

Response ID ANON-EXGA-G8T4-C

Submitted to SEND Review: Right support, right place, right time
Submitted on 2022-06-28 11:24:58

Introduction

Who is this for?

Instructions

About you

a) Welcome - what is your name?

Name:
Laura Tilley

b) Would you like to provide your email address?

Email:
laura@familyvoice.org

c) Are you happy for the Department for Education to use your email address to contact you to clarify points in your response, if necessary?

Yes

d) Would you like us to keep your responses confidential?

No

Reason for confidentiality:

e) Can we publish your response?

Yes, publish my response

f) Which of the following best describes the capacity in which you are responding to this consultation?

On behalf of a charity/ voluntary or community organisation

If Other, please give details:

g) What is your role within your organisation?

What is your role within your organisation:
Parent Representative

Not Answered

h) What is the name of your organisation?

Organisation Name:
Family voice Peterborough

Not Answered

Chapter 2: A single national SEND and alternative provision system

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.

Q1:

Listen to what families need and would find helpful, rather than coming up with what sounds like a pre-determined 'vision' (governmental objectives) with families' interests secondary to this. For example, page 48 para 41 "We are clear on the benefits...of having a well-regulated trust based system.' What is this clarity, how and for whom is it beneficial?

It is also important to keep the focus on individual and their needs and capabilities; are the enshrined academic standards realistic and achievable for a significant cohort of SEND learners, for example, and should these be supplemented or even replaced by life skills, especially around relationships, to

support their SEMH needs?

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?

Q10:

Why would there be a need to duplicate? Could the proposed partnerships not be (sensitively) superimposed onto what already exists? Duplication sounds like unnecessary expenditure.

Also, to "oversee the effective development of local inclusion plans" requires a more robust and knowledge based system of QA to ensure that policy and procedure at a local level is compliant with, and correctly reflects, legislation, and that those involved understand it.

3 What factors would enable local authorities to successfully commission provision for low-incidence high-cost need, and further education, across local authority boundaries?

Q3:

See 5 below. The response should be bespoke and professionally informed. Tribunals do not, presumably, overturn Section I decisions without considerable evidence as to why the school selected by the parent is more suitable than the one proposed by the LA.

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

Q4:

The important factor is that those responsible for updating or drafting EHCPs understand what they are supposed to achieve and what each section should contain. For example, clarity as to why outcomes must be SMART, and support section F not section B, a common mistake, in order for them to deliver meaningful support.

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?

Q5:

On an individual basis (and probably a working group) parents can create a list of their child's needs and what provision is necessary to support these. LAs should then require each school to draw up information on what they are able to provide in support of SEND learners, so that a matching exercise can be undertaken. It is very important to bear in mind, however, that each child's needs will differ and a one size fits all for SEND is contradictory in itself. Locating the appropriate setting should be driven by the individual's needs, not a closed approach which requires the child to fit into one of a list of pre-determined options.

6 To what extent do you agree or disagree with our overall approach to strengthen redress, including through national standards and mandatory mediation?

Neither agree nor disagree

Q15:

Neither agree or disagree, without further detail on how this would work in practice. It really depends on the impartiality of those acting in the capacity of mediator, and the relative strength of the parent in terms of producing an arguable case comparable in standard to that put forward by the local authority. With the right support by way of professional assessments, it is fair to say, after all, that the parent should be deemed the expert on their child. However, their views are often placed secondary to those who know the child very little. It can take a tribunal application to get the LA to agree to carrying out up to date assessments, such as Educational Psychology, Speech and Language, or Occupation Therapy. Too often, an uninformed decision is made based on non-expert knowledge supplied by schools or social workers.

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.

Q16:

SEND tribunals may not be the effective way to deal with cases of discrimination, which can be pursued through the courts.

Chapter 3: Excellent provision from early years to adulthood

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?

Q8:

Needs to be a robust process to ensure all professionals are invited to contribute to all reports at every stage. Are we sure all children are actually accessing this review?

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

Agree

Q18:

Great to see there will be consistency in the levels of training but what happens in the interim? How long will this take to implement? How about training the parents - share the knowledge - set realistic expectations.

10 To what extent do you agree or disagree 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?

Agree

Q19:

What will this look like - will this only apply to new sencos? If 74% of the senco time is taken up with admin already how will this work - sencos are stretched to breaking point. Where will funding for admins come from?

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.

Disagree

Q20:

As long as schools realise that children with send are not always able to access mainstream education with ease, there is usually a need for adaptation. Is this going to be enough going forward? Will there be enough teaching support for the pupils, often it's not the education that the child needs but its social and emotional. Will this be considered? It's good to be inclusive but we still need to consider the children individually. Its difficult enough now to access specialist support - How will this present its self - what about the home educated? Mental health needs to be considered too

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?

Q12:

Make them fully accessible to all, pay a fair wage, offer equal opportunities for all. Ensure the documentation is available in all formats, easy read etc. Let's empower our young people. They are worth so much more.

Chapter 4: A reformed and integrated role for alternative provision

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?

Disagree

Q22:

Placing children in alternative provision does not necessarily address the underlying issues relating to possible challenging behaviours
Almost feels like from reading this document, that there still is a lack of integration of SEND with children in mainstream settings

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?

Q14:

Better/stronger but fairer leadership- heads and governing bodies

- Greater understanding of needs of those C&YP who will be referred to alternative provision

- Needs analysis to include how many C&YP require access to alternative provision, what will be the length of access, exit strategies

- Stronger partnership working

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?

Disagree

Q24:

Depends on how these are resourced

Improved attendance- where school settings or alternative provision?

What are the processes for integration, length of time, same school setting etc?

Who will be part of the working group?

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?

