enable the delivery of additional SEND and AP places.

However, Government must take swift action to address:

- The workforce capacity and capability crisis that threatens to undermine reform;
- Future DSG/High Needs sustainability;
- Backstop powers for LAs, including duty to cooperate of ICPs and MATs;
- How the sector can work with the DfE on future local area inspection arrangements.



Consultation questions

- 1. What key factors should be considered, when developing national standards to ensure they deliver improved outcomes and experiences for children and young people with SEND and their families? This includes how this applies across education, health and care in a 0-25 system.**
 - While understanding the need for greater consistency of approach across the SEND system, there will need to be a degree of flexibility to reflect local provision and differing levels of need.
 - There is also a risk of raising expectations amongst parents and carers that the same support will be available in every area and delivered in the same way.
 - The focus, therefore, should be on improving outcomes but any set of national standards will only be effective if there is sufficient funding in the system and a skilled workforce with a thriving pipeline of talent to deliver improvements – both of which must be addressed if we are to ensure the Government’s ambitious reforms can be delivered.

- 2. How should we develop the proposal for new local SEND partnerships to oversee the effective development of local inclusion plans whilst avoiding placing unnecessary burdens or duplicating current partnerships?**
 - We welcome the establishment of local SEND partnerships, convened by councils. But, to work effectively, local authorities must have appropriate powers to hold all partners accountable if they fail to make appropriate contributions.
 - Roles and responsibilities should be clearly set out and overseen by appropriate decision-making/governance arrangements, including representatives from children’s and adult social care, as well as health partners.
 - Representation of 18-25-year-olds on SEND partnerships must be strengthened while the role and voice of young people within SEND partnerships should be clearly outlined and mandated, along with parent/carers representation.
 - Best practice examples from around the country should be shared.

- 3. What factors would enable local authorities to successfully commission provision for low-incidence high-cost need, and further education, across local authority boundaries?**
 - There can be no substitute to a truly sustainable funding settlement from Government.

Solace Business Partner



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- But joint working between councils/partners across boundaries can help with planning and better use of resources.
- To do this effectively/efficiently, we need enhanced data sharing agreements between local authorities and health partners to enable a wider choice of provisions and predict future numbers of low incidence/high cost placements.
- Consideration should also be given to regional footprints and take account of transport costs that Local Authorities will incur when transporting children/young people to placements outside of their local area.
- We also need greater incentives for mainstream schools to be inclusive and meet the needs of a diverse range of pupils' needs, whilst enabling the development of a specialism for a particular area.
- Those with autism spectrum disorder, and/or social, emotional and mental health needs require dynamic and responsive provisions for short, medium and long term with a focus on preventing placement breakdowns and maintaining provision.
- Engagement with parents to find out what services/facilities would be most suited to local need is also crucial.

4. What components of the EHCP should we consider reviewing or amending as we move to a standardised and digitised version?

- A consistent national EHC template would be welcome but there does need to be room for some flexibility to adapt locally and should be accompanied by guidance on how to complete – this should all be coproduced with councils, providers, and parents to ensure it meets the needs of all key partners.
- The golden thread between need, provision, and outcomes should be strengthened to ensure a clear flow through the document.
 - This should also be an opportunity to review the use of the term 'needs' as this gets confused with provision (e.g. what support the CYP needs/requires). Perhaps consider barriers that hinder progress and development.
- There needs to be greater transparency regarding panels and decision-making process – increased multiagency representation on panels. And any revision must enable greater partnership with health rather than an emphasis on education.
- This is an opportunity to create a national template for Annual Reviews which needs a section for recording progress against outcomes.
- Enabling wider access to the EHCP, other than the author, would enhance assurance.

- Clarity is required on how digital plans would be implemented and it needs to have a clear approval process and consider accessibility issues.
- Crucially, consideration must also be given to what happens when transitioning to adult services.
- Questions for consideration:
 - Are there going to be timelines for converting plans onto a new template/digital version?
 - Is there going to be a national provider of the digital platform? If so, some local authorities which already use digital platforms will need time and resource to transfer these across to the new system.

5. How can parents and local authorities most effectively work together to produce a tailored list of placements that is appropriate for their child, and gives parents confidence in the EHCP process?

- There needs to be further clarity as to how the lists will be pulled together – will it be done through primary need? Who decides what schools are offered on the list? Who maintains and updates the lists? – but the key point is that there is still a limited amount of choice of relevant places and no list can counteract that.
- If the list is to be based on ‘need’ level, local areas should work with their parent groups/PCF to agree the list and upkeep of the local offer (potentially through a ‘live’ search tool). Collaboration with schools will also be required to ensure equitable distribution of service users.
- Any list should take into account the providers’ performance, availability and suitability of places to meet local need as well as the value for money offered by the placements.
- There must be a consistent and clear local area process for placements - professionals across EH&C (& Voluntary sector) need to be aware of what that process is so that when they come into contact with families, everybody is giving consistent messages
- Crucially, LAs must be empowered to suggest appropriate placements without triggering an immediate complaints/tribunal process.

