Special Needs Jungle Ltd Submission to the Education Select Committee's 2024-25 SEND Inquiry

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About Special Needs Jungle Ltd

Special Needs Jungle Ltd is a non-profit volunteer parent-led organisation. Founded as a blog in 2008 by Tania Tirraoro, parent of two children with SEND to help other parents navigate the "jungle" of SEN. It registered as a non-profit limited company by guarantee (CLG) in 2014. It has since become the go-to resource for learning about the SEND system and how it interacts with families, chronicling the development and ultimate failure of the 2014 reforms, the government response to the pandemic for disabled children, and the financial struggles in the system. SNJ has a small team of expert volunteers, including four parent carer directors, Tania, Renata Watts (since 2016), Sharon Smith and Gillian Doherty (since 2024).

This submission has also had input from volunteers, Rachel Filmer, Matt Keer and Diana Read.

Introduction and background to the 2014 reforms

The three major themes of our submission are:

1. Defending the current rights to education for children with special educational needs and disabilities (SEND)
2. Calling for early intervention policies, funding and accountability to be significantly enhanced.
3. Creating policies that are lawful and evidence-based
4. Ensuring funding is accountable, fair and is aimed at fostering inclusion

The rest of the submission highlights difficulties that stemmed from national austerity measures combined with the poorly handled implementation of the 2014 Children And Families Act. This is a long submission that contains much of the background of the SEND crisis, which we believe is important for committee members who may not have a broad understanding of why events have happened as they have.

As such, we have provided all the recommendations at the top (below the introduction), followed each recommendation in context with its rationale.

The 2014 reforms were ambitious and are widely agreed to have been the right ones. However, they came in at the same time as the UK's programme of austerity, which left schools and public services underfunded. This meant the reforms have effectively limped along, with families understandably wanting to take advantage of the new entitlements and councils doing everything they could to manage rising costs–often by unlawfully delaying, refusing, or failing to

implement statutory support. Essentially, SEND has been caught in a proverbial "perfect storm" that has caused the reforms to fail.

Implementation of the CFA was rushed, not giving LAs, NHS, schools and parents time to understand the changes and work out new processes. Instead of running a dual system, implementing EHCPs only for new entrants and for children at key stage changes, too much focus was placed on moving the whole system to EHCPs as quickly as possible. This meant a whole new system, including I.T., processes and training needed to be developed in a very short space of time. It also made it difficult to assess and fix early issues arising from the changes at both local and national levels.

The Department for Education was overly optimistic about the state of inclusion in schools, the skills and capacity of SENCOs, and the SEND knowledge of class teachers and senior leaders– all essential for early intervention to happen.

The newly-created SEND Code of Practice was too vague and light on details in many areas, especially SEN Support, the level of most children with SEND.

The DfE ignored calls for the notional/delegated SEND funding pot to be boosted and ring-fenced so it could only be used by SENCOs to support children with "lower levels" or emerging SEND needs. At the same time, austerity was biting in schools, meaning support staff were cut and schools' SEND budget was diverted to be used as part of keeping the school operating.

The extension of the system from birth-five years and age 16-25 was not adequately funded, and the uptake was vastly underestimated. Staff in these settings were new to statutory SEND requirements and so had little experience or training to manage. The 16-25 extension in particular meant LAs were facing funding far more expensive residential provision than they had the money for.

Initial Teacher Training (ITT) still does not have sufficient SEND content, meaning new teachers are entering schools without the skills they need. Existing teachers also lack skills to be, as the law dictates, "every teacher a teacher of SEND" The DfE's Universal SEND Services training programme, delivered by Whole School SEND, has come far too late, and the DfE is not doing enough to push this training it funds out to schools.

Additionally, the cuts to schools impacted the ability to provide sufficient help at SEN Support, meaning children were not helped promptly. This has led to parents being forced to apply (or schools applying with parents) for EHC Needs Assessments as the only route to get the needed funding for support.

Because it has become more difficult for children to be supported in their local school, the SEND Transport budget has exploded, and children endure long daily journeys to get to and from school named in their plan.
Frequent changes in ministerial and senior DfE staff have not helped matters, meaning re-briefings for new post-holders and a loss of background knowledge and understanding

Many other government and council failings also contributed, not least of which was a lack of buy-in from the NHS and LA social care departments and the belated decision to introduce Ofsted/CQC SEND inspections only two years after implementation.

That SEN Support has not been made a priority until now by local authorities, schools, and local and national government, when costs for not doing so have spiralled out of control, is a testament that no one cares until it affects them.

Government action to define and create national policies for Ordinarily Available Provision should be prioritised– this is what will help children who may require EHCPs in the next couple of years if they don't get the in-school support.

We have also seen an increase in anti-parent and anti-tribunal narratives in recent council-funded reports and media articles, with inaccurate claims that the SEND Tribunal is "adversarial" or biased toward the parent. This is aimed at furthering the LA agenda of reducing vulnerable children's rights such as removing appeal rights or ditching the Tribunal entirely. The truth is the SEND Tribunal simply applies the law. The fact that LAs lose 98.3% of appeals should prompt them to improve their decision-making, not call for the goalposts to be moved to make it easier to prevail. In what world is it acceptable for law-breakers to call for it to be easier for them to operate?

Please make the report the Education Committee produces one that is, on balance, weighted more towards supporting disabled children than towards those who have mismanaged budgets, promoted policies that are detrimental to children's welfare, and who have routinely broken the law.

All Recommendations stemming from the Special Needs Jungle SEND Inquiry submission

The item numbering of this section corresponds to the number for each recommendation found in the main section.

Section 1: Why are numbers of children with SEN/Disabilities increasing?

1. Forecasting future SEND: Relevant Government departments must collaborate with experts, futurists and researchers on forecasting future risks and opportunities in education and health for children and young people.

2. Prepare for emergencies: The DfE MUST prepare for future emergencies. We saw during the pandemic that although there was some guidance from the DfE, the laws protecting disabled children were "relaxed", which led to a reduction in provision and support for many pupils with SEND.

➢ Jump to s1 rationale in main section

Section 2: Assessing the current quality of SEN support in mainstream schools and early years settings

3. Golden Inclusion thread: Guidance for all types of mainstream schools should have a golden thread running throughout emphasising inclusion in everything a school does.

4. **OAP funding:** To make Ordinarily Available Provision policies viable in schools, a large increase in schools' delegated budget is needed. Additionally, this "notional" budget should be renamed the SENCO budget and ringfenced to ensure it is spent as intended.

5. **OAP guidance:** Provide detailed government guidance to ensure consistent and lawful OAP implementation across all areas, with minimum levels guaranteed. This can have oversight from Ofsted. This guidance must be presented in an easy-to-understand format for busy staff and families to get to grips with. For example, a summary document with links to further detail and examples. We would suggest the government funds an expansion or addition to the excellent nasen SEND teacher handbook[1] to include both early years SEND and an identifying mental health toolkit.

➢ Jump to s2 rationale in main section

Section 3: Working with parents

6. Meaningful Co-Production: Develop genuine co-production practices by ensuring parental involvement from the start of a child's SEND journey. Update the SEND CoP to include how teachers can better work with parents when developing a child's SEN Support. Seek to

[1]https://asset.nasen.org.uk/Teacher%20SEND%20handbook%2030th%20January%202024.pdf

replace harmful anti-parent narratives with recognition of parents' roles as partners in their child's education and care. For strategic advocacy, follow NHS practices by compensating families for their time and input as Experts by Experience in the SEND system.

7. Teacher Training: Include skills for working with parents in Initial Teacher Training (ITT) and ongoing CPD, emphasising person-centred planning and partnership building.

8. More inclusive Parent Carer Forums: Expand PCF capacity, diversity, and funding to ensure they can effectively represent a broader range of parental views.

9. Amplify Young People's Voices: Amend the SEND Code of Practice to ensure all children's views are considered, regardless of communication method or complexity of needs.

10. Transparent Decision-Making: Include experts by experience on EHCP panels, record full discussions, and make minutes available to parents and tribunals to improve accountability.

11. **Accept Independent Reports**: Amend the SEND CoP to instruct councils to accept evidence from independent sources such as private expert reports

➢ Jump to s3 rationale in main section

Section 4: Early Years

12. Update Guidance: Revise and expand the DfE guide to SEND in Early Years and the SEND Code of Practice to provide clear, accessible information, including rights to EHCPs before school age.

13. Centralised Training Portal: Develop a portal listing all accredited EY training, with details on qualifications, content, costs, and access.

14. Expand Early Years SENCO Training: Evaluate the SEND Change Programme's Level 3 SENCO initiative and roll it out nationally if successful.

15. Increase EY Investment: Work with Early Years organisations to ensure funding for early years settings supports adequate staffing ratios and competitive remuneration for EY practitioners.

➢ Jump to s4 rationale in main section

Section 5: Inclusion in practice

16. Establish a Clear Definition of Inclusion: The DfE must define what constitutes an inclusive mainstream school and provide statutory guidance to ensure consistent implementation.

17. National strategy for Resourced Provision: Develop an evidence-based national strategy for RPs with clear definitions, consistent terminology, and statutory guidance on their appropriate use and quality assurance. Consider geographical placement to ensure genuine inclusion.

18. Funding and Workforce Development: Conduct a review to establish how many teachers, specialist staff and therapists are currently available, how many are in training, and how many are actually needed to support sufficient staffing of new resourced and other provision.

19. Mandate Inclusion in ITT and CPD: Embed "Quality First Inclusive Teaching" into every ITT module and ongoing professional development, emphasizing strategies to include disabled children in all school activities. Include mandatory training on neurodiversity and inclusion in CPD programmes to equip teachers to support all children effectively.

20. Proactive Inclusion for trips and activities: Require schools to include on their SEND information reports how they include all children on trips and extracurricular activities.

21. Accessible Infrastructure: Mandate full accessibility for all new school and FE buildings. Support schools that are not accessible to become so.

22. Update equality policies: Ensure school policies, including zero-tolerance behaviour policies, align with the Equality Act 2010, emphasising reasonable adjustments and inclusion over exclusion.

➢ Jump to s5 rationale in main section

Section 6: How can inclusivity and expertise in mainstream schools and early years settings be improved to achieve consistent, high-quality SEN support? What is the DfE's role in this?

23. Improve Guidance Clarity and Accessibility: Ensure all DfE guidance is clear, cohesive, and actionable, written collaboratively by education experts.

24. Centralised Resource Portal: Create a single, centralised and user-friendly portal on the gov.uk website linking all SEND-related guidance and resources. Use interactive flow charts to show interlinked or interdependent legislation and guidance.

25. Invest in specialist services: Increase funding and workforce capacity to allow early and proactive support by education psychologists, speech and language therapists, occupational therapists, and autism/neurodiversity outreach teams to reduce waiting times and ensure children receive timely support.

26. Resource Allocation During Waiting Periods: Develop interim resources and support systems for children waiting for specialist assessments to keep them engaged and supported in school. However, do not make referrals dependent on access to interim resources.

27. Monitor and Evaluate Guidance: Establish mechanisms to regularly review and refine DfE guidance to ensure it remains relevant, evidence-based, and effective.

➢ Jump to s6 rationale in main section

Section 7: Should SEN support be put on a statutory footing and what this would look like in practice

28. Statutory Framework for Graduated Response: Pick a single name for SEN Support, / Graduated response /Assess, Plan, Do, Review process. Place on a statutory footing to ensure early intervention is mandated and consistently applied across schools. Establish clear guidelines and accountability measures to ensure compliance, with input from SEND legal experts, educationalists, and public consultation.

29. Training for Schools: Introduce mandatory training modules for school staff to understand their legal obligations regarding reasonable adjustments and timely support for disabled pupils. If not already, this could be included in the Universal SEND Services training.

➢ Jump to s7 rationale in main section

Section 8: Outcomes for children and young people with SEND and how these can be improved

30. Ring-Fence and Increase the delegated SEND Budget: Increase the notional budget per SEND pupil to reflect rising costs over the past 15 years. Ringfencing and renaming the "SENCO budget" will ensure it cannot be diverted to non-SEND purposes. Require mainstream schools to account for their SEND spending similar to how they report on Pupil Premium, ensuring transparency in resource allocation.

31. Empower and Support SENCOs: Establish mechanisms that ensure the SENCO can access and manage the allocated SEND funds. Ensure SENCOs are not overloaded with too many additional roles to enable them to focus their efforts on their main role.

32. Strengthen Preparation for Adulthood Planning: Expand Supported Internships and Apprenticeships: Increase the availability of supported internships and additional apprenticeship support for young people with EHCPs, with particular attention to groups currently underserved (e.g., young people with Down's syndrome). Commission research to track post-internship outcomes and the effectiveness of apprenticeship support, including retention rates and successful transitions into meaningful employment.

33. Extend EHCP Support into Higher Education (HE): Make support for students with SEND at the university level statutory by extending the EHCP framework to higher education. Develop clearer accountability and support mechanisms for students in HE to prevent high drop-out rates and ensure that necessary adjustments and mentoring are in place. Review additional benefits, such as Universal Credit eligibility for full-time disabled students, to reduce barriers to participation in HE.

➢ Jump to s8 rationale in main section

Section 9: Workforce issues for teachers, SENCOs, specialists, early years practitioners and all those who work with children with SEND

34. Invest in the SEND Workforce: Launch a national recruitment drive for SEND roles, with incentives such as better pay, improved career pathways (e.g., TAs progressing to qualified teaching roles), and enhanced working conditions.

35. Restore and Fund Specialist Advisory Teams: Reinstate local authority specialist advisory teacher teams to provide support and guidance on SEND conditions.

36. Leverage Private Sector Expertise: Provide funding for LAs to hire private practitioners to address backlogs in assessments and support.

➢ Jump to s9 rationale in main section

Section 10: SEND Training in schools

37. Integrate Universal SEND Services into ITT and Make It Permanent: Mandate USS training in schools through statutory guidance, with modules integrated into ITT for consistent and standardised SEND training across the country. It should be expanded to cover early years and post-16 education to ensure comprehensive support across all stages.

38. Establish Government-Funded SEND Training Hubs to deliver robust, research-based SEND training and resources for schools and FE providers.

➢ Jump to s10 rationale in main section

Section 11: The role of and capacity of specialist schools, independent schools and Alternative Provision

39. Preserve and Strengthen Specialist Provision: Maintain specialist schools to support students with complex needs and explore replicating effective specialist practices, such as smaller classes and in-house therapies, within the maintained sector to improve access and reduce costs.

