



July 22, 2022

SEND Review Green Paper: Right Support, Right Place, Right Time

f40's submission

Question1: 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 the standards apply across education, health, and care in a 0-25 system.

A1. f40 agrees with the implementation of national standards to ensure children and young people are supported well. They will ensure consistency but must also provide guidance and clarity to schools and local authorities on what ordinarily available provision should be delivered.

Local authorities and schools should report how they are delivering against these standards and ensuring compliance. This will boost parental confidence in mainstream settings, reducing the reliance on expensive, independent specialist provision.

However, national standards won't be delivered or met without significant extra funding, and fairness in SEND funding across England. The National Funding Formula must be changed to ensure it supports inclusion in mainstream and is connected to SEND and the proposals within this Green Paper.

Ofsted must alter its focus so schools are encouraged to be more inclusive. At present, the high stakes accountability that exists in all maintained schools, further driven by league tables, doesn't support inclusivity. The focus by Ofsted on GCSE results, which many children with SEND cannot meet, means schools aren't encouraged to be inclusive.

New standards could also help to redress the current imbalance in tribunal outcomes. Cases should be benchmarked against these standards, which may reduce the number of disputes taken to court.

There needs to be a full new burdens assessment, not only from the changes but also rising demands, to include both High Needs and LA costs.

Statutory expectations on all partners needs to be clear, and difficulties around recruitment and retention resolved.

Question 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?

A2. f40 agrees with the proposed implementation of local SEND partnerships. However, they must ensure clear statutory accountabilities and set out the shared responsibility for each partner across the local area so that children and young people's needs are met.

Our concern to date is that health and support partners involved in EHCPs have not been as involved as much as we believe they should have been. This has resulted in most of the responsibility lying with schools and costs met from the High Needs Block.

SEND Partnerships should have strategic, corporate, and political oversight with investment and resource to match local demographics and demand.

And for the partnership to work effectively, the local area will need to engage and influence stakeholders effectively. It is unclear from the proposals how this will be effective within a school system that is still undergoing significant structural and governance changes.

Clarity is needed about how the regional directorate will engage with local partnerships and how the future direction of MATs and the White Paper will enable effective partnerships. Local Authorities have limited leverage in the current school system.

Multi-agency panels are welcomed and would be increasingly effective at an early intervention level (non-statutory) to provide guidance and/or support to avoid the request for an EHCP and to meet the needs of children where SEND is not identified or misidentified. They will also support increased parental confidence in decision-making.

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

A3. f40 agrees with the principle of commissioning across boundaries as not all services for complex needs can be provided within the local area. However, greater clarity is required on the development of local, regional, and national shared education, health, and social care provision. We believe the current market is fundamentally broken and improvements to commissioning arrangements could improve the effectiveness and value for money of provision, ensuring the right support is provided, according to the new national standards.

A national set of tariffs could rebalance the market ensuring better value for money.

Currently, local authorities do not have sufficient High Needs budgets to cater to the needs of all children, so for them to successfully commission the right support, they must be given significantly more funding.

f40 would also like to see the tribunal process reviewed as currently the process has too little regard for the professionals' assessment of what is required. We believe the right level of provision should be provided, but often parents request support beyond what is needed to achieve the outcomes set out in the EHCP?

If we reduce the frequency of tribunals, saving on legal costs, it would enable local authorities to spend more on support.

We believe the pooling of resources by LAs can work effectively if there are clear frameworks and understanding between local authorities, such as with regard the use of special school places. Currently, areas that build sufficient provision can be impacted by other areas using those spaces without redress.

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

A4. f40 agrees that EHCPs should be reviewed, amended, and digitalised.

There should be clarity and definition of what health and social care providers should be contributing to EHCPs, with clear accountabilities and responsibilities to both the provision and financing of support. We would like to see a greater commitment to EHCPs by all

partners, with greater input and engagement throughout the duration of EHCPs, including at annual review meetings.

The timeframe of providing support to schools for children with EHCPs must also be reduced. Currently, on average, children are a third of their way through their infant school education before the school is provided with any additional funding to pay for any special needs support.

