

## **Education Committee: Special Educational Needs and Disabilities Inquiry**

### **Response of the Association of School and College Leaders**

1. The Association of School and College Leaders (ASCL) represents over 19,000 senior leaders in state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL believes that the Children and Families Act and the SEND Code of Practice (CoP) were born out of positive and aspirational intentions. However, our members tell us that implementation of the CoP has been under resourced. This, alongside real term cuts to school funding, the unintended consequences of some of the changes to school accountability measures and a fragmented education system has led to many of the aspirations of the CoP not being realised.

#### **Assessment of and support for children and young people with SEND**

3. ASCL believes SEND should be at the heart of school leadership. It is not just the preserve of the SENCO. We encourage all schools to be inclusive and to take a whole school approach to inclusion and SEND, believing that every teacher is a teacher of SEND and every leader is a leader of SEND.
4. ASCL considers the role of SENCOs to be strategic including a whole school improvement role which informs curriculum and assessment across the school and ensures all learners get appropriate support. The SENCO workload must therefore be manageable and schools well enough resourced to provide sufficient teaching expertise and adequate administrative support.
5. Local authorities used to provide valuable support but most no longer have either expertise or capacity. This is particularly acute in smaller settings and can create increased pressure on mainstream schools leading to more children in, often costly, special settings.
6. Not all SEND is about low cognition and much SEND is 'invisible'. SEND assessment and support should essentially be about ensuring the needs of all learners are met and that teachers and other staff to know the learning needs of each child. This approach is important as more children are starting school with complex and varied learning needs. The CoP definition places too much focus on academic attainment, which can mean that some learners with SEND who are coping academically are not given the support they require. There is also a risk that some children, for example those with high functioning autistic spectrum disorder, may be overlooked until they hit a critical point. ASCL would like the definition of SEND to be reviewed to ensure

all children with needs in the four CoP areas experience early identification and support.

7. To achieve the objectives given above, greater investment in the development and delivery of SEND CPDL is required. An essential focus of the training should be ensuring that all teachers have the necessary knowledge and key skills to enable them to work confidently with SEND pupils.
8. For some trainee teachers a SEND specific pathway may be appropriate but a sound knowledge and understanding of SEND must be a central part of every trainees' initial teacher education. Training must deliver both knowledge and an approach which enables teachers to understand and meet the individual needs of different learners.
9. ASCL would like judgements regarding who qualifies for an EHCP to be through a school led system which empowers, facilitates and funds schools to make decisions about EHCPs in the best interests of learners. Identifying learners at SEN support level is made by teacher assessment and as we have indicated above teachers need sufficient training and support to make these judgements.
10. Information from our members indicates that both SEND assessment and support varies widely across the country. There is a lack of consistency around thresholds, funding and delivery of support. The fragmented nature of provision and identification and implementation which varies from local authority to local authority is an area of concern.
11. Members tell us that there is a lack of joined up strategic leadership and a failure to apply strong joint commissioning. Some areas have successful practices but this is not consistently seen around the country. The Ofsted/CQC Local Area SEND inspections have highlighted inconsistent availability and quality of SEND provision across England.
12. ASCL would like local authorities to work with all local schools to take a more strategic approach to the way SEND is assessed and to operate in partnership to jointly commission the support needed for students. In 'media speak' there is currently a 'postcode lottery' related to SEND assessment and support. The government should outline how they plan to remedy this.
13. ASCL supports collaborative working between local authorities and schools and would encourage and support innovation in the ways local areas allocate funding to maximise the benefits for students.
14. We question whether it is always in the best interests of learners for an educational psychologist to be the gatekeeper for who qualifies for an EHCP particularly when there are insufficient educational psychologists in many parts of the country. One head teacher said "In our area waiting times for students to be assessed by the education psychologist are upwards of 6 months. This has driven private enterprise with educationalist psychologists freelancing and charging much higher fees."
15. ASCL believes that it is imperative that a definitive set of benchmarking tests is established. Many conditions such as dyslexia or autistic spectrum disorders have a multitude of tests which different experts and different local authorities rely on. Members tell us this can be unhelpful and create inconsistencies around the assessment of needs and hence the support and funding for learners.