➢ Jump to s11 rationale in main section

Section 12: EHCPs:

40. Do not dilute children's rights or remove EHCPs: Vulnerable children and their families are not at fault and should not be penalised because of faulty decisions elsewhere in the system

41. Adopt a collaborative and flexible approach to initial needs assessment: Require local authorities to meet with families, schools, and professionals early in the EHC process to

explore tailored interventions or SEN Support, reducing refusals and appeals while ensuring swift action when an EHCP is necessary.

42. Ensure Placement Decisions Reflect the Child's Best Interests: Mandate that placement decisions prioritise an honest assessment of whether a child's needs can be met in mainstream education with appropriate support, without financial or capacity-driven biases from local authorities.

➢ Jump to s12 rationale in main section

Section 13: How can waiting times for EHC Plans be improved?

43. **LA officer training:** Provide Expert Training for SEN Case Officers and External Support for Parents: Ensure SEN Case officers have access to external SEND law training.

44. Ensure Acceptance of Private Assessments and Remove the Six-Week Decision Period for Certain Conditions: Make it unlawful for LAs to refuse private assessments from qualified professionals and eliminate the six-week assessment decision period for conditions that typically require an EHCP, like Down's syndrome.

➢ Jump to s13 rationale in main section

Section 14: EHCPs: What can be done to support parents, carers and children or young people before, during and after the EHC Plan process?

45. Reintroduce Independent Supporters/Keyworkers: Restore the Independent Supporter role to offer impartial, holistic support for families navigating both the EHCP process and subsequent annual reviews. These keyworkers would liaise with all professionals involved to reduce parental burden and ensure smoother communication.

46. Fund and Commission SENDIASS Centrally and Independently: Ensure SENDIASS is adequately funded, centrally coordinated, and managed by independent providers rather than local authorities to eliminate conflicts of interest and improve service delivery.

➢ Jump to s14 rationale in main section

Section 15: EHCPs: How can the EHC Plan process be made non-adversarial?

47. **Fund councils properly:** The process is not inherently adversarial. If LAs could fund their statutory duties and schools were inclusive, there would be less incentive for them to break the law to try to save money.

48. **Ensure Mediation works:** Enforce consequences for LAs refusing to participate in mediation when a parent wants to, and with decisions automatically made in the parent's favour if LAs

refuse. Mediators should be responsible for following up on non-compliance and providing clear legal guidance to parents for further action.

➢ Jump to s15 rationale in main section

Section 16: EHCPs: What alternatives are there to the EHC Plan process?

49. Do not replace the EHCP process. If early intervention plans succeed, need for EHCPs should naturally fall and this needs to have time to filter through.

50. Routine Early Developmental Checks: Introduce a universal developmental check for four-year-olds, to enable earlier identification of needs and the provision of early and appropriate support to avoid needs escalating.

➢ Jump to s16 rationale in main section

Section 17: EHCPs: Current and future SEND AND HEALTH need

51. System-Wide Overhaul: The ongoing Curriculum and Assessment Review should support a holistic, compassionate, and inclusive educational experience for all.

52. Use Artificial Intelligence for Efficiency and Planning: AI can speed up and improve the EHCP process by training LLMs on relevant legislation, with human quality control. It can also be used at a strategic level, using data to forecast population, location, and likely needs to predict future requirements and to ensure provision is responsive and well-resourced.

53. Limit or Prohibit Profit on independent specialist provision: While independent special schools can provide much-needed provision, government could restrict excessive profiteering and increase transparency to ensure public funds are not used to line shareholders' pockets.

54. Issue regular reminders of duties: Use automated systems to remind LAs, health, and education settings of their statutory duties. For example, termly reminders to check compliance, backed by accountability measures for consistently failing to meet requirements.

55. DMO research: Commission a research evaluation of the Designated Medical Officer/Clinical Officer role, considering the need for additional posts in larger areas to ensure effective coordination.

➢ Jump to s17 rationale in main section

Section 18: SEND Improvement Plan

56. Foster wellbeing: Across government, it should be emphasised that policy needs to be evidence-based and based on fostering wellbeing

57. High-quality consultants: Ensure consultants have a record of success in SEND, that they are value for money, and they understand the concept of wellbeing being uppermost in decision-making

➢ Jump to s18 rationale in main section

Section 19: Post 16 Provision

58. Maintain EHCP Rights to Age 25: This is taken up by a small number of young people with the greatest needs that are not easy to meet. For some, this means residential provision, but for most, continued development of training options means these EHCPs have less cost associated with them.

59. Enhance Transition Preparation and Raise Expectations: Improve the availability of advice by supporting charities that already do this well, such as NDTi and others. Review and develop national guidance and pathways to careers such as apprenticeships and internships that promote independence and ongoing educational engagement.

60. Address SEND Transport Challenges: Recognise the statutory gap in post-16 SEND transport and develop cost-effective solutions—such as improved procurement practices or subsidised transport options—to ensure accessible, affordable travel for all eligible young people.

➢ Jump to s19 rationale in main section

Section 20: Accountability and inspection of SEND provision

61. Individual responsibility: Introduce clear legal and professional sanctions for lead officials and practitioners who persistently breach or preside over non-compliant departments whose actions cause harm to disabled children and their families

62. Boost SEND Tribunal Capacity: This will help to clear the backlog of cases that is preventing timely hearings. Additionally, hold LAs to account for last-minute concessions or no-shows by awarding costs to the family and preventing the LA from employing external barristers at the FFT.

63. Inspecting schools:

    a. Exclusions: Revise inspection criteria to rigorously examine exclusions, including the number, reasons, and underlying causes. Update exclusions guidance to require a full assessment of SEND needs before a child can be excluded.

    b. Evaluate the effective use of delegated SEND budgets, parental involvement, staff qualifications, and ongoing SEND training.

c. Enhance the use by Ofsted of parental and council evidence to detect cases where schools are deterring and/or rejecting SEND admissions.

d. Include inspection questions about how long children remain on SEN Support, ensuring that it is not used as a holding category instead of progressing to an EHCP where necessary.

e. Inspectors should assess how well schools include SEND students in classroom activities, trips, and breakfast clubs

f. Ensure inspectors track attendance of SEND students on inspection days to identify potential exclusionary practices.

64. Call on professional bodies to investigate more rigorously where public bodies' practices prevent their members from abiding by their professional codes

65. Reject proposals that use affordability as a criterion in SEND Tribunal decisions to ensure that cost-saving measures do not compromise disabled children's rights.

➢ Jump to s20 rationale in main section

Section 21: How can Area SEND inspections of local authorities be made more effective?

66. Ofsted should set a clear restart date for monitoring visits, ensuring continuous oversight of struggling areas.

67. Inspections should penalise LAs that have a high proportion of failed tribunal appeals.

68. Inspections should restart open meetings with parents and engage with the DfE and DHSC to boost publicity for upcoming area inspections.

69. The framework should keep at its heart what is important to disabled children and their families

70. When the Department for Education (DfE) intervenes in a failing area, Ofsted and the CQC should retain involvement to track progress.

71. Ofsted should reinstate in-person open meetings with parents during inspections to ensure direct engagement and transparency.

72. Area SEND inspection survey opening dates notices should be issued on the Wednesday prior to opening the following Monday. It should be mandatory for LAs and relevant health bodies to inform all registered education settings and parents on their service of the survey. Ofsted should proactively share area inspection notifications via its official social media channels.

73. SEND inspection frameworks should require legal compliance as a minimum standard and actively report non-compliance.

➢ Jump to s21 rationale in main section

Section 22: The role of other organisations such as the DfE, the LGSCO and the CQC in the accountability system.

74. Develop a SEND performance scheme modelled on the NHS Maternity Incentive Scheme, with measurable metrics (e.g., EHCP timeliness, appeal outcomes, family co-production, quality audits) tied to a significant portion of funding.

75. Resume publishing anonymised SEND Tribunal decisions to track patterns of unlawful behaviour and allowing its use in inspections for a clearer picture of practice.

76. Recommendations for LGSCO:

    - Expand the remit and budget of the Local Government and Social Care Ombudsman (LGSCO) to ensure timely, robust investigations and follow-up on LA commitments.
    - Introduce meaningful penalties for frequent offenders, such as fines on CEOs or conditional funding based on meeting agreed audit criteria.
    - Establish a follow-up mechanism to hold LAs accountable for implementing recommendations, ensuring that commitments are monitored and enforced over time.
    - Integrate AI tools to streamline complaint submissions and monitor compliance, reducing processing delays and improving the detection of systemic issues.

➢ Jump to s22 rationale in main section

Section 23: How have Safety Valve, and/or DBV in SEND have affected your child's support and outcomes?

77. Scrap the Safety Valve Scheme entirely: The current Safety Valve program has fostered adversarial relationships between LAs, schools, and families and has not stabilised high-needs finances. Instead, reallocate efforts toward genuinely supporting statutory duties without imposing contradictory financial constraints.

78. Write-off debt: Initiate a program of DSG debt write-offs for local government deficits related to SEND.

79. Reform funding arrangements by standardising the high-needs banding system nationally and increasing place funding for state special schools.

80. Ensure essential services, such as SEND transport for older students, are adequately funded to prevent detrimental impacts on families.

➢ Jump to s23 rationale in main section

The rationale stats on the next page.

SECTION 1: Why are number of children with SEN/ Disabilities increasing?

1. The 2024 Darzai Report highlighted a 250% increase2 in children with life-threatening and life-limiting conditions between 2001-2018. This may reflect an increase in survival rates as well as an increase in recording of diagnoses.
2. Such children are increasingly likely to have lengthy hospital stays, as the Children's Hospital Alliance (CHA) highlighted in their submission to the Darzai investigation. Children and young people are 24% of the population but account for 11% of NHS expenditure. Their mental and physical health appears to have been deteriorating in recent years. Since 2019/20, for example, there has been an 82% increase in hospital admissions for eating disorders.
3. Similarly, the Royal College of Paediatrics and Child Health pointed out that the **number of children with eight or more chronic conditions nearly doubled from 7.6% in 2012-13 to 14% per cent in 2018-19** and the number of children receiving long-term ventilation more than doubled between 2013 and 2020".
4. Many of these very vulnerable children are alive thanks to advances in medical interventions. This doesn't include children with neurodivergent conditions that are being more recognised. Neither does it include the increased issues created by the pandemic such as,
    - children's needs going unnoticed until after they returned to school (or did not return through anxiety)
    - existing needs having escalated because of lack of access to therapies or support
    - An increase in children with mental health issues from loneliness, too much unsupervised time online, bullying both in real life and online,
    - Children born just before or during the pandemic who missed out on early socialisation and pre-school opportunities.
5. There has been a fundamental failure of government in planning for this increase in complexity and numbers – a lack of strategic thinking and foresight that has led to greater costs to fund specialist education and expertise. This lack of planning is not parents' fault,

[2] https://www.gov.uk/government/publications/independent-investigation-of-the-nhs-in-england/independent-investigation-of-the-national-health-service-in-england-accessible-version#quality-of-care-in-the-nhs

and it is invidious that councils and some government behaviour advisors always seem to want to pin the increase in needs on poor parenting, or pushy parents.

6. All these needs must be identified and provided for. But LAs and the NHS, already crippled by underfunding and a recruitment crisis, have been stuck between meeting statutory duties and finding the money to pay for them. As calls for more funding from central government have not been met, they have turned increasingly to ignoring the laws they are bound by.
7. We saw from the Pandemic how children with SEND were often an afterthought[3] and how often the DfE got decisions wrong about what was best. There was clearly knee-jerk planning and this must not happen again. The pandemic had a far worse impact on SEND pupils, and some were not allowed back to school for a considerable time, as leaders misused risk assessment guidance–in particular, those who relied on suctioning or tracheostomies[4]. The 2021 Public Accounts Committee report[5] found this MUST be learned from and preparation for potential future emergencies must be carried out now to avoid a repeat.

S1 Recommendations 1-2:

- RECOMMENDATION 1: Relevant Government departments must collaborate with experts, futurists and researchers on forecasting future risks and opportunities in education and health for children and young people.
- RECOMMENDATION 2: The DfE MUST prepare for future emergencies. We saw during the pandemic that although there was some guidance from the DfE, the laws protecting disabled children were "relaxed", which led to a reduction in provision and support for many pupils with SEND.

Section 2: Assessing the current quality of SEN support in mainstream schools and early years settings

2. The variation in types and sizes of schools makes it impossible to assess the current quality of SEN Support. It depends on
    - the ethos of the school and attitudes of senior leadership towards inclusion,
    - the confidence and expertise of teachers,

3 https://www.specialneedsjungle.com/coronavirus-send-education-survey/

4 https://www.specialneedsjungle.com/scandal-children-complex-needs-not-welcome-back-school/

5 https://www.specialneedsjungle.com/will-the-dfe-learn-lessons-about-supporting-disabled-learners-before-the-next-big-crisis/

- the access to specialist input and the resources available.

8. A change in school leadership can result in a complete change in the ethos of how SEND is recognised and provided for. Attitude to SEND can also differ between schools in the same area and even between classes in the same school, depending on the knowledge and interest of a class teacher and the quality of the SENCO. This is why parents have been told by some schools "We don't do SEND, try the other school down the road." Therefore, guidance for school leaders should include a commitment to inclusion.
3. It is clear from speaking to parents that the Assess-Plan-Do-Review (graduated response) process that underpins SEN Support is often not happening, or if it is, parents and pupils may not be involved, contrary to the SEND Code of Practice (SENDCOP)
4. Guidance policies are many and complex, yet often too vague, uninspired in presentation, and long. In any case, both guidance and legislation are often unread, misunderstood or simply ignored. As well as the main SENDCOP document, there are also iterations for schools, parents and others.
5. For example, in the school's version of the SENDCOP, it says: *"Persistent disruptive or withdrawn behaviours do not necessarily mean that a child or young person has SEN. Where there are concerns, there should be an assessment to determine whether there are any causal factors such as undiagnosed learning difficulties, difficulties with communication or mental health issues."*

   However, in many schools, children with "persistent disruptive behaviour" who do not respond to school behaviour policies are often moved to alternative provision without ever having had an assessment. Teachers may not think to look for the root cause and the blame is on the child, not on lack of teaching expertise or a disregard of guidance and laws. If this was followed, a larger proportion of children would be helped sooner and avoided being moved to AP.
6. Children with clear, unmissable needs can arrive in Reception without having had any assessment in pre-school. These children are then disadvantaged not only by their SEND needs but by the system not working as quickly as it should to identify needs at the earliest stage.
7. Often, by the time support is put into place, the child's needs have already escalated. On top of this, their mental health has been impacted yet they have not been able to access support from CAMHS, who have long waiting lists and do not provide support to all children (often autistic children are excluded from accessing CAMHS support).
8. Years of underfunding mean SEN Support is inadequate. An over-focus on league tables has meant schools and academies focus scarce resources on results, rather than on pupils with

SEND. This forces parents (and schools, who undertake most EHCP applications[6]) into trying to secure statutory provision and associated funding. Then, when an EHCP is hard won, many children end up moving to specialist provision anyway because the school still cannot offer what they need. Sometimes this is environmental, for example, class sizes, or accessibility. Sometimes this is due to a lack of expertise or commitment in mainstream schools. Often, the school is relieved to see them go because the EHCP comes with a lot of expectations, but not enough funding to secure appropriate provision.

