SEN and disability Green Paper: Support and Aspiration

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Summary
The SEN and disability Green Paper: Support and Aspiration sets out for consultation a wide range of proposals aimed at creating a radically different system to support better life outcomes for the two million children and young people with a special education need or disability.

Overview
The Green Paper sets out for consultation a wide range of proposals aimed at creating a radically different system to support better life outcomes for the two million children and young people with a special education need (SEN) or disability. They are arranged in five chapters: early identification and support; giving parents more control; learning and achieving; preparing for adulthood; and services working together for families.

In line with other Coalition Government reforms, the approach is to simplify processes, reduce bureaucracy, and give more control to parents and more power to frontline professionals and local communities.

Proposals include replacing the present SEN assessment and statement with a new single assessment process leading to an ‘Education, Health and Care Plan’; the option of personal budgets by 2014 for all families with children with a statement of SEN or Education, Health and Care Plan; strengthening parents’ choice of (state-funded) school; introducing greater independence of the assessment process through a possible role for the voluntary and community sector; and improving support for families with children who have the most complex or serious needs.

The Green Paper was informed by a ‘call for views’. It includes a total of 59 specific questions throughout, and the consultation period closes on 30 June 2011 and detailed plans will be published by the end of the year, forming the basis for any legislative changes to be taken forward from May 2012 at the earliest. Meanwhile, some proposals will be tested in local pilot areas from September 2011.
Briefing in full

Introduction

There are around two million children and young people in England identified as having a special educational need (SEN) or disability, and their outcomes are disproportionately poor. They face a wide range of barriers and parents say that the system is bureaucratic, bewildering and adversarial and does not sufficiently reflect the needs of their child and their family circumstances.

The present model for supporting children with SEN was introduced 30 years ago. ‘It is no longer fit for purpose and has not kept pace with wider reforms; it fails children and undermines the effective use of resources, and it does not make the best use of the expertise in the voluntary and community sector.’ The Coalition Government has already put in place public service reform programme for education and health, which will provide the platform for the reforms proposed for children with a disability or SEN – one challenge of which will be to ensure that resources are being used in the most efficient way, investing in a way that enables the best support possible, based on evidence of what works.

The Introduction outlines the vision behind the reforms, described in more detail in the following chapters. It also provides definitions and a lot of contextual information. Key points include the following:

- disabled children and young people and those with SEN are covered by a range of statutory provisions
- school age children are defined as having SEN if they have a significantly greater difficulty in learning than the majority of children of their age which calls for additional or different educational provision to be made for them; in January 2010, 21 per cent of the school population were identified as having SEN
- there are three levels of intervention for pupils with SEN in England:
  - School Action – additional support beyond normal differentiated provision; 11.4% of school population (916,000 pupils)
  - School Action Plus – school consults specialists and requests external support; 6.2% of school population (496,000 pupils)
  - Statement – child requires more support than school can provide, local authority appropriate provision; 2.7% of school population (221,000 pupils)
- there is a parallel system for children under 5; around 25% of statements are made before compulsory school age.
- The post-16 definition of ‘learning difficulties’ is similar to the school age SEN definition; in 2008/09 around 163,000 16-24 learners had a self-declared learning difficulty or disability
- the proportion of pupils identified with SEN varies between local authorities from 11.9% to 33.5%; estimates of the proportion of children with a disability vary, but it is suggested the figure is around six or seven per cent, and that around three quarters of disabled children also have SEN
- the proportion of pupils with statements of SEN has remained fairly stable over time, but the number with SEN without statements has risen from 10% of all pupils in 1995 to 18.2% in 2010 (the 2009 Lamb Inquiry said that SEN can sometimes be ‘unhelpfully collated’ with...
falling behind, and groups such as summer-born children are over-represented in the SEN population.

- Almost all children in special schools have a statement. The number of special schools has decreased from 1,161 in 2002 to 2,054 in 2010, but the proportion of pupils with statements placed in them rose from 40% (89,390 pupils) in 2006 to 44% (90,760) in 2010.
- The majority of pupils with a statement attend mainstream schools: in January 2010, 26% of pupils with a statement were at maintained primary schools, 29% at maintained secondary schools and 38 per cent at maintained special schools, 4% at independent schools, 2% at non-maintained special schools and 0.8% at pupil referral units.
- In 2010, the percentage of pupils with statements placed by local authorities in maintained special schools varied from 7% to 68%; in mainstream schools from 16% to 67%; and in non-maintained independent special schools from 1% to 23% (often reflecting local provision).
- Young people who have previously had a statement are less likely than their peers to be in full time education at 16, and more likely to be in an FE college than school or sixth-form college; in 2009 at age 18, 30% were not in education, employment or training (NEET) compared with 13% of those never categorised as having SEN.
- In 2010, 28% of pupils with SEN were eligible for free school meals compared with 13% of those without SEN; those at School Action Plus are 20 times more likely to be permanently excluded than pupils with no SEN (in 2008/09 64% of all permanently excluded pupils had SEN without a statement, and 8% had a statement of SEN); and looked after children are three and a half times more likely to have SEN compared with all children. 15% of young offenders have statement of SEN compared with 3% of the general population.
- Children and young people with disabilities are less likely to say they are happy, more likely to be worried about being bullied and far less likely to say they have friends than other children and young people (59% compared with 92%).