Again, sufficiency of funding will be a major factor in ensuring EHCPs are standardised and digitised. Currently, there is insufficient funding to cater to the increasing number of EHCPs. And, in order for the health sector to meet their obligations with regards EHCPs, it will require significant additional funding and staff. We believe a major factor in the health sector failing to engage properly in the EHCP process is down to lack of resources and available expertise.

Funding will be needed to enable the change to digitisation. If LAs are having to redirect SEND resources to digitisation, they cannot do it without detriment to current children.

Question 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?

A5. f40 has some concerns about this section of the Green Paper.

We believe that if it's been agreed that mainstream education can meet the needs of a child, benchmarking and national standards should ensure that every local mainstream school in the area is equally suitable to cater to their needs and should be eligible. Therefore, there should be no need for a tailored list and parents should be able to select with confidence any local school.

There is no mention in this section of what will be reasonable or unreasonable to include in a list of possible provision. For example, distance to the school from the child's home, transport costs, whether the school is over-subscribed, and whether it is considered an efficient use of resources. All of these things should be factors.

We believe where mainstream can meet the needs of a child, there should be a radius placed around eligible schools, limiting long journeys, which are detrimental to the child and incur expensive travel costs. It will still give a choice, if that is what's desired, but ensures the choice is reasonable.

Schools that are full should be removed from the equation if other schools are available.

If the paper is aspiring for an inclusive system, we must get the messaging right, explaining to parents that all mainstream schools are funded through the NFF and resourced to provide an inclusive education for all. Once national standards are introduced, all schools should be delivering the same level of support, anyway.

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

- Disagree

A6. f40 agrees there is a need to strengthen early redress, however, unless it is carried out in a serious, meaningful way, it will lead to even greater problems. We believe we cannot strengthen the current system without significant additional funding and significant additional human resources, neither of which are mentioned in the Green Paper.

We believe redress can be strengthened, with the help of new national standards and mandatory mediation, but not with the resources we currently have in the system.

At present there are insufficient people to fill the current number of vacancies, let alone the additional posts required to meet growing needs or indeed, the aspirations set out in the Green Paper. People are leaving the health and education sectors to take up better paid jobs in other industries. In order to strengthen the system, we will need even more qualified, experienced people.

Additional funding is required to train people in these additional posts, including in the SEND process. Salaries must be competitive.

We also believe the system around tribunals should be changed so that it is viewed as a last resort in settling disputes, rather than the first and chosen option.

Currently, outcomes are so heavily weighted in favour of parents and carers. Tribunal is costly and should be the final option, but it should also be a fair and balanced decision-making process. If the unbalanced outcomes at tribunal continue, mediation will only be another step in the process before going to tribunal.

Question 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?

- Agreed not to answer

Question 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?

A8. f40 agrees that Early Years should be a key priority and, in principle, welcomes the proposals.

However, while we appreciate the pressures in the health sector, we believe it is best placed to deliver two-year-old progress checks of children. It has the qualified and experienced staff to carry out these checks, rather than responsibility falling with the education sector. It may be practical for some Early Years providers to feed into the process, but they should not be responsible for the checks in their entirety. Passing this responsibility to education widens the distance between health and their knowledge and financial planning for children with possible health needs in the future.

Again, f40 has major concerns around the sustainability of the Early Years sector and believes additional funding is required to ensure the future of many providers, who are on the verge of financial collapse.

Early Years is vital in laying the foundations to children in their formative years, helping them to reach their milestones and achieve their potential throughout their school life. Covid has had a negative impact on the developmental progress of some young children, who are behind in speech and language and social skills, so we believe additional funding is required to support these children to make progress. We would like to see more emphasis on the importance of Early Years, reinforcing the vital role high quality early years provision plays.

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

- Disagree

A9. In many respects, f40 believes this is a change for change-sake.

We agree that the role of a SENCo is essential within a school system, but we believe the majority of SENCos are already well-trained and do a good job. We are not convinced introducing a new mandatory SENCo NPQ to replace the NASENCo will actually achieve anything or lead to a better outcome for pupils with SEND.

How inclusive schools are of SEND is not solely down to how well trained the SENCo is. Quite often, it is the ethos of the leadership and the rest of the teaching staff who need training on how to ensure mainstream schools are inclusive. We wish for greater ambition in these proposals to ensure all teachers feel equipped to best support pupils with SEN and believe SEND training should be part of the initial training for all teachers. This should provide better outcomes for pupils and improve inclusiveness in schools as they feel more confident in being able to meet need.