9. The current EHCP process allows mainstream schools to refuse LA requests for placement saying that they 'cannot meet need'. LAs often accept this, without taking required steps to see what can be done to change this. Conversely, LAs routinely name schools that are unsuitable, for example, where it would be impossible to create a suitable environment, peer group, or curriculum, or to provide the level of specialist teaching required. These contradictions leave parents with no option but to choose specialist provision or to seek EOTAS or even elective home education. It results in more unnecessary appeals to the SEND Tribunal. **Schools must have their legal duties impressed upon them (Equality Act, Children & Families Act) and must be open to LA support to be inclusive.**

10. The SEND Change Programme, still (apparently) ongoing, is testing **"Ordinarily Available Provision".** This is the provision that a school should be able to provide to children without an EHCP. Despite this still being developed, local authorities have seized upon it to create their own OAP policies. Our concerns here are:

    - whether what LAs say schools should be able to provide is possible within schools' very tight budgets and
    - whether OAP as a whole is being used to "gatekeep" EHC Needs Assessment applications.
    - that LAs are stating in EHCPs that needs will be met 'through ordinary provision' when the law requires EHCP provision is specified and quantified so there is no doubt about what will be provided.

11. The bar for an assessment is deliberately a low one, but we are concerned that LAs will insist on schools having tried interventions far in excess of what is legally required before agreeing to conduct an assessment. For a fuller explanation of OAP, we carried a two-part article[7] from SEND expert, Phillipa Stobbs, at the end of 2024.

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6 https://www.specialneedsjungle.com/ehc-needs-assessments-2023-asking-snj-foi-data-not-parents/
7 https://www.specialneedsjungle.com/ordinarily-available-provision-for-send-friend-or-foe-part-1-from-philippa-stobbs-obe/

S2 Recommendations 3-5:

- **RECOMMENDATION 3**: Guidance for all types of mainstream schools should have a golden thread running throughout emphasising inclusion in everything a school does.
- **RECOMMENDATION 4 To** make Ordinarily Available Provision policies viable in schools, a large increase in schools' delegated budget is needed. Additionally, this "notional" budget should be renamed the SENCO budget and ringfenced to ensure it is spent as intended.
- **RECOMMENDATION 5:** Provide detailed government guidance to ensure consistent and lawful OAP implementation across all areas, with minimum levels guaranteed. This can have oversight from Ofsted. This guidance must be presented in an easy-to-understand format for busy staff and families to get to grips with. For example, a summary document with links to further detail and examples. We would suggest the government funds an expansion or addition to the excellent nasen SEND teacher handbook[8] to include both early years SEND and an identifying mental health toolkit.

Section 3: Working with parents

12. Co-production is lauded as the way to create good working relationships between parents and professionals in education, health and social care. However, it remains an elusive concept that continues to defy clear definition[9]. At best, it means that parents are invited into pre-arranged meetings/agendas, to contribute their experience and opinions.
13. Whether on an individual basis or a local or national strategic basis, the voice of parents and children must have greater value. At present, on one hand we talk about co-production and collaboration, while on the other, parents are blamed for "making demands", accused of abuse, and drained of resources as they try to get support.
14. The SEND CoP says parents should be included centrally from the start of their child's SEND journey. This often does not happen, presumably because of a lack of training on the school's part. Skills for working with parents is something that should be included in Initial Teacher Training (ITT) and with ongoing CPD–including understanding why some parents may be reluctant to engage.

8 https://asset.nasen.org.uk/Teacher%20SEND%20handbook%2030th%20January%202024.pdf

9 https://www.specialneedsjungle.com/coproduction-government-working-with-parents-send/

15. In its current guise, co-production is often understood to be local authorities and health bodies working with Parent Carer Forums (PCFs). While some PCFs are successful at engaging with and representing a wide range of views, too many continue to rely on very small numbers of volunteer parents who lack the capacity (and funding) to engage in a way that enables wide and diverse representation. PCFs face challenges of representing the complexity of needs and opinions of parents from across all the diverse communities within a local authority area. PCFs do an important job, but they lack the diversity needed and the capacity to do as much as is currently asked of them.

16. PCFs can sometimes be used by local authorities as a tick-box exercise, to say that parents have been consulted on matters when decisions and changes have already been decided. Their presence around the table is not leading to enough meaningful change for children, young people and their families. If it was working, we would not be in the situation we are in now (this is not the PCFs' fault).

17. Parents and disabled children are experts by experience. They shouldn't have to join a forum that can seem exclusive and restrictive to have their voices heard. PCFs' contractual restrictions on campaigning constrains what they are able to do and prevents some parents/carers from participating.

18. Co-production at school/setting level occurs infrequently, and parents continue to be engaged with in a way that meets the agenda of the school (with settings often deciding the time/day/method of engagement, without consideration for the parents' own obligations such as employment). Only 28% of school leaders provide any training in how to engage with parents–and in the past, we have seen external training aimed at "conflict with difficult parents" which is sending the wrong message. As suggested by Professor Brian Lamb[10], teachers should be provided with the skills necessary to work in partnership with families and they should be supported to understand and engage in person-centred planning processes.

19. In 2017, the DfE commissioned SEN Support Rapid Evidence Research.[11] This found: *"Parents are the best-placed individuals to provide details on the health and early development of their child and the support they have received outside the school system, particularly when a school is first assessing a child's needs. They can also provide information on whether any difficulties have been noted at home or elsewhere, to help to understand whether they are limited to or exacerbated by the school environment. All of this information is crucial for a thorough assessment of a child's strengths and weaknesses."*

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10 https://www.specialneedsjungle.com/brian-lamb-send-review-green-paper-improvements-disabled-children-families

11 https://assets.publishing.service.gov.uk/media/5a822e2c40f0b6230269b43a/DfE_SEN_Support_REA_Report.pdf

This research seems to have been ignored.

20. Many parents of disabled children may themselves have additional needs. They may have had poor previous experiences of education, either as a pupil or parent and so need support themselves to learn to advocate. The same SEN Support research found that parents, *"...may require additional support from educational settings for them to feel comfortable to be open and honest about their child's needs. Parents are often required to take on an 'advocate' role for their child and this can be a time-consuming and emotionally laden responsibility. They may also have different concerns to other parents, for example, they may be more worried about whether their child is safe in school or college, whether they are making friends or what other parents may think of their child, rather than focusing on academic performance."*

21. It is common instead to see SEND parents as "pushy", "demanding" and "angry" and they have even been referred to social services and wrongfully accused of harming their child (FII).[12] This is as far from "working with parents" as it is possible to be.

22. It is important that parents/carers, particularly those with their own support needs, have timely access to independent advocates and key workers to support with e.g. co-ordinating appointments and facilitating communication between different professionals working with their child. Unfortunately, this type of provision is increasingly difficult to access due to under-resourcing.

23. The pervasive anti-parent narrative that is seen at all levels of the SEND system is harmful and contributes to the mistrust that parents have in the system. There is much talk about valuing the voice of the parent and their child, but the narrative in LAs and the media is still of "golden tickets"[13] and "sharp-elbowed parents", which is incredibly unfair and damaging. No parent applies for an EHC Needs Assessment frivolously. It is an excruciating marathon to endure that can lead to depression, marital breakdown and financial hardship. The word 'demand' is overused and has negative connotations. Parents do not 'demand' anything, they are merely seeking for their children and young people to be provided with the right support to meet their needs.

24. Families' voices should be valued in the same way that NHS Experts by Experience or patient volunteers are. Their time and expenses should be compensated to allow more to participate. Following the NHS' lead could enable our SEND services to achieve meaningful, genuine coproduction, making services safer, more effective and more efficient.

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12 https://www.specialneedsjungle.com/research-unfounded-fii-accusations-devastating-life-long-impact-children-families/

13 Https://www.specialneedsjungle.com/uncovering-origin-ehcp-golden-ticket-narrative/

25. The DfE also needs to listen to a wider range of young people's voices (not just FLARE). It can be difficult to know how to engage with a young person who is non-verbal, has profound disabilities or is demand-avoidant. But there are ways to succeed and their views are just as important as those of other children with SEND. The SEND Code of Practice should be amended to the effect that all evidence, including that from parents and young people, that contributes to a statutory EHC needs assessment is valid even if not produced by a local authority-funded source, and LAs must respect this when drafting EHCPs.
26. Panels making decisions about EHCPs or placements should include experts by experience, who can offer advice as critical friends to the local authority and identify different barriers to successful support. Full minutes of the discussion should be recorded, not just the decision itself, and available to parents (and the tribunal, where a decision is appealed).

S3 Recommendations 6-11

- **RECOMMENDATION 6**: Meaningful Co-Production: Develop genuine co-production practices by ensuring parental involvement from the start of a child's SEND journey. Update the SEND CoP to include how teachers can better work with parents when developing a child's SEN Support. Seek to replace harmful anti-parent narratives with recognition of parents' roles as partners in their child's education and care. For strategic advocacy, follow NHS practices by compensating families for their time and input as Experts by Experience in the SEND system.
- **RECOMMENDATION 7:** Teacher Training: Include skills for working with parents in Initial Teacher Training (ITT) and ongoing CPD, emphasising person-centred planning and partnership building.
- **RECOMMENDATION 8:** Inclusive PCFs: Expand PCF capacity, diversity, and funding to ensure they can effectively represent a broader range of parental views.
- **RECOMMENDATION 9:** Amplify Young People's Voices: Amend the SEND Code of Practice to ensure all children's views are considered, regardless of communication method or complexity of needs.
- **RECOMMENDATION 10:** Transparent Decision-Making: Include experts by experience on EHCP panels, record full discussions, and make minutes available to parents and tribunals to improve accountability.
- **RECOMMENDATION 11:** Amend the SEND CoP to instruct councils to accept evidence from independent sources such as private expert reports

Section 4: Early Years

27. The government's expansion of early years education is an ideal opportunity to create updated guidance for this stage. While there is a DfE guide[14] to SEND in the Early Years (EY) and the SEND CoP, it is short and text-based. It has not been updated since its 2014 publication date. This may not be as accessible to early years staff as it might be. There is new training[15], created by Dingley's Promise, but there is no link from the guide to the training.
28. The DfE needs to do better with its comms operation in general to get information about the different SEND-related training available to those who need it. They should collaborate on creating a portal where all accredited EY training is listed, what qualifications (if any) they offer, what is recommended, how to access it, what it covers, and how much (if anything) it costs. This is very important because many EY practitioners do not have advanced qualifications, and may need greater guidance on what is suitable to support their SEND learning.
29. However, an expanded offer needs to be met by expanded investment. Given the increases in children with additional needs, EY will not be able to cope with providing adequate support without the staffing ratios they need.
30. An updated SEND Code of Practice must clarify what support children are entitled to before compulsory school age. Some specialist schools take children as young as age two, yet families are often told their child cannot have an EHCP before they start school, which is incorrect.
31. Early Years training: The SEND Change Programme's plan for early years SENCOs is active in only a small number of areas and is only at Level 3. If this programme is evaluated as being a success, this could be rolled out urgently.
32. Funding for Early Years must also be reviewed. If preschool and nursery places are important, then staff should be valued in how they are remunerated.
33. A report in 2022 (prior to the most recent expansion in early years entitlement) from the Early Years Alliance[16], "Too little, too late. SEND funding and the early years sector" found,

[14]https://assets.publishing.service.gov.uk/media/5a7e5159e5274a2e8ab473d4/Early_Years_Guide_to_SEND_Code_of_Practice_-_02Sept14.pdf

[15]https://help-for-early-years-providers.education.gov.uk/support-for-practitioners/send-assessment

[16] https://www.eyalliance.org.uk/sites/default/files/send_funding_eya_report_final_march_2022_2.pdf

- 92% of Early Years settings that supported children with SEND had to fund additional support out of their own pockets. Most reported this had had a negative financial impact.
- 40% said they received no specific SEND funding.
- 74% said the number of their children with SEND formally identified had increased over the last two years.
- 14% expect the number of places for children with SEND they are able to provide to decrease going forward.
- Of these 14%, funding staff, funding SEND resources and inadequate overall early years funding were the most commonly cited contributing factors.
- 60% said that the COVID-19 pandemic had a negative impact on their ability to deliver care and education to children with SEND, with around one in six (17%) describing that impact as 'very negative'.
- 23% regularly experience delays in receiving SEND funding.

S4 Recommendations 12-15

- RECOMMENDATION 12: Update Guidance: Revise and expand the DfE guide to SEND in Early Years and the SEND Code of Practice to provide clear, accessible information, including rights to EHCPs before school age.
- RECOMMENDATION 13: Centralised Training Portal: Develop a portal listing all accredited EY training, with details on qualifications, content, costs, and access.
- RECOMMENDATION 14: Expand Early Years SENCO Training: Evaluate the SEND Change Programme's Level 3 SENCO initiative and roll it out nationally if successful.
- RECOMMENDATION 15: Increase Investment: Work with Early Years organisations to ensure funding for early years settings supports adequate staffing ratios and competitive remuneration for EY practitioners.

Section 5: Inclusion in practice

34. There is no current official definition of inclusion or of an inclusive mainstream school. Ideas relating to inclusion are constantly changing[17], often depending on the ideology of the government of the day. There are also subtle changes in language being used; for instance, a focus on developing an inclusive education system, used by the previous government, has

[17] https://www.specialneedsjungle.com/understanding-send-inclusion-schools/

now morphed into the need for an inclusive mainstream system. **The lack of consistent definition and objectives for inclusive education must be remedied as a matter of urgency.**

35. It is generally accepted that support that's beneficial for children with SEND is beneficial for all children[18], yet this is rarely acted upon.

36. For true inclusion, disabled children and young people must cease to be "othered" but be a normal part of planning to build an inclusive education system fit for the future. Although it is generally accepted that there is a need to consider the 'social' model of disability, which focuses on the removal of barriers for people who are disabled by social structures and conditions, the current 'SEND' system continues to be based on a deficit approach of 'individual need'. There needs to be a broader shift in settings becoming more inclusive of all pupils. To do this, it will be necessary to engage with pupils who have historically been seen through a deficit lens (and their families) to understand their experiences of exclusion and discrimination, from which strategies can be developed to address how individual settings and local areas can become more inclusive in practice.