6. To what extent do you agree or disagree with our overall approach to strengthen redress, including through national standards and mandatory mediation? Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree.

- Agree with setting clear expectations and seeking to reduce the need for Tribunal appeals – data clearly shows that where mediation is able to take place there are a number of cases which then do not move onto an appeal stage – but this will require funding and resources to increase capacity and provide workforce training to ensure officers have the appropriate skills and knowledge.
- The principles of mandatory mediation should call a halt to paid advocates/solicitors lodging appeals where they could be resolved locally with case work and engagement via the SEN Tribunals service. However, there are concerns that mediation can be a time and resource (people and monetary) consuming process, overly bureaucratic and a barrier to families accessing what they need.
- So clearer guidance is needed on mandatory mediation and, as stated above, consideration must be given to funding given its impact on already overstretched and financially challenged teams.
- Crucially, any mandated process must include a provision for responding to repeated and/or vexatious disputes.

7. Do you consider the current remedies available to the SEND Tribunal for disabled children who have been discriminated against by schools effective in putting children and young people's education back on track? Please give a reason for your answer with examples, if possible.

- LAs do not manage or participate in any Disability Discrimination cases.
- However, one of the KPIs in the inclusion dashboard should include those schools with discrimination cases – LAs should have oversight of the schools that are found to be discriminating.
 - Ofsted should also be aware as part of the inspection.
- Remedies often cannot replace lost opportunity or compensate the experiences of the child.
- Reducing appeals timescales would assist in ensuring remedies and judgements can make a positive difference for pupils much earlier on in the situation.
- More emphasis needs to be put on the responsibility of school/setting. Blame is too often transferred to the LA.
- The Equality Act and accessibility planning needs to have much higher profile to ensure that settings and MATs use finances appropriately to constantly improve accessibility not only for learners but for all in the community.

8. What steps should be taken to strengthen early years practice with regard to conducting the two-year-old progress check and integration with the Healthy Child Programme review?

- There is a workforce capacity and capability crisis affecting the sector so more resources, training and support are required so councils are better able to support children and families.
- Health visitor resourcing, in particular, needs to be addressed (i.e. increased) so that a true universal offer of a two-year check is viable.
- Mandatory training on SEND and early identification for EY providers and nurses and general practitioners should also be provided to enable greater integration/more joined-up working.
- Bringing greater clarity to roles and expectations of the early years sector should be an initial step to create clear links, communication and information sharing protocols with locally commissioned delivery partners.
- Better data collection and use of data is also required to target hard-to-reach families.

9. To what extent do you agree or disagree that we should introduce a new mandatory SENCo NPQ to replace the NASENCo?

- We broadly agree. However, any new course/qualifications must reflect the learning from the existing NASENCo programme to ensure the new qualification is practically useful.
- In addition to supporting the wider upskilling of the workforce, a mandatory qualification will help secure and standardise clear expectation of the level of skills required to undertake this role, which will increase parental confidence, while also potentially opening up the SENCo role to a much wider audience.
- SENCo training should:
 - Include a focus around health and social care needs, services and provision for CYP with SEND. This will ensure that SENCos have a good holistic understanding of the child/young person and the importance/impact of health and care needs as well as education;
 - Be mandatory for all staff annually via refresher courses, similar to safeguarding.
- EY Qualification
 - Level 3 is good practice but there needs to be more training 'in setting'.
 - Resource is always an issue and those who are qualified would be a 'sought after commodity' so could possibly cause issues with retention which is a big issue in this

sector – a suggestion would be that by funding an individual to train, they would be expected to stay at the setting for a set period of time?

10. To what extent do you agree that we should strengthen the mandatory SENCo training requirement by requiring that headteachers must be satisfied that the SENCo is in the process of obtaining the relevant qualification when taking on the role? Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree.

- We agree. It is important that headteachers are satisfied that SENCos are in the process of obtaining the relevant qualification for the role, although other experience/qualifications should also be taken into account.
- More broadly, all school leaders within the SEND system (across health and social care) should also be required to have knowledge, skills and expertise in SEND. This will help ensure that the workforce is upskilled and SEND is a sufficient priority in all schools compared to the current situation where it is too inconsistent.

11. To what extent do you agree or disagree that both specialist and mixed MATs should be allowed to coexist in the fully trust-led future? This would allow current local authority maintained special schools and alternative provision settings to join either type of MAT.

