

LGA submission to the Education Committee inquiry into the impact of COVID-19 on education and children's services

31 May 2020



1. About the Local Government Association (LGA)

- 1.1. The Local Government Association (LGA) is the national voice of local government. We are a politically-led, cross party membership organisation, representing councils from England and Wales.
- 1.2. Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

2. Summary

- 2.1. Councils have led their local communities at this time of crisis, they have kept public services running and supported local communities through difficult times. Across the country, councils have worked hard to keep schools and early years settings open for vulnerable children and the children of key workers, they have innovated to safeguard vulnerable children on child protection plans and supported children with special educational needs and disabilities (SEND).
- 2.2. Children's services departments moved swiftly to implement new ways of working to ensure they were able to support vulnerable children and young people. Social workers and colleagues across children's services should be commended for their determination to keep children safe and well throughout the crisis.
- 2.3. The ability of those working in children's social care to support vulnerable children has been hampered by poor access to personal protective equipment (PPE). Not only has this put staff at risk, but we are concerned that it has made staff feel undervalued in a sector that already rarely gets recognition for its work in keeping children safe.
- 2.4. Early years providers have stepped in to provide care for vulnerable children and the children of critical workers. However, there are concerns around the financial viability of many early years settings as a result of the pandemic. There was also a lack of clarity from the Department initially about the financial assistance available to early years settings. We have called on the Government to provide additional funding for early years provision to make sure that no provider loses out financially for staying open, and to make sure we have the childcare places we need going forward so people can get back to work when the time comes.
- 2.5. Councils are working hard to fulfil their statutory duties and mitigate the risk of those young people not in employment, education or training (NEETs). However, with a reduced number of training and employment opportunities expected, the Government needs to engage councils and combined authorities and partners to plan and guarantee education, employment and training places for all young people who were due to leave school or college. There are also additional challenges affecting the delivery of

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apprenticeships for instance, employers including councils' as employers, continue to pay the Apprenticeship Levy but are unable to spend or transfer funds during the crisis due to widespread pauses in training and recruitment. This may potentially compromise the delivery and limit the number of apprenticeship opportunities.

- 2.6. Councils and schools have highlighted significant concerns regarding the operation of the DfE's national free school meal voucher scheme, which is being provided by Edenred. Councils have also raised concerns about the range of supermarket chains that have signed up to participate in the national voucher scheme.
- 2.7. We welcome the Government's decision to use provisions set out in the Coronavirus Act 2020 to relax the duty on councils and their partners to secure special educational provision and health care provision in accordance with an Education, Health and Care Plan (EHCP). Under these new arrangements, councils and their partners must use their 'reasonable endeavours' to secure the provision set out in an EHCP, meaning that a child or young person's provision as delivered may differ temporarily from what is set out in their EHCP.
- 2.8. The Department for Education (DfE) should work with schools, councils and other partners to develop contingency planning arrangements for the possible future closure of schools and other settings. While we appreciate that the Covid-19 situation developed quickly, very little notice was given to schools about closure; as a result, schools and councils were waiting for guidance and in many instances had to develop their own arrangements locally.
- 2.9. It is essential that going forward, all parts of the sector are properly funded, not only to allow them to build resilience in case of another national emergency, but to ensure they can fully support children and families through the recovery from this pandemic and beyond. The £3.2 billion worth of grant funding has been welcome however, Government must continue to demonstrate a rock-solid commitment that it will meet the extra costs local authorities are facing due to the additional demands created by COVID-19. Councils could need as much as £6 billion more to cover the costs of coping with the coronavirus pandemic during this financial year. This figure will need to be kept under review.
- 2.10. Parents are anxious about sending their children back into education settings, as evidenced by the low numbers of vulnerable children and children of key workers that have been attending since the start of the lockdown. Reassuring parents that it will be safe for children to return to school will be key to any recovery and publication of advice, such as that from SAGE or crucial testing data, in a clear and accessible format will be vital in that regard.

3. The implementation of the critical workers policy, including how consistently the definition of 'critical' work is being applied across the country and how schools are supported to remain open for children of critical workers.

- 3.1. In his speech on the 19th April, the Secretary of State for Education noted that up to 130,000 children had been in school each day since the lockdown came into forceⁱ. Feedback from schools and councils has been that these low numbers can be attributed to the Government's 'Stay at home, save lives' advice taking precedence over the Department for Education's advice

that vulnerable children and the children of critical workers should remain in school.

