Good evening, everybody, and thank you for joining us. Hello, welcome to this school's White Paper Legal Roundtable. I'm Tania Tirraoro, founder and co-director of Special Needs Jungle. We've got a lot to get through tonight. First of all, we're going to tell you who we are, and then, we'll let our panellists introduce themselves. So, yep, I'm Tania Tirraoro, and over to Renata.

Thank you, and thanks everyone for joining. I'm Renata Watts, I'm a co-director of Special News Jungle, and along with Tania, I'll be leading the first part of the roundtable, where we'll be putting questions you sent into the panellists, and over to Sharon.

Hi, I'm Sharon Smith, I'm one of the co-directors of Special Needs Jungle. Tania, I just want to say there's a few people saying that they're having issues with sound, in the chat, so I don't know if there's anything that you're able to do with that. So, back to my introduction. I'm going to be out of view for the first part of this, webinar session. I'm going to be monitoring the Q&A, basically the questions that you're all posing, and then, along with Gillian Doherty, who is our fourth Co-director, will be basically looking at which of those are getting the highest votes, and then we will pose those to the panellists later on, and that'll be myself and Renata, I think. So, thank you.

Exactly. Here is something people can't, and I don't know why that is, but if you can't, maybe you can pop out and then pop back in again, because that's the only thing I can think of, because there's no reason that I can see that it wouldn't be working. So, yeah, sorry about that. We can just give that a try, go out and come back in again, and hopefully that will be, set up. So… As well as, Everybody here, behind the scenes is, S&Js and IPSEA's Katrina Moore, Mac here, hopefully, and Rachel Filmer, and Richard Nettleton of SCN Legal, who will be all helping out in the chat, and as well, Steve Broach, who sadly cannot be on camera, because he was supposed to be in the hospital, but he is off-screen. He'll be furiously typing away, helping to answer your questions, so thank you very much. And on to

our panel today. Steve isn't here, but thank you very much to Polly Sweeney. Could you introduce yourself, please?

Polly Sweeney: Thanks, Tania, and thanks for inviting me. I'm Polly Sweeney, I'm a partner at Rook and Sweeney, and I am acting for the claimant in the legal challenge that's been brought against the Department of Education in relation to the consultation. Hope to be able to talk to you a little bit about that today. Thanks.

Tania Tirraoro/ SNJ: Thanks, and next, is our, especially young, really, long-time legal advisor, Hayley Mason Seeger.

Hayley Mason Seager: Good evening, everybody. I'm Hayley Mason-Seeker. As Tania's noted, I'm a legal columnist for SNJ, and I'm also the director and principal solicitor at SEN Legal.

Renata Watts: Thank you, Hayley, and so lovely to see you. Next we have someone who has been a SEND lawyer for over 25 years, Eleanor Wright.

Eleanor Wright: Hi, I'm Eleanor Wright, I'm a solicitor, and I'm a legal officer with SOSSEN, and as you say, I've been dealing with SCN law forever.

Tania Tirraoro/ SNJ: And thank you, Eleanor. And from the other main legal charity, and our campaign partner, welcome, Kate Cox.

Kate Cox: Hi everybody, I'm Kate Cox, I'm one of IPSEA's senior solicitors. I'm also a parent of children with multiple special educational needs, both of whom have an ADHD plan.

Renata Watts: And now, we know who we all are, so let's get on with the questions. Thank you to all of those who've already sent in questions, and of course, please do ask more in the question and answer section throughout the webinar. To be clear, you can chat with each other in the chat, but please only ask panellists questions in the Q&A section. We've had 1,000 registrants, so this is the only way we'll be able to keep track. You can also upvote the questions you like. So, do try and check the best you can before you post to make sure that questions aren't being duplicated.

Tania Tirraoro/ SNJ: Thank you. So, let's start off with, it's, it's probably this one is aimed at, first of all. So following the government's response to Melissa Hayhurst's letter before action, we did cover this, today and last week on Special News Jungle. What else can be done about the government's decision not to consult on the tribunal? I think it's angered a lot of people. And other aspects of the consultation they're not going to be consulting on, because they say they've already made a decision. Can it lawfully make non-negotiable decisions, and what else can people do?

Polly Sweeney: Thanks, Tania. Obviously, a really important question. I guess just taking a quick step back. The wider context of this, obviously, is that we have a white paper which sets out lots of proposals for reform of the SEN system. And then we have a consultation document, and I think most of us noticed when we were reading the consultation document, there was a lot of questions missing. So there's a lot of parts of the reforms, some of the most fundamental parts. Where there's no question our views are not being sought. And so we were instructed by the parent of a child with an EHC plan at the moment to send a letter before claim to challenge the fairness and the lawfulness of that consultation, because it seemed to omit some really important aspects of these reforms. And I think we were all, or most of us, were pretty shocked by the response that we got from the Secretary of State for Education, which is essentially that on these particular parts of the reforms, they deliberately haven't asked any questions, because those decisions have already been made. And I want to stress, though, right from the beginning, that this isn't about everything, so they aren't saying we've decided about everything. What they've already decided about, they aren't asking consultation questions on. The areas where

consultation questions are being asked, they have not made decisions. So, there is still a real opportunity to influence those aspects, but at the same time, there is real worry that decisions have been made already in those really important areas. So in terms of… so this answers the question about what can be done, and what can happen next. And is it even possible that the government can just go ahead with bringing in these changes without Consulting on them. I think the thing that we have to keep in mind is that we have a system in this country of parliamentary sovereignty, which means, ultimately, the government is allowed to bring in the law. And a legal challenge can't stop the parliamentary process. It can't stop Parliament bringing in laws, making huge changes, whatever we may or may not think of them. That is what Parliament is for. That's the job of our MPs, to decide whether to vote for those proposals or not. The only real role of the court when we're talking about changes to legislation is whether… is considering whether the proposals breach fundamental human rights. So apart from that, Once a decision has been made. That is the only role of the court, is looking at it from that perspective, from a Human Rights Act perspective. And I think that's the… that's… I think it's really, really important that whilst there are important considerations about whether the legislation that ends up being brought forwards does comply with human rights laws. we can't rely on a legal challenge here. Being the way that this is all going to get solved, I think that this is going to be a parliamentary process. Speaking to your MPs, that is also something that's going to be really, really important. And I really don't want people to rely on a legal challenge being the thing that saves us, because I'm really worried that that in itself is not going to be enough.

Renata Watts: Understanding that in the context that you've just given it, Polly, do you think there is likely to be a European human rights challenge, to what this government's proposing? Sort of, especially as the right to education under Article 2 is Protocol 1, and non-discrimination, and or under the Equality Act? Do you think that there will be?

Polly Sweeney: So again, first of all, you can only challenge once an actor's been brought in. So, it's only after the event. And then secondly, it can only be on Human Rights Act grounds. And I think that… that you would… we would have to look at the legislation that's brought in. to be able to properly consider whether there is a basis for any kind of Human Rights Act

challenge. I think The one thing that we need to keep in mind, though, is that the right to education, so that's Article 2 of the first protocol. That isn't… that is a right to accessing the education system that exists from time to time. So there is… it is a limited right, and it may well be that the impact of these changes means that many more children are denied that right to education on an individual basis. And we may see many more individual challenges that there is a breach of. the right to education, but whether that means that the legislation as a whole breaches those fundamental rights, I think it's difficult to know until we see the precise legislation that ends up being enacted.

Tania Tirraoro/ SNJ: Wonderful, thank you. Does anybody else want to chip in, or do you think Polly has covered that? Nope. Okay. Thank you, Polly. So, how can we raise these issues within our consultation answers so they won't be disregarded? I mean, for including, for example, restricting the power of the tribunal, moving accountability to schools, fixed specialist provision packages. For example, Eleanor, I know that you're… you would be doing a lot about this, with SOS SCN. What would you advise people?