- If the model is adopted correctly it has the potential to be a force for good through greater sharing of expertise/best practice, peer to peer support, supporting of individual pupils, sharing of staffing resources.
 - Some local areas, such as Knowsley and Manchester, already have mixed MATS that work well to promote inclusion and a strengthened CPD offer to mainstream staff from their specialist staff.
- Individual schools should be able to choose to join either a mixed or specialist, or council-led MAT, depending on its assessment of the structural arrangements and/or the values/ethos of the school that best suits the needs of its pupils.
- Mixed MATs must be required to ensure that the specialist element is fully understood / has safeguards to ensure that children are not 'managed' through a mixed MAT to move from mainstream to specialist settings.
- Specialist MATs should also maintain linkages with mainstream provision to ensure they do not lose that perspective and wider understanding of the SEND context beyond specialist settings.

- Needs to be assurances that in Trusts, there is flexibility in order to meet the needs of those children in a specific area.

12. What more can be done by employers, providers and government to ensure that those young people with SEND can access, participate in and be supported to achieve an apprenticeship, including through access routes like traineeships?

- Welcome increased funding for expansion of supported internships/traineeships and pending support for LAs to expand local supported internship opportunities.
- But this requires strategic vision, planning, less bureaucracy, and appropriate resourcing (physical and financial) at a local and regional level.
- There needs to be a clearer pathway and support network to achieve apprenticeship/traineeship and commitment that it achieves positive progression.
 - An earlier introduction to work experiences is central to this. Work experience should identify employment opportunities for young people and also the possible barriers to employment that could and should be addressed. Work experience should be a two-way street where the employer and the employee learn about each other's needs, strengths and weaknesses.
- Government should ensure that providers/employers work in an inclusive manner, that reasonable adjustments and flexible entry requirements are adopted where possible. As part of this Government should also help smaller businesses overcome barriers, such as requiring costly insurance policies to allow a young person to work with them.
- Government could also do more to promote the benefits of supporting employment opportunity for young people with SEND.
- Employers should also work appropriately with schools/settings.

13. To what extent do you agree or disagree that this new vision for alternative provision will result in improved outcomes for children and young people?

- We agree about being ambitious to support children to stay in or return to their mainstream school with the interests of the child being at the forefront of all decisions made. If the model can be effectively created across the country, it has real potential.
- But Government must ensure local authorities are provided with sufficient, long-term funding to allow AP settings to meet the needs of children and young people as set out in local inclusion plans.

- The tiered approach outlined in the vision is welcomed but there will need to be significant dialogue with schools.
- Moving away from AP being a stand-in for special schools is vital, but clarity around how this will be managed in practice is key.
- Local areas should retain a level of flexibility to retain a pupil in AP where it is in their best interests.
- Alternative Provision can act as both a positive short-term intervention for some young people or a longer-term sustainable alternative to mainstream provision to support improved outcomes.
- However, risks of short-term provision should be acknowledged, and the possibility of exacerbating some young people's disconnectedness with mainstream provision. This can largely be mitigated by quality assured Alternative Provision with expert outreach on behaviour and learning.

14. What needs to be in place in order to distribute existing funding more effectively to alternative provision schools, to ensure they have the financial stability required to deliver our vision for more early intervention and re-integration?

- Current High Needs allocations do not adequately address the needs of SEMH pupils in the current system so Government must provide sufficient, long-term funding so that settings can focus on supporting children and young people back into mainstream settings and ensuring they thrive.
- To that end agreed local partnership budgets – ideally for a minimum of three years – for targeted support, time-limited placements, and transitional placements (set out in local inclusion plans) will bring some much-needed financial sustainability to the sector.
- However, further support is needed for the market to grow to meet the wide range of needs across the system.
- It is important that Alternative Provision providers are equipped to support a range of SEND needs and not refuse placements on the basis that they are unable to meet need.

15. To what extent do you agree or disagree that introducing a bespoke alternative provision performance framework, based on these 5 outcomes, will improve the quality of alternative provision?

- We tend to agree but any KPI that shows only numbers when CYP with SEND are involved is sub-optimal – there needs to be a more holistic approach to assess progress.

- Should the five outcomes not include parental/CYP feedback or satisfaction measures? Perhaps CYP emotional wellbeing measures?
- Successful transition at 16 is also critical – i.e. the number leaving with basic level English and Maths.
- Reintegration should also be an outcome and needs to be more aligned with the wider process.
- There needs to be greater clarity on how performance within this framework will be monitored.
- And this must be accompanied by sufficient funding to ensure all AP settings have the capacity to meet the standards set out in the framework.
- Any approach must be multi-agency – schools that are doing it well should share best practice.
- And DfE should work with partners to develop an improvement programme that provides timely support to AP settings that are struggling to deliver against the performance framework.
- Mainstream schools must be held to account on this too.
- It should be mandatory for all schools to share attendance data and managed move data with their local authority.

16. To what extent do you agree or disagree that a statutory framework for pupil movements will improve oversight and transparency of placements into and out of alternative provision?