- 3.2. In recent days we have started to see a rise in the number of children of critical workers attending school, with Department for Education (DfE) data showing that on the 30th April, 137,000ⁱⁱ were in attendance, compared to 62,000 on the 17th Aprilⁱⁱⁱ. In early years settings, 69,000 children of critical workers were present on the 30th April^{iv}, compared with 59,000 on the 16th April^v. Councils and schools have worked together to encourage the families of key workers and vulnerable pupils that it is safe for them to return to school and early years settings, but numbers remain low.
- 3.3. We have seen a similar situation with increasing numbers of vulnerable children attending schools, 58,000 on the 30th April compared to 50,000 on the 23rd April and a smaller increase in early years settings, from 9,000 on the 23rd to 10,000 on the 30th April^{vi}.

4. The capacity of children’s services to support vulnerable children and young people

Education

- 4.1. Recently published research^{vii} undertaken by independent consultancy the Isos Partnership highlights the role of councils in managing the education system’s response to this crisis. Councils have been working to convene schools and partners, communicate key messages and co-ordinate local responses to the crisis.
- 4.2. It found that local education systems have needed to develop a new “operating model” for responding to the crisis. This has involved –
 - 4.2.1. setting up new structures for liaising with schools and settings – for example, each school and setting having a nominated liaison or point-of-contact, either drawing on existing structures or matching officers to schools and settings within a local “patch”;
 - 4.2.2. maintaining regular communications with schools and settings – through daily emails, ensuring all messages to schools and settings go through a single point-of-contact (for example a senior education leader within the local authority) and virtual school leader meetings, so as to ensure a swift and regular flow of information (local leaders emphasised the scale of the task of interpreting and implementing the significant volume of guidance from central government), consistent communications and interpretation of national guidance, and rapid sharing of good practice; and
 - 4.2.3. setting up processes for tracking vulnerable children – drawing together lists of children who are known to children’s services or potentially could be vulnerable during this period, undertaking risk assessments, and putting in place appropriate checks or arrangement to get children into school who need to be.
- 4.3. The process of setting up this new “operating model” has highlighted two important issues.
 - 4.3.1. First, it has underscored the importance of the relationships between education and children’s services. Where there has been strong collaborative practices and information sharing previously, local areas

have been able to move to this new mode of operating swiftly and have developed robust processes for tracking potentially vulnerable children easily. In other local areas, however, the period following the partial closure of schools revealed mismatches in information about potentially vulnerable children held by different services and schools, and a lack of understanding and established relationships between schools and settings, education and children's services.

4.3.2. Second, it exposed challenges in balancing the imperatives of promoting public health and protecting potentially vulnerable children. Local leaders described to us some of the challenges of balancing the message about the need for people to stay at home with that about which families can or should send their children to school (and whether the latter was an entitlement for families or an option to be considered by professionals). This issue has to come to the fore recently, with DfE data showing that around 5 per cent of those children defined as vulnerable were attending schools, and 6 per cent of those eligible were attending early years settings – an issue that has been highlighted in a recent report by the Office of the Children's Commissioner. Local education system leaders described how they were taking a risk-based approach, developing overall lists of all pupils, collating information about those who would be potentially vulnerable, and identifying how professionals could be assured that those children were safe, either through checks or in some instances getting the children into school.

4.4. Looking ahead, the research found that councils and school leaders are looking to answer questions on how best to support the education of pupils and the 'health' of schools and settings. These questions include how to manage the potential impact of deprivation and avoid learning gaps widening, how to ensure the wellbeing of all children, including the very young and; how to support more vulnerable schools and settings.

0-19 Public health services

4.5. The Healthy Child Programme workforce in local authorities has done as much as possible to support children and families through online and virtual contact and resources, as well as high priority home visits. However, concerns have been raised that a high proportion of specialist public health nurses and nursery nurses have been redeployed in some areas to acute and adult community services. This may compromise the delivery of the Healthy Child Programme, reducing capacity for health visitors and school nurses to identify and support vulnerable children and parents with problems such as perinatal mental health, breastfeeding support or identifying wider safeguarding concerns.

4.6. We expect to see a surge in activity and demand for Healthy Child Programme support needs when the lockdown is eased. This will be particularly notable when children return to schools and nurseries and look to support from public health services around mental health and emotional wellbeing during transition and resocialisation.

4.7. Routine childhood immunisation programmes will also need a rigorous and extensive catch up schedule. Despite local areas working hard to continue to deliver immunisation programmes where possible, factors such as early years and school closures, redeployment of the nursing workforce and the reluctance of parents or carers to bring children into health care settings, has resulted in a reduction in uptake. The National Child Measurement

Programme has been paused and will need an extensive catch-up programme to ensure we continue to support children to maintain a healthy weight.

