



January 2020

## **f40's submission to Government review on SEND**

The f40 campaign group was launched more than 20 years ago with the central aim of influencing significant change in the way Government allocates funding to local authorities and schools. The group is made up of 42 local authorities who are among the lowest funded for education in England.

f40 seeks fairness and equal opportunities in education for all children, regardless of where they live, and wishes to see schools properly funded and equipped to enable them to provide a quality education. The per pupil funding should be enough to actually run a school, before extra monies for deprivation etc are added on.

Currently, there are too many discrepancies in the way funding is distributed, with some schools receiving substantially more per pupil than others. The historical proxy factors and add-ons that some schools receive need to be abolished to make the funding of education fair. We appreciate that additional funds should be paid for deprivation and realistic area costs, but the base funding for every school should be the same.

This also applies to SEND funding, which remains woefully insufficient to meet the growing demand, and is also unfairly distributed across the country.

Many local authorities have deficit SEND budgets and schools are simply unable to cope with the demands placed upon them, both financially and in terms of specialist care required. As budgets in health, mental health and social care are also under strain, schools are having to provide so much more than education.

f40 believes the whole SEND system needs major reform, but it must be considered holistically as changes to one area could impact adversely on another. It is extremely complex, so full consultation with local authorities, schools and specialist providers is required to ensure all issues are raised.

### **SEND reform**

f40 believes the current SEND system is broken and needs major change and investment in order to meet growing demand and assist the most vulnerable children in our country, many of whom have very complex, challenging needs that require a variety of additional support.

In short, steps need to be taken to:

- Increase SEND budget by £2.4bn between now and 2023 and fund current deficits
- Provide clarity and guidance on how notional SEND funding is spent by schools
- Reduce demand for EHC plans
- Place greater emphasis on early intervention
- Introduce expected levels of SEND support in Mainstream schools
- Strengthen and amend the Code of Practice and Tribunal system
- Ensure every teacher receives training in SEND and managing challenging behaviour

### **SEND funding**

**1** f40 believes major changes are required to the structure of the SEND system, but central to this is that funding in the High Needs Block needs to substantially increase. We believe £2.4bn additional funding is required in special needs education by 2023, and extra funding should be available to assist local authorities with current deficits.

**2** f40 supports a full Government SEND activity-led costing exercise, based on the current situation and not historical data, as the landscape has changed significantly since 2014.

**3** The current funding structure is complex and very confusing. We believe it needs to be standardised with guidance introduced to specify what percentage of the formula values should be applied to notional SEND funding. Notional funding should also be reformed to support small/rural/coastal schools.

**4** Guidance should be given to schools on how SEND budgets are spent and how much investment they should be making in terms of intervention programmes – when issues first arise.

**5** Consideration needs to be given to the £6k threshold and whether it should be increased or removed, however, the repercussions of that need to be thought through. Some believe that unless the demand for EHCPs comes down, increasing the threshold is not workable and will lead to more schools choosing to ignore a child's special needs purely because they cannot afford to pay the £6k threshold. Compensation controls would need to be considered to mitigate against this.

**6** Any shortfall in SEND funding should be topped up by Government, with the Department for Education meeting the current deficits in local authority budgets.

**7** When looking at funding, pressures on SEND-related services that fall outside of the HNB need to be taken into account, such as Educational Psychology Services, Home to School Transport, and EHE, CME and CMN education.

### **EHCPs v early intervention**

Since EHCPs were introduced in 2014, the demand for SEND support has far exceeded original expectations and is no longer workable. The number of EHCPs is increasing year on year, with many parents believing they are the route to additional funding to support their children, and that they pave the way for places at specialist SEND schools.

**1** Schools should be given a definition of what Ordinary Available Provision is along with what level of need there must be before a school/parent can apply for an EHCP. Currently each school and local authority is drawing their own conclusions.

**2** Schools also need more guidance on how and when to cease an EHCP.

**3** We believe emphasis should be placed on early intervention, instead of EHCPs, namely:

- Early intervention programmes being available to schools when issues / concerns first arise
- A requirement that two cycles of SEND intervention be carried out before statutory assessment

### **Code of Practice and tribunals**

**1** We believe the Department for Education needs to review the SEND Code of Practice 2014 to re-focus parental expectations, so they clearly understand what an EHCP is for, emphasising that it doesn't automatically lead to a specialist placement and their 'choice' of specialist school.

Currently, the right of parental 'choice' of provision in the Act is often interpreted by tribunals as a parent's right to choose, when we believe it should be worded as 'parental preference' instead and considered so by tribunals.

**2** In addition, there could be a requirement for the tribunal to consider 'efficient use of resources' in weighing a parent's choice of provision against that offered by the LA – a similar threshold to the 1980 Act and Admissions. Tribunals would need to be trained in the financial funding arrangements to be able to make this judgement.

