

SEND Green paper

Purpose of report

For direction.

Summary

On the 29th March the Department for Education (DfE) published the SEND Green paper, *SEND Review: right support, right place, right time*. The Green paper sets out a number of proposals that seek to improve outcomes for children and young people with Special Educational Needs and Disabilities (SEND) via reforms to the SEND system.

Will Quince MP, Minister for Children and Families, will be attending the Board meeting to discuss the proposals set out in the Green paper in more detail. This discussion provides an opportunity for Members to discuss those proposals, with that feedback informing the LGA's response to the Green paper.

Is this report confidential? Yes No

Recommendation

Members are asked to comment on the LGA's main lobbying priorities as set out in the paper, as well as using the content of the paper to inform discussions with the Minister.

Action

Officers to take forward Member's comments in our response to the proposals set out in the SEND Green paper.

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Background

1. On the 29th March the Department for Education (DfE), published the SEND Green paper, SEND Review: right support, right place, right time. The Green paper sets out a series of proposals that seek to improve outcomes for children and young people with Special Educational Needs and Disabilities (SEND) via reforms to the SEND system.

SEND Green paper – LGA response

2. In our initial response to the Green paper we highlighted that previous reforms to the SEND system set out in the Children and Families Act 2014 have failed to achieve the goal of improving provision for children with special educational needs and disabilities. Placing children and young people at the centre of the SEND system was right, but the reforms set out in the Act were not supported by sufficient powers or funding to allow councils to meet the needs of children with SEND or hold health and education partners to account for their contributions to local SEND systems.
3. The proposals contained in the SEND Green paper are grouped under the following five headings, followed by the LGA's initial response to each.

A single national SEND and alternative provision system

4. We understand the need for greater consistency of approach across the SEND system, including through a single, digitised Education, Health and Care Plan (EHCP). The Green paper does however acknowledge that even in such a system there will be a need for some flexibility to reflect available provision and differing levels of need. We are concerned that too great a focus on the 'national' part of the system could raise expectations amongst parents and carers that the same support will be available in every area and delivered in the same way.
5. The establishment of local SEND partnerships, convened by councils is welcome. For these partnerships to work effectively, councils must have backstop powers to hold partners to account if they fail to make appropriate contributions to meet the needs of children and young people with SEND.
6. The LGA supports the proposal to introduce mandatory mediation with the aim of resolving disputes earlier. This supports findings of LGA-commissioned research, which found that the increased proportion of mediation cases going to Tribunal appeal reflected the trend of increasing proportions of appeals relating to the contents of EHCPs, specifically Section I and that it was more difficult to resolve such disputes through mediation.

Excellent provision from early years to adulthood

7. The LGA welcomes the focus on improving levels of mainstream inclusion. Councils want to see more children and young people with SEND in their local mainstream schools wherever possible and it is crucial that parents have confidence in the quality of local provision. This will result in both improved outcomes and a reduction in the use of special and independent and non-maintained special school places that are by their very nature more expensive than mainstream provision.
8. Further detail is needed on how schools will be incentivised to become more inclusive, however. We are concerned that every school becoming part of a strong Multi-Academy Trust (MAT) by 2030 will not of itself drive a sufficient increase in mainstream inclusion. More detail is also needed on how incentives to be inclusive will be aligned with higher expectations on all schools to increase levels of achievement numeracy and literacy for all children, as set out in the Education White paper.
9. We support the proposed introduction of a SENCo National Professional Qualification (NPQ). This reflects the complexity of the system in which SENCos work and will help equip them with the skills needed to lead on the delivery of SEND support within schools.
10. We welcome the recognition of the importance of getting it right in the early years to ensure children are enabled to thrive, needs are identified early and staff have the skills and confidence they need to provide support to children. Providing training and support to staff is essential and the proposals setting out a review of Level 3 early years educator qualification is welcomed, as is a greater focus on specific support for SEND.
11. The sector has experienced significant challenges which have been exacerbated by Covid-19 and recruitment and retention of skilled staff remains an ongoing concern. The LGA has conducted research looking into the Special Educational Needs Inclusion Fund and believe there are some quick fixes that could be made so the proposals set out to look at this is welcomed. However, we have long highlighted that early entitlements are underfunded and that the early years sector needs to be properly resourced to support the Government's ambitions set out in this paper, therefore consideration of a wider review of early years funding is welcomed.
12. The Green Paper recognises the interconnection between special educational needs, emotional needs and mental health which is welcomed. However, the current system does not work for children and their families and this paper does not go far enough in recognising the steps that need to be taken, particularly for those young people with acute needs who require specialist support.