- 4.8. To ensure local public health services can meet the expected increase in demand, urgent workforce remodelling, and resource analysis should be undertaken with partners across the sector to ensure the Healthy Child Programme has the capacity to respond to the immediate unmet need as we enter recovery, in addition to the longer-term work to address health inequalities exacerbated during the coronavirus crisis.

Children's social care

- 4.9. Children's services departments moved swiftly to implement new ways of working to ensure they were able to support vulnerable children and young people. Social workers and colleagues across children's services should be commended for their determination to keep children safe and well throughout the crisis.
- 4.10. There has been an outstanding response from those looking after looked-after children. Foster carers have worked hard to reassure foster children and continued to provide loving homes, while we have heard excellent examples from the children's residential sector such as staff moving into children's homes full time to provide support where cases of coronavirus were suspected.
- 4.11. Support from Ofsted was also welcome in helping to ensure that children's social care had the capacity to support children at this time, including suspending routine inspections and providing additional social work capacity.
- 4.12. The ability of those working in children's social care to support vulnerable children has, however, been hampered by poor access to PPE. Not only has this put staff at risk, but we are concerned that it has made staff feel undervalued in a sector that already rarely gets recognition for its work in keeping children safe.
- 4.13. Guidance from the DfE has repeatedly stated that children's social workers only require PPE where there are confirmed or suspected cases of coronavirus in a household. However, this fails to recognise the often-tense relationships between social workers and the families they are working with. For example, one council reported a case in which a social worker went into a home to remove a young child at risk without any PPE. The parents were spitting at them claiming they had COVID-19. The accompanying police were in full PPE, as were the A&E staff that received the child. While the social worker continued with their job and ensured the child was safe, we are concerned that experiences such as this suggest an undervaluing of the workforce and risks their resilience.
- 4.14. Both central and local government have been keen from the beginning of the crisis to ensure that all children are kept safe, including those who already have social workers and those who have become more vulnerable as a result of the pandemic.
- 4.15. In order to achieve a level of oversight of work to protect children, the DfE implemented a data collection from Directors of Children's Services and established Regional Education and Children's Teams (REACT) which are chaired by the Regional Schools Commissioner.

- 4.16. The DfE worked extensively with the Association of Directors of Children's Services (ADCS) on a proposed data collection, however the first collection sent out did not reflect this collaboration. This resulted in significant concern from Directors due to the volume of data requested, duplication with other data collections and short timescales for response. This collection was subsequently withdrawn and replaced with a shorter collection following consultation with ADCS and the LGA.
- 4.17. We recognise the need for Ministers to be reassured about the work being undertaken to protect vulnerable children and support a data collection that is both informative and proportionate. However, we continue to have concerns about the amended data collection, in particular about the additional burden on already-stretched local authority teams and the lack of coordination with the data collection from schools.
- 4.18. We have emphasised to the department that data received through this survey should not be used to make judgements about local authority performance or the vulnerability of children; rather, it should be one tool to support broader conversations and to help understand challenges facing local authorities. The data collection represents a significant increase in central oversight at an extremely challenging time for councils, and on its own it cannot reflect the complexity of child protection work. It is vital that the Department respects the professional judgement of Directors of Children's Services and their teams as they work to keep children safe and make sure they are not being diverted from this vital task.
- 4.19. The terms of reference for the REACT project stated that the aim was to provide support to councils in their response to COVID-19, and to provide comprehensive briefings to Ministers on the support offer for children and young people, and to escalate risks and issues. It was also intended that the teams would help to streamline requests for information from councils by the DfE and Ofsted.
- 4.20. Feedback from the LGA's regional children's improvement advisers has indicated significant variation in the implementation of the teams. In some areas, the teams have offered a helpful route to escalate issues and to solve issues. However, feedback more frequently is that the teams are an additional burden to accommodate and have thus far provided limited support. We believe that these teams could have been more effective in helping councils to deliver support to vulnerable children and young people had councils played more of a role in establishing them and identifying the best ways to link them in to existing regional structures. This includes regional sector-led improvement structures which already provide significant support to councils.

5. The effect of provider closure on the early years sector

- 5.1. We have concerns around the financial viability of many early years settings as a result of the pandemic, alongside concerns about how information to the sector was managed by the Department in the initial months.
- 5.2. On 17 March 2020, the Department for Education advised that they would continue to pay funding to councils for free entitlements (hereafter referred to as 'DSG funding') for two, three and four-year olds with the expectation that this would be passed through to early years providers even if they closed.^{viii} This early clarification was welcome and provided assurance for

providers to make informed decisions about their businesses (though as outlined below at paragraph 5.9, this decision was later amended).

