

## Annex 4

# What does a financially sustainable system that meets the needs of children and young people with SEND look like?

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Summary of initial headline findings and potential proposals

Presentation to the LGA CYP Board

23 January 2024



# How we have approached the project

## Three phases

**Phase 1: Developing our analysis and evidence-gathering tools**  
(September 2023)

- Developing initial analysis of current SEND system and Government's improvement plan.
- Scoping SEND arrangements in other jurisdictions.
- Developing research tools.

**Phase 2: Evidence gathering**  
(October-December 2023)

- Fieldwork interviews in 12 local areas.
- Interviews with national stakeholders – policy-makers, education, health, care, and SEND sector.
- Online survey of all local areas.

**Phase 3: Developing and testing proposals**  
(January-March 2024)

- Testing key messages and proposals via roundtables with project participants.
- Collate key findings and proposals in final report.
- Present key findings at relevant fora.

# Our three research themes

We have used these themes to structure our findings

**Theme 1: Root causes of challenges in the SEND system**

What are the root causes of the challenges seen in the SEND system that need to be addressed in order to have an effective, sustainable SEND system?

**Theme 2: Views of the “Improvement Plan”**

Does the Government’s improvement plan for SEND adequately address the fundamental challenges in the system?

**Theme 3: What else is needed to achieve an effective and sustainable SEND system?**

(If the Government’s improvement plan does not do enough to address these fundamental issues) **What are the key policy proposals that would address the fundamental issues and deliver an effective, sustainable SEND system?**

# Three overarching messages from our evidence gathering so far

1

**Reform of SEND policy / arrangements (and other policies / arrangements that relate to young people with SEND) is essential ...**

SEND arrangements are not working – the 2013 reforms have not delivered better outcomes, a less adversarial system, financial sustainability. Strong view that the system is incentivising the wrong outcomes – should focus on inclusion, preparing for adulthood.

2

**... and urgent.**

The issues within the SEND system are unavoidable (choice of when, not if, reform is needed) and existential (costs and cumulative deficit continues to rise; risk of increasing numbers of councils becoming insolvent if issues not addressed.)

3

**The root causes are systemic in nature – national reform is required.**

Must acknowledge poor practice (of which there are many examples). Equally, avoid blaming individual actors – local government, schools, health service, parents. All reacting to a system that incentivises the wrong things. Addressing these requires fundamental national reforms that foster partnership between professionals and families.

# Theme 1: What are the root causes of challenges within the SEND system?

*The root causes of challenges in the SEND system are systemic in nature and inter-linked, creating a vicious circle.*

## #1. The volume challenge

- ❑ **Evidence of growing need, especially complexity** – (a) autism, (b) SEMH, (c) SLCN. Plus other needs – deprivation, pandemic.
- ❑ **Volume challenge being driven by increase in demand pressures** – (a) within the SEND system (EHCPs, age-range, lack of EHC join-up); (b) “perfect storm” (national rhetoric re: inclusion; policy for mainstream schools and EY; austerity + reduction in other services.)
- ❑ **Consequence** = loss of confidence in SEN support, mainstream ed.

## #2. The decision-making challenge

- ❑ **Misalignment of responsibilities, powers and drivers of demand.**
- ❑ **Flaws in statutory framework** – definition of SEN; EHCNA test.
- ❑ **Misnomer of “EHCP”** – majority are education plans; suck resource out of system, but do not alter environment and practice.
- ❑ **Dispute resolution** – distorting effect of Tribunal; law is a blunt instrument for making decisions on a child’s development.
- ❑ **Lack of joint responsibility across education, health and care.**

## #3. The market challenge

- ❑ **LA as commissioner for SEND provision, but lacks powers to shape a continuum of support to meet local need** – lack of levers to shape new and existing provision, reactive use of independent sector.
- ❑ **The role of the independent sector can exacerbate challenges within the system** – poor regulation, “seller’s market”, inequitable.

*NB Distinct sets of challenges in early years (sector structure, workforce) and post-16 (place-planning, transitions).*

## Theme 2: Does the improvement plan adequately address these fundamental challenges?

*The consensus was that the proposals set out in the improvement plan will not address the fundamental issues in the system and deliver the transformational change required.*

We heard some very strongly critical views about the improvement plan ...