Two examples are given of research evidence showing potentially avoidable costs: one shows the estimated cost of lost lifetime future earnings as a result of exclusions is around £14,000 at 2005 prices, rising to a total cost to society of one exclusion of £64,000 if wider costs are included (lost earnings plus health, education, crime and social services); the other suggests that if the stress involved in parents caring for disabled children were eradicated a number of preventable costs could be saved amounting to around £5,600 per year per disabled child (made up of lost earnings, sick days, GP visits, school costs for siblings, residential care, foster care and family breakdown costs).

**Early identification and support**

Graham Allen’s review of early intervention (see ‘related briefings’) highlighted the value of intervening as soon as possible, not just for children and their families, but also for wider society. Proposals in this chapter include:

- Ensuring as a priority that all families are offered the health and development review for children aged between 2 and 2½ years, through the planned expansion of health visiting services.
the Department for Education (DfE) and Department for Health (DH) will publish a joint policy statement later this Spring on the early years, setting out proposals for reform; and the Tickell Review of the Early Years Foundation Stage is considering recommendations on the assessment of young children

looking at further support in embedding early language development programmes such as Every child a talker

plans to refocus Sure Start Children’s Centres on delivering proven early intervention programmes to families with the greatest needs

a new single statutory assessment process and ‘Education, Health and Care Plan’, from birth to 25 for children and young people who would currently have a statement or statutory assessment of learning difficulty for further education and skills training. All the services on which the child and their family rely would work together with the family to agree an ‘Education, Health and Care Plan’ which reflects their ambitions, for now and for the future; is clear about who is responsible across education, health and social care for which services; and includes a commitment from all parties to provide their services.

DfE will invite proposals from local areas to explore the best approach to a single assessment process and ‘Education, Health and Care Plan’, including whether the voluntary and community sector could coordinate assessment across the agencies involved, and the cost implications of this change. The paper describes in some detail the issues that the assessment and plan pathfinders will explore until a new system can be introduced, a reduction in the current time limit for the statutory assessment process from 26 to 20 weeks, including a reduction from six weeks to three in the time available to local authorities to decide whether to assess a child and from twelve weeks to nine for the assessment and statement drafting development of a simple, short non-statutory pro-forma which schools and local authorities can use if they wish to for the annual review meeting reports.

Giving parents control

‘Parents should feel well supported through the system with clear information on how it works and who does what, and what the funding is. Parents know their children best and should receive support that works flexibly with their family circumstances. They should have more influence over support for their child through personalised funding, be able to participate in local decisions, have a clear choice of school and access to short breaks from caring. When parents and professionals disagree on the right approach for a child, they should use mediation to resolve disagreements over their support.’ Proposals in this chapter include:

- funding voluntary and community sector organisations to maintain the existing resources of the Early Support programme (for parents with young disabled children), extend them to families of school-age children, and provide free training on key working to a range of professionals
- ensure that local authorities set out a local offer of the support that is available for children with SEN or who are disabled and their families, and from whom – including what additional or different provision schools make
- slim down requirements on schools to publish information so that parents are clear about schools’ approaches to SEN
• ask those local authorities already working with children’s individual budget pilots, and a further wider group of local authorities, to work with schools, colleges, early years settings and health providers to test what other services could be included in a personal budget. The intention is that by 2014 all families with the proposed ‘Education, Health and Care Plan’ would be entitled to a personal budget, including (subject to piloting) funding for education and health as well as social care
• encouraging local authorities to make use of new voluntary and community sector providers in order to increase the range of support available to families with a statement of SEN or ‘Education, Health and Care Plan’
• legislation to ensure that parents of children with a statement of SEN or ‘Education, Health and Care Plan’ have the right to express a preference for any state-funded school
• parents and local authorities should always try mediation before a parent can register an appeal with the Tribunal when they disagree over SEN provision
• the DfE, working with the First-tier Tribunal (SEN and Disability), will pilot in two or three local authorities giving children the right to appeal and make disability discrimination claims with a view to extending the right to all children across England

Learning and achieving

This chapter sets out the approach to ensuring that teachers, lecturers, and school and college leaders have the right training and professional development to identify and meet the needs of disabled children and children with SEN. It describes the importance of special schools in supporting quality in the special education sector and how sharper accountability will be ensured for all pupils’ progress at school to parents, local communities, governors and inspectors. Proposals include:

• additional funding for initial teacher training providers to secure a greater number of placements for trainee teachers in special school settings
• the DfE will work with the Department for Business, Innovation and Skills (BIS) and the Learning and Skills Improvement Service (LSIS) to support the development of SEN and disability training for those teaching in colleges
• scholarships for teachers to develop their practice in supporting disabled pupils and pupils with SEN, including in specific impairments
• an additional scholarship fund for teaching assistants and other support staff, to enable them to build on their SEN support roles and develop their careers
• outstanding special schools will be able to apply to become Teaching Schools, or members of a Teaching School partnership, developing their own staff alongside staff in schools throughout their network and sharing their expertise
• the possibility of an award run by the Association of Colleges for those colleges that demonstrate best practice in working with young people with SEN
• DfE has launched a tender for bids from external organisations to spread the practices that those involved with Achievement for All have developed; it will ask the successful bidder to work with the voluntary and community sector to develop a quality mark for those schools that are developing excellent and innovative SEN support
‘Current practice harms children who do not have SEN, but who are identified as having SEN. Too often the label excuses inaction: slow progress by some children is deemed satisfactory because of a non-existent special need. This problem of over-identification sustains a culture of low expectations for these children and can mean that they do not get the right help… We have clear evidence of the benefits to children and their families where this problem is effectively addressed by schools, notably from the Achievement for All programme. In order to embed this approach more widely we propose to disseminate best practice, change statutory guidance on how SEN should be identified, reassure parents that their children’s barriers to learning are being addressed by the school, and enforce sharper accountability.’

It is proposed to replace the SEN Code of Practice categories of School Action and School Action Plus with a new single school-based SEN category, providing clear guidance to schools on the appropriate identification of SEN.

The paper describes measures to address the fact that disabled children and those with SEN are more likely to experience bullying, and the latter are more likely to be excluded from school. It says assessments should identify the cause of a problem, not focus on the symptoms (and questions whether the term ‘behavioural, emotional and social difficulties’ is overused). The trial of a new approach to exclusions will consider the needs of, and impact on, disabled children and those with SEN; guidance will recommend an effective multi-agency assessment for underlying causal factors.

The Education Bill (see ‘related briefings’ on the Education Act 2011) includes proposals to allow special schools to become Academies, and to allow the establishment of special Free Schools. The Government intends to extend, over time, the opportunities for different types of provision to meet different needs.

The paper describes measures to increase accountability, including the introduction of Key Stage 4 and KS5 destination measures, performance table indicators showing the progress of the lowest attaining 20% of pupils, and making more information about schools available that will help parents to make informed choices and hold schools to account.

Preparing for adulthood

At the heart of the proposed reforms is the single assessment process and ‘Education, Health and Care Plan’ bringing together support for children and young people from birth to 25, and focusing on outcomes beyond school or college. The paper describes a range of issues, and developments aimed at improving learning and employment opportunities. The DfE will build on the findings of the Wolf Review of vocational education (see ‘related briefings’) to improve vocational and work-related learning options for young people aged 14 to 25 with SEN or who are disabled. And the Department for Work and Pensions (DWP) will work with stakeholders – including those with expertise in SEN and disability – to ensure that welfare reforms, in particular the Universal Credit, are flexible enough to support young people with SEN or who are disabled as they attempt to find work. DWP will also explore how the role of Disability Employment Advisers might be used more effectively to help disabled young people and young people with SEN make a smooth transition from learning to the world of work. DfE will explore whether it could introduce supported internships for those for whom an apprenticeship may not be a realistic aim, including enabling...
‘The experience of adult health services can feel very different for young people moving on from using children’s health services, and this transition can sometimes feel like a ‘cliff-edge’ for many disabled young people, especially those with complex health needs. A poorly managed transition can lead to deterioration in the young person’s health.’ The paper identifies a number of the problems that are frequently encountered, and describes a number of developments that could help improve the situation. The Department of Health will explore how to improve joint working across children’s and adult health services for young people aged 16 to 25. As part of this, the Department will explore the feasibility of GPs providing annual health checks for all disabled young people from the age of 16.

In the Call for Views, parents, young people and SEN and disability sector organisations asked for better links and support for adult living, including: clarity about the thresholds for support from adult services; an improved focus on life skills and skills for work; and the involvement of the young person and their family in planning for the future. The paper explores a number of issues facing young people with disabilities or SEN around independent living, including changes to the benefit system, without making specific proposals.

Services working together for families

This chapter sets out proposals for enabling local leaders and frontline professionals to shape and deliver responsive, integrated and high quality local services that give parents greater confidence in and control over the support their family receives. It describes the pivotal role that local authorities and local health services will play in delivering the reforms set out in this Green Paper, including shaping the strategic planning and commissioning of local services.