16. The association believes that, when designing the national curriculum, school accountability, assessment and qualifications, government has failed to fully consider the evidence and pedagogy around inclusion and what works for children and young people with SEND. This has led to unintended negative consequences for some children with SEND.
17. For several years ASCL has been calling for an accountability system that supports inclusive practices and rewards ethical leadership behaviours. At present this is not the case. In many ways the accountability system pulls in the opposite direction and incentivises unethical behaviour. For example, government curriculum reform, in particular the EBacc, has led to some schools restricting subject choice at GCSE often to the detriment of learners with SEND. This, when coupled with real term funding cuts, has also reduced opportunities for SEND students to develop essential life skills through the curriculum.
18. Further the recent reforms to GCSE and other Level 2 qualifications and the impact of these moving to 100% external assessment through terminal examinations inherently disadvantage a large proportion of learners with SEND. The reforms could, we believe, have had a better equalities impact assessment. We would like to see a suite of vocational and academic courses specifically designed for students with SEND. Greater flexibility in the way we examine children could make the system work for all rather than potentially discriminating against certain learners.
19. At primary level we are concerned about the intense focus on Key Stage 2 SATs which creates huge pressure on all children particularly those with SEND. There is evidence of their curriculum being distorted and narrowed through an increased focus on English and maths.
20. However, many primary and secondary schools and colleges are doing their best to preserve a broad curriculum for their students despite performance measures and funding pressures which are working in the opposite direction. ASCL would like to see a clear commitment from government that all students including those with SEND are entitled to a broad and balanced curriculum, and an appropriate range of extra-curricular opportunities.
21. Members are concerned that the relationship between SEND and mental health difficulties is not widely understood. Members tell us too often children with SEMH are not recognised. Training staff to gain a better understanding of SEMH would help.
22. We know that a disproportionately high number of children with SEND are excluded. Information from members would indicate that policies such as a 'zero tolerance' or 'super strict approach' to behaviour often lead to a rise in exclusions and impact more on children with SEND. It would be useful to see if this information would be validated in a full research study. See our response to the recent School Exclusions Review<sup>1</sup>.

### **The transition from statements of special educational needs and Learning Disability Assessments to Education, Health and Care Plans**

23. We understand that while over 90% statements have now been transferred in some cases EHCPs lack sufficient detail and have been rushed simply to meet the deadline.

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<sup>1</sup> [https://www.ascl.org.uk/policy/consultation-responses\\_news-detail.school-exclusions-review.html](https://www.ascl.org.uk/policy/consultation-responses_news-detail.school-exclusions-review.html)

24. Members also tell us that there are cases of children with EHCPs being placed in unsuitable alternative provision, often for several months, until a place at a special school becomes available.
25. ASCL would like the government to commission research into the impact of removing “BESD” as a SEND category. In particular we would like to understand how this may have contributed to rising rates of exclusions across the school system and particularly in areas where there have been lower numbers of learners designated as SEMH.
26. Members tell us a major issue is the transition at 16 when individual experiences can vary widely. When students reach the end of Y11 the “contracts” for supporting learners with SEND are effectively put out to tender. One head teacher said “In our area the legacy company from Connexions got the contract so they attend the final review for Y11 students and then support the student as they transition. Their knowledge of the learners is not secure and this would be better supported by the schools or settings where the students are, rather than being put out to a third party.”
27. What happens to funding at transition at 16 is critical here. One head teacher said “The EHCP transition work unfortunately is wrapped up with funding to support students at risk of NEET. I would argue that these are two hugely different skill sets and demands but normally sit with the same person who are assigned to particular schools.”

#### **The level and distribution of funding for SEND provision.**

28. There are 1.2 million children and young people in the education system with SEND, 14.4% of the pupil population. There are also large numbers of children who may not have SEND but are vulnerable for other reasons and need additional support. The simple fact is local authorities do not have sufficient resources to consistently provide high quality appropriate support for all learners who need it. They need additional funding to ensure they have the capacity and capability to do so.
29. It is imperative that government addresses the national inconsistency regarding availability and cost of provision.
30. Government spending on education has failed to keep pace with rising costs and £2.8bn has been cut from school budgets since 2015. These real term reductions to overall school funding are central to any discussion about schools and particularly significant in terms of SEND<sup>2</sup>. In a recent ASCL survey<sup>3</sup> more than half (56%) of school business leaders indicate that cost savings have resulted in reduced individual support for students over the past 12 months, and over the next 12 months this rises to 65%. 23% say funding pressures have resulted in reduced mental health support over the past 12 months rising to 32% over the next 12 months. This pattern is replicated for enrichment activities and curriculum options, with more school business leaders expecting reduced provision over the year ahead than over the past 12 months. The findings reflect widespread cutbacks in staffing levels many of which will impact on SEND provision, for example 77% said support staff had been reduced over the past 12 months with further staffing cutbacks planned over the next year.