Eleanor Wright: Well, I think there's a number of routes. I mean, the catch-all, I suppose, is the final question, which sort of says, is there anything else you want to say? And if you don't want to get bogged down individual questions, you could simply concentrate on that one and put in absolutely everything you want to say in There, or you could take a fairly robust attitude to the individual questions, and I have to say I'm quite tempted on that one. For example, there's a question around, how do we make our specialist provision packages wonderful, more or less. And, I think it's… I would think about saying, well, no, the question is. our specialist provision packages the way to go? Or, in fact, should… would it not be better to retain the current system of, of… catering to each child's individual needs, and putting the child at the centre of the process, rather than shoving them into, one of seven packages. So, I think you can… you know, get what you want to say over one way or the other. And I'm quite concerned that people shouldn't be daunted by the questions, or… and shouldn't… and also shouldn't necessarily feel themselves being prevented from saying what they want to say by those questions. So, as I say, at the very least, go for that last question and answer it very, very thoroughly.

Tania Tirraoro/ SNJ: Hayley, you're… you've got a… you want to answer this a further part of this question. I'll come to that in a second, if that's okay. Kate, I saw you were nodding there from IPSEA. You're obviously dealing with the same kinds of things?

Kate Cox: Yeah, I think, I think I've seen some comments, from… maybe from families or other advocates saying, you know, it's a done deal, what's the point? But I would strongly urge anyone who has any concerns with aspects of the consultation, whether a question has been asked on it or not, to make those concerns known, because We do all have a voice. And not only do you need… not only is it a good idea to respond to the consultation, but make your MP fully aware of all of your concerns, because Parliament will have to be listened to. It is not a done deal, as far as the government is concerned. So I think if families feel able to address their concerns, both through the consultation and by addressing them with their MPs, then I would really recommend a kind of two-pronged approach.

Tania Tirraoro/ SNJ: As well, I know that AI is, going to be used. I guess if you took Eleanor's suggestion and wove your answers in, that AI wouldn't be able to strip it out as well. Hayley, you wanted to say… somebody did ask about, would it be better to boycott the consultation altogether?

Hayley Mason Seager: I think this is actually a time where we need to be louder than we've ever been before, rather than being quiet on these issues, because we kind of know the government asking specific questions makes you feel like you're streamlined into answering those, but it's because they don't want to hear the answers on the other things that are actually really fundamentally important. So I think naturally, as humans, if we're asked a question, we want to provide an answer specifically to that question. As some of the other panellists have said, it's really important to get all of your views across, even if they're not in a question. Don't feel limited by the questions, and if you feel strongly about the other areas that they are changing, or proposing to change, then you should reply to those. And I've seen a lot on social media, obviously I'm on social media saying, what's the point? And I

understand the disheartens of parents to say, what's the point if they've already decided, what's the point? But as we've discussed, it's a parliamentary process, and we can't assume that MPs know. This is our everyday lives, we're in it, so we know exactly what's going on, but we can't assume MPs know what's going on, how this is going to affect your families. So, I've seen over on IPSEA, Kate did mention it, but I've seen over on IPSEA, they've actually provided a really helpful template letter that you can actually download and just adapt to your own circumstances to make it as easy as possible. I'm not sure if anybody else has got them, but IPSEA's got a really good one on there. And you can look up your MP really easily on a link online, send a letter to your MP, and follow the questionnaire through, the consultation response, and just put as much information in there as you can, because I think our silence will be taken by the government as consent, that we're happy with these changes, and I think that's a real, real risk, so if we're not happy, we have to stand up and talk about it now, because otherwise, they'll say, well, all the families were happy with it, they never responded to our consultation, and I really want to prevent that happening, so I think that's a really Fundamental thing that we need to bear in mind.

Tania Tirraoro/ SNJ: And of course, we've got our own, helpful… helping you to answer the question, which is on our website as well. Polly, I think you wanted to say something here too.

Polly Sweeney: I will, but I think Kate was going to actually just jump in, so I'll let Kate go first.

Kate Cox: Thanks, Polly. The only thing I was going to say was, these proposals, to my mind anyway, have very much been dressed up with a marketing a spin on them to suggest, these are… we listened, this is what you said, we've heard you, and here's the plan that we're delivering for you. And I don't believe, from the families that we've spoken to, IPSEA, that that is anywhere near the case, so… the louder we are, the more that they will hear, actually, this is not what we asked for, this is not what we wanted. And it's also, in part, not

what the Education Select Committee have recommended either. So I think… I think that we really must make sure that it's very clear that this was not our plan, and it's not in our name.

Renata Watts: Eleanor?

Eleanor Wright: Yeah, it's just a quick one. I noticed Bridget Phillipson popping up everywhere on social media, claiming she wants to hear from us, and I think we should take her at her word, and make sure she does hear from us. And, and ask her those questions about why they have taken decisions about some of the most important parts of this consultation without actually consulting. And why they want to shut out those answers.

Tania Tirraoro/ SNJ: We have invited, Georgia Gould for a, for a webinar, as every other Sen Minister has done previously, but we've not heard anything back yet. Polly?

Polly Sweeney: I think I would just make two final points. in relation to what else can be done, I echo what everybody else has said about how important it is to respond to the consultation, and I think there are many questions that allow us to provide these responses. Because they are the obvious answer. So, for example, you know, how… what needs to be in place? This is question 21. What needs to be in place so that children and young people with low incidence highly complex needs can always access the right specialist placement. The obvious answer to that question is not to take their legal rights away, and to allow tribunals to determine placements. And I think as you go through. There are a lot of questions which invite concerns being raised about these particular proposals, and I would encourage everybody to respond so that that can be seen properly through the consultation process. And then the second point in relation to MPs, I think I share the concerns that have been expressed that a lot of MPs do not understand what is being proposed. So, broadly speaking, these reforms can be almost split into two parts. First of all, you have the part which is the measures which I think most of us would welcome, which are enhancing training, enhancing funding, inclusion, early help. all of those things to be welcome. They do

not require legal rights to be removed, and they do not require changes to the powers of the tribunal to be implemented. And we should not allow the DFE to spin that narrative. MPs need to understand that we can get the good stuff for children without needing to have to Restrict their rights. And I think there's too much talk, frankly, if I may, about the positive stuff, and not enough about the really concerning parts. And that's the bit that we need our MPs to understand, what's being taken away, because I'm just not sure that that message is getting out there at the moment.

Renata Watts: Okay, so how does the panel think that legal challenge, political pressure, and collective action by parents, charities, and professionals can now be most effectively combined to influence or challenge what ultimately comes out of this process? I don't know if, Polly, you wanted to start on that one.

Polly Sweeney: I mean, I think that I probably would just repeat everything that I've said. I think the consultation does still have influence in many ways, and we shouldn't give up. But it is MPs. That is where people need to be Going and asking for meetings, sending letters. We need to get them to understand quite how important this issue is.

Renata Watts: And also, just to mention, we're in the process of putting a, protest together that obviously will bring everyone together, and do talk about this with your schools, make sure your teachers are aware, because I think they're kind of a bit slow to catch up at the moment with what's going on. SENCOs, make sure your SENcos are aware. We need, really, to hear from everyone, don't we? All sort of talking with the same voice here.

Tania Tirraoro/ SNJ: Yeah, and just a reminder, please put your questions in the Q&A if you want your question answered. I know people are putting their hands up as well, but we can't… because there's a thousand people, we can't bring people in to ask, because by the time we've got your camera on, by the time we've got your sound on, you know, we won't have enough time. you can imagine how long that will take. So please put your questions in

the Q&A, use the chat just to chat amongst yourselves, you know, but we will record everything in the chat, and if there are ideas for articles and so on, we will definitely be reading everything there. So, just to move on, assessment rights, now. So, given the proposed changes to EHC assessments and plans, Does this mean that the EHC needs assessment, and EHCs will be really effectively gone? Kate?