37. Being included does not mean simply being in the same classroom, or being in an "inclusion hub" on the same site. Inclusion means taking proactive steps to ensure all children are a valued part of the class and have the same opportunities as non-disabled children. This necessitates working closely with parents/guardians as part of the team around the child. Too often this does not happen and support can start without the parent knowing or being part of the "Assess, Plan, Do, Review" process.. **This aspect of the SEND Code of Practice needs to have greater emphasis within training.**

38. Inclusion should be emphasised as much as "quality first teaching", for example, **"Quality First Inclusive teaching".** In every module of an ITT curriculum, the question should be asked: How do we ensure this promotes inclusive teaching?

39. It is too easy for a school to decide what a child can or cannot manage without bothering to try to see if they can with support. Likewise, access to pathways and curriculum should not be based on what a child might or might not achieve in the future. This is often because of time constraints or lack of experience. However, working more closely with parents/carers can create a more holistic understanding of what a child could manage.

40. It is also too easy to **exclude disabled children from trips**, activities and breakfast or after-school clubs because it's too hard to work out how to do this, despite there being clear legislative duties (Equality Act 2010). While parents should not be expected to accompany their child on a school trip, working with them to ensure an inclusive experience can make all the difference. Getting to know parents better is a good way to avoid the "them and us" and stop parents from feeling their views are not being listened to or they are being cast as

[18] https://www.specialneedsjungle.com/who-benefits-from-inclusive-education-how

"pushy" or "troublesome". It is also a good way to encourage less confident parents to get involved.

41. The growing number of children out of school is another sign of schools that are not inclusive. Not having needs recognised ("We don't see that here") or being unable to get support within school can lead to mental health crises (for which there is little help) or school anxiety, or their parents are advised the school can't support them, or they are threatened with exclusion. Then parents must fight for an EHCP with EOTAS provision or do "elective home education" when it's nothing of the sort. We need to have some curiosity about why so many children are not in school. If mainstream really was inclusive, a majority of these children wouldn't be out of school in the first place.
42. An inclusive school would also ensure children who are experiencing difficulties have access to early assessment by a relevant professional, whose recommendations are then implemented and monitored.
43. Easy and regular access to necessary therapies and facilities that may be provided in-house by specialist schools needs to be considered if planning to reduce the use of specialist schools
44. During the development of new policies, the government must consider their impact on disabled children and address whether additional resourcing or actions are required to ensure they are included. For example, the recent proposal for breakfast clubs has not considered how children with higher support needs will be able to access these or amendments that would be required to transport them.
45. For many disabled children the trend towards "zero tolerance" behaviour policies has been devastating and in many instances, contrary to the principles of reasonable adjustments and the Equality Act 2010. These policies must be brought in line with the law.
46. Another area of concern around mainstream inclusion is the rapid increase in the use of school Resource Bases/Units[19] as a solution to local authorities' financial difficulties rather than to address the needs of disabled children. Local implementation is running ahead of national policy, resulting in inappropriate use of these types of provision in some areas. This can create the illusion of inclusion while undermining the reality. In some cases, a child will rarely mix with the mainstream cohort and will have very limited access to subject specialist teachers – this is more akin to segregation than inclusion. There is a risk of creating pseudo-schools within schools, without clear accountability.
47. The Department for Education must ensure that RPs are appropriately planned and developed in line with a national inclusive education strategy rather than allowing schools

[19] https://www.specialneedsjungle.com/sen-resource-bases-unit-provision-secondary-what-are-they-count-inclusion/

and local authorities to develop their own models, exacerbating the postcode lottery and causing confusion for parents/carers and young people with SEND. We suggest setting up an advisory group including experienced practitioners to work with the Department for Education.

48. There is limited evidence about the effectiveness of RPs. Some evidence suggests that RPs are most effective when their purpose and cohort are clearly defined, and the provision is carefully designed to meet those needs. Yet some of the RPs currently being developed are generic, while some valued units targeting particular needs are closing. A stronger evidence base is needed to inform policy development.

49. It's important that local strategies for the development of RPs are co-produced in partnership with health services, schools, young people, parents/carers and other organisations supporting young people with SEND. Planning should occur not just within but across local authorities to provide RPs strategically where needed. Funding arrangements would need to be reviewed to enable this. This is particularly important for supporting low-incidence needs.

50. There is a lack of clarity about the status of RPs - with different names used to describe the same provision and the same name used to describe different provision. Urgent (statutory) guidance is needed on the appropriate use of different types of RPs with consistent names and clear definitions (including the amount of time spent in them). There needs to be clarity about the status of different types of provision - for example, whether they are separate settings to be named in section I of an EHCP or provision to be specified in section F, and whether and how children with SEND without EHCPs can access them. Children should only be admitted with their and their parents/carers' agreement.

51. Consideration must be given to the geographical location of RPs. Placing them in Portacabins in a far corner of school grounds or located on a different site entirely is in no way conducive to 'inclusion' however it is described.

52. There are also growing concerns about the quality of some RPs. Quality assurance mechanisms need to be developed, possibly linked to school and local area SEND inspections. Schools must be held accountable through robust accountability measures that don't rely on parents/carers.

53. Training and support from the wider SEND workforce (e.g. CAMHs, educational psychologists, specialist teachers, speech and language therapists, physiotherapists, occupational therapists) is critical to the success of RPs. This wider workforce development needs to occur at a local area/regional level, with national oversight. Support for individual schools needs to be planned, agreed and ongoing.

54. The government is funding increased accessibility to buildings–but this will not be sufficient. New school and further education buildings must be mandated to be fully accessible. In

mainstream FE, more must be done to sustain support so young people with SEND have every chance to thrive in adulthood.

Section 5 Recommendations: 16-19

- RECOMMENDATION 16: Establish a Clear Definition of Inclusion: The DfE must define what constitutes an inclusive mainstream school and provide statutory guidance to ensure consistent implementation.
- RECOMMENDATION 17: National strategy for Resourced Provision: Develop an evidence-based national strategy for RPs with clear definitions, consistent terminology, and statutory guidance on their appropriate use and quality assurance. Consider geographical placement to ensure genuine inclusion.
- RECOMMENDATION 18: Funding and Workforce Development: Conduct a review to establish how many teachers and specialist staff and therapists are currently available, how many are in training, and how many are actually needed to support sufficient staffing of new resourced and other provision.
- RECOMMENDATION 19: Mandate Inclusion in ITT and CPD: Embed "Quality First Inclusive Teaching" into every ITT module and ongoing professional development, emphasizing strategies to include disabled children in all school activities. Include mandatory training on neurodiversity and inclusion in CPD programmes to equip teachers to support all children effectively.
- RECOMMENDATION 20: Proactive Inclusion for trips and activities: Require schools to include on their SEND information reports how they include all children on trips and extracurricular activities.
- RECOMMENDATION 21: Accessible Infrastructure: Mandate full accessibility for all new school and FE buildings. Support schools that are not accessible to become so. RECOMMENDATION 22: Update Policies: Ensure school policies, including zero-tolerance behaviour policies, align with the Equality Act 2010, emphasising reasonable adjustments and inclusion over exclusion.

Section 6: How can inclusivity and expertise in mainstream schools and early years settings be improved to achieve consistent, high-quality SEN support? What is the DfE's role in this?

55. The DfE's role is to ensure guidance is lawful, easy to understand, actionable, and makes sense. It should defend the rights enshrined in legislation. It needs to ensure all relevant guidance works together and is written by experts in education, alongside policy experts. It needs to link up with other guidance and be easy to find on the gov.uk website.

9. Inclusion is not a "thing", it is a mindset and an ongoing process of action. Teachers are there to teach every child in their class, not just those who can learn or respond in a predictable way.

56. The previously cited DfE rapid evidence research into SEN support also found, "*..detailed assessment of individual children is necessary to select the most appropriate approach, and progress should be monitored when using any intervention to assess whether it is effective for that particular child.*" Again, this too often does not happen. The reasons for this include time, lack of SEND knowledge, lack of access to external specialists but without this, you are left with the existing failing system.

57. An early assessment with external specialists is also mentioned in the CoP. This is important to understand which needs require support, and crucially, why. Are they part of a larger condition such as autism or ADHD that would require a medical referral? As ASD is becoming more recognised and more prevalent, easy access to autism outreach or school-based neurodiversity experts is vital.

    This research also found that, "very little research examines individual differences in responsiveness to interventions. While all teachers know that certain approaches work better for some children than others, there is very little evidence as to why this occurs."

    If you don't know why something isn't working, then trying something else is pure guesswork and children deserve better than this.

58. When needs are recognised there is often a long wait to get LA professionals such as Education Psychologists (EPs), Speech and Language Therapists (SLTs), Occupational Therapists (OTs) or autism outreach. Government must invest in these services so there are resources available while a child is waiting and so the waits are not long. This is a key way to be able to keep children engaged and in school.

S6 Recommendations 23-27:

- RECOMMENDATION 23: Improve Guidance Clarity and Accessibility: Ensure all DfE guidance is clear, cohesive, and actionable, written collaboratively by education experts.
- RECOMMENDATION 24: Centralised Resource Portal: Create a single, centralised and user-friendly portal on the gov.uk website linking all SEND-related guidance and resources. Use interactive flow charts to show interlinked or interdependent legislation and guidance.
- RECOMMENDATION 25: Invest in specialist services: Increase funding and workforce capacity to allow early and proactive support by education psychologists, speech and language therapists, occupational therapists, and autism/neurodiversity outreach teams to reduce waiting times and ensure children receive timely support.
- RECOMMENDATION 26: Resource Allocation During Waiting Periods: Develop interim resources and support systems for children waiting for specialist assessments to keep them engaged and supported in school. However, do not make referrals dependent on access to interim resources.
- **RECOMMENDATION 27**: Monitor and Evaluate Guidance: Establish mechanisms to regularly review and refine DfE guidance to ensure it remains relevant, evidence-based, and effective.

Section 7: Should SEN support be put on a statutory footing and what this would look like in practice

59. The answer to this is yes, the parts of the SEND Code of Practice that are not underpinned by legislation, i.e. the graduated response that has a "Best endeavours" requirement, should be put on a statutory footing. This will compel schools to act on early intervention that can end up saving money in the long run and, more importantly, mean the child does not lose years while they are waiting for support.

60. How this is put into practice and how it is enforced should be for expert SEND legal teams, such as IPSEA, public law experts such as Steve Broach KC et al, and senior SEND educationalists to consider, along with a thorough public consultation. But in principle, anything that can ensure children get help as soon as possible–which may as a result avoid the need for an EHCP– should be welcomed.

61. The relationship between SEN Support at the Equality Act 2010 needs to be clarified and schools need to understand what their duties are under this legislation. The same would also

apply to EHCPs and the failure of schools to provide Section F provision, which would be considered 'reasonable adjustments' under the Equality Act definitions for disabled pupils.

S7 Recommendations 28-29:

- **RECOMMENDATION 28:** Statutory Framework for Graduated Response: Pick a single name for SEN Support, / Graduated response /Assess, Plan, Do, Review process. Place on a statutory footing to ensure early intervention is mandated and consistently applied across schools. Establish clear guidelines and accountability measures to ensure compliance, with input from SEND legal experts, educationalists, and public consultation.
- **RECOMMENDATION 29:** Training for Schools: Introduce mandatory training modules for school staff to understand their legal obligations regarding reasonable adjustments and timely support for disabled pupils. If not already, this could be included in the Universal SEND Services training.

Section 8: Outcomes for children and young people with SEND and how these can be improved

62. The delegated/notional budget of £6000 per pupil with SEND has not been increased for over a decade. This means its value is much less in a world of rising costs. The delegated budget is not ring-fenced and so it can–and is–used in other areas within the school from repairs to basic supplies to funding unfunded EHCPs. Mainstream schools should be compelled to account for their SEND spending (as they have to with Pupil Premium).
63. Often the SENCO never sees any of the delegated budget. The Bath Spa SENCO Workload Survey (Boddison, Curran, Moloney 2021) found "Overworked, underpaid SENCOs mean children with SEND "will be left vulnerable for decades"[20] Things have not improved in the interim.
64. Schools cannot adequately support children with increasing levels of complex needs with a degraded budget and a diminished level of staffing. Coupled with a lack of SEND training, even for NQTs, is it any wonder that children's emerging needs are missed, absences from anxious children increase, and suspensions and exclusions are rising? In 2024, the Pearson

[20] https://www.specialneedsjungle.com/overworked-underpaid-sencos-mean-children-send-left-vulnerable-decades/

school report[21] found 83% of educators believed SEND learners aren't effectively supported to achieve. It's not that teachers *do not want* to do their best, it's because they are overwhelmed from trying.

65. Teacher training that places SEND at its heart. This will not disadvantage children without needs, but will actively support those with needs. Skills such as Makaton, BSL, numicon, and skills to support children who are autistic or have early signs of ADHD should be central to teacher training. These skills can be useful for all children- it becomes the ethos for inclusion from the very start of training.

66. While it's positive that the government wants to extend Supported Internships to those without EHCPs, these placements are currently scarce for those who do have EHCPs. For example, very few young people who have Down's syndrome have been able to access a supported internship.

67. There needs to be a greater understanding of what happens after a young person has finished an internship and whether it led to meaningful employment for the young person.

68. Young people with EHCPs are also eligible for additional support on Apprenticeships. There has been little research into how this has progressed, the drop-out rate or what the outcomes have been for learners with additional needs.

69. If, as it claims, the Government wants to get more young people into work, there must be more opportunities and support for young adults with SEND made available. There is a postcode lottery as to what careers advice and work experience opportunities are made available to learners who have SEND. Schools and colleges need to be aware of employment programmes such as the Down's Syndrome Association's WorkFit programme[22], which is supporting hundreds of people who have Down's syndrome into employment (often paid and with high retention rates).

70. All too often, Preparation for Adulthood planning does not start at Year 9/age 14 as per the SEND Code of Practice. There needs to be engagement with careers, social care, education and health within person-centred planning, to support the young person to understand what adulthood will look like for them, and how to achieve their individual outcomes and aspirations. It should be mandatory for a local authority SEND officer to attend Year 9 reviews for pupils with EHCPs, as was the case under the Education Act 1981, to ensure that coordinated planning is initiated. This would necessitate an amendment to the SEND Code of Practice.

[21] https://www.specialneedsjungle.com/83-educators-send-learners-arent-supported-achieve-2024-pearson-school-report/
[22] https://www.dsworkfit.org.uk/

71. Pupils who have learning disabilities are often written off when they reach Further Education (FE), with limited options available to them because they do not have the academic qualifications required for BTEC or A-level courses. They are often limited to "life skills", animal care, performing arts, hospitality and health & social care courses. These tend to be full-time courses condensed into three days a week, with no planned education or training on the other two days. Young people who have SEND should be provided with options to engage in FE across a broad range of subjects, according to their interests and vocational ambitions. Changes to FE funding structures are likely to be required to achieve this, ensuring that FE providers can provide differentiated and accessible courses across a broad curriculum for all learners, rather than segregating those who have learning disabilities in separate buildings or units.