We don't think there is enough information in the Green Paper about the replacement qualifications for us to agree and support the proposals. And while it may well prove to be a better qualification, we do not feel it will actually change anything in the SEND system. It could merely end up being a costly distraction that achieves little in the long-term.

Question 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?

- Disagree

A10. It is already a statutory requirement that training should be undertaken within three years of a teacher taking on the role of SENCo. Most SENCos are already trained, so we do not believe this will change anything in schools or make them more inclusive.

This is unnecessary and would be change for change-sake.

Confirming that someone is undertaking a qualification does not provide any view of quality/impact of the role. It's important to recognise the value of experience, alongside training and professional development.

We believe the role of SENCo could be raised by the DfE, making it a long-term specialist career path with management responsibilities as part of the Senior Leadership Team of the school.

Question 11: To what extent do you agree or disagree that both specialist and mixed MATs should 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

A11. While we can see the positives in allowing specialist and mixed MATs to coexist in a fully trust-led future, as they could share resources, experience, and knowledge, we do have some concerns that it could also lead to a risk of collusion and could prove to be a perverse incentive for mixed schools in the MAT not to be inclusive. There is also little information in this Green Paper.

We believe measures should be put in place to ensure mixed schools meet inclusivity benchmarks and do not offload their SEND pupils to specialist schools within the MAT.

f40 agrees with investing in new school places and improving provision, but its view on MATs is dependent on the quality of the MAT and the outcomes for children. We also have concerns around the fairness of funding between schools within a MAT as they are free to distribute budgets between the schools, however, they choose.

We believe the main driver for a school joining a trust should be that it expects to improve the quality of education to children, and that it feels a strong affiliation with the vision and values of the MAT. We agree that placing restrictions on which trust a particular type of school can join would limit this decision-making process.

We welcome the investment of new funding for specialist provision. However, the way funding is distributed disadvantages those local areas that have already invested in specialist provision. Funding should be applied proportionately to an area's needs.

Question 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?

A12. f40 agrees with a focus on transitions, the quality of post 16 provision and skill set of the workforce in FE, alongside the development of essential careers guidance and Internships.

However, further investment in transitions is required to ensure these changes are successful and have lasting impacts for young people. The major investment required is not supported in this Green Paper and without it, we fear there will be little change in Post 16 provision.

As EHCP numbers have continued to rise in the mainstream, we are seeing a significant rise in the need for effective 16-25 provision. Changes in the Code of Practice 2014, which led to the responsibility for young people with SEND being extended to age 25, were not funded sufficiently. This now needs to be addressed.

It would also be useful to consider what National Standards for this provision should look like, so that we can help manage and set expectations for families.

Question 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

A13. f40 is unclear what the recognised definition of alternative provision is in the Green Paper. We need more information before we can support this vision.

Alternative provision has a place in the education sector, but it should not be viewed the same as specialist schools and children should not be placed in alternative provision purely because there is nowhere else for them to go. We need more information on what alternative provision is, the role it can play, and Government's vision of it for the future.

Question 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 reintegration?

A14. In order for any alternative provision to have stability and to be able to future-plan, it must be funded on a three-year rolling budget. f40 believes every aspect of education funding should be made on a three-year rolling programme to enable all schools to budget and have stability.

Local partnerships will need to fully understand all the pressures that are placed on the High Needs Budget when setting the AP budgets. Schools/MATs must be held to account for the use of places to ensure that pupils are not sidelined into AP. This is the LA dilemma at present that is being passed to the local partnership – good idea, but the partnership needs teeth.

AP funding given to providers would also need to be linked to a clear delivery agreement to ensure outcomes are met and value for money has been achieved.

Question 15: To what extent do you agree or disagree that introducing a bespoke alternative provision performance framework, based on these five outcomes, will improve the quality of alternative provision?

- Agreed not to answer

Question 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?

- Agreed not to answer

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

- Agreed not to answer

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

A18. While f40 can see the positives in national bandings in that they will offer national consistency and transparency for schools and parents, we believe they will come at a phenomenal cost, be extremely complex to introduce and will be unworkable.