Kate Cox: So I think this is a really interesting question, because under the proposals, EHC needs assessments and plans appear to me so fundamentally altered in terms of legal tests, nature, and actionable rights that I don't think it's accurate or helpful to say that these rights as we know them would be retained. And that's despite the Education Select Committee's recommendation in their Solving the Send Crisis report that said. The department send reforms must not be based on any withdrawal or statutory entitlements for children and young people with special educational needs and disabilities. That's page 46 of their report. So, let's look at why these rights can't be considered in the same way, and how, in effect, they wouldn't be retained. So currently. An EHC plan must be issued if one is necessary to ensure that a child or young person will get the special educational provision that is reasonably required for their individual needs. So that's the legal test. We look at necessity, benchmarked, if you like, against individually required provision. Now, that would change under the proposals, because instead, it appears the threshold for what I'm calling a new style specialist provision package EHC plan would be this. Does this child or young person require one of the predetermined packages? Now, that is an altogether different question, and only a child or young person who would need what's called the overall package of support in one of these predetermined packages would get this specialist provision package, and only those who need a specialist provision package, also called an SPP, in case any of us use any abbreviations, would get an EHC plan. Now, that also means the threshold for this new style needs assessment, this far reduced needs assessment, would also likely rise. So currently, we have a test which is very… which is relatively low, which simply looks at whether the child has or may have special educational needs, and may require special educational provision in accordance with an EHC plan. Now, that will rise under the proposals, presumably, to a question that looks at, is there evidence a child may require one of the predetermined set packages. And again, that's a wholly different

question, and it's going to lead to fewer children and young people meeting the legal test for a statutory assessment, which in turn necessarily means fewer EHC plans will be issued, because that's the initial step in that process. So I think it leads us to consider that these rights to EHC needs assessments and EHC plans will be fundamentally altered, and in fact, EHC plans will operate kind of in name only. They're so fundamentally altered.

Renata Watts: Eleanor, did you want to comment on this, or is that an old pan?

Eleanor Wright: Well, I just wanted to sort of slightly elaborate on that. It's being envisaged that you can only get reports from services that are already involved with the child, as opposed to the current situation, where you, basically, local authorities should get it, if it's reasonable or if it's appropriate. And that means Presumably, that if… even if a school and an educational psychologist are saying, this child has blatant sensory problems, you must get an occupation therapy report. you won't be able to, because they haven't previously been involved with that child. So it's sort of catch-22. Your child's needs never get assessed, so they never get to that service. It is hopeless. The other thing, also, is that it's very much flat… that it's almost an advantage that you can get an individual support plan at the initial stages, the targeted, targeted plus stages, without having to go through a formal assessment process. As if, you know, that's wonderful, we don't have to go through all these Bureaucratic processes, etc. But the other side of the coin is that you could be putting a lot of support into a child without really knowing what their needs are. And I think all of us have come across the situation where a school simply has no knowledge that children mask, or… that, they have no knowledge of sensory difficulties, and it comes as a massive surprise to them to find that a child does have that. And so, it's a forced economy, really, of putting support into for a child without having checked that it is actually the support that that child needs.

Renata Watts: Kate, did you want to come in on this?

Kate Cox: Yeah, I just wanted to say, because, so one of the things we see at IPSEA is that quite often during an EHC needs assessment, a service might respond to a request for information and advice as part of send Regulation 6, it must be obtained, and it comes back saying, not known to service. So this… this new approach, this reduced needs assessment, will, in effect, sometimes bake in what we see as unlawful practice, which is whereby, the local authority might say, but this person hasn't been working with, or this, this body, support service, hasn't been working with the child, so We don't need to reach out to them for support. It may well be a support service, or a body, or a specialist professional who should have been aware of the child or young person, but hasn't been, because like Elena says, needs haven't been recognised, or the school hasn't had the expertise to fully understand what advice needs to be obtained. So there are several areas within the proposals where It seems to me very clear that actually what it's doing is… it is actually baking in what is currently unlawful.

Tania Tirraoro/ SNJ: Pain.

Hayley Mason Seager: I also think it's, important to point out the shift, the dramatic shift over from local authorities onto schools in this regard. So, at the moment, obviously, when you're making an EHC needs assessment request or a request for a plan, all of those requests are going to the local authority. Local authorities are sitting back and laughing with these changes, because I'm not sure what they're actually supposed to be doing, but we are essentially moving all of those tests onto schools who already have people leaving the profession because of the amount of work that they've got on. So schools are now expected, under these proposed changes, to put in place these plans, implement them, decide which level they're at, and deal with parents responding to the challenges of those and going through the system, which I know we're going to talk about later. But there's a whole makeshift trend moving all of these decisions onto schools, who are actually there to educate the children. And I think that that's something that's kind of been swept under the rug, and I'm not necessarily sure schools understand, and want to respond to the consultation, we'd urge them to do so. The significant amount of pressure that this is going to put onto schools, and just saying, well, we're going to put more money in, we're going to

put more training in. the money that they're proposing to put in is not enough to deal with what they're proposing schools are going to do, and we're expecting teachers to suddenly have a huge level of training they don't currently have. They're expecting to implement educational psychologists and these experts at hand, who we don't know who they are, and this panel's going to devise this, these specialist packages, who we don't know who they are. And it's just… it's very hearsay, and like we said, Polly, I think, mentioned earlier. We're being told all of these positive, wonderful things that's happening, and not actually focusing on the fact that these legal rights are being reduced and put into the hands of people who aren't actually trained to make these decisions, and it's really worrying.

Renata Watts: Yeah, couldn't agree more, Hayley. There's a lot of gaslighting going along, you know, going about, isn't there? So, yeah, as we know, this proposal would need significant change, so what do you think would be left of Part 3 of the Children and Families Act after they've done butchering it? Is it likely it will be redrafted, or is it likely they're going to come up with a completely new Act? And do you think there's enough legislative time for such big changes? I don't know, Kate, did you want to take that first?

Kate Cox: Sure, so I don't see it's possible that you could kind of fiddle, if you like, with Part 3. I think it will have to be… it will have to be replaced, and by virtue of that, the SEND regulations, 2014, I don't see how they could remain as they currently are. These reforms are so wide-reaching. that, I can't see how we could retain the current framework without it being replaced. Now, in terms of timing. I think that depends a little bit on how long Parliament needs for its debate, how many amendments are sought. Remember, no act comes into law until both the Houses of Commons and laws have, in effect, signed it off, and that might be a process that takes quite some time. Because of the nature of the proposals. you know, if we… if all of us can do a good job of educating MPs on what these proposals mean, what is at stake, then hopefully, there'll be many, many amendments that will be needed to any proposed bill. So that in itself will take time, so… you know, Parliament may have a lot to say, so in terms of timing, we won't know, but I think we won't be able to keep Part 3 as it is. I think it will need to be replaced, and the Senate regulations as a result.

Renata Watts: Holly, did you want to come in on that, or…

Polly Sweeney: I cannot improve on Kate's answer.

Renata Watts: Wonderful.

Tania Tirraoro/ SNJ: But it's also the question of, all the case law that's been established over the last decade, 12 years. Presumably that would all then also just, you know, you'd have to start all over again, wouldn't you? Polly, I'm assuming that you would be able to comment on that.

Polly Sweeney: Yeah, I mean, look, if, if this all goes through, and there is still much that can be done to stop that happening, but if it goes through, I can't see how any of that's going to be relevant anymore, frankly. This is going to be an entirely new system. We are ripping apart the Children and Families Act as we know it. And I think the only thing that will look similar is that we will have a document called an EHCP, but we'll be doing something very, very different. This is an entirely new system, with an entirely new role for the tribunal. And I, yeah, I think that we will have lost a huge amount, in terms of all the case law that's been built up over… as Steve reminded me earlier, 40 years. I was here for the 1996 Education Act, but others tell me these rights have been in place far longer than that as well.

Tania Tirraoro/ SNJ: I definitely think there has been a lack of long-term view. Just looking back as well to see what happened the last time, in the 240 and the 2014 changes, I don't think lessons have been learned there either. Eleanor, I'm assuming you would agree with that.