72. Travel training and support for developing independence at home and in the community should be available for learners with SEND who need this, without them needing to go to specialist residential colleges (often many hours from home). There should be local residential options that allow young people to develop their independence, and there should be adequate social care support to allow young people to engage in leisure opportunities locally without their parents needing to attend or take them there.

73. Some young people with SEND will be able to attend Higher Education (HE), which is to be celebrated. But instead, they lose their EHCP[23] and have to rely on the university for much of their support, which means they not only have to choose a suitable course but also a university that provides good support. The Disabled Students' Allowance is good, but it often relies on the young person themselves to navigate setting up mentoring, reasonable adjustments and so on when they get to university (often away from home) There is no accountability for when things go wrong— there is a high drop-out rate and, at worse, we have seen quite a number of autistic students take their own lives in despair; this cannot be right. They are also no longer able to claim Universal Credit as full-time students unless they already had it before they became students. This also serves to prevent participation as most disabled students cannot also work to supplement their student loans.

74. We need support for students at university to be made statutory, so an EHCP can be extended to HE. Previously, this was rejected in the 2014 reforms because it involved the Department for Business and Skills and the former SEND Minister, Edward Timpson told us in a 2024 podcast[24] this was too difficult to navigate at the time with such wide-ranging reforms. Now however, universities are under the Department for Education remit, and we believe this

[23] https://www.specialneedsjungle.com/why-send-review-must-extend-ehcps-university-level-education-disabled-students/
24 https://www.specialneedsjungle.com/snjic-edward-timpson-care-families-lives/

decision should be looked at again. If you can have EHCPs for apprenticeships, you can have them for Higher Education.

S8 Recommendations 30-32:

- **RECOMMENDATION 30:** Ring-Fence and Increase the delegated SEND Budget Increase the notional budget per SEND pupil to reflect rising costs over the past 15 years. Ringfencing and renaming the "SENCO budget" will ensure it cannot be diverted to non-SEND purposes. Require mainstream schools to account for their SEND spending similar to how they report on Pupil Premium, ensuring transparency in resource allocation.
- **RECOMMENDATION 31:** Empower and Support SENCOs Establish mechanisms that ensure the SENCO can access and manage the allocated SEND funds. Ensure SENCOs are not overloaded with too many additional roles to enable them to focus their efforts on their main role.
- RECOMMENDATION 32: Strengthen Preparation for Adulthood Planning: Expand Supported Internships and Apprenticeships: Increase the availability of supported internships and additional apprenticeship support for young people with EHCPs, with particular attention to groups currently underserved (e.g., young people with Down's syndrome). Commission research to track post-internship outcomes and the effectiveness of apprenticeship support, including retention rates and successful transitions into meaningful employment.
- RECOMMENDATION 33: Extend EHCP Support into Higher Education (HE) Make support for students with SEND at the university level statutory by extending the EHCP framework to higher education. Develop clearer accountability and support mechanisms for students in HE to prevent high drop-out rates and ensure that necessary adjustments and mentoring are in place. Review additional benefits, such as Universal Credit eligibility for full-time disabled students, to reduce barriers to participation in HE.

Section 9: Workforce issues for teachers, SENCOs, specialists, early years practitioners and all those who work with children with SEND

75. Access to diagnostic assessments and specialist services is frequently delayed, leading to critical missed opportunities for early intervention. This is often because roles requiring

advanced expertise, such as speech therapists, educational psychologists, and SENCOs, are experiencing acute shortages. This issue has been explored in detail by the SEND in the Specialists coalition[25], of which we are a part. This coalition is best placed to answer this in detail.

76. The issues of too few Educational Psychologists are well known and while the government has pledged to train 400 more, this is inadequate. Because of this shortage, we know of EHC assessments being completed without any advice from EPs, meaning that needs are not fully identified or provided for. EPs leave councils because their work is all focused on EHC needs assessments and not on class support. In private practice, they can make much more money and have a better work-life balance, so who can blame them?

77. Cutbacks have led to many LAs disbanding or drastically reducing their specialist advisory teacher teams. They include qualified teachers of hearing, visually or physically impaired pupils as well as specialist teachers for autism and dyslexia. These professionals can provide invaluable advice to schools, who may not encounter certain conditions or impairments very often. They can also provide monitoring and advice on the provision of equipment. These teams need to be restored and fully funded to ensure that pupils are effectively supported in mainstream settings rather than needing to attend specialist schools that may be situated at considerable distances from their home areas. When schools have to make spending cuts, teaching assistants are often the first to go. In 2025, as in previous years, many teaching assistants[26] are either facing redundancy[27] through rising costs or are abandoning schools to have significant pay boosts working, for example, in the local supermarket.

78. This puts already vulnerable children at an even greater disadvantage. It makes it more likely that children with SEND will go unsupported, unable to access the curriculum, become disengaged and may end up with school avoidance issues or be excluded. While it may save the school money, it is very costly to the child. Schools should never have to make cuts to their core budgets– you will never achieve inclusive schools if you do not invest in mainstream support.

79. The government needs to pay teachers and support staff what they are worth and launch a national recruitment drive to boost the SEND workforce. Consider a model for making the role of Teaching Assistant a more viable career - more qualifications, a better pay scale and so on. Also look at ways to support skilled and experienced TAs, particularly those working in specialist schools with excellent knowledge, easier routes into qualifying as teachers.

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[25] https://www.specialneedsjungle.com/send_specialists-campaign-boost-investment-in-the-send-specialist-workforce-grows-get-involved/
[26] https://www.specialneedsjungle.com/research-mainstream-teaching-assistant-cuts-negatively-impacting-send-pupils/
[27] https://www.bbc.co.uk/news/uk-england-norfolk-68936309

80. Lack of TAs makes it more likely children with SEND will be referred for an EHC Needs Assessment and potentially a specialist school placement.

81. The DfE and LAs should make it more attractive for practitioners in the private sector– whether EPs, teaching staff, speech and language therapists or occupational therapists, to return to LAs. This may include better working conditions, improved culture within councils, and a better pay package. In the interim, councils should be told to hire private practitioners to clear the backlog of requests, and funded to do so.

S9 Recommendations 34-36:

- **RECOMMENDATION 34:** Invest in the SEND Workforce: Launch a national recruitment drive for SEND roles, with incentives such as better pay, improved career pathways (e.g., TAs progressing to qualified teaching roles), and enhanced working conditions.
- **RECOMMENDATION 35:** Restore and Fund Specialist Advisory Teams: Reinstate local authority specialist advisory teacher teams to provide support and guidance on SEND conditions.
- **RECOMMENDATION 36:** Leverage Private Sector Expertise: Provide funding for LAs to hire private practitioners to address backlogs in assessments and support.

Section 10: SEND Training in schools

82. Initial Teacher training must put SEND at the core (as previously stated). Trainee teachers should be trained to teach and include ALL children in their classroom, whatever their abilities or requirements for adaptations or support.

83. The previous government's Universal SEND Services[28] training programme would be more effective if every school knew about it and took it up. The USS programme needs a comprehensive communications campaign, which could easily be achieved. It also needs statutory guidance for schools to use it. It is, after all, free to access, so there is no excuse. However, USS is only funded in short cycles and it is not mandatory. It should be made permanent and its modules should be integrated into ITT teacher training programmes so there is standardised SEND training across the country.

[28] https://www.specialneedsjungle.com/how-universal-send-services-programme-learners-send/

84. Additionally, it needs to be expanded to include early years and post-16 education.

85. SEND Interventions must be based on robust research evidence that has translated into actionable training/resources. A central database of interventions that are proven to work (such as the MetaSENse database[29]) should be utilised.

86. We already discussed early Years Training Hubs. This is also needed for school and FE training. Such a hub would be government-funded and the Universal SEND Services programme would make up a vital component.

87. While the government's What Works in SEND[30] programme to gather evidence is continuing, it is still at a very nascent stage and there is little on the website so far to make it particularly useful. It is anticipated this will improve in time

S10 Recommendations 37-38

- **RECOMMENDATION 37:** Integrate Universal SEND Services into ITT and Make It Permanent: Mandate USS training in schools through statutory guidance, with modules integrated into ITT for consistent and standardised SEND training across the country. It should be expanded to cover early years and post-16 education to ensure comprehensive support across all stages.
- **RECOMMENDATION 38:** Establish Government-Funded SEND Training Hubs to deliver robust, research-based SEND training and resources for schools and FE providers.

Section 11: The role and capacity of specialist schools, independent schools and Alternative Provision

88. The previous Government's SEND and AP Improvement Plan claims Alternative Provision is "early intervention". This is ridiculous–early intervention is when needs are first noted, not when they have been so ignored a child can no longer remain in mainstream education.

89. If inclusive mainstream schools become a reality, there would naturally be less need for AP or independent specialist provision. However, some pupils will always thrive better in small classrooms or with facilities required by those with profound disabilities, or that offer a waking day curriculum. Parents understandably want the provision that will guarantee to provide what their child needs. Children with, for example, low-incidence needs such as

[29] https://www.specialneedsjungle.com/research-informed-metasense-database-send-interventions/
[30] https://whatworks-send.org.uk

hearing impairments, could do well in inclusive mainstream if the teaching expertise for deaf children is there, if the equipment the child needs is provided if there are staff trained to use it, and if it is always in good working order. These are very big ifs.

10. Why would you want to take that risk with your child's education? In a busy mainstream, if a single deaf child's vital equipment is broken, there may be no back-up, and it may take weeks for a repair or replacement, during which time the child may not be able to participate at all. Getting it fixed/paying for a replacement may not be as much of a priority. Likewise, what happens if their specialist teacher is off? Being in a specialist setting avoids all these issues.

11. In the same way, an autistic child may thrive in a mainstream school if all the support they need is in place. But if only some of it is, or if a subject teacher does not understand autism, or if the child has a particularly spiky profile, it is very hard for a mainstream school to give the right support. In theory, with a "resource base" it may be easier but this depends very much on the individual child. Why would any parent not want their autistic child in a provision where the right expertise, support and understanding are available all the time?

90. AP isn't SEND provision. If, as stated earlier, children get the help they need quickly, including proper assessment to determine why they have needs in the first place, AP would be needed less. With an assessment early on, instead of waiting for an EHC needs assessment, a child who requires a programme of nurture will get that–and it may transpire that apparent SEND needs are instead a response to a difficult home life.

12. There is confusion between "internal alternative provision[31]" and resourced provision. IAP, currently being researched by EEF[32], can also be known as a "nurture unit", "inclusion unit", "isolation", "on-site provision", etc. This is a separate space in the school where pupils, removed from the classroom, can receive support to help them get back into the mainstream classroom. Done well, these can be hugely beneficial[33] to young people experiencing safeguarding or solvable emotional issues. If a child is then identified with an SEN, who would be re-traumatised by going back into an unsupportive mainstream class, it is not the right solution.

13. Additionally, recruitment of the right specialists is challenging, as is finding the right space, deciding a suitable curriculum, how long a child will stay, developing individual exit plans,

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31 https://www.apresearchnetwork.com/blog-1/the-rise-of-internal-alternative-provision-whats-working-and-whats-toughnbsp

32 https://educationendowmentfoundation.org.uk/projects-and-evaluation/projects/understanding-the-use-of-internal-alternative-provision-for-students-at-risk-of-persistent-absence-or-exclusion

33 https://www.integrated.org.uk/2022/01/18/internal-ap-scratching-the-surface/

the costs of running it, how they will work with the rest of the school to ensure an inclusive experience and support for the staff themselves.

14. There are certainly children who are in specialist schools who could access mainstream education if those settings were supported and funded to be more inclusive. Some independent specialist schools are set up to cater to the needs of more academically-able children who can take GCSEs and A-Levels but who need smaller classes, lower-arousal environments and in-house therapies. We could replicate this within the maintained sector at significantly lower cost.
15. Moves to limit the use of specialist settings will undoubtedly mean the closure of some specialist schools. Many children already have to travel significant distances to their specialist school. The government acknowledges that children with "the most complex needs" will still need specialist settings - how will this work in practice? We must ensure that specialist settings do not close, leaving residential placements as the only option for many families who do not want to be separated from their child.

S11 Recommendation 39:

- **RECOMMENDATION 39:** Preserve and Strengthen Specialist Provision:
  Maintain specialist schools to support students with complex needs and explore replicating effective specialist practices, such as smaller classes and in-house therapies, within the maintained sector to improve access and reduce costs.

Section 12: EHCPs

16. We strongly believe there is **nothing wrong with the principle of EHCPs and there is little wrong with the law.** The previous government's 2023/4 SEND Improvement Plan/Change programme is already finalising a standard EHCP template, which was called for before 2014. This will improve the portability of plans, and improve the ability of medical professionals who must fill in EHCPs from many different LAs to do so quickly.

91. The criticism of plans is mainly from local authorities who not only assess but provide the funding/provision within an EHCP. LAs should not both carry out the assessments and hold the purse strings; it is a huge conflict of interest and one of the main reasons for the refusal of a large percentage of initial assessment applications. Even if they later reverse the refusal to avoid an appeal or a loss at appeal, they have saved money in the interim, regardless of the cost to the child's education and wellbeing.

17. Additionally, EHC Assessments should include assessments for social care support and personal budgets, but most of the time they don't happen. If parents make a fuss, the spotlight can be turned on them, with threats or accusations made against them of causing harm (e.g. Fabricated or Induced illness) that devastate families. When inevitably dropped, no one is held accountable for the chaos and harm caused.

18. We would propose an independent body to oversee assessments whose overriding principle is to comply with the law and to identify each child or young person's needs and the provision to meet them without being constrained by resource considerations. If the process remains within the remit of LAs, they must be prevented from trying to the influence professional judgements of experts who provide advice for EHC needs assessments.

92. As part of the initial part of the EHC Needs Assessment process, local authorities **should be required to meet with the parents and child/young person as well as the existing setting and any other professionals involved,** to discuss the current challenges and to work together to develop a plan of action. This could be that the local authority funds some additional SEN Support intervention, or staff training, for example. Or it might be decided at this point that an EHC Needs Assessment is required, which can be started immediately. This "no door leads to no" approach could reduce the number of appeals for Refusal to Assess, and potentially the number of EHCPs if appropriate support is put in place and funded at SEN Support level. This would require an agreed individual plan, with an agreed timescale for review with the local authority's involvement. If challenges persist, then the EHC Needs Assessment should commence immediately at that stage.