- 5.3. However, DSG funding only covers part of a providers' costs, with the rest coming from parent paid fees and other sources. A report^{ix} by Frontier Economics for the DfE in 2018 identified the following breakdown of income for providers^x:

	Early entitlement funding	Parent paid fees	Other sources
Private	56%	39%	5%
Voluntary	67%	25%	8%
Nursery class	78%	12%	10%
Maintained nursery school	60%	18%	22%
Childminder	77%	77%	3%
All types	56%	38%	6%

- 5.4. Parent fees cover a significant proportion of provider income, especially for private and voluntary providers and childminders, which provide 58 per cent of funded two-year-old places and 38 per cent of funded places for three and four-year olds nationally.^{xi} This income has fallen significantly as parents rightly keep their children at home wherever it is safe to do so.

- 5.5. Early years providers were asked to remain open where there were children of critical workers or vulnerable children who needed a place. However, only around 35 per cent of settings were open on Friday 24 April^{xii}. Feedback from local authorities and provider representative groups indicate that financial concerns are the reason for many closures. Those that remain open report significant financial struggles, with some operating at a loss.

- 5.6. This financial concern was been compounded by an announcement on 17 April that early years settings cannot access the CJRS in full; rather, they can only access this for the proportion of their paybill that can be said to be privately funded.^{xiii} This announcement came despite previous DfE guidance stating:

The Coronavirus Job Retention Scheme means that for employees who are not working but kept on payroll, the government will contribute 80% of each worker's wages of up to £2,500, backdated to 1 March 2020. Settings can access this scheme while continuing to be paid the early entitlements funding via local authorities.

- 5.7. Many settings made business decisions to close based on the understanding that they could access both DSG funding and the CJRS for 80 per cent of their entire paybill. While we understand the reasoning that no organisation should receive duplicative public funding – in this case, salaries should not be funded by both DSG and CJRS – this change in guidance put some early years settings at severe financial risk and meant many who had made decisions based on the original guidance found their business plans were no longer viable.

- 5.8. We understand that the DfE considers the revised guidance to be a clarification rather than an amendment, as Treasury guidance had already stated access to the CJRS would only be where it would not duplicate other public funding. However, we believe it was unrealistic to have expected

providers to check both DfE and Treasury guidance. It would have been more appropriate to ensure the DfE guidance was consistent with the Treasury guidance, for example by highlighting that there may be conditions or caveats for early years settings accessing the CJRS.

- 5.9. On 28 April 2020, “use of free early education entitlements funding during coronavirus (COVID-19)” guidance^{xiv} was issued by the DfE highlighting that councils could use their DSG funding differently during the COVID-19 outbreak in order to ensure that children of critical workers and vulnerable children could continue to access their early education entitlements. The guidance outlined that in exceptional circumstances, councils could move funding from closed providers to open ones, to ensure ongoing sufficiency.
- 5.10. While local flexibility is always welcome to help councils to respond to local need, this change from the initial advice (outlined at paragraph 5.2) caused further confusion and concern to early years providers.
- 5.11. The guidance emphasised that if councils were to consider using the flexibility, they should consider not only the short-term provision of childcare places, but the longer-term sustainability of the setting funding was being removed from and the local childcare market more broadly. It is our view that however DSG funding is moved around, there is insufficient money in the system to both help those providers who have remained open, and protect those who have closed to ensure we still have adequate provision as we move out of the immediate crisis. We have called on the Government to provide additional funding to make sure that no provider loses out financially for staying open, and to make sure we have all of the childcare places we need going forward to make sure people can get back to work when the time comes.
- 5.12. In addition to financial concerns outlined above, it has been disappointing that provision has not been made for childcare workers on furlough to be able to keep in touch with children and families. While on furlough, employees are not permitted to work for their employer, however we believe that allowing employees to continue to contact families to provide support and advice would have been a valuable offer both in terms of child development and safeguarding.
- 5.13. In the longer term, we are concerned that providers will be faced with reduced demand for some time as parents may be reluctant to send children into childcare settings. Changing patterns of work and increasing unemployment may also reduce demand. However, it will be vital to ensure that all children can still access their early entitlements and that those parents who need childcare are able to access this. Support for providers is therefore crucial to ensure we can continue to support children and families through the vital early years.
- 5.14. Concerns have been raised that, as more children return to school, it will be difficult for childminders and wraparound childcare to work with children and maintain the small groups or ‘bubbles’ recommended to minimise infection. This could lead to providers not opening immediately or ultimately going out of business, impacting on sufficiency and flexibility of childcare for families. Guidance from the Department for Education around how to safely care for children moving between settings has been limited, and providers and councils report confusion around how to safely return to work and increase their offer.