Eleanor Wright: Yeah, yeah. I was sort of toying with what if they made it an absolute requirement. to secure ISPs, and to have specific and detailed provision in ISPs, similar to what you have to have in Section F now, in which case the case law would be relevant. But I don't think that's going to be possible, because they trumpet the benefits of flexibility. And having quite frequent reviews of those. And again, it's one of those things on the face of it, it sounds great, you know, we'll be able to react as your child's needs change. But the other side of that coin is that, you know, you've got provision in there that they're struggling to give. And it suddenly disappears in the interest of flexibility, but actually it's disappeared because it's become inconvenient or expensive. And, you know, we could… if we had the sort of protection we now have under Section 42, that would be great, but I don't see that happening.

Renata Watts: Haley?

Hayley Mason Seager: I think it's also just pertinent to set out, which we assume everybody knows, but that's why it's important to set it out, is EHC plans at the moment are individually tailored to a specific child's needs, and what they're now talking about with these EHC plans, which are EHC plans in name only, are one of these seven specialist packages, and this whole proposal, all of the proposals coming through on the paper are very much fitting square pegs into round holes. We're just assuming that all children who have a special educational need can go into one of these select categories that they've defined for us. So, we're trying to have a whole shift into mainstream school, and it's being very much portrayed as, let's get everybody back into mainstream, let's get EHC plans based on these seven categories. You can't base all children with special education needs across seven categories. That just fundamentally cannot happen. Even if you had two children with special education needs, they look entirely different to one another. And how they appear to be dressing this up is saying, well, these are going to be broad-ranging categories, and all of the lawyers on here will know that broad-ranging just means completely unenforceable. So it actually means not very much is going to be delivered at all. So I think that there's this real concern that not only is it a real drive back into mainstream, but it's also a drive into a pigeonholing children into specific categories, as well.

Renata Watts: Eleanor, did you want to come back in?

Eleanor Wright: I was just, quickly on that. There was a meeting earlier today where a DFE official was, and she said unequivocally that you won't have to fit into one of these seven packages. you can effectively pick and mix, which frankly sounds like a recipe for chaos. I don't see how that would work, but… That's what she said.

Renata Watts: Kate?

Kate Cox: I just wanted to make the point that these 7 packages are supposed to cover children from 0 to 25. I don't understand how we're going to have a package that's both broad enough to cover actual needs, not just presentation of needs, either, for that matter. There's a lot of talk in the proposals around presentation of needs, and identifying the package in relation to that, and I think there's some fundamental challenges there, because A child may well present with some needs, but that's not their underlying need. But the second point is, I have no idea how you make 7 packages fit all the needs in this country, from 0 to 25.

Renata Watts: Yeah, couldn't agree more. So given the shift of accountability from local authorities to schools, and the inevitable rise in complaints and disability discrimination claims as a result. How does the proposed framework ensure that governing bodies themselves are sufficiently trained, competent, and accountable? And if it does not, is this a structural gap that needs to be addressed? Obviously, the problem is, new laws can't increase the time governors have available. I don't know who wants to take that.

Eleanor Wright: I am a governor, and I couldn't agree more with that. I mean, school governors are volunteers. They tend to be recruited for a particular type of expertise that they might have, whether it's in education or finance or whatever, employment law, etc,

and not for their knowledge of SEND. They don't get training. in Send. And, I know that, you know, there's been quite a lot of publicity from head teachers saying that there's been an increase in complaints, and it's one of the things they hate most about their job, the amount of time they currently have to deal with complaints. And I think this can only really make For quite a toxic environment between, schools and parents, because If it's… if it's… schools who have to deliver ISPs, they have a statutory responsibility. The only accountability the DFE is offering is Ofsted. But, you know, it's no consolation that Ofsted might come in and get Cross in two years' time, if your child is not getting their provision today. Or this complaints process, which basically goes up through the head teacher, usually to a panel of governors. They say that panel will be strengthened by having a supposedly independent SEN expert on, but they talk about that in terms of being a local SENCO, or senior person with experience. So, question how independent that is when schools are being encouraged to cooperate with each other. Certainly in my experience, governors tend to find in favour of schools. It's not surprising, they've got to carry on dealing with that head teacher. So, question how much faith parents are going to have in the independence of these panels. But I think more seriously, you know, the remedy, if you're not happy with the complaints process, is going to be either a disability discrimination claim, which can get very toxic and personal. or something like judicial review. And so you're setting up a system which potentially brings parents into a direct fight with the school, which is something we would currently always aim to advise parents to avoid, because you've got to carry on in a relationship. with that school. And for governors, you know, to have to spend much more time on complaints panels, I seriously question whether they are going to get people who are prepared to volunteer to do it. And when it comes… when they realise that, you know, if a judicial review action starts. They are going to be the people who are going to be called on to justify their decision to a judge. there's going to be even less enthusiasm for it. I don't think it's been thought through, and I really don't think they've talked to governors about this. If they did, they would, I think, have to rethink.

Tania Tirraoro/ SNJ: Basically, what they're doing now is they're removing…

Eleanor Wright: all the expertise that you have in the tribunal.

Tania Tirraoro/ SNJ: They're moving… they're moving the fight.

Eleanor Wright: amateurs.

Tania Tirraoro/ SNJ: They're moving the fight from the LA down to the school, in that case. So, Kate?

Kate Cox: I think there's two fundamental things I just want to add here. One is, all of this begs the question of what on earth happens if a child's not in school? So, children receiving education otherwise in the school, children receiving alternative education under Section 19, Education Act, children in custody, young people on supported internships, or… apprenticeships, you know, what happens here? But going back to that question around school complaints. Again, if you consider what the Education Select Committee recommended, they recommended that the local government social care ombudsman, that independent investigative body, their remit be extended to include school complaints about special educational provision. And that's missing in the proposals, and I think that's a significant omission. Because rather than having these volunteer, panels for, you know, with governor's complaints, and, and checking… and kind of providing that scrutiny, why is it that that recommendation from the Education Select Committee has not been adopted?

Tania Tirraoro/ SNJ: There is an awful lot of questions on EOTAS in the chat, and we have a few here as well that people have put forward before the event. it's not mentioned at all. People with EOTAS packages are very, very worried about what that will mean for them. We have heard an official say earlier today that nothing will happen to those people with EO tests. So, what can the panel mention about that, Polly?

Polly Sweeney: I think it's terribly concerning that the white paper and the consultation are entirely silent on this. We're only left to guess, and that's not good enough. there should be

clear proposals for how EOTAS and Section 61 of the Children and Families Act are going to be dealt with under the new reforms. And I have real worry about children who currently have those packages. It's difficult to… reconcile the very tailored need for education for groups of children in that setting, or out-of-school settings, with the way that the reforms are going, which is standardised packages that fit into lists and provision. And so I wish that I could answer the questions on EOTAS. And provide something helpful, but I think the answer is we're all in the dark here.

Tania Tirraoro/ SNJ: Hayley.

Hayley Mason Seager: I've just seen a couple of things pop up on the chat asking what EOTIS is. So, obviously, for some children, young people, education in any setting would be inappropriate due to their special educational needs. And this is often referred to as EOTAS, EOTIS, it's Education Otherwise than in a school, so just to help those parents who are perhaps wondering what it is, if it doesn't directly apply to them. If the local authority agrees it would be inappropriate for any required special education provision to be delivered in school, it can agree to deliver it somewhere else, and those packages are perhaps some of the most individually tailored packages that we see in an EHC plan, because they are so varied. So, I don't understand. They're completely missing from the white paper, and certainly. we have seen an increase in EOTIS, COTAS provision, certainly since the pandemic, and I would say year on year it's rising for EOTIS provision for children. And it's really hard to understand where these children fit in, and just being silent on it doesn't answer the question, as Polly said, because essentially, in order to go through the targeted, targeted plus specialist packages, the… I understand that today it was mentioned by the government that actually these won't be going away, but you need an email.

Tania Tirraoro/ SNJ: Thank you.