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<sup>2</sup> [https://www.ascl.org.uk/news-and-views/news\\_news-detail.schools-forced-to-cut-teachers-and-teaching-assistants-posts-to-make-ends-meet.html](https://www.ascl.org.uk/news-and-views/news_news-detail.schools-forced-to-cut-teachers-and-teaching-assistants-posts-to-make-ends-meet.html)

<sup>3</sup> [https://www.ascl.org.uk/news-and-views/news\\_news-detail.impact-of-school-funding-crisis-is-set-to-deepen.html](https://www.ascl.org.uk/news-and-views/news_news-detail.impact-of-school-funding-crisis-is-set-to-deepen.html)

31. We note that the success rate for SEND tribunals is very high which leads us to believe some local authorities are making decisions about whether children qualify for an EHCP on the basis of resource availability rather than needs of the child and is evidence that funding limitations are stopping children accessing the support they need.
32. In addition pressure on the High Needs block has risen and is increasing because it, rightly, must deliver support for children and young people up to the age of 25.
33. The Department for Education must prioritise sufficient funding for high needs to meet current demand. Members tell us that their LA often has no option but to subsidise the high needs block from the designated schools grant. The simple fact is that neither the high needs block nor the designated schools grant is sufficient. We have been told of School Forums that have directed thresholds for EHCP support to be raised to protect the High Needs block. Members tell us such decisions are on record, for example in Cumbria.
34. Top-up funding (the funding required over and above the core or place funding an institution receives) is at risk as the demands on the block increase and this is creating a perverse incentive on mainstream schools not to be inclusive in admissions. There is also then pressure to exclude learners for whom they do not have sufficient resources to properly support.
35. Local authorities have limited flexibility to move funds out of the schools block to meet demand and previous overspends. With agreement a school can move 0.5% schools block and must get approval from the Secretary of State for Education to move amounts greater than 0.5%. ASCL is aware of 27 local authorities that have appealed to the Secretary of State to make transfers greater than 0.5%. 12 of such requests have been rejected.
36. The Department for Education must look to develop a framework for consistency around the country both in terms of quality of provision and cost. At present there is a lack of coherence around joined up commissioning and funding allocations with no parity from area to area.
37. Special schools need to have the same entitlement to support as mainstream schools and comments at a recent meeting of the Special Teaching School Network indicate that too many schools, both mainstream and special still work in isolation. The network has the ability to support other schools which have specific issues provided these issues are identified and shared.
38. This meeting also noted that many mainstream schools continue to be unaware of the advice and support that they can get from colleagues in special schools. Funding methodologies need to be in place to encourage as much cooperation as possible between the sectors.
39. Members tell us in particular there is huge variation on the cost and services provided by private providers. Naming a school in an EHCP is not always the best use of limited resources. We understand why parents are often keen to seek named provision but it can mean large amounts of public money being paid to private providers when other providers may be able to offer a less expensive but equally good alternative.

40. PRUs and APs are cutting staff due to budget cuts while taking on more pupils due to an increase in exclusions. Many APs, particularly in rural areas, is close to breaking point.
41. Resources to support pupils with “SEMH” are inadequate and the timeframe for implementation of the Mental Health Green Paper is too elongated. Pupils with mental health conditions need support now.

### **The roles of and co-operation between education, health and social care sectors**

42. We welcomed the move from statements to EHCPs anticipating that it would create shared responsibilities from education, health and social care departments for children who needed support. These shared responsibilities are not always seen in practice.
43. Key factors that impact on the success or otherwise of EHCPs include what the relationships are like between schools and colleges, and health and social care departments and who makes the funding decisions.
44. Local authority boundaries often do not align with areas represented by CCGs and despite guidance to the contrary Health and Wellbeing Boards do not always include representation from education. The terminology used by Education and Health is often different and communication between the sectors not always good. It would be good to have schools and colleges more directly involved in commissioning local services.
45. The Ofsted and CQC Local Area SEND inspections clearly report that many local authorities are unable to deliver the statutory responsibilities in the CoP and LGA has indicated that large numbers of local authorities have insufficient funds to fulfil their statutory duties.
46. In some cases, we understand that local authorities have adopted policies that do not align with the CoP and put in place artificial barriers to ration EHCPs and access to specialist provision - many of which have been successfully challenged at tribunal.

### **Provision for 19-25-year olds including support for independent living; transition to adult services; and access to education, apprenticeships and work**

47. Only 6% of adults with a learning disability known to their local authority in England are in paid work<sup>4</sup>. Our members are concerned about what their most vulnerable learners will be doing at age 25.
48. While we welcome the fact that the CoP extends EHCPs to 25 this can simply be delaying the age at which young people experience significant difficulties unless more is done to support them as current indications are that the majority will become NEET.
49. We would like to see more supported internships and study programmes for young people with SEND. The Careers Benchmarks make no mention of SEND and there is no reference for example, to ensuring providers explore supported internships with students.

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<sup>4</sup> <https://www.mencap.org.uk/learning-disability-explained/research-and-statistics/employment>

## **Conclusion**

50. We hope this has been on assistance and are very happy to expand on this evidence and answer any further questions you may have.

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