6. The effect of cancelling exams, including the fairness of qualifications awarded and pupils' progression to the next stage of education or employment.

- 6.1. Young people who are currently in education or approaching the juncture to transition into further or higher education have found their studies paused or partially continuing digitally. This means that many will not have access to face-to-face careers advice and support to make an effective transition to further or higher education, training or employment. Young people will also be missing out on the personal development curriculum, including employer interaction, work experience, which is fundamental to choosing the appropriate academic or vocational career pathway.
- 6.2. We understand young people who have additional barriers or come from disadvantaged backgrounds are likely to be most adversely impacted, as they will be socially isolated and emotionally affected. Despite the best efforts of schools and colleges to keep-in-touch, these young people are unlikely to seek the advice and support needed, and this could have adversely impacted their chances of progressing into education, training or employment.
- 6.3. Therefore, we expect there will be a spike in the number of those not in education, employment or training (NEET) from September onwards. This is concerning for councils both from an economic and community welfare perspective, as the cost of NEETs are significant, particularly over a lifetime. Being unemployed when young leads to a higher likelihood of long-term 'scarring' in later life – in terms of subsequent lower pay, higher chances of unemployment and reduced life chances^{xv}.
- 6.4. Councils are working hard to fulfil their statutory duties and mitigate the risk of NEETs. However, with a reduced number of training and employment opportunities expected, the Government needs to engage councils and combined authorities and partners to plan and guarantee an education, employment and training place for all young people who were due to leave school or college.
- 6.5. This should be supported with high- quality careers, advice and guidance to ensure that the right academic or vocational pathway is chosen for their career. Also, with the roll-out of T Levels planned to start this September, it is essential to provide a coherent picture of all post-16 options.

7. Support for pupils and families during closures, including:

- **The consistency of messaging from schools and further and higher education**
 - **Children and young people's mental health and safety outside of the structure and oversight of in-person education**
- 7.1. We understand there has been a significant reduction in referrals to Children and Adolescent Mental Health Services (CAMHS), with some areas reporting a 50 per cent reduction^{xvi}. It is thought that this is because of the closure of places where trusted adults may have picked up on emerging signs of mental distress and disorders and began referrals, such as schools, rather than need for services reducing.
 - 7.2. NHS-led mental health support units, council children's services, housing services and public health services are developing new linkages and alternative referral routes to identify children needing mental health services.

- 7.3. For children and young people already known to CAMHS, there has been a rapid move to remote support to allow the continuation of the service. Councils have been continuing to provide their existing children and young people's mental health support services with greater online interaction and an increasing number have been enhancing their service provision with new digital support programmes.
- 7.4. A key element of the Government's plans for the future of children's mental health services has been the implementation of mental health units connected to groups of schools to facilitate links and referrals. This is being rolled out via a series of 'trailblazers', with a first 'wave' of 57 in 2018/19. It is the intention for 123 Mental Health Support Teams (MHST) to be developed during 2020^{xvii}. Whilst the LGA advocates increased support for pupils' mental health in schools and for greater investment in children's mental health services, we have long argued that the mental health units should also be working with local children's services as well as schools to ensure children not educated in school, excluded from school, and in other circumstances also have the benefit of linking in with the mental health units. We have also argued that the key role of school nurses has been overlooked in the development of mental health support units. We understand that the closure of the schools has meant that the mental health support units are having to work in different ways, including forging greater links with children's services and the local community and voluntary sector as a way to reach out to children in need of support. We support maintaining these new ways of working after schools reopen.
- 7.5. Overall, and particularly as schools re-open, we continue to caution against the over-medicalisation of children and the assumption that action on children's mental health means treating mental illness. We need to be facilitating mentally healthy childhoods and equipping parents and children with the ability to look after their mental health. We need to address the causes of mental distress rather than continuing to pile pressure on our CAMHS services.