Disagree

Q25:

There is still a feeling that this will benefit the head/school setting more rather than the actual child or YP

C&YP with SEND, particularly autism need routine to support with regulation. Moving them from one setting to another then back may not benefit these individuals

Who is accountable for the continuity of education within these settings? Schools/academies/alternative provision settings?

Chapter 5: System roles, accountabilities and funding reform

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

Q17:

Improvements are difficult to make or plan if the problems are not intimately understood. Therefore I list the issues alongside potential actions for improvement.

Standards of provision and quality first teaching in schools need to be improved significantly in order to meet the required benefit of the most vulnerable children in our society.

Families face certain institutional barriers in as much as schools are middle-class institutions with their own values to which all must conform, making communication, engagement and general participation challenging.

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

Q27:

This needs to be as transparent as possible to enable there to be consistency across the board. Consider a consultation period to get this right.

Chapter 6: Delivering change for children and families

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

Q19:

Successful implementation would require full transparency of all aspects of the National SEND Delivery Board (NSDB) and its operations. So that local partnerships are well informed and work cohesively.

This includes:-

Complete transparency to the public domain and local partnerships on the operations of the NSDB and precisely how this differs from the previous SEND System Leadership Board.

Who will the NSDB answer to? What are the principles of good governance, to provide local partnerships and the public reassurance of good practice and accountability from the NSDB?

Who and what organisation will ensure the new national standards are complied with? A commitment to a strong foothold of local authorities raising the threshold higher than that proposed within the new National SEND Standards.

Will the NSDB include themselves within the proposed 'well-designed feedback loop' processes?

There is currently no information on who co-produces and on whose terms. Clarity and specificity are required on the aforementioned and unambiguous freedom to dissent, thus ensuring the implementation of this part of the standards is not disconnected from the local partnerships, societal views and expectations.

If we are to make much-needed improvements truly and successfully, vague intentions must be replaced with a critical review of failures. The DfE is aware that 'the 2014 reforms were very poorly implemented due to the insufficient attention paid to effective implementation'. Since the same leaders that

executed the 2014 review are yet to profess accountability for those failures and have written the 2022 Green Paper, we must learn from our mistakes. This also includes the mounting evidence that there is an unbalanced proportion of local discretion. These failures should be factored into the NSDB's implementation plan and new National Standards to ensure a meaningful change, in addition to learning from best practices.

Finally, robust evaluations by DfE's Regions Group that monitor local implementation are required to triangulate operations and feedback loops.

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?

Q20:

Improvements are difficult to make or plan if the problems are not intimately understood. Therefore I list the issues alongside potential actions for improvement.

Standards of provision and quality first teaching in schools need to be improved significantly in order to meet the required benefit of the most vulnerable children in our society.

Families face certain institutional barriers in as much as schools are middle-class institutions with their own values to which all must conform, making communication, engagement and general participation challenging.

I believe one of the main issues is that the duty of reasonable adjustments by 'best endeavours' is not currently enforceable (except by judicial review by someone with the appropriate standing) and therefore remains grossly insufficient. Parents who have no interest in resolving disputes with litigation find themselves without an alternative but to apply for an EHCNA as a route to enforcing these said duties.

The sharp rise in tribunal appeals indicates that schools are not using the proposed 'engagement model, effectively if at all, as the assessment tool to help schools to meet their duties in supporting children with SEN; Equally, it also indicates that local authorities simply ignore the legal test that they must apply for an EHCNA and routinely add unlawful and in most cases unachievable criteria over and above this legal test. This additional criterion has no basis in law and should be rebutted to restore its purpose as intended.

Although it is recognised that schools are faced with difficult decisions with the rising cost attached to SEN and overstretched budgets, all too often schools attempt to resolve their budget deficits by reducing their spending on SEND. Parents are forced to appeal by litigations because schools are denying their child's SEN difficulties and refusing to request EHCNA for their child in an attempt to save money.

An enforceable duty to meet the needs of SEND children and young students by schools is much needed and long overdue, along with better training for a deeper understanding and awareness of SEND and equality law. Current teacher training only has a general SEND awareness that often contributes to the failure to make reasonable adjustments due to the lack of understanding and appreciation of the real-life ramifications experienced by families by those failures. This approach is required to ensure that schools ensure they are compliant with legislation and most importantly the SEND needs of children and young people are adequately met.

If more SEN needs could be met by school or the educational settings, this will reduce the issuance and request for EHCP by ultimately reducing their need because standards have been improved and driven up at school level. In turn, this approach will collectively save significant money for local authorities.

Also, rather than initiating a mandatory step of mediation prior to the tribunal, consolidation of the law in one place can help the speed and quality of service. Particularly when the outcomes of mediation are not binding.

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

Q30:

An in-depth consideration of previous failures and the development of mechanisms to ensure they are avoided.

Review of better training in all sectors of SEND to accommodate change.

Collaboratively develop a workable and legally compliant template by the DfE and all those involved in SEND legal system, coproduced by parent/carers.

To work with a broad range of parent/carers to ensure all family's views are captured.

To work with young people in a way that ensures a good level of understanding and knowledge of how these changes work for them.

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

Q22:

We recognise that English law is based on an adversarial system. However, this should not be the case when it comes to providing a service for vulnerable families, yet this is the way it is invariably approached by local authorities, putting the families themselves in a position of inequality of power.

Focus 'delivering better value in SEND'. Stated in various sections, and while we realise this is a big part of the drive to reform, should it be quite so overtly stated when it is obvious from some of the proposals that this is the prime aim over and above a better service for SEND families?

General consultation questions and paper in itself is not created in the spirit of Co-production. It is not in plain language, and the questions are not targeted at the end user.

The funding referred to is not new funding but would be moved from another area.

Enquiries