Hayley Mason Seager: plan in order to access EOTIS provision. So it's really hard to understand how you will fit into a package if you've got an EOTIS package, which you need an AHC plan to access an EOTIS package, it's really hard to understand. Also, who is going to be monitoring these, because obviously with everything being pushed onto schools, school's going to be planning, delivering the packages, and making all of the relevant decisions about which category you fit into. That doesn't work for somebody that's not in a school. So, will that sit with the local authorities still? Will that go to a school? It's very unclear, and just being silent on it should be very worrying for all of those families, and Certainly, I would encourage everybody who is able to and who it affects to be responding to their MP, because again, I think this is one of these areas, particularly because it's a relatively new area, or has been expanding certainly in the last few years, where MPs probably don't understand what a huge amount of families this is going to affect, and just being silent on what's going to be happening with the Otis is not going to be helpful to families.

Tania Tirraoro/ SNJ: Does anybody else want to come in? Polly, is that your… is that a new hand, or a hand from earlier?

Polly Sweeney: it's… I was going to just loop back at some point just about schools, because there's a lot of questions in the chat about it, but at whatever point, Tania, you think it's a good time to… Go ahead, go ahead. I think… That… There's a lot of questions about schools, and how they feel about this, and my view, I act for a lot of schools, as well as parents, is that they are equally badly served by these reforms as parents and children. And I think that we need to unite… parents and children need to unite with schools in standing up against these reforms, because they are also just as worse off under these arrangements. I'm really worried about the duty at the moment to deliver the provision in the EHC plan sits with a local authority, and that's well-established legal right. That will shift, so a school will now have that legal duty. So, I mean, there was a lot of… most people, many people, may have seen Bridget Phillipson's attack on lawyers, and that we are against these proposals because we are trying to profiteer from the work. actually, what is being proposed will create an even more adversarial system where lawyers will need to be involved even more. At the moment, you have a tribunal where By and large, a lot of parents do access it without

lawyers, and still get good outcomes. You… but you try and get a parent to bring a disability discrimination claim without a lawyer, or a judicial review without a lawyer. Like, they're really complex and adversarial areas of law, which schools will now face. in significantly increased numbers. That is not what any of my client schools want, I can tell you that. And it's not what parents want either. So I see it's going to, frankly, give lawyers more work. It's having the opposite effect.

Tania Tirraoro/ SNJ: Kate, didn't you?

Kate Cox: I just wanted to pick up a point that Polly rightly made on that extraordinary attack on a regulated legal profession and charities working tirelessly to support families. I think we need to look at that attack in context. Which is the government's, so far, lack of substantive response to the Education Select Committee report. The national conversation in which families felt they were unable to ask the questions they wanted, and the questions that were answered were not the ones that they wanted. And now we have a consultation in which only certain questions are being asked, and certain views are not going to be sought, because decisions have already been made. And I think we need to look at that attack in that context, and see that actually the government really does not want to engage in what are valid concerns.

Renata Watts: Hayley?

Hayley Mason Seager: I was just going to make the point as well, that if we're going to talk about exploiting parents, which all lawyers are apparently doing in this area, removing legal rights for the most disadvantaged in our society, and claiming that parents have been listened to, and then when parents challenge that, saying actually it's a done deal, wouldn't you call that exploiting parents? Because that's certainly what it seems like to me. I think that it's definitely a form of gaslighting. parents who are joining us tonight will notice there are lots of different lawyers on here from all different firms and charity organisations, and

we're all saying exactly the same thing. Now, there's no secret meeting of lawyers. We don't all meet and, you know, decide that actually we're going to all lose money, so we must come together and raise these points. what's actually happening is, Polly's right, lawyers aren't going to go away, and if the current proposals go through, arguably, there would be more reason for lawyers than ever before, because suddenly there's four different tiers to go through, and an increase in disability discrimination and judicial reviews. But what actually is happening is it's a deflection away from the specific concerns that lawyers are standing up in this area to raise, and rather than actually responding to the issues that we're raising, the Bridget Phillipson was just turning around and saying, we're exploiting parents, and that's why we're raising them. Again, a deflection as to what the answers actually are to some of these questions we're raising, and I think that that's why that's come out.

Renata Watts: Kate, I'm quite keen to move things on, so can you be brief?

Kate Cox: I will be. I just wanted to reassure any parent who's listening today who saw that attack, and I am speaking now as a parent of children with special educational needs, as well as with my solicitor hat on, and I am technically one of those parents that is exploited, because I have sought the legal… before I started my role. at IPSEA, I also sought legal support for my eldest child's EHC plan. So I'm sitting in a rather unusual position of both being an exploiter and also one of the exploited, and I think that really shows what a nonsense, really, it was.

Renata Watts: Thank you. Just moving to questions from our audience, we've got a great one here, which is, have you taken a view on whether eligibility criteria for an EHCP, so also eligibility for one of the packages, fundamentally changes the definition of SEN? And have you reviewed the draft document on the packages? If so, what do you think of it? anyone can take it, but yeah, it's not free for all.

Eleanor Wright: Well, it does, to an extent, change that definition of sin, because, Partly this definition of complexity by virtue of, do you fit into one of these packages? Also, I mean, in… more informally, the DFE has been saying that the criterion for an EHCP is, do you… do you need, provision over and above what's ordinarily available in school, which is very familiar, very similar to what we have now. But the difference is, of course, that their… the baseline has changed, or will change, and they will say what is ordinarily available in school is way more than it is now. And so it is… it will therefore be much more difficult to show that your child's needs can't be met sort of, you know, don't come above that threshold. And I… I know of parents who are absolutely terrified that, you know, come, 2029, 2030, their child is going to be deemed to have fallen out of that. And, and where that is going to lead them, with support that they desperately need suddenly being removed.

We had a lot of questions about children who are out of school because they're too ill to attend with EBSA or EBSA, who will never be able to do them, but they haven't got an EO test package either. What is going to happen to them? Are they still going to be left in exactly the same situation?

Hayley Mason Seager: I think, again, this is just an I don't know. They're completely silent. Whatever reason a child is out of education, whether it's the Otis, or whether it's, you know, emotionally based, non-school attending, it's completely silent on these children. They're just like the lost children in the white paper, and that's really, really worrying. Whatever reason they're out for, they're not currently mentioned.

Tania Tirraoro/ SNJ: Kate.

Kate Cox: I just wanted to say, the, the benefit of an EHC plan for those types of children that Hayley's talking about is that currently, all their special educational needs and all their special educational provision, which is reasonably required for them, is detailed beautifully, specifically, in great detail in their EHC plans. Now, because there is an absolute legal duty

on their local authority to secure that provision. It acts as the safety net, that the protection is there for those children. It doesn't matter that they're not in a school, not able to attend, because their EHE plan secures, it guarantees them that provision. And if the EHC plan is out of date because their needs have evolved or changed, then there's mechanisms for that to be reviewed, and if after an amended plan is issued, the family's not happy, they can go to the independent specialist tribunal to ensure that the provision is right. That's the purpose of the EHC plan, and that's why the protection is there for those children, whether they're in or not in a school or college. So if you strip those rights away, then there's whole cohorts of children who are suddenly left with us saying. what happens for them? What is the purpose of their EHC plan, that situation? Who is going to provide support?

Renata Watts: Absolutely. A quick question on post-16 provision. So, we know that post-16 provision for SEND children is already limited. What will happen for post-16 in the new white paper proposals? Is it likely that the new framework would not cover SEND education for over 18s, and what would be the impact of that? I don't know who wants to take that, anyone?

Eleanor Wright: Well, I'll try. It doesn't propose taking the rights away post-16. But I fear that quite a lot will get even muddier, because… partly because of the point Kate was making earlier, you know, how does a specialist provision plan that fits 5-year-olds also fit 20-year-olds? So how do… how do they fit into these packages? And it is very… it is very dependent on people being… in schools, because of, you know, even with things like EOTAS, You've still got to have, presumably, an ISP, so who is going to be responsible for that? There is more likelihood of… over 16-year-olds being out of school for various reasons, notably, you know, lack of sufficient specialist provision for over-18s and over-16s, or… They, they may have very little to do with schools and colleges because they're in apprenticeships. So, there is, I fear, more of a risk of them falling out of the system, and… actually doing what the current system tries to avoid, and becoming neat, you know, not in, education or employment or training. And I don't really see that this has really applied its mind to that.