The effect on apprenticeships and other workplace-based education courses

- 7.6. Young people who are currently on apprenticeship training and other workplace-based education will be impacted in a number of ways. Most providers have responded positively and moved many elements of their training provision digitally, where possible. Nevertheless, practical assessments in many cases have been paused, resulting in delays in completing apprenticeships. Fixed-term contracts are also likely to come to an end before apprenticeships are completed without certainty about future employment.
- 7.7. In addition, there are a range of challenges that are affecting the delivery of apprenticeships. Employers, including councils' as employers, are continuing to pay the Apprenticeship Levy but are unable to spend or transfer funds during the crisis due to widespread pauses in training and recruitment. This may potentially compromise the delivery and limit the number of apprenticeship opportunities.
- 7.8. We believe Apprenticeship Levy funding should be paused to avoid any funds expiring during and shortly after the crisis period, particularly where they were earmarked for activity that has since been delayed due to COVID-19 and would not therefore have expired otherwise.

7.9. The withdrawal of Apprenticeship Frameworks, due to take place in July 2020, should be paused for at least six months to allow Apprentices to complete their training in a timely manner and ensure that planned training on these Frameworks that was due to start before the withdrawal but has been delayed or disrupted due to COVID-19 can be resumed at a later date. Levy payments should also be paused for public sector bodies for the duration of the COVID-19 crisis.

8. The effect on disadvantaged groups, including the Department's approach to free school meals and the long-term impact on the most vulnerable groups (such as pupils with special educational needs and disabilities and children in need)

Free school meals

- 8.1. Councils and schools have highlighted significant concerns regarding the operation of the DfE's national free school meal voucher scheme, which is being provided by Edenred.
- 8.2. Specific issues that have been raised with the LGA include, school staff having to log on late at night to be able to access the system, that the instructions on how to print vouchers for specific supermarkets are not clear and parents have said to schools that they are not clear what to do with the vouchers once they have been e-mailed.
- 8.3. A survey of schools in the South East region found that 28 out of 44 schools that responded had issues with receiving the voucher codes on behalf of their parents or printing them off. Of the 28 schools who reported issues with their vouchers being received 9 reported that they had yet to receive vouchers.
- 8.4. We know that in some instances this has meant that schools have had to make alternative arrangements to continue to provide free school meals and at this stage it is unclear whether they will be reimbursed by the Department for the costs associated with these alternative arrangements.
- 8.5. Councils have also raised concerns about the range of supermarket chains that have signed up to participate in the national voucher scheme, with an uneven geographical spread of shops making it much more difficult for parents and carers to access the scheme in some areas.

Special Educational Needs and Disability

- 8.6. One of the first major issues that councils raised with the LGA was the pressure that they and partners in the NHS and schools were facing in continuing to meet all Children and Families Act duties. This included councils being threatened with legal action by parents, carers and their solicitors.
- 8.7. This was accompanied by feedback that some clinical commissioning groups (CCGs) were also considering how best to bolster their front-line clinical capacity in order to deal with the pandemic. While this was clearly the right response in order to support the NHS, it resulted in delays in statutory assessments of children and young people around their SEND needs, which meant the timeliness of producing Education, Health and Care Plans (EHCP) became increasingly difficult and left councils open to unnecessary challenge.

- 8.8. We therefore welcome the Department’s decision to use provisions set out in the Coronavirus Act 2020 to relax the duty on councils and their partners to secure special educational provision and health care provision in accordance with an EHC Plan. Under these new arrangements councils and their partners must use their ‘reasonable endeavours’ to secure the provision set out in an EHCP, meaning that a child or young person’s provision as delivered may differ temporarily from what is set out in their EHCP.
- 8.9. It is however disappointing that the Department was unable to apply this change retrospectively to start on the 20th March, the date on which the Prime Minister announced that schools would be closed. This has resulted in some councils, and their partners, becoming the subject of legal action for not being able to deliver the support set out in EHCPs as a result of staff sickness and the redeployment of staff within the NHS.
- 8.10. We believe that further legal challenges on what constitutes ‘reasonable endeavours’ are inevitable and it is therefore vital that the Department for Education discusses the implications of the updated legislation with the Ministry of Justice and publicly clarify their expectations of what councils, schools and the NHS can deliver during the Covid-19 pandemic to ensure that expectations of parents, carers and families can be managed.
- 8.11. Significant extra pressure has been placed on council’s SEND teams to support children and young people due to Covid-19, due to an increased volume of work. Specifically, this has included increased contact with parents and families, the creation of new and extension of existing services and; the re-design of delivery models. This is in addition to co-ordinating risk assessments, making home arrangements for the most vulnerable; and fielding increased parental enquiries. We are concerned that many children with SEND whose needs have not been entirely met while they have been away from school, will require additional support when they return, for example additional support from Educational Psychologists, and this will place additional requirements on already stretched high needs budgets.
- 8.12. As plans to open schools to more pupils on the 1st and 15th June for primary and secondary pupils respectively have developed, councils have flagged concerns about their ability to deliver home-to-school transport services. Specific concerns focus on the capacity of providers to supply sufficient numbers of buses and other vehicles that allow for social distancing, increasing costs, particularly in terms of home-to-school transport for children with SEND, the safety of the workforce providing these services and; persuading parents that it is safe for their children to use public transport to travel to school when wider messaging has been to use only when absolutely necessary.