We would like more information on how a national framework will be funded, considering that current High Needs budgets are insufficient and most local authorities have deficits. How will any increases or decreases at a school level be managed?

Consideration also needs to be given to the fact that some LAs High Needs budgets will differ before any banding applies; there must be a fresh start to the funding formula for the High Needs Block with no historical protections – this is essentially a new system.

However, if they are introduced, the bands should be wider to allow for tailoring to individual needs and thought must be given to where the level of funding is set and how the differences in cost between geographical areas is dealt with.

The level of funding should not be based on average cost across the country as that will disadvantage some and advantage others. This would represent a huge risk.

Developing a national framework for banding and tariffs should consider outcomes, sustainability, and affordability, and research should include all types of provision – including the independent sector.

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

A19. Further detail is needed about the Delivery Board and who will be represented and how this will reach Local Areas, to consider the two-way nature of effective board communication between national and local level.

Membership will need to reflect the school systems and Voluntary and Community Sector to gain credibility in the school system and take account of the impact of the white paper. They will need to have the expertise to challenge correctly.

Further detail is needed on the RSC position within these systems to ensure they are cited and aware of the expectations across the academy sector and how this will impact predicted growth in this sector.

How will this differ/link to regulators for Local Area and how will this impact/change/develop the SEND Inspection framework?

How will this impact/change/develop the schools inspection framework?

Question 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?

A20. While f40 agrees with many of the suggestions, we fear it will have little or no impact without the required additional funding, both for implementation and for ongoing costs.

Most suggestions in this paper will lead to greater burdens for local authorities and schools, yet there is no mention of additional funding either for the High Needs Block or to LAs to support the increasing demands.

Most local authorities have deficit SEND budgets because funding does not match the increasing numbers of children with SEND, or their complexity of need. Children are waiting many months to be assessed and even longer for support, and this will only worsen without extra investment.

The education sector is heading for crisis due to the lack of available people to fill vacant posts in mainstream and specialist provision, and the same is true of pastoral, health, and mental health services.

Many suggestions will rely on additional funding and additional people to deliver the extra services suggested, alongside additional training.

Implementation of any change is also dependent on having sufficient staff to deliver both initially and on an ongoing basis. There are currently insufficient professionals available (including SEN and Ed Psychology staff) to meet increasing demand. Therefore, this should be a key priority before proposing any changes.

Partners must be held to account with regards their responsibilities, and more emphasis must be placed on professional opinion.

Changes must also be made to the redress system, ensuring disputes are settled through recognised benchmarks, rather than tribunal.

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

A.21

- Local political understanding
- Clear communications to parent carers
- Clear communications to schools/EY and FE sectors about system changes to the new national system
- An agreed and shared local delivery plan considering work in progress and local needs
- Development of data sets to match nationally reported data
- Sufficient funding for all areas of funding to provide nationwide equity and meet new and rising demand
- Access to sufficient high-quality staff to meet rising demand and deliver on the proposals set out
- Equitable position in Tribunals and review of appellants' use of independent reports

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

A22. This paper acknowledges the flaws in the current system, which has led to the £1.4b deficit budgets we see today. There are programmes to tackle the deficits, but, while LAs are tackling deficits they cannot readily start to implement new ways of working, whilst still supporting children with ever-increasing demand and complexity. Current deficits are clearly not caused by mismanagement of funds – it is purely down to a lack of funding, yet the Green Paper does not address how this will be managed going forward.

The paper also does not recognise the problems and expense caused by the current SEND system, which gives significant bias to parental choice around provision leading to costly tribunals – with most outcomes weighted towards parents.

f40 believes the opinions of professionals should be given greater prominence, with children provided with what they require, rather than what would be nice for them to have. If parents can continue to demand specialist, expensive independent provision over local authority provision, costs will continue to spiral out of control. Where parents demand independent provision, they should contribute to the cost.

f40 believes national standards would be a welcome step, but only if funded sufficiently and delivered well. They will be worthless unless local authorities and schools are financially able to meet them.

However, additional funding should reflect the need today, rather than historic need – the two are quite different. Thought also needs to be given to how inclusion of complex needs within mainstream education can be delivered and funded.