Hayley Mason Seager: I think it's also pertinent to add, though it says in the white paper, and those of EHCPs will continue to be supported where needed up to the age of 25. And I think where needed. should take great worry in the grand scheme of everything else that's going in the white paper. We also know that they propose at the post-16 level to do a needs assessment to identify which children still need to remain, on an EHCP. So, in the… it's one of the, kind of, trigger points. It says, any child with an EHCP or who has been assessed as needing one in a mainstream setting as of the legislation's commencement date, will retain their EHCP and associated provision until they finish their current phase of education, primary, secondary, post-16, or until they choose to move to the new system, which nobody in their right mind, obviously, would be doing. But it says, as pupils move to the new system, when they reach the end of a phase of education, who do not need an EHC plan, they will be supported through the flexible layers of support. So I think that there being a needs assessment at those trigger points will effectively be removing as many plans as they can at those points, and that… we might see there how those post-16 categories are affected, because they're where needed, when we don't know who the people are going to be that's going to be making those decisions, because it's not going to be under the local authority, is very concerning for that category. degree of young people.

Tania Tirraoro/ SNJ: And quickly, Kate and Eleanor, do you have your hand up as well? Because then we'll move on to the… Yes, Kate?

Kate Cox: All I was going to mention was, when we think about that, kind of reassessment point that Hayley was just talking about, remember that the legal test for an EHC plan is likely to be, does the child or young person require one of these packages? So therefore, the cease to maintain test, the test to which the local authority can look at to stop, if you like, an EHC plan, is going to change from local authorities no longer responsible, or the EHC power's no longer necessary to does this child or young person require one of these specialist provision packages? And if they don't, they're not going to be eligible for an EHC plan.

Tania Tirraoro/ SNJ: Eleanor?

Eleanor Wright: Yeah, there's a number of indicators in the white paper that… of attempts, I think, to try to shift provision towards health, particularly in relation to mental health support, where they keep saying, oh, that's going to be for health to deal with, particularly things like therapies and so on. And currently, we see with over 16s, over 18s. Quite often local authorities will try to say, well, social services could do all of this, and I think that is… could well be the direction of travel. You don't need an EHCP, because social services will sort it all out for you. I fear.

Tania Tirraoro/ SNJ: Good luck with that. Polly?

Polly Sweeney: I was just going to mention really briefly, in case people weren't aware, there's also a post-16 education skills white Paper, which has a little bit more information about the plans for post-16, and there is a section on send, but the detail is really lacking, but there is a section on SEND in there.

Tania Tirraoro/ SNJ: And there is also a PIP consultation that's just come out as well, so if you're not too tired after all that, I would have a look at that. We'll be, sharing links to that as well. So that concludes this first session. We've got so many other questions, we could go on all night, but, if Sharon, you want to pop in. I'm going to take a break, and this was supposed to be our co-director, Jill, but she couldn't make it, so Renata is going to stay on and help out Sharon, and I'm going to be looking at the questions, but I'm just going to also bring up another poll, so while everybody just gets a shifting in their seat. You want to answer those questions, and then Sharon has come armed with some questions already to make a start. So I'll just turn my camera and my sound off and hand over to Renata and to Sharon.

Sharon Smith SNJ: Thanks, Tania. There are hundreds of questions, so I think the first thing we want to say is that we apologise if we don't get to your question this evening, but we will try and, Cover them in some way in the coming weeks. There have been several questions, about the actual consultation process, so I'm going to ask the panel. I'm going to actually… say the number of questions together, and then just take what you want to from this. So, first of all, is there a model consultation response that can be used? Is there a template letter to respond to the consultation? So they're in a similar vein. How can we respond to the consultation knowing that AI will be, basically. Used to, sift answers and summarise them, so how can we have our voices heard? A really interesting question here, is there a list of, what is… Included in the send consultation, this might be one for Polly, is included in the send consultation document, but there are no questions about it. So what has already been decided, or what can we assume has already been decided? And what requirement is there for the government to publish the responses? to this consultation. So there's lots of questions there, all about process, all around the consultation, how can we have our voice heard, but also what are the government's duties to, analyse those responses, and also to publish them afterwards. So I don't know who would like to take that.

Polly Sweeney: I can certainly help with some of them. I think in relation to what decisions have already been made, as part of the legal challenge, we've been instructed by our client to write to the Secretary of State of Education to ask, what decisions have been made, when were they made, who made them, and provide disclosure of the relevant documents. So hopefully there will be more clarity on that when that's responded to. And then in relation to the duties around consultation, I don't think we have time today to kind of do a whole legal lecture around duties around consultation, but we're in a particular type of consultation, which is a voluntary consultation, and there are different duties which apply, depending on the type of consultation they're doing. But still, all consultations have to follow basic procedure… process of being fair. and rational. So that's kind of the basic for all consultations that the governments have to follow when they're consulting with people.

Sharon Smith SNJ: Thank you. Is there anything else anybody else in the panel would like to add to any of those questions about the process for the consultation, how we can make

sure our voice is heard? I don't know, Kate, if you want to talk about the IPSEA letter. Yes, of course.

Kate Cox: Thank you. So we've got our IPSE template letter for you to use to write to your, MP, I think in terms of growing that… In terms of AI and what we can do to make sure views are put across, I don't have the answers for that. All I could really recommend that families do is to make sure that they're really clear in what their concerns are, and to use that IPSE template letter to write to your MP, because they will have to read your response, they won't be, hopefully, putting it through some AI machine. you know, we really need our MPs to understand what's at stake, and to understand their constituents' concerns, you know, these are our MPs, and you do have a voice, and I do urge everybody to raise it. So, I'm not sure the best way to go about the kind of AI perspective, but I definitely think getting our MPs to meet with us and to listen to us is going to be really key.

Hayley Mason Seager: Sorry, Sharon, I was just going to say I don't know who it was, because there's so many things moving in the chat so quickly, but I think somebody just said the kind of three top things that people can be doing to challenge. So, obviously, responding to the consultation in as much detail as you possibly can, and responding with all points, not specifically the questions that they're asking, making sure you're covering all of the points that you're dissatisfied with in the consultation response. And I do appreciate that Sen families are extremely tired at the end of the day, and this is just another thing they have on their plates, but it's really important to get those views across, so that… Contacting your MP. Sorry. Contacting your MP, and if you don't have the time or energy to create your own letter, there is a fantastic resource on IPSEA's site, so go on, download that, change it to your individual circumstances. There's a really easy search link to find out who your MP is. And also, joining forces, I think this is a time where we have to come together more than ever before, so I know that, SNJ and IPSEA and the SAVE Our Children's Rights Campaign are planning protests and marches, but really coming together as much as possible so that the government knows that this is a huge amount of people and families that are going to be affected, and that we're all on the same page with the concerns about moving these legal rights for a very specific category of children and young people are perhaps the three key

things. So responding to the consultation. writing to your MP and making as much noise as possible would be the three top tips.

Renata Watts: And I just wanted to add there that if people keep their eye on Special Needs Jungle, we are working as hard as we possibly can to put things out to help with answering the consultation. We are only volunteers, though, and we do have day jobs and very complicated children, so just bear with us, we are doing our best. And if there's anything specifically that you think that we should prioritise as far as putting information out, just let us know, and we'll take it… take a view on it. Okay, so now moving… Oops, sorry.

Eleanor Wright: Sorry, this suggests particularly anyone who has a Labour MP or knows one. Because I think they have been slightly, somehow reassured to think that, these, these proposals are wonderful and parents are going to be okay with them. And they need to be made to realise that that is not the case, because that was essentially what succeeded in relation to the benefits issues. And I know the government is desperate not to do a U-turn. But if, you know, if there's a realisation that they stand in real danger of losing seats. It sort of gets… it may have more effect than anything else.