**3** We would also like to see the revision of the Code of Practice to clarify health responsibilities and funding to support SEND in terms of therapy, monetary contributions towards high cost specialist placements, equipment, specialist nursing in schools, medical assistants in transport etc. Currently, High Needs Block is paying for a significant amount of health-related costs that should be the responsibility of the health, mental health and social care departments.

## **Incentivise inclusion**

The current funding and inspection systems mean there are perverse incentives for schools who exclude children with the most challenging needs and behaviours.

The fact that schools have to pay the first £6k towards the support of a child with SEND does not incentivise them to be inclusive.

Other perverse incentives for schools NOT to include, are:

- Poor general SEND budgets
- Lack of accountability
- Poor guidelines on what provision they should be offering
- League tables that focus on their academic outcomes
- Progress 8 focusing on academic achievement
- Ofsted inspections being heavily weighted towards academic progress and behaviour

Understandably, schools believe they will be judged unfairly if they include SEND pupils and will fare better with Ofsted, league tables and Progress 8 if they only retain pupils with fewer challenges and who 'perform' better.

**1** Government should place greater emphasis on schools being inclusive of SEND and should operate a carrot and stick system to reward and penalise accordingly.

**2** f40 believes that if a child is capable of remaining in a mainstream school, then measures should be put in place to enable them to do so.

**3** The Department for Education should impose clear minimum standards for the support every mainstream school should be providing to children with SEND. In order to recoup the full SEND funding available, they must meet those standards or risk losing part of their funding.

**4** The current system means it can be cheaper to pass the cost of an EHCP or a permanent exclusion onto the local authority High Needs Block, without any recourse on a school's budget. We need a system where being more inclusive to SEND pupils is the cheaper option and which does not result in the school being judged unfairly during inspection.

**5** SEND progress outcomes should be properly measured.

**6** Ofsted framework reformed further to enable greater scrutiny of SEND support.

**7** Progress 8 should include a less academic focus when measuring success and outcomes.

**8** Greater powers should be given to LAs relating to admissions, exclusions, off-rolling, part-time timetables and home education to enable children to continue with their education rapidly – not waiting for decisions that can take months.

**9** Zero tolerance policies for behaviour should be made illegal (or addressed in Ofsted inspection frameworks).

## **Accountability**

**1** In order to standardise SEND provision and encourage inclusivity, ALL schools, including maintained, Independent and Non-Maintained Schools (INMS) and academies, should be subjected to the same agreed minimum levels of support for SEND pupils, and inspections. Those that fail to adhere to the minimum standards of support should be held accountable and be penalised.

**2** INMS should also be held to account for the additional 'add-on' services they provide and the effectiveness of them to each child. Saying services and add-on therapies are 'beneficial' does not mean they are required in the development of a child.

The current system, with parents given the opportunity to 'choose' the school they would like for their child, means the more independent schools spend on additional, add-on therapies and services, the more parents are likely to choose them – and the more likely they are to win at tribunal. This makes normal commissioning impossible for local authorities.

**3** Health has a part to play in how it describes a child's needs too. Something being beneficial is not the same as necessary.

**4** INMS should also be required to operate using a local funding formula, with anything else they offer being funded from charity collection.

**5** To this end, f40 would support a review of the position of INMS within the system.

**6** We would also support an introduction of the LA right of 'direction' for academies who refuse to admit children with SEND, when the LA is of the view that need can be met. We don't believe this decision should sit with the Secretary of State, as it does at present, as it leaves young people in limbo with interrupted education for far too long.

### **Post 19 SEND funding**

**1** Post 19 provision should be properly funded and should focus more on preparation for adulthood and employment skills, rather than just education. In many cases, people with SEND remain in education until age 25 purely because it is the only option available, rather than the most suitable. Whilst we accept that remaining in education to 25, or other programmes, is appropriate for many young people, the financial burden must be recognised and it requires additional funding.

**2** Clear pathways should be considered for children from Year 9 onwards, ensuring continued school placements post 16-19 are appropriate.

**3** Greater clarity should be given around what constitutes education provision in terms of Post 16, for example joint funded programmes.

### **Capital funding and expanding the provision of SEND places**

The impact of the increase in EHC Plans and decreasing confidence of parents/carers in mainstream schools is that they are increasingly preferencing specialist placements, including at INMS, which can be 2-3 times higher than a maintained or academy special school.

**1** We believe there should be realistic investment directly to local authorities to enable them to build and extend its specialist estate, without dependency on academisation or Free School status – through the opening of new maintained special schools or the creation of satellites from existing maintained and academy special schools.

**2** Changes to regulations that enable local authorities to open new special schools – without them being Free schools. The current system means plans to open new schools are protracted and very slow to come to fruition.

### **Teacher training and shared knowledge**

**1** F40 believes every teacher should be given full training in educating children with SEN and behavioural challenges. If this were to happen, mainstream schools would be better equipped to keep SEND pupils on their roll.

**2** Knowledge held by specialists in the SEND field from independent and non-maintained schools should be better shared among mainstream schools and teachers.

**Ends**