93. The first step in deciding on a placement should be identifying whether a child can be truly included with appropriate support: can they be educated within any mainstream classes? What outcomes can they achieve within a mainstream setting? An honest assessment of this should come before any decision that the child can be educated within a mainstream school or whether specialist provision is best placed to meet their needs. Currently, local authorities are incentivised to make decisions not in a pupil's best interests, with officials, not experts, making decisions on a financial basis or depending on spaces in local settings, which exacerbates costs longer term when things inevitably go wrong.

S12 Recommendations 40-42

- **RECOMMENDATION 40:** Do not dilute children's rights or remove EHCPs. Vulnerable children and their families are not at fault and should not be penalised because of faulty decisions elsewhere in the system

- **RECOMMENDATION 41:** Adopt a Collaborative and Flexible Approach to Initial Needs Assessment: Require local authorities to meet with families, schools, and professionals early in the EHC process to explore tailored interventions or SEN Support, reducing refusals and appeals while ensuring swift action when an EHCP is necessary.
- **RECOMMENDATION 42:** Ensure Placement Decisions Reflect the Child's Best Interests: Mandate that placement decisions prioritise an honest assessment of whether a child's needs can be met in mainstream education with appropriate support, without financial or capacity-driven biases from local authorities.

Section 13: How can waiting times for EHC Plans be improved?

94. Ensure LAs and schools comply with the relevant legislation. Ensure LAs have sufficient, well-trained SEN Case officers who understand the legislative framework and have somewhere to contact if they are unsure of their legal duties. Training should be secured from external experts in SEND law because unlawful practices are perpetuated when internal training is provided.
95. Make it unlawful for an LA to refuse to accept a private Ed Psych/SLT etc assessment as long as the individual practitioner is suitably qualified and accredited by their professional body
96. For some conditions, where it is known an EHCP will be required (for example Down's syndrome) the initial six-week period where local authorities decide whether to assess should be removed

S13 Recommendations 43-44

- ➢ **RECOMMENDATION 43:** Provide Expert Training for SEN Case Officers and External Support for Parents: Ensure SEN Case officers have access to external SEND law training.
- ➢ **RECOMMENDATION 44:** Ensure Acceptance of Private Assessments and Remove the Six-Week Decision Period for Certain Conditions: Make it unlawful for LAs to refuse private assessments from qualified professionals and eliminate the six-week assessment decision period for conditions that typically require an EHCP, like Down's syndrome.

Section 14: EHCPs: What can be done to support parents, carers and children or young people before, during and after the EHC Plan process?

97. When the system was transitioning to EHCPs, there was a system of Independent Supporters[34] who were not employed by local authorities so they could be completely impartial. This worked very well and was praised by families. They were trained to understand and navigate the process, holistically supporting parents through to completion. These were ceased when the transition to EHCPs was finished but should have been kept on– their work was invaluable, especially for parents who were less able to navigate the system. Instead, the existing **Special Educational Needs and Disabilities Information Advice and Support Service** (SENDIASS) was "beefed up". However, many SENDIASS are overstretched and they are under the remit of local authorities, making many parents suspicious of them. Some still fall short of their own national standards document. Investing in an Independent Supporter service would help enormously with parental engagement and stress and with ensuring EHCPs are holistic as they would engage with all services. It would also take some of the strain from SEND case workers. All SENDIASS should be funded centrally and adequately and commissioned from independent providers as was the case with Independent Support.
98. An independent supporter/keyworker would help them navigate both the initial EHC process but also subsequent Annual Reviews. These keyworkers could liaise with therapists and other professionals who are supporting the pupil, as well as the education setting, to reduce the burden on parents who are all too often required to be the person co-ordinating professionals and ensuring processes and timescales are adhered to. Having a neutral person engaging on behalf of the family can remove some of the heat and emotion that parents feel when their calls or emails are ignored. It would also reduce the amount of time parents have to spend organising meetings or chasing for feedback or reports.

Section 14 Recommendations 45-46

- **RECOMMENDATION 45:** Reintroduce Independent Supporters/Keyworkers: Restore the Independent Supporter role to offer impartial, holistic support for families navigating both the EHCP process and subsequent annual reviews. These keyworkers would liaise with all professionals involved to reduce parental burden and ensure smoother communication.
- **RECOMMENDATION 46:** Fund and Commission SENDIASS Centrally and Independently: Ensure SENDIASS is adequately funded, centrally coordinated, and managed by

[34] https://www.specialneedsjungle.com/the-what-when-and-how-of-independent-support-for-the-ehcp-process/

independent providers rather than local authorities to eliminate conflicts of interest and improve service delivery.

Section 15: EHCPs: How can the EHC Plan process be made non-adversarial?

19. The answer to this question is to make councils, schools and the NHS to comply with the law. If this was any other sphere, there would be uproar at the amount of lawlessness. But instead of obeying the law and working collaboratively with parents, councils are now actively lobbying for the law to be changed to remove hard-won disabled children's rights. If allowed to do this, it would be a massive backward step for social justice, something the Labour Party supposedly champions. If the Government wants to help councils, they should write off their high-needs debts that they will, in any case, never be able to repay, then restore the funding that has been persistently eroded, not just in education, but across council services.

20. In a recent article in Local Government Lawyer[35], a spokesman for local government said *"The tribunal system does not work, it is adversarial and drives additional cost throughout the system with no consideration to affordability."* This is nonsense.

21. Neither the Tribunal nor parents make the EHCP process adversarial, local authorities themselves do by unlawfully refusing assessments and plans. LAs delay support to save money, assessments denied are almost always overturned when challenged, but when if an LA "loses" they have still saved money by forcing a parent all the way to a hearing, then not turning up at all or conceding the day before, and write poor EHCPs that are not quantified or specified (among other things). They then argue over suitable placement, even when they do not have a suitable LA-funded provision, instead stating "mainstream" when mainstream has already failed the child. When they insist on taking parents all the way to Tribunal hearing, as is increasingly the case, they lose 98.7% of the time– in other words, almost all the time. When they force parents to the Upper Tribunal, they also regularly lose. Parents are simply asking for their child to have a chance at the same suitable education non-disabled children get without a second thought. LAs and their related associations have continually sought to cast parents as "vexatious", "demanding", "chasing a golden ticket" and other pernicious terms to justify their refusals.

22. Some LAs have even threatened parents with social care investigation or accused them of harming their child (as already stated), simply because parents have asked for help. They also use the "sharp-elbowed, middle-class parent" trope to vilify families who are more

[35] https://www.localgovernmentlawyer.co.uk/child-protection/392-children-protection-news/59738-councils-and-directors-of-children-s-services-support-aims-of-law-commission-on-disabled-children-s-social-care-but-warn-of-unintended-consequences-of-some-proposals

capable of advocating for their children claiming they are somehow taking provision from those who cannot self-advocate. This is beyond cruel when the real imbalance, both financially and of power, is between councils and parents. This is deeply unfair, especially when these tropes are taken at face value by the right-wing press.

23. While **mediation** is voluntary for parents, for LAs it is not. However, this does not stop them from declining to participate or sending officers without decision-making capacity. If a parent wants to try mediation, an LA must be held accountable for refusing–perhaps the decision should be made in the parent's favour.
24. When a mediation decision is agreed but the LA does not act, the parent then needs to take legal action again–this is onerous. Mediators should be the ones to write to the LA once parents report no action. The mediator should be able to restate the legal position to the LA and also provide clear signposting to the parents for support and template letters for judicial review. This would not create too much additional work for a mediator if they have their own templates from which to work.

S15 Recommendations 47-48

- **RECOMMENDATION 47: Fund councils properly:** The process is not inherently adversarial. If LAs could fund their statutory duties and schools were inclusive, there would be less incentive for them to break the law to try to save money.
- **RECOMMENDATION 48: Ensure Mediation works:** Enforce consequences for LAs refusing to participate in mediation when a parent wants to, and with decisions automatically made in the parent's favour if LAs refuse. Mediators should be responsible for following up on non-compliance and providing clear legal guidance to parents for further action.

Section 16: EHCPs: What alternatives are there to the EHC Plan process?

99. We do not need an alternative to the EHCP process - if we want genuine, effective early intervention we should be assessing more children, not fewer. We need to follow the process that exists properly with sufficient professional assessment and advice - failure to do so has played a large part in the current crisis.
25. For example, we should consider introducing routine developmental checks for four-year-olds, similar to the two-year-old year check by Health Visitors, with routine screening and a follow-on stage for more in-depth assessment where needed. When needs are noted, a support plan can be completed rapidly at reception age so the correct support can be put in

place. It is also important to remember proper medical assessment and diagnosis - having the right support does not negate the need for diagnosis

S16 Recommendations 49-50

- RECOMMENDATION 49: Do not replace the EHCP process. If early intervention plans succeed, need for EHCPs should naturally fall and this needs to have time to filter through.

  RECOMMENDATION 50: Routine Early Developmental Checks: Introduce a universal developmental check for four-year-olds, to enable earlier identification of needs and the provision of early and appropriate support to avoid needs escalating.

Section 17: EHCPs: Current and future SEND AND HEALTH need

26. We have already covered much of the reasons for the increase in SEND needs. This is only going to increase and the correct response is indeed to make mainstream schools more inclusive. However, there is no need to reduce disabled children's rights in so doing.
27. Targeting SEND as a separate issue will not solve the problem; the entirety of the education system requires overhaul and this is underway with the Curriculum and Assessment Review. Education must be a holistic, compassionate experience, with a broad, inclusive curriculum. Underfunded state education systems result in a poorly educated population who cannot tell fact from fiction, truth from conspiracy, and who are not able to utilise the lessons learned from mistakes in the past to prevent a repeat in the future. This is already happening and has been since 2016.
28. The advent of Artificial Intelligence systems can be put to good use to make the EHCP process faster and more efficient, ensuring LLMs are trained by using relevant legislation that will flag non-compliance. Quality control will be required by the team around the child of parents, young people if possible, and relevant practitioners.
29. AI can also be used to forecast future need using population, census, health, and school data returns. This can be done at every level needed– ultra-local, LA-wide, regional and national, so provision can be reviewed and adapted to be ready.
30. On the matter of profit-making independent special schools, our position is that there should be either legal limits on profits or profit-making special schools should not be permitted. Routes to audits for cost-effectiveness of public expenditure could also be considered for these establishments as part of Ofsted inspections

31. For health needs in SEND, there is no need to "reinvent the wheel" as there is existing government guidance that outlines legal responsibilities for children with health conditions in school[36], for children in hospital[37] and for those unable to attend school[38]. These are underpinned by the Children and Families Act and the Equality Act etc. They simply need to be more widely publicised and enforced

32. Additionally, there is existing government guidance for Local Offer websites (in the SEND CoP) and what schools should publish on their websites. If any of this guidance is out of date or requires improvement, relevant sector organisations should lobby the Government to do this. Recent research has found many Local Offer websites have "critical gaps"[39] and are not compliant.

33. We recommend that providers, councils and NHS should be sent email reminders to check termly by their responsible Government departments that they are complying with the relevant sections of guidance. If the bodies concerned do not do this, they should be held accountable via reminders, warning letters, and DfE/DHSC "censure notices" or similar. These would not be fines but would be public notices sent to the school/local authority or other relevant body and also to the local press and Democracy Reporting Service. Ofsted Inspectors should also pay particular attention to how schools are following this guidance in school and local area inspections and monitoring visits, with the results reflected in reports.

34. Joint commissioning and multi-agency collaboration has always been a particularly weak point in the SEND reforms. NHS Health providers have been very slow to realise that they are bound by the Children and Families Act. Some remain unclear as to their duties and responsibilities as evidenced in OFSTED local area inspections.

35. Long waiting lists for children's mental health, ASD, and ADHD assessments are well known. While many local area partnerships are trying to tackle this, we have concerns that this includes putting in roadblocks before children can be added to waiting lists, such as in Berkshire where the NHS is now requiring[40] "a support plan has been in place for at least six months" before a referral can be made for ADHD or autism assessment. Then the waiting list after that can be 18 months and frequently longer.

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36 https://assets.publishing.service.gov.uk/media/5ce6a72e40f0b620a103bd53/supporting-pupils-at-school-with-medical-conditions.pdf
37 https://www.gov.uk/government/publications/hospital-education-a-guide-for-health-services/hospital-education-a-guide-for-health-services
38 https://assets.publishing.service.gov.uk/media/657995f0254aaa000d050bff/Arranging_education_for_children_who_cannot_attend_school_because_of_health_needs.pdf
39 https://www.specialneedsjungle.com/research-critical-information-gaps-send-local-offer-websites-ehcp-eligibility-criteria/
40 https://cypf.berkshirehealthcare.nhs.uk/adhd-and-autism-neurodiversity/changes-to-referral-process/

36. Long waiting lists are concerning enough; the added gatekeeping may mean a child never gets on a waiting list if their school refuses to provide support. Although the SEND Code of Practice says a diagnosis is not needed before support can be put in place, many schools can be sceptical about whether a child is neurodivergent or "just being naughty", despite what a parent reports.

37. This change is deeply troubling–a referral from a GP should be sufficient as families have little control over the support a school is prepared to offer. As we have seen, some schools are happier to move a child to alternative provision before even thinking about an assessment of needs.

38. Multi-agency cooperation is supposed to be helped by the role of the **Designated Medical Officer / Designated Clinical Officer.** This role was created by the CFA 2014 and designed to coordinate between health and local authority education and social care departments. There is a practice handbook[41] published by the Council for Disabled Children. It would be helpful if this role underwent a research evaluation to see how it is working, what their concerns are and if there needs to be more than one in large areas. This is a key role, but if you ask most parents, they will never have heard of, or interacted with, the post-holder. It is not unusual to see draft EHCPs where no medical evidence has been obtained, including where children are known to have rare syndromes or genetic disorders and as a result have severe and complex medical, as well as learning needs.

39. Even though social care and SEND departments are within the same local authority, it is still difficult to access a social care assessment as part of an EHC Needs Assessment–which is a required component. Even after a decade, social care still declines assessments by saying the child in question is "not known to social services". When pushed, they have been known to threaten parents with child protection investigations.

40. As with missing medical advice, social care teams fail to carry out assessments for young children who are recorded as having severe and complex learning and medical needs that would almost always warrant social care support for the family. This results in inadequate EHCPs that do not record or provide for all of the child or young person's needs.

41. Even the Independent Review of Children's Social Care[42] was light on support for disabled children. While safeguarding for disabled children in residential settings is clearly an issue, individual support requests have long been too closely linked to safeguarding. This has led to many unwarranted investigations into families asking for support for their disabled child.