Children in need

- 8.13. Children with social workers are more likely to experience poor educational outcomes than their peers. The DfE’s Children in Need review in 2019 identified that “children who have needed a social worker have poorer educational outcomes at every stage of education than those who have not, and taking account of other factors associated with attainment, are up to 50 per cent less likely to achieve a strong pass in English and maths GCSEs”.^{xviii}

8.14. National data^{xix} indicates that only around one in ten vulnerable children are attending school. Schools and social workers have been working closely with families to encourage attendance at school but have reported that there are significant challenges, in particular trying to persuade families that there was no risk in sending children to school particularly during the previous national “stay at home, save lives” message. There have also been concerns from children and families about being identified as having a social worker. Children in need have higher overall absence rates than all children or looked-after children, with 32 per cent classed as persistent absentees in 2019 compared to 10.9 per cent of all children and looked-after children.^{xx} Encouraging these children to attend school during a time when national messaging was to stay at home, and most children are not expected to attend, clearly has had further challenges.

8.15. Councils have been working with schools to try to support children in need who are not attending, both to limit the impact on their education and to ensure that they are safe. In terms of education, councils have raised concerns that many children in need do not have good access to a computer or other device for online learning (for example, in households with one computer for the family), or to an internet connection. Work by the DfE to provide vulnerable children with devices to enable online learning is welcome, however putting in place a national procurement programme clearly takes time, and the indications are the devices are unlikely to be available until at least June, more than two months after most children stopped attending school. This is a significant amount of time for children to have only very limited access to learning. We believe a more localised solution, with councils procuring devices and being reimbursed by the Government, would have been a quicker and more effective solution.

8.16. Councils are very concerned about additional vulnerabilities arising from the COVID-19 pandemic. This includes more families living in poverty; mental health issues amongst both children and parents; increasing domestic abuse; and increasing substance misuse issues. In particular, councils are concerned that falling referrals to children’s social care following the partial closure of schools means that children are experiencing ‘hidden harm’, which may only come to light as we move into recovery. Work is taking place locally to try to ensure that partners and communities are engaged in identifying children at risk, however councils are also planning for a spike in referrals when all children return to school.

8.17. It is likely that the impacts of these issues on children will be far-reaching, lasting far beyond the recovery period for some, resulting in ongoing pressures for children’s services after other areas may have recovered. It is vital that the Government considers this in its recovery planning, ensuring that the right services are available to provide children and their families with support to come to terms with any trauma suffered during the pandemic, and to go on to live happy, healthy lives.

9. What contingency planning can be done to ensure the resilience of the sector in case of any future national emergency

9.1. Councils, schools and early years providers have coped extraordinarily well through the pandemic, pulling together to ensure that children and young people are supported and kept safe.

9.2. We believe that the Department for Education should work with schools, councils and other partners to develop contingency planning arrangements

for the possible future closure of schools and other settings. While we appreciate that the Covid-19 situation developed quickly, very little notice was given to schools about closure; as a result, schools and councils were waiting for guidance and in many instances had to develop their own arrangements locally. In other instances, such as early years settings access to the Coronavirus Job Retention Scheme guidance was contradictory. Elsewhere we believe that a local approach to delivering free school meals would have been more effective, building on the existing base of school meals providers and local arrangements between schools and councils.