13. An additional £2.6 billion over three years for SEND capital is also welcome, as is the flexibility to spend this money on specialist units in mainstream settings, as well as new special schools. Feedback from councils is that the speed at which new special school places can be brought onstream is too slow. We are keen to work with the Department to identify opportunities to speed this process up.
14. The Government's Education White Paper acknowledges that the existing education system is fragmented and, as evidenced by their work supporting all schools in response to COVID-19, councils have a continued role at the centre of local education systems with powers to match their duties around place-planning and ensuring pupils out of school return to the classroom as soon as possible.
15. Allowing councils to set up and lead their own Multi-Academy Trusts (MATs) is also welcome; this should be on offer in every area where that is the preference of schools and parents. We are pleased that the Department for Education (DfE) recognises that councils have an excellent track record in providing a high-quality education for pupils, with 92 per cent of maintained schools rated by Ofsted as outstanding or good – a higher proportion than any other type of school, and that this will continue in a fully-academised system.
16. The Green Paper acknowledges that young people with SEND may need additional support to navigate their ways through the post-16 education and training offer and may need flexible approaches to study including part-time or through a modular approach. At the same time, some Level 2 provision (BTEC and apprenticeships) have been removed resulting in a reduction of pathways to further learning. Young people need a broad offer with alternative choices that are not unduly restricted. This must be backed up by targeted and independent careers advice and guidance, but the system as it is, is fragmented. Councils have a key role in helping to join up advice and provision on the ground.
17. Work Local is the LGA's blueprint for an integrated and devolved employment and skills service, which would enable councils and combined authorities to bring together information, advice and guidance alongside the delivery of employment, skills, apprenticeships and wider support for individuals and employers. By enabling this approach, local leaders would be able to design services that are targeted to local needs while meeting national skills priorities, and deliver significant social and economic benefits.

A reformed and integrated role for alternative provision

18. We support proposal to make alternative provision (AP) an integral part of local SEND systems and that their focus should be on ensuring that as many children as possible stay in or return to mainstream education as soon as possible. The Department must

ensure councils 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.

System roles, accountabilities, and funding reform

19. The clarification that health and care are ‘truly integrated partners’ in local SEND partnerships, convened by councils is welcome. As mentioned previously, councils must have backstop powers to hold partners to account if they fail to make appropriate contributions to meet the needs of children and young people with SEND. A duty to co-operate for Integrated Care Boards is welcome, but we believe this duty should also apply to Integrated Care Partnerships. The forthcoming regulatory review of MATs, set out in the Education White paper, should propose a similar duty on schools to co-operate with councils (this is also a recommendation in the Independent Review of Children’s Social Care).
20. We are concerned that arrangements through which the DfE Regions Group seeks to hold councils to account for delivery and high needs spending will place an unnecessary additional burden on councils, when sitting alongside Ofsted/CQC SEND area inspections and is likely to divert resources away from meeting the needs of children and young people with SEND. Such an approach, with the DfE focussed on the role of councils and the Department of Health and Social Care holding NHS and health partners to account risks the fragmentation of accountability arrangements.
21. While a 0-25 data dashboard will provide some information on the performance of the national and local SEND system, it will not on its own show how well any local SEND system is working. Data should not be used in isolation by the Department when deciding whether to intervene in a local SEND system.
22. We would like to work with the Department, partners, and the inspectorates to develop a new SEND area inspection framework. Local SEND systems are incredibly complex, and any new inspection framework must therefore retain the existing narrative judgement which reflects this complexity in a way that isn’t possible with a one-word graded judgement. Inspections should focus on the system as a whole, including the contribution of each of the key partners schools, councils and health

Delivering change for children and families

23. Additional funding for council high needs budgets, via the ‘safety valve’ and ‘Delivering Better Value in SEND’ programmes is welcome. Implementing the proposals set out in the Green paper will take several years and, in the meantime, we can expect demand for SEND support to continue to rise. The Department must therefore bring forward a comprehensive plan that manages down and eliminates council’s Dedicated Schools Grant deficits.

24. The SEND Green paper, 'SEND Review: Right support, Right place, Right time' is available [here](#). The full list of consultation questions can be found on pages 80-82.

Implications for Wales

25. Special Educational Needs and Disability policy is a devolved issue and the findings of the report and the LGA's on-going SEND policy work applies to councils in England only.

Financial Implications

26. There are no financial implications for the LGA arising from this report.

Next steps

27. Comments from Members will be used to inform the LGA's response to the SEND Green paper. Members are also encouraged to share council's responses to ensure the LGA's lines reflect the views of members councils.