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41 https://councilfordisabledchildren.org.uk/resources/all-resources/filter/health/designated-medical-officer-and-designated-clinical-officer

42 https://www.gov.uk/government/publications/independent-review-of-childrens-social-care-final-report

100. And yet, while LAs seem eager to pursue parents of disabled children for little reason, we were shocked to discover that proprietors of independently run disabled children's schools and residential provision that *are* found to have abused disabled children have immunity from the law[43] This MUST be investigated and changed.

42. The Law Commission Review[44] into how legislation for disabled children could be simplified and streamlined is ongoing and we await its findings with interest.

S17 Recommendations 51-55:

- RECOMMENDATION 51: System-Wide Overhaul: The ongoing Curriculum and Assessment Review should support a holistic, compassionate, and inclusive educational experience for all.
- RECOMMENDATION 52: Use Artificial Intelligence for Efficiency and Planning: AI can speed up and improve the EHCP process by training LLMs on relevant legislation, with human quality control. It can also be used at a strategic level, using data to forecast population, location, and likely needs to predict future requirements and to ensure provision is responsive and well-resourced.
- RECOMMENDATION 53: Limit or Prohibit Profit on independent specialist provision: While independent special schools can provide much-needed provision, government could restrict excessive profiteering and increase transparency to ensure public funds are not used to line shareholders' pockets.
- RECOMMENDATION 54: Issue regular reminders of duties: Use automated systems to remind LAs, health, and education settings of their statutory duties. For example, termly reminders to check compliance, backed by accountability measures for consistently failing to meet requirements.
- RECOMMENDATION 55: DMO research: Commission a research evaluation of the Designated Medical Officer/Clinical Officer role, considering the need for additional posts in larger areas to ensure effective coordination.

43 https://www.specialneedsjungle.com/private-companies-send-schools-immunity-law-family-change/
44 https://lawcom.gov.uk/project/disabled-childrens-social-care/

Section 18: SEND Improvement Plan

43. The previous Government's SEND Improvement Plan/ Change Programme (CP) is (apparently) still underway. Many of the ideas in this plan seemed to have been dreamed up without any evidence base, such as tailored lists and "mandatory" (now "strengthened") mediation. Our article here[45] is a good précis of where it is up to. This article, by Matt Keer, reports the CP has been slow to get going and £6 million of the £70 million budget has been spent on high-cost consultants,[46] many of whom have come from LAs that have a dire record in SEND, or for-profit research outfits with little connection to SEND.

44. Shockingly, one of these partner consultants, ISOS Partnership, in 2024 published a report[47] that they insisted was "independent" but was funded by local government. While it contained some interesting ideas, it recommended reducing children's rights and getting rid of the SEND Tribunal so parents have no route for redress when their LA breaks the law. These are clearly the views of local government, and the fact that this group, clearly hostile to families, is paid by the DfE to work on its reform of SEND, is highly questionable.

45. Since the new government has taken over, it is still unclear how this programme will progress, although testing of aspects of the plan with the partner LAs is continuing.

S18: Recommendations 56-57:

- RECOMMENDATION 56: Cross government, it should be emphasised that policy needs to be evidence-based and based on fostering wellbeing
- RECOMMENDATION 57: Ensure consultants have a record of success in SEND, that they are value for money, and they understand the concept of wellbeing being uppermost in decision-making

[45]https://www.specialneedsjungle.com/whats-happening-send-ap-change-programme-november-2024/
[46]https://www.specialneedsjungle.com/private-sector-winners-dfes-send-change-programme/
[47]https://www.specialneedsjungle.com/send-is-an-existential-threat-to-las-financial-sustainability-junking-the-send-tribunal-is-part-of-the-answer-claims-newfile:///C:/Users/read2/Downloads/230119%20Agenda%20Item%208%20-

Section 19:
Post 16 Provision

46. The 2014 reforms extended EHCPs to the age of 25 for those who were still in education or training. This includes[48] supported internships, paid apprenticeships and work experience. This meant further education settings had to set up new processes, as they were used to non-statutory Learning Difficulty Assessments.

47. Unfortunately, the government underestimated the cost of this expansion, particularly when a young person requires a specialist college, many of which are residential. This often sets up families whose teenager needs such a placement for a Tribunal battle to get support because the cost is high. However, if a cost comparison was made with providing support in a local, less adequate setting, coupled with the cost of getting them there and back, and the cost of finding and resourcing local social care provision, the savings may not be minimal. Additionally, the parents would need to continue to be carers, affecting their own health and ability to work and the young person would lose vital opportunities for independence.

48. **Poor forecasting and planning on the part of the DfE is to blame for this, not families utilising what has been offered.** Nevertheless, if local government bodies get their way, EHCPs would be ended at age 20, a clear removal of rights.

49. Moves to allow supported internships for those without EHCPs is a step towards this. If restricting EHCPs to age 20 took place, many young profoundly disabled young people would have educational support removed and they would, if they're lucky, only have "care" from LA social care departments. This may not cost much less–it just moves the cost to a different department of a local authority.

50. Poor transition preparation from Year 9 onwards and low expectations are still far too common, as explained above, about the kinds of provision young people are routinely offered.

51. Additionally, for those young people who can attend day provision, SEND transport is not statutory for the post-16 stage. With tight budgets, this is one area LAs are seeking to cut. While some young people may be able to benefit from "independent travel training", for many others it is not suitable because of their disability or safety awareness. Refusing transport for these young people effectively means they cannot continue their education if their parents are unable to provide transport or to afford the transport payment the LA is asking for.

[48]https://www.gov.uk/government/publications/support-for-apprentices-with-a-learning-difficulty-or-disability/support-for-apprentices-with-learning-difficulties-and-disabilities

In Hampshire for example, the charge for Post-16 transport for young people with EHCPs that meet their criteria is out of reach for a large percentage of families, as the table below illustrates.

Distance to travel	Annual charge	Termly cost
Up to 5 miles	£808.25	£269.42
5.01 to 7.5 miles	£1,119.43	£373.15
7.51 to 10 miles	£1,568.01	£522.67
Over 10 miles	£1,791.62	£597.21

52. How to solve this: The cost is high because LAs use commercial taxi and bus firms, many of which charge high prices to local authorities.
53. If the number of children attending specialist schools reduces, many children who currently travel on a minibus will need individual transport, as pupils will be spread over a wider area. Just because they are in a "local" school, doesn't mean they can walk to it This would increase the cost per pupil.

S19 Recommendations 58-60

- RECOMMENDATION 58: Maintain EHCP Rights to Age 25: This is taken up by a small number of young people with the greatest needs that are not easy to meet. For some, this means residential provision, but for most, continued development of training options means these EHCPs have less cost associated with them.
- RECOMMENDATION 59: Enhance Transition Preparation and Raise Expectations: Improve the availability of advice by supporting charities that already do this well, such as NDTi and others. Review and develop national guidance and pathways to careers such as apprenticeships and internships that promote independence and ongoing educational engagement.
- RECOMMENDATION 60: Address SEND Transport Challenges: Recognise the statutory gap in post-16 SEND transport and develop cost-effective solutions—such as improved

procurement practices or subsidised transport options—to ensure accessible, affordable travel for all eligible young people.

Section 20: Accountability and inspection of SEND provision

54. The accountability vacuum is one of the key weaknesses in the SEND system. There are no professional or personal consequences for officials (and practitioners) who act unlawfully, or who break their own professional body's code of practice–even when these breaches occur on an industrial scale, as they are now.

55. When LAs persistently break the law, nothing tangible happens to discourage them. LAs lose 98.3% of SEND Tribunal appeals. This shows their decision-making is dire–something underlined by the 2023 Administrative Justice Council report. We believe it is driven by cost-cutting, inflexible LA systems and poor culture, perpetuating an adversarial experience for families. Even though LAs almost always lose at the SEND Tribunal, LAs have saved the cost of providing support for a year or more. The real loser is the child.

56. **No future SEND reform will succeed unless or until this fundamental problem of no action being taken against individual perpetrators of unlawful practice is resolved. Without this, any reform will simply be actioned based on the duties and practices that professionals feel like delivering, rather than what they are duty-bound to deliver. This is KEY.**

57. This is a problem that permeates the system through defective cultures of scrutiny and improvement. For example, the local authority SEND manager who unlawfully attempted to remove all of the provision from a child's EHCP is now one of the DfE's lead SEND professional advisers! This manager reported to a Director of Children's Services who is now a lead commissioner for improving local authority SEND services. Clearly, unlawful behaviour that is detrimental to vulnerable children's lives is not only *not* a deterrent in the current system, it is a positive career move.

58. More robust Ofsted school or area SEND inspection frameworks could help to close this accountability deficit. However, these changes could also drive unintended consequences. *We are particularly concerned about the prospect of an 'inclusion' criterion within Ofsted's proposed reforms to its school inspection framework* - ***if this is poorly designed, this has real potential to drive perverse practice.***

59. Local government claims the SEND Tribunal is "adversarial[49]" This is scurrilous. The Tribunal merely applies the law, just as every court does. That LAs lose 98.3% of cases[50] is down to their poor decision-making. LAs have the opportunity to appeal if they disagree, as do families. If this was any other Court in any other sector, no one would listen to the losing party claiming unfairness. LAs do this because parents have little way of fighting back against this powerful lobby. They know if they whisper in the ears of allied or right-wing press their narrative will take hold. We urge you to understand their motivations and disregard their lobbying to reduce disabled children's rights.

60. Councils' bodies are now calling for the Tribunal to take into account affordability— again, what other section of the judiciary uses money as a criterion for applying the law? Underlying all this is the unspoken question of why are these children, many of whom will never generate their own income, costing councils so much money? Why are their parents bothering to fight for an education for a child who may never hold a job? The answer is because we are a civilised society that is supposed to be advanced and caring. Taking away rights because it costs a lot is barbaric and it is not who we are supposed to be. It's not what we want from any government, especially not a Labour one.

61. In fact, to work better, the First Tier SEND Tribunal needs to have its capacity boosted of the SEND Tribunal to ensure that cases can be heard without delay. Recently, cases were taking a year to reach a hearing, only for the LA to often concede the day before, knowing they would lose but having saved thousands in providing support. This practice should not be permitted without the LA being held to account by the awarding of costs to the family.

62. LAs should be banned from employing outside barristers to face parents at the SEND Tribunal.

63. Ofsted's new 'inclusion' criteria should inspect the number and reasons for exclusions, and go further to drill down into the reasons behind the "why". For example, if a child was "persistently disruptive", what did the school to do help? Did they carry out a statutory assessment to see what SEND needs a child might have? Did they look at the child's home life to see if there is extreme economic disadvantage or homelessness? Family breakdown or lack of strong parental figure? Gang or county lines involvement? Is there abuse suspected or social services involvement? Much of this work will require trust between the pupils and staff and this has likely eroded if exclusion is being considered.

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49 https://www.localgovernmentlawyer.co.uk/child-protection/392-children-protection-news/59738-councils-and-directors-of-children-s-services-support-aims-of-law-commission-on-disabled-children-s-social-care-but-warn-of-unintended-consequences-of-some-proposals

50 https://www.specialneedsjungle.com/55-rise-2024-send-tribunal-appeals-cost-families-incalculable/

64. Ofsted should take its lead from schools that have a no-exclusions policy. How do they do it? What are the hallmarks of such schools? Can these schools or the DfE or university researchers find out how they do this?

65. 2023 research from FFT Education Datalab[51] showed that exclusions are highest in Year 10– suspiciously just before GCSEs. The research found. "Pupils who are excluded during the secondary school years were unlikely to return to state-funded mainstream schools…. … However pupils excluded while at primary school will be more likely to be admitted as a result of secondary transfer. Many secondary schools don't have any previously excluded pupils on roll at all. Those rated requires improvement or inadequate by Ofsted are more likely to have larger proportions."

66. Research by the Education Policy Institute[52] in 2024 on outcomes for suspended and excluded pupils found GCSEs were a gateway to better outcomes, so children who are not in school to take any are at great risk of a very poor outcome in adulthood. This research recommended, *"The case for early intervention to address the factors leading to suspension, respond to the underlying behavioural issues and prevent low GCSE attainment is bolstered by our research, which suggests that neglecting to address these factors could contribute to long-term consequences for the individual and materialise in wider costs to society, e.g. contact with the welfare system. Behavioural issues are influenced by various factors, including those beyond the classroom, such as pupils' mental health and parental support, and there is growing causal evidence that such support can reduce suspension rates and antisocial behaviour. Therefore, the Department for Education (DfE) should consider conducting a programme of work which sets out how to best respond to behaviour that reflects the evidence on in-school and out-of-school drivers."*

67. Ofsted also needs to look at children on SEN Support– how long have they been on it, what progress do they make, how have parents been involved? How do schools support SEND parents? How do schools utilise the delegated SEND budget? Does the SENCO hold professional SEND qualifications? Does the school encourage staff to do SEND CPD? There is much that Ofsted can do in this regard.

S20 Recommendations 61-65

- RECOMMENDATION 61: Individual responsibility: Introduce clear legal and professional sanctions for lead officials and practitioners who persistently breach or preside over non-

[51] https://ffteducationdatalab.org.uk/2023/01/what-happens-to-permanently-excluded-pupils/

52 https://epi.org.uk/wp-content/uploads/2024/08/Early-adult-outcomes-for-suspended-pupils-FINAL.pdf

compliant departments whose actions cause harm to disabled children and their families

- RECOMMENDATION 62: Boost SEND Tribunal Capacity: This will help to clear the backlog of cases that are preventing timely hearings. Additionally, hold LAs to account for last-minute concessions or no-shows by awarding costs to the family and preventing the LA from employing external barristers at the FFT.
- RECOMMENDATION 63: Inspecting schools:
    - Exclusions: Revise inspection criteria to rigorously examine exclusions, including the number, reasons, and underlying causes. Update exclusions guidance to require a full assessment of SEND needs before a child can be excluded.
    - Evaluate the effective use of delegated SEND budgets, parental involvement, staff qualifications, and ongoing SEND training.
    - Enhance the use by Ofsted of parental and council evidence to detect cases where schools are deterring and/or rejecting SEND admissions.
    - Include inspection questions about how long children remain on SEN Support, ensuring that it is not used as a holding category instead of progressing to an EHCP where necessary.
    - Inspectors should assess how well schools include SEND students in classroom activities, trips, and breakfast clubs
    - Ensure inspectors track the attendance of SEND students on inspection days to identify potential exclusionary practices.
- RECOMMENDATION 64: Call on professional bodies to investigate more rigorously where public bodies' practices prevent their members from abiding by their professional codes

  RECOMMENDATION 65: Reject proposals that use affordability as a criterion in SEND Tribunal decisions to ensure that cost-saving measures do not compromise disabled children's rights

Section 21: How can Area SEND inspections of local authorities be made more effective?