- 9.3. However, this is in spite of significant funding challenges facing the entire sector, and has been a result of the good will, innovation and determination of individuals. We know that many council officers, social workers and educators have been working seven days a week to keep children safe, in part due to limited capacity in teams following years of austerity. This is clearly not sustainable, nor should we rely on this for future crises.
- 9.4. It is essential that going forward, all parts of the sector are properly funded, not only to allow them to build resilience in case of another national emergency, but to ensure they can fully support children and families through recovery and beyond.
- 9.5. It is also vital that councils have absolute clarity over the funding available for the COVID-19 response and recovery. They have stepped up to provide support to the most vulnerable in our communities while keeping day-to-day services running. They must not be expected to cover the burden of this from already depleted reserves or by cutting services further.
- 9.6. Grant funding worth £3.2 billion and cash flow measures have been welcome and provide additional certainty over the short term. The Government must continue to demonstrate a rock-solid commitment that it will meet the extra costs local authorities are facing due to the additional demands created by COVID-19, including on education and children's services and any additional costs of delivering 'business as usual' and the loss of income resulting from the lockdown. Councils could need as much as £6 billion more to cover the costs of coping with the coronavirus pandemic during this financial year. This figure will need to be kept under review.
- 9.7. The Coronavirus Act^{xxi} gives the Secretary of State for Education powers to direct educational providers to temporarily remain open, powers that can be delegated to councils. At the time of writing the power to close settings, which will be vital in helping councils tackle new clusters of Covid-19, should they emerge as numbers of children in education settings increase, have yet to be delegated. In future these powers should sit with councils as a matter of routine to help ensure local areas can respond effectively to a future national emergency and subsequent recovery.
- 9.8. Councils are keen to support their local schools to get children back as soon as possible. However, the safety of children, their families and staff will always be the top priority. Plans to re-open schools and early years settings were hampered by the Government's failure to share the scientific advice that underpinned their decision with teachers, families and children and young people in a timely manner. We are pleased that the Government has now published the scientific evidence ahead of the proposed date to reopen primary schools for some children, as called for by the LGA and

councils. The Government must share such information as a matter of urgency when responding to a future national emergency; we know parents are anxious about sending their children into settings, as evidenced by the low numbers of vulnerable children and children of key workers that have been attending since the start of the lock-down. A clear national message is now needed from government about the safe return of children to schools and the scientific advice must be accessible for all parents to support efforts by schools and councils.

- 9.9. As there are different COVID-19 infection rates around the country, schools and councils must be able to work together to decide how and when schools open to more children. Some areas may want to work faster than others. Councils also need crucial testing data to be shared with them, to help enable greater confidence for teachers and parents around school openings, and powers to manage outbreaks in places like schools, care homes, businesses and communities if new COVID-19 clusters emerge.

ⁱ <https://www.gov.uk/government/speeches/gavin-williamson-speech-on-covid-19-response>

ⁱⁱ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883174/COVID19_attendance_in_education_settings_to_300420.pdf

ⁱⁱⁱ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881662/COVID19_attendance_in_education_settings_240420.pdf

^{iv} https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883174/COVID19_attendance_in_education_settings_to_300420.pdf

^v https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881662/COVID19_attendance_in_education_settings_240420.pdf

^{vi} https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883174/COVID19_attendance_in_education_settings_to_300420.pdf

^{vii} <https://www.isospartnership.com/blog/how-local-education-systems-are-responding-to-the-coronavirus-crisis>

^{viii} <https://www.gov.uk/government/news/free-childcare-offers-to-continue-during-coronavirus-closures>

^{ix}

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828530/Frontier - Childcare Cost Study2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828530/Frontier_-_Childcare_Cost_Study2.pdf)

^{*} It should be noted that report gives the following caveat to these findings: "The estimates of the cost and income measures have large confidence intervals and may differ from other sources because of the small sample size." (p35)

^{xi} <https://www.gov.uk/government/statistics/education-provision-children-under-5-years-of-age-january-2019>

^{xiii} <https://www.gov.uk/government/publications/coronavirus-covid-19-attendance-in-education-and-early-years-settings>

^{xiii} <https://www.gov.uk/government/publications/coronavirus-covid-19-financial-support-for-education-early-years-and-childrens-social-care/coronavirus-covid-19-financial-support-for-education-early-years-and-childrens-social-care#sector-specific-guidance>

^{xiv} <https://www.gov.uk/government/publications/use-of-free-early-education-entitlements-funding-during-the-coronavirus-outbreak/use-of-free-early-education-entitlements-funding-during-coronavirus-covid-19>

^{xv} <https://www.employment-studies.co.uk/resource/getting-back-work-0>

^{xvi} <https://www.hsj.co.uk/coronavirus/major-drop-off-in-referrals-to-childrens-mental-health-services/7027373.article>

^{xvii} <https://www.england.nhs.uk/mental-health/cyp/trailblazers/mh-support-teams/>

^{xviii} <https://www.gov.uk/government/publications/review-of-children-in-need/review-of-children-in-need#key-findings-from-our-data-and-analysis>

^{xix} <https://www.gov.uk/government/publications/coronavirus-covid-19-attendance-in-education-and-early-years-settings>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875529/CLA_Outcomes_Main_Text_2019.pdf

^{xxixxi} <http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>