Renata Watts: Yeah, completely agree, Eleanor. Okay, so next question. The UNCRPD, which hopefully I'll get it right, is the United Nations Convention on the Rights of Persons with Disabilities, and the Equality Act, talk of disabled children. Are there not protections that provide for reasonable adjustments and support for the disabled child or young person? I don't know who wants to take that, Polly.

Polly Sweeney: So, there are two different pieces of law. the UN Convention that you've mentioned, although it has been incorporated into UK law, the way that it's been done by the government, making it as simple as possible, means that you can't sue the government for not complying with it. So it's relevant, and it's something that has to be taken into account, but you cannot bring a legal challenge directly for a breach of it. And then the

second is a qualities law. Now, that is going to be really, really important for individual children. if these reforms come through. Indeed, as I mentioned before, I think the government, the DFE itself, recognises in the consultation that if your complaint at a school level isn't resolved. probably a claim in relation to reasonable adjustments under the Equality Act is going to be one of your only rights of address. So it is… that is going to be really, really important for individual challenges going forwards.

Renata Watts: Does anyone else, want to talk specifically around the reasonable adjustments? Kate?

Kate Cox: Yeah, I'm just going to make the point that at IPSEA, we see, families making claims for disability discrimination in the Sen tribunal, but those are not easy claims to bring. It's a very different jurisdiction in the Sen tribunal to if you make a Sen appeal, where the tribunal will use its, what's called, inquisitorial function. to make sure it's got the evidence it needs before… before it to decide the matter, and that can include adjourning to allow parties to get evidence, or to, direct a party to provide evidence. And it can ask questions of parties, of witnesses and things, and it's really different in a disability discrimination claim. They are harder claims for parents to bring, because they are very much kind of put on a strict burden of proof. And when we look at that in the context of shortages with legal aid, I really feel that, putting families in a position where they… their only real redress is to… to bring a disability discrimination claim is very, very unfortunate. When we have a specialist tribunal, expertise body, you know, these specialist members with a lot of expertise, it's beggars' belief that we wouldn't use it. I think disability discrimination claims will become much more important, but unfortunately, they are harder for families to bring. And I think that's unfair.

Sharon Smith SNJ: Okay, so the next question, and we think this is an interesting one. So someone said, I completely agree with the need for stronger alignment, excuse me, between families and schools. But how can we move beyond the send echo chamber? It feels like one of the biggest barriers is that the wider public don't really understand, or

sometimes even actively dismiss what's happening, often seeing it through the lens of whinging middle-class parents. So how can we shift that narrative and build broader public understanding and support for what is ultimately a systemic issue That potentially affects all children's rights and futures. Any thoughts?

Polly Sweeney: I think it's a really, really good point. I think I'm concerned at the moment that the… mainstream press, the mainstream media, have this impression that these are really positive, and there's a lot of work that needs to be done to try and shift that narrative so there's a proper understanding around what's going on. I mean, there have been some really successful campaigns in the past. For example, when the government were trying to repeal the Human Rights Act, where we were able to really bring home to life what these cases actually mean for individual families, and so people… and I think so getting your individual story out there in whatever way is possible, why the tribunal has been important for you, why the tribunals powers. were fundamental to your child being able to access education, being able to provide case studies that show if the tribunal wasn't able to direct that my child could go to that placement, this is what would have happened, or this was what's happening to my child before the tribunal, so we can really bring to life how important these… the tribunal powers are, and what will happen if those rights are lost, I think is really, really important. And trying to get the message out to journalists that this isn't… this isn't lawyers, this isn't middle-class parents, this is hundreds of thousands of children across England whose rights will… be fundamentally eroded if these go ahead. So yeah, and I think the other point I would just pick up on related to that is that somebody made the point about the positives, and shouldn't we be talking about those? And I think it is really, really important That we want to… we want to capture that as well, so where good things are being proposed in the consultation, we want to be using that as an opportunity and say, yep, we welcome those parts, we really do welcome those parts, but we don't need to remove legal rights to achieve them. And so, you know, one of the concerns that I have is about using these measures as a justification for removing legal rights when the two come… that we don't need to have one or the other, and so I think take the opportunity, I think, when we're responding to the consultation, to pick up on the positives and explain why the negatives aren't needed.

Sharon Smith SNJ: Thanks, Polly. Kate, I don't know if you're wanting to come in? Put your hands up.

Kate Cox: Yeah, thank you. So I just wanted to, to, develop a point that Polly was making, really. sensibly in that situation whereby the mainstream press, because I think there's a little bit of a narrative that's being peddled, that children and young people are receiving more than they should, that, children and young people are getting something which… for which they do not need, and so therefore these kind of caps on provision will be, you know, will not have any material effect on them. I think it's really important when, Anyone's responding to the consultation, then they make really clear that what the current framework entitles you to is only that to which is reasonably required to meet individual needs. nobody is getting more than they should, and I think it's, I think a narrative has developed around that, which is actually quite convenient if you are trying to reduce and to cap. But we all know here that is not true. There is no entitlement to a Rolls-Royce provision, only that which is reasonably required. So children, young people who receive, expensive packages, get them, because that is what is required for their individual needs. And I think it's really important that MPs and anybody who is concerned with these, reforms understands that.

Renata Watts: Yeah, completely agree, Kate. This is a good one. This is something that we've talked about a lot within, Special Needs Jungle. What do we know about how they would define complex needs? Who wants to take it first? Hayley?

Hayley Mason Seager: Well, there is no definition of complex needs, is there? The idea that schools and placements are going to become responsible for assessing and planning support is essentially a replacement for the statutory assessment process. But what they're actually proposing to do, because of the way they're changing, or proposing to change, is actually removing the current legal test and all of the case law to define a complex needs, which we don't know what that means. They haven't defined it, and they will find it incredibly difficult

to define it, because the way it's been shaped at the moment is over years and years and years of case law to get to where we are. So, no, there is no definition. And what we're actually requiring is schools to suddenly be able to define what is complex. And these reforms essentially shifts practical responsibility for many decisions more directly towards schools and settings. And I think that's a real concern, because parents at the moment are likely to begin challenging decisions if these reforms go through by going through the institutions, going through the complaints procedures, rather than proceeding to a statutory trial. tribunal appeal. And I think that schools and parents should both be mindful of this, because the complexity of additional documents for schools, the increase of demand on schools, the increased hitting schools and families against one another is going to be really concerning, because at the moment, schools are very supportive of children with additional needs, and if they can't meet their needs, they're very clear. But suddenly, all of this responsibility is on that setting, and it's really concerning that they are going to be left without additional training, without the right amount of funding to make these decisions as to the future of a child's, you know, career, educational career, and what recourse those families have to challenge that. Because at the moment, if they were unhappy, they would just go to the tribunal. and it's an independent system, what we're actually going to be saying is, actually, families, if you're unhappy, you need to go to the school, you need to go through the school's complaints process, you need to potentially do a discrimination claim, there's going to be more judicial review claims. That makes things extraordinarily difficult for schools and families. And the one thing that parents asked for and families asked for when they were consulted. is what they needed to make the system better was accountability, and that's the one thing we absolutely haven't got in the white paper. There is no accountability. So that's the one thing that we asked for and has been completely forgotten.

Sharon Smith SNJ: Absolutely. I'm going to move us on to the next question, and I wonder on this one, maybe, Eleanor, if you've got something to say, but, obviously, anybody feel free to jump in. We have two questions, actually, but they're of a similar vein. So the first one is, how do we tackle the fact that some local authorities are already acting like the proposed changes are a done deal, and someone else has said, in my local authority, they're

driving forward their plan, and caseworkers in the local authority are speaking to and treating parents as though the proposals have been made, and how can we challenge that? So I don't know. I can see Hayley's got her hand up by.