*'A joke.'* (Council DCS) | *'[Will it address the fundamental challenges?] Absolutely not.'* (Council DCS) | *'Will it help us in the next 5 years? Absolutely not.'* (Council AD) | *'Not going to deliver transformational change.'* (Council AD) | *'The plan is rhetoric, the substance to deliver it is vulnerable. ... It is no good developing a direction of travel ... if it does not have an infrastructure behind it.'* (Nat org) | *'No point doing this now without legislative changes.'* (Nat org) | *'In a word, "no" – changing existing system, making administrative change; not changing the culture. Cultural change only come from DfE – cannot change system by making LAs do things differently.'* (Council AD)

... along with some more sanguine assessments of elements of the plan

**Some elements of the plan are positive and worth keeping** – (i) standardization of EHCPs, digital; (ii) national standards, workforce; (iii) inclusion partnerships and plans.  
... **but**, (a) timescales (waiting until 2024-25; no “stepping stones”); (b) lack of clarity in plan.  
... **plus, many proposals are things most local areas doing already – partnership, plan, panels.** *'Partial ... just tinkering at the edges.'* (National organisation) | *'Nothing major to disagree with, but it is not addressing the fundamental question.'* (HT)

Overall, the view was that it is not going to deliver the transformational change needed

**It is not going to deliver the transformational change needed –**

- does not do enough to strengthen mainstream inclusion;
- does not alter the underlying misalignments and incentives in the system; and
- teeth – *'unless there are teeth behind the good intentions, it will make little difference'*.

**Similar view of Delivering Better Value in SEND, Safety Valve** – the focus and rigour may be useful to some local areas, but not addressing the fundamental challenges in the national system. *'Will it help us determine a set of things we can do, and give us some pump-priming? Yes. Will it makes us an affordable LA? No it bloody won't.'*

## Theme 3: What is needed to address the fundamental issues and deliver an effective, sustainable system?

***Nothing short of fundamental reform at national level, relating not only to SEND policy but also wider education, health and care policy, is needed to address the challenges in facing the SEND system.***

**#1. Reframe the overall principle, vision and purpose of the education system, and SEND within that.** Focus on principle of inclusion of all children in local communities, presumption that needs are met within local mainstream education, and preparing young people for adult life (healthy, independent, in employment, included in community).

**#2. Fundamental reform of mainstream education (early years and schools)** – national expectations of inclusion; breadth of development pathways, curriculum, qualifications; strengthen SEN support and make it tangible; wraparound support (health, care, inclusion); workforce development. (NB Distinct challenges in early years and post-16.)

**#3. System-wide programme of workforce development and continuing professional development** – build understanding of SEND, specific needs and inclusive practice into initial training, CPD, professional qualifications for key education, health and care staff. Develop professional standards, qualifications, supervision for LA SEN professionals.

**#4. Fundamentally reappraise the purpose of statutory plans** – create stronger universal offer in mainstream education, and refocus resources on universal / targeted cohort interventions. Reconsider the additionality offered by statutory plans, their role in a future system, and when they should be offered.

**#5. Rethink the age-range extension** – avoid moving the cliff-edge back to 19-25. Instead, need a clearer view of when EHCPs should cease, and routes beyond this – (a) stronger pathways to foster effective transition from education to further education / employment / preparing for independence at 18/19, (b) transition to adult social care.

**#6. Reform the system for dealing with disputes in the SEND system** – maintain independent body for reviewing process for reaching decisions (and ensure this covers all aspects of the SEND system – not just LAs, but schools, settings). Create practitioner / sector body to consider content of decisions – emphasis on expertise, not law.

**#7. Reform the role of LAs and ICBs, aligning decision-making responsibilities with powers to influence practice and shape provision** – LA as true commissioner of HNB, with powers to convene partnerships and develop local continuum of support, strategic commissioning. Alignment with NHSE and ICBs – roles and responsibilities. Mandate DSCO role.

**#8. Reform the independent market** – stronger regulation, and no profit-making from independent provision. Parameters around use of independent provision, to ensure strategic (as opposed to reactive / directed) use. National framework on rates to avoid fee inflation.