68. Regarding Area SEND inspections, we are concerned that Ofsted stopped meeting parents directly in open meetings during inspections, instead only meeting PCF members. They said this was because the online survey gathered enough data, and in meetings some "angry parents" tended to dominate, but the latter is more a case of poor meeting

management. It is vital inspectors do hear from parents in each area, even if it is distressing for them. After all, inspectors can cause plenty of distress to teachers, so they should be able to handle a few (justifiably) upset parents themselves.

69. Notifications about the inspection and survey also need greater publicity. Previously, we were informed about these in good time so we could send out social media calls. However, more recently, we have only received notifications on the afternoon AFTER the feedback survey has opened, meaning at best half a day and probably more has been lost in the few days it is open. Social media algorithms mean that people often do not see updates for several days, even if they are often on one or more of the various platforms. So while we and others will send out notifications via social media, parents, practitioners and young disabled people themselves may not see it (if they do at all) until it is too late. Ofsted itself does not share area inspection details on its Twitter/X account. It has a tiny, intermittent presence on Facebook. This is not good enough.

70. Our recommendation is to ensure Area SEND inspections are announced a week in advance with a survey opening date, rather than when it has already been live for a day. Area Inspection notices should be sent to all registered education settings in an area (and Ofsted clearly has contacts for these) so schools etc can inform parents. NHS Health providers for children and adolescents should also be sent notices ahead of time by the CQC. We also recommend the restarting of open meetings. The very attendance and concerns raised in these meetings are an important reflection of the state of SEND services in the area. These meetings can ask the local PCF to help advertise and run the session and a set of guidelines, parameters, and behaviour expectations for attendees can be drawn up.

71. Recent changes to remove monitoring visits following the election were said to be temporary. Ofsted should be pressed for a restart date as soon as possible. Additionally, should an area be so poor after monitoring that the Department of Education needs to step in, then Ofsted and CQC should retain involvement. In places such as Birmingham[53] and Kent[54], despite Government intervention and external oversight, little improvement has been seen by parents.

72. To hold education settings accountable for SEND provision, Ofsted is already making moves to judge SEND provision within an inspection. As mentioned, this can include how the SEND information on the school's website is presented, speaking to parents of children with SEND, asking the SENCO about the resources they are provided with, examining data to see how

[53] https://www.specialneedsjungle.com/flawed-unlawful-dfe-send-improvements-barely-visible-birmingham/

[54] https://www.specialneedsjungle.com/kents-send-leaders-distort-parent-carer-views-spin-dfe-feedback/

often disabled children with SEND are suspended or excluded, and examining how the provision in children's EHCPs is delivered. It is easy to miss how children with SEND are not included within a class–for example not being taken for individual reading practice, not being included on field trips, not being included in performances etc. Inspectors should also take note of children with SEND who are not in school on the days inspections take place.

73. SEND inspection frameworks should actively consider legal compliance as a minimum requirement, and actively report non-compliance.
74. Consider rules to compel professional bodies to investigate more rigorously where organisational practices (such as LAs/NHS) are preventing their members from abiding by their professional codes.

S21 Recommendations 66-73:

- RECOMMENDATION 66: Ofsted should set a clear restart date for monitoring visits, ensuring continuous oversight of struggling areas.
- RECOMMENDATION 67: Inspections should penalise LAs that have a high proportion of failed tribunal appeals.
- RECOMMENDATION 68: Inspections should restart open meetings with parents and engage with the DfE and DHSC to boost publicity for upcoming area inspections.
- RECOMMENDATION 69: The framework should keep at its heart what is important to disabled children and their families
- RECOMMENDATION 70: When the Department for Education (DfE) intervenes in a failing area, Ofsted and the CQC should retain involvement to track progress.
- RECOMMENDATION 71: Ofsted should reinstate in-person open meetings with parents during inspections to ensure direct engagement and transparency.
- RECOMMENDATION 72: Area SEND inspection survey opening dates notices should be issued on the Wednesday prior to opening the following Monday. It should be mandatory for LAs and relevant health bodies to inform all registered education settings and parents on their service of the survey. Ofsted should proactively share area inspection notifications via its official social media channels.
- RECOMMENDATION 73: SEND inspection frameworks should require legal compliance as a minimum standard and actively report non-compliance.

Section 22: The role of other organisations such as the DfE, the LGSCO and the CQC in the accountability system

75. Lack of accountability within SEND is often cited as a major factor in unlawful decision-making, and the spiralling deficits within the system. Proposed solutions that focus on penalties are often unrealistic and likely to exacerbate the resources available to disabled children and schools.

76. A potential solution already exists within the NHS. The Maternity Incentive Scheme[55] is a financial incentive program designed to improve safety, by incentivising best practice and ensuring implementation of essential safety measures. This DHSC initiative has been in place since 2020, replacing a similar previous scheme, and has significantly contributed to service safety and quality.

77. As part of this scheme, **NHS trusts must evidence compliance with ten safety actions to secure a significant proportion of their funding. The metrics change each year and are coproduced with professional bodies and service user representatives. This year, metrics include specific audits, staffing levels, staff training, meeting safety targets, and involving service users and their families. This data is also published for transparency.**

78. **A similar scheme for SEND could incentivise compliance with the law and service improvement.** Metrics could include EHC process timeliness, the percentage of appeals and their outcomes, coproduction with families, audits of plan quality, and so on. This would demonstrate the government's commitment to service improvement without increasing costs. Local authority compliance would be vital for service delivery, and the metrics included would help them to focus on the most important areas for improvement.

79. Additionally, increasing transparency of decision-making would make it easier for everyone to understand what is happening. The Local Government and Social Care Ombudsman already publishes the outcomes of cases, with family names redacted, to enable everyone to see and learn from decisions. It also produces reports for particularly egregious cases. The same should also happen at the SEND First-Tier SEND Tribunal–as used to happen before the CFA 2014. This data can be analysed to see patterns of unlawful behaviour as they emerge making it easier for action to be taken locally and by government. SNJ already creates an

55 https://resolution.nhs.uk/services/claims-management/clinical-schemes/clinical-negligence-scheme-for-trusts/maternity-incentive-scheme/

annual "Hall of Shame"[56] for LAs around EHCP decisions from annual statistics and something similar can be done for Tribunal outcomes. While we already have national data[57] being able to see who was making which kinds of decisions on a local level could be used as part of LA SEND inspections. Researchers and advocacy organisations can also build up a better picture of how decisions are being made. Together with LGSCO decisions, this would vastly improve monitoring. AI could be used to help with this as we believe one of the reasons the Tribunal no longer publishes anonymised decisions is because of capacity reasons.

80. Councils that are frequent offenders could be penalised, perhaps with fines levied on the CEOs themselves or emulating the NHS by making funding contingent on audit criteria. The Ombudsman should also be able to impose far more stringent remedies, as the current amounts levied as fines and awarded as compensation are merely token, which acts as no deterrent as LAs, on balance, still save more money by not making the provision required at the right time. It also needs to look at what it regards as "injustice" Every day of education lost and every letter of complaint written and followed up by parents is an injustice. The stress families go through is an injustice. This is not sufficiently recognised by the Ombudsman.

81. The LGSCO should have a larger budget and more capacity to ensure this work can be carried out efficiently. Additionally, it should be given the wider remit it has long called for[58] to investigate how schools deliver provision to all children with SEND, whether or not they have a statutory support plan.

82. The Local Government and Social Care Ombudsman is overwhelmed by complaints about council decisions and delays. 84% of these complaints are upheld, yet it can take well over a year for a case to wind its way through the LA complaints system and on to the LGSCO. We have also been told the Ombudsman is now limiting the cases it investigates because of the pressure it's under. One of the solutions to this could also be the greater use of AI along with a redesign of the submission form to support this.

83. Currently, where LAs agree to provide staff training or otherwise improve their practices and policies, there appears to be no robust means of checking that they do so, with the result that the same errors are made time and time again. In some instances, such as this case in Somerset[59], the parent had to go back to the Ombudsman because the LA had not implemented what it had agreed to. She was awarded just £750 for two years of lost therapy. The Ombudsman said, "...the Council's response to our earlier recommendations shows

[56] https://www.specialneedsjungle.com/depressingly-awful-data-2024-ehcp-hall-of-shame-reveals-sad-state-disabled-childrens-education/
[57] https://www.specialneedsjungle.com/55-rise-2024-send-tribunal-appeals-cost-families-incalculable/
[58] https://www.specialneedsjungle.com/ombudsman-wider-powers-investigate-send-exclusions-schools/
[59] https://www.lgo.org.uk/decisions/education/special-educational-needs/24-003-239?chapter=2

failings of effective officer leadership and governance. This is fault. Despite agreeing the recommendations, they were not owned by the organisation nor effectively followed up. It was not until we opened a new complaint and sent formal enquiries to the Council in June 2024 that it belatedly began to take effective action. If a council fails to take our recommendations seriously, it undermines faith in the Ombudsman service and shows a blatant disregard for Ms B and particularly Ms K."

"Blatant disregard" is something seen many times across the whole system in attitudes to parents and children.

S22 Recommendations 74-76:

- RECOMMENDATION 74: Develop a SEND performance scheme modelled on the NHS Maternity Incentive Scheme, with measurable metrics (e.g., EHCP timeliness, appeal outcomes, family co-production, quality audits) tied to a significant portion of funding.
- RECOMMENDATION 75: Resume publishing anonymised SEND Tribunal decisions to track patterns of unlawful behaviour and allowing its use in inspections for a clearer picture of practice.
- RECOMMENDATION 76: LGSCO:
    - Expand the remit and budget of the Local Government and Social Care Ombudsman (LGSCO) to ensure timely, robust investigations and follow-up on LA commitments.
    - Introduce meaningful penalties for frequent offenders, such as fines on CEOs or conditional funding based on meeting agreed audit criteria.
    - Establish a follow-up mechanism to hold LAs accountable for implementing recommendations, ensuring that commitments are monitored and enforced over time.
    - Integrate AI tools to streamline complaint submissions and monitor compliance, reducing processing delays and improving the detection of systemic issues.

Section 23: How have Safety Valve, and/or DBV in SEND have affected your child's support and outcomes?

84. The DfE's Safety Valve financial intervention scheme has failed on all counts. Safety Valve has not provided the resources, accountability, or change in mindset to enable LAs to deliver earlier intervention at scale. The stringent targets in Safety Valve agreements have made

relations between LAs, schools and families even more adversarial. Safety Valve's financial bailouts have also failed to stabilise local authority high-needs finances.

85. We want the government to scrap the whole safety valve[60] scheme, and look again at the Delivering Better Value in SEND[61] scheme, both of which are leading to greater LA unlawfulness as they pit cost-cutting against legal compliance. The DfE has reiterated LAs should still abide by their statutory duties[62], but this is virtually impossible while also complying with the terms of the agreements.

86. The **Delivering Better Value in SEND** scheme has generated useful data, and it has enabled some LAs to pilot useful small-scale interventions. But the DBV scheme's own financial projections show that its reforms would be nowhere near enough to enable LAs in the scheme to pay back their deficits. Worse still, many of the proposed cost savings are based on a deeply flawed case review process that - by design - did not reflect reality.

87. Documents for the DBV scheme clearly stated 20% cuts would be sought. You cannot cut spending by one-fifth and *not* cut the provision you offer. Such large-scale cuts threaten existing placements within specialist schools, particularly non-maintained and independent specialist settings, regardless of how well these placements are working.

88. The DBV case reviews often[63] stated that a significant number of children in specialist settings could be educated within mainstream schools, with no firm evidence for these assumptions. Often children have been placed in these settings because there is no other setting with space for them. We must ensure that placements which are working well for a child are not withdrawn solely due to costs, as this could have a profoundly negative impact on their futures.

89. Safety Valve and Delivering Better Value are not having the impact the government hoped, with some LAs failing to meet their targets. We're also seeing cuts to SEND transport that means children aged 16-18 being denied safe travel, leaving parents having to keep them at home or face the impossible task of getting several children to different schools, with the disabled child often over an hour away, which means the parent cannot also do paid work—and becomes even more exhausted.

90. The Safety Valve programme is now to be evaluated by the same firm—ISOS— inextricably linked with local government. ISOS consulted with some of these same LAs on developing their own Safety Valve agreements. They are in no way impartial and should not be doing this evaluation—who can trust their results?.

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[60] https://www.specialneedsjungle.com/uncovering-truth-send-safety-valve-agreement-cut-childrens-send-provision/
[61] https://www.specialneedsjungle.com/dbv-part-2-20-ehcp-cuts-dfe-explaining/
[62] https://www.specialneedsjungle.com/nine-top-asks-send-organisations-next-government/
[63] https://www.specialneedsjungle.com/delivering-better-value-send-review-deep-fatal-flaws-uproot-send-system/

91. It is hard to evaluate how much provision is being rationed by Safety Valve policies—and an ISOS investigation certainly won't uncover that. But anecdotally, we are seeing LAs talking in council minutes about doubling down on efforts to remove Post-16 EHCPs at annual reviews.

92. The risk of SEND financial failure should not fall on children and young people. As already mentioned, there needs to be an ongoing program of debt-write-off for DSG deficits until the funding arrangements for the system are reformed. This funding reform should include national standardisation of the high-needs banding system and higher place funding for state special schools,

S23 Recommendations 77-80:

- RECOMMENDATION 77: Scrap the Safety Valve Scheme entirely: The current Safety Valve program has fostered adversarial relationships between LAs, schools, and families and has not stabilised high-needs finances. Instead, reallocate efforts toward genuinely supporting statutory duties without imposing contradictory financial constraints.
- RECOMMENDATION 78: Write-off debt: Initiate a program of DSG debt write-offs for local government deficits related to SEND that continues until the system is fully working as it should.
- RECOMMENDATION 79: Reform funding arrangements by standardising the high-needs banding system nationally and increasing place funding for state special schools.
- RECOMMENDATION 80: Ensure essential services, such as SEND transport for older students, are adequately funded to prevent detrimental impacts on families.

93. While not all the problems in SEND stem from a lack of funding, it is the starting point for most things that are wrong. There have been many years of chronic underfunding of local government, in particular of children's education and social care services. And, of course, the same underfunding exists within the NHS, particularly of CAMHS.

94. If we want our children to grow up so they can be thriving, contributing members of society, it starts with giving them the education, health and care they are entitled to. After all, they are the taxpayers of the future. It is a completely false economy to do anything else other than properly fund our future generations; we have seen how lack of funds sets off a vicious circle: lack of funding leads to lack of support, escalating needs requiring more expensive provision without which children are left to flounder, needing more government support into adulthood.

Thank you. Special Needs Jungle Ltd