- We broadly agree but a bespoke AP framework should not just be about holding APs to account but also the Local Authority and mainstream settings through the inclusion partnership.
- Councils must be provided with sufficient powers and resources to both monitor and act where poor practice is identified.
- Specific expectations around schools will need to be outlined and any standards need to align with the school behaviour and exclusions guidance.
- This should also build on existing protocols that are already in place such as the Fair Access Panels and other such processes.
- There needs to be transparency in data across the spectrum e.g., managed moves making sure every child is being monitored.

17. What are the key metrics we should capture and use to measure local and national performance? Please explain why you have selected these.

- Metrics must span all parts of the system (education, health and care, from 0 to 25 years) for children and young people with SEND, whether or not they have an EHCP, to assess if all partners are playing their role and whether the outcomes achieved are as good as they can be.
- While a dashboard can provide some insights, it cannot provide a complete picture about how a local SEND system is working – data does not always represent the lived experiences of families and is always open to interpretation – and should not be used in isolation when making decisions about intervention.
- Where possible, key metrics should be drawn from existing data collection measures to minimise any additional burdens.
- Suggested key metrics:
 - Number of EHC Plans updated following Annual review
 - Number of EHC Plans updated at point of key transition
 - Timeliness of naming providers and sharing information with them
 - Achievements of EHC learners compared to their peers with no EHCP
 - Waiting times for services
 - User satisfaction
 - Number of CYP on SEN Support
 - Progress from starting point
 - Post 16: keeping pupils with SEND EET rather than NEET
 - Number of independent travellers
 - Approach to partnership working in a local area
 - Proportion of YP with high levels of self-esteem, opportunity and engagement in meaningful activity
 - Parental feedback
 - Commitment and engagement from key agencies
 - Progress against outcomes from individual baseline
 - Number of formalised assessments for those not known to social care
 - Impact of local plans on CYP with SEND and their families

18. How can we best develop a national framework for funding bands and tariffs to achieve our objectives and mitigate unintended consequences and risks?

- In principle, a national framework for funding bands and tariffs will establish a more consistent basis for the funding of provision based on need and welcome the proposal to pilot approaches before mobilising the changes.
- However, there will be winners and losers both across local authorities and provider groups and may result in high costs in the High Needs Block and less income for some settings/schools.
- A national framework should take into account different LAs demographic, for example in terms of deprivation, and consistency across all sectors including private and voluntary and maintained.
- There also needs to be a recognition of how such funding arrangements then link with adult services.
- As a result, a national framework should be co-produced with the sector, and with families.

19. How can the National SEND Delivery Board work most effectively with local partnerships to ensure the proposals are implemented successfully?

- The National SEND Delivery Board would need to have a clear understanding of local demands and should be cognisant of reforms emanating from the Care Review and Schools White Paper.
- It will need to work with relevant education, health and care services, as well as the private and voluntary sector, so they help the development and improvement of the system, alongside holding the system to account.
- Clear guidance, training and resource should be provided by Government to implement changes.

20. What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success?

- Addressing the twin crises relating to local authority finances and council workforces is fundamental to the future success of SEND reforms.
- So additional funding will be required while the recruitment and retention challenges will need to be addressed so as to not put a handbrake on the successful delivery and realisation of the Government's ambitions.
- Accountability is also key. Effective arrangements, backed by the necessary powers and resources for local authorities, will be critical.

- Reforms must also be attuned to proposals in the Schools White Paper and Care Review – we must have coherence and confidence Government is committed to delivering changes to improve the system because this will take time.

21. What support do local systems and delivery partners need to successfully transition and deliver the new national systems?

- Resources – both financial and physical. The system is already stretched, with no money to invest in transformation and few existing staff with spare capacity.
- Government should co-produce with the sector a national SEND Workforce Strategy to address staff capacity and training to address capability.
- LAs needs to be funded to employ more staff to implement any reforms, and to effectively train and support them. It needs to be recognised the LAS will be starting from a deficit funding position.
- Additional funding is required for successful implementation, while some LAs will require more support to successfully transition than others.

22. Is there anything else you would like to say about the proposals in the green paper?

- Overall, we welcome the thrust of the Green Paper but Government must address as a matter of urgency the workforce capacity and capability crisis gripping the sector. A failure to do so will mean the ability of local authorities, and our partners, to implement changes and improve the system will be severely hampered.
- LAs needs to be funded to employ more staff to implement any reforms, and to effectively train and support them. It needs to be recognised the LAS will be starting from a deficit funding position. Additional funding is required for successful implementation.
- There needs to be a greater understanding and read across between this Green Paper and the Schools White Paper in particular – the two should be clearly linked so we are not always seeing SEND as something separate to other school developments around teaching.
- The role of FE colleges should be clarified while articulating how all of this work joins up to adult services in education, health and social care is also critical – SEND is everyone's business.