As reforms of the school system and health services come into effect, the role of local authorities is likely to change. For children and young people with SEN or who are disabled and their families, there will be three core features of the local authority role: strategic planning for services that meet the needs of local communities; securing a range of high quality provision for children and young people with SEN or who are disabled; enabling families to make informed choices and exercise greater control over services. Local authorities will also continue to play a vital role in supporting individual children and young people with SEN or who are disabled and their families. The paper outlines how new Health and Wellbeing Boards (a provision of the Health and Social Care Act – see related briefings) will ensure that the health needs of children and young people with disabilities or SEN are part of local Joint Strategic Needs Assessments and strategies, and other developments arising from the Bill – including how the DH will work with GP consortia pathfinders to explore the best ways of providing support for the commissioning of healthcare services for children and young people with SEN or who are disabled and their families.

Amongst moves to reduce bureaucracy, the DfE will simplify and improve the statutory guidance for all professionals working with children and young people with SEN or who are disabled from birth to 25 so that it is clear, accessible and helpful, and will withdraw guidance that does not provide useful support. It will retain a SEN Code of Practice to provide practical advice for local authorities, maintained schools, Academies, Free Schools, early education settings and others in...
carrying out their statutory duties and in meeting the needs of children and young people with SEN or who are disabled; it aims to modernise and improve the Code by shortening it and incorporating into it other guidance that is considered helpful to professionals, and will review and update the Code to reflect reforms introduced following this Green Paper. A list of local authorities’ statutory duties is to be published, and responses are invited on how the bureaucratic burden on authorities could be reduced.

Voluntary and community sector organisations are being supported to develop work they are doing to increase access to specialist support and advice to schools and families. The forthcoming review of school funding will specifically consider funding of special educational provision for pupils with SEN.

The paper describes proposals for improving the development of a high quality speech and language therapy workforce (including a DH consultation on developing the healthcare workforce, which closes on 31 March), and the educational psychology profession (for which future training arrangements will be reviewed).

The Government will consider ways of encouraging greater collaboration between areas over some forms of provision, including through greater flexibility over the use of funding, for example the Early Intervention Grant, personal funding and Community Budgets (pooling of funding streams across local agencies, being piloted on 16 areas from April 2011). It also intends to provide greater support for the voluntary and community sector to deliver more services, and the DfE will be publishing a prospectus setting out the funding available; funding will also be available through the Office for Civil Society Transition Fund, and the Big Society Bank. The DfE has appointed strategic partners from the voluntary and community sector in a number of areas, including one for SEN and disabilities.

The DfE is exploring the possibility of introducing a single, national banded framework for funding high-cost provision for children and young people with SEN or disabilities, and will work with a group of local authorities to see how this might improve transparency to parents whilst allowing for local flexibility. It will also explore how funding arrangements pre- and post-16 could be better aligned to provide a more consistent approach to support for children and young people from birth to age 25.

Comment

The Green Paper describes in some detail the problems perceived with the current system, now 30 years old, and many of its proposals would improve the coherence and simplicity of the system for families; in particular, a single assessment across education, health and social care and better alignment of arrangements pre- and post-16.

Local authorities are mentioned 193 times in the Paper; the proposals ‘are designed to reinforce the strong strategic role of local authorities in working together with health services and with other local areas to secure the right provision whilst ensuring services are cost-effective.’ It is suggested that this will be made easier by provisions of the Health and Social Care Act and the increased financial flexibility provided by Community Budgets and the Early Intervention Grant – but the
reality is that more is being expected whilst major reductions in funding are being imposed. However willing, local authorities face some very difficult decisions over priorities in the period ahead, the scale of which is simply not acknowledged in this Green Paper.

The document usefully highlights the correlation between SEN (and disability) and poverty, and the serious degree to which the outcomes for children and young people with SEN are worse than those of their peers – including levels of exclusion from school. If this situation is to improve, it will be essential that schools’ use of the Pupil Premium and the new arrangements proposed for dealing with exclusions and for the performance tables result in marked change of approach, and are not undermined by the inappropriate exercise of new levels of autonomy.

Overall, many of the proposals described are at an early stage of development, so there is a great deal to be discussed during the consultation period, and the learning from the pilot schemes described will also be essential to successfully achieving the improvements intended.

**External links**

SEN and disability Green Paper: *Support and Aspiration*

Review of Vocational Education - The Wolf Report

Wolf Review of Vocational Education: Government Response

**Related Briefings**

CSN Briefing on the Wolf Report – Review of Vocational Education

CSN briefing Early Intervention: the Next Steps (First report by Graham Allen MP) – link to be added

LGiU Briefing on the Health and Social Care Act – link to be added

CSN Briefing on the Education Act 2011 – link to be added

For further information, please visit [www.lgiu.org.uk](http://www.lgiu.org.uk) or email info@lgiu.org.uk