Eleanor Wright: I think it's fairly obvious. The law has not changed. We don't even know if it… once it goes through, I think something will go through, but we don't know that it will go through in this format. Any local authority that ignores the current law is going to get itself into tropical. It's going to find itself, being challenged in the tribunal, or, potentially, I would urge people to consider, where appropriate, my favourite remedy of judicial review. Because, you know, currently, the law is very, very clear. That these are absolute duties that, local authorities have to comply with, particularly the duty to comply with time limits and to deliver, what is in Section F of an EHCP, and to deliver full-time education. And, you know, do not let them get away with it, because, you know, I'm sure they would love to, to sort of forget the whole process of the parliamentary process, and have all this coming into force tomorrow, but that's not happened.

Sharon Smith SNJ: Thanks, Eleanor. Hayley.

Hayley Mason Seager: I was just going to reiterate that. Even if everything went through exactly as it is proposed, which we're certainly not expecting it to do, there will be no changes to the support received by HCPs before at least September 2030. Obviously, we're in 2026 now, so I think that's something that we need to focus on. and really get out there to as many people as possible. The law has not changed. I know some local authorities, it's been reported by parents, have updated their websites, saying there's changes to their criteria. That is LA policy, that is not the law. There is certainly no change to the law as it stands. And also, there is no change to the way that tribunals will also implement the law. So I think that really clearly has to get out there, because I know some of the questions that have been asked on the chat this evening, is about, you know, is there any point in looking at secondary schools for my child? You know, I was thinking about getting assessment, do I just not bother? Absolutely bother. The legal rights for parents of children with special

educational needs are so well protected at the moment, it's absolutely the right time to continue to fight for those rights, and in the meantime, for us to make as much noise so that we can make sure those protections aren't taken away. But certainly, this isn't the time to not push on, with all of those things where they're needed, and just to make as much noise as possible, and make it short and clear to everybody that you know and you speak to that the law remains as it is, because there's so much scaremongering, particularly in the media at the moment, and as long as parents are aware that those legal rights will remain until there is a new law that is brought into force, and certainly we're a long way from that yet.

Sharon Smith SNJ: Thank you, Kate.

Kate Cox: Yeah, I'm going to be really quick, so I'm conscious of time. I just wanted to flag, and I don't know if someone can put this in the Q&A for all the attendees today, but IPSEA have a bit of a myth-busting section on our website, on the school's white paper. You know, questions around, my local authority wants to be an early adopter of send reform, can it do it? all sorts of FAQs on, you know, what law the certain tribunal will still apply, so please do take a look at that. If you're worried about what your local authority is doing, and you're not sure what your legal rights are, please use those resources on our information on the school's white paper. But remember, all the information on websites like Eleanor's, SOSSEN, IPSEA's, everything you read there is still up-to-date and valid. So you can rely on the support on our websites to get the help that you need. So the legal advice is there, the law still applies, and there's help for you to, to access.

Renata Watts: Right, I've just got enough time for a couple more questions. I think this is a really important one, and it's certainly one that I've had a look through looking for. Just wondering, as far as looked-after children go, or care-experienced children, is there anything that you've seen in these proposals that will make them kind of, like, more vulnerable? I mean, certainly when I was looking through, I could only see them mentioned as vulnerable children. I haven't seen anything specifically, but is there anything that you can pull out that you think will, affect these children specifically?

Kate Cox: So if I could jump in on that, please, I can't see anything in the white paper that particularly protects children who are care-experienced. We know that care-experienced children young people are more likely to require an EHC plan currently, so where they will fall in this new world, I don't know. We also know that some care-experienced children are still reeling from the impact of the Department of Education's cuts. in the Adoption and Special Guardianship Support Fund. So, that… And, to my mind, may create a bit of a perfect storm for some care, experienced young people.

Sharon Smith SNJ: Thank you, just checking if anybody else was wanting to come in. This will be our last question, but this feels a very important one. So, we want to know, we've been… someone said they've been invited to a roundtable with their MP. What main message should they take with them? So, any thoughts? What should we be saying to MPs? Polly?

Polly Sweeney: I think that, if possible, we should be trying to see if MPs can ask parliamentary questions. So that we can get ministers' replies to these things. There's a lot of question dodging at the moment. I've seen some of the videos on social media where questions are put and then answers are not given. So if it's possible to encourage an MP to put forwards a parliamentary question, the Minister has to reply, and I would be encouraging that to be focused around these legal rights. And asking them, Peter, for the Minister to explain why these decisions have already been made. And how, how those proposals are consistent with the stated aim of these reforms, which is to improve outcomes for every child.

Renata Watts: If anyone else want to jump on? Okay, then, just to close this down, could I ask each of our panellists what their one takeaway message would be that they want to give to the parents, and everyone else listening before they leave? So, Polly, should we start with you?

Polly Sweeney: M.

Renata Watts: Does anyone want to go first,

Hayley Mason Seager: I'll go, I'll go. I would just say, don't let your silence be acceptance and consent for what the government are proposing to bring forwards. I think that this community of parents are one of the most dedicated, if not the most dedicated group of people, because I appreciate that everybody is incredibly tired. juggling so many more plates than they need to, and it's really, really, really difficult to find the time to do all of the extra things that we have to do. But protecting this group of children and young people's rights is so fundamentally important. we have until May to really make an impact. So, do the things that we said. Contact your MP, respond to the consultation, share your experience, use the templates where needed, and come together to make noise about why these fundamental rights do not need to be removed in order to improve the system, and we've seen the government saying before they're going to do things, and then reverse on those once everybody makes enough noise. And we can certainly do it again, but it's reliant on every… everybody coming together and combining forces. This is really a time we need to do that. So that would be my one takeaway. Don't… be silenced because you're tired, and because you've got a lot on, which I fundamentally understand, but let's Put the effort in and do everything that we can to make our voices heard now, before it's too late.

Renata Watts: That's great. Thank you, Hayley. Eleanor?

Eleanor Wright: I mean, I would have to repeat all of that, and I won't say it all again. I think the addition, perhaps, is if people could think about talking to schools and talking to governors, because trying to get it through to them what they are facing. it may have more effect in some ways. It is pretty clear that the government has been listening a lot to local authorities. I'm not too clear that they've been listening to schools, and that will be one of

the most important Sort of constituencies that they do need to listen to, so we need to educate them if we can.

Tania Tirraoro/ SNJ: I have suggested, a governor's webinar as well.

Eleanor Wright: Good idea.

Tania Tirraoro/ SNJ: reached out to Katrina from IPSEA earlier on today, so hint, hint about something that they could look at.

Renata Watts: Kate, did you want to go next?

Kate Cox: Yeah, I suppose two things. One is to reassure families that the law still applies, it remains in place, your children and young people with special educational needs have rights. And I encourage all of you to continue to enforce them if you need to. Let's all remember what legal rights are. They are a protection. They are a safety net for those who need them. So if you need to use it. Do, and you can use organisations to get that support that you need. So yes, the law still applies, and we're very far away from it changing, and we can do a lot in the meantime to stop it in its tracks.

Renata Watts: It's brilliant. And Polly, what's your final message?

Polly Sweeney: I think I would just really bring it back to the legal challenge. And whilst I know my client is absolutely committed to taking that as far as she is possibly able to, and there may well be other legal challenges as well, I think we need to not be complacent and think that the Human Rights Act or a legal challenge is going to solve this. It's going to take far more than that, potentially. And so, yeah, don't… as much as we will keep fighting, we will keep fighting, I think we need to recognise that might not be a solution to it. I'm sorry, I

wanted to end on something uplifting, and maybe Hayley should have gone last. But thank you.

Renata Watts: Thank you, they're all really important points.

Tania Tirraoro/ SNJ: an incredibly busy, a busy session, and I put in the chat that we may ask our lovely lawyers if they would mind answering some questions offline that we've gathered. And also we will be taking the recording and putting it out later on this week in an SNJ post, so that you all and anybody else can watch it, watch it again. I think I would like to say A massive thank you. To, everybody who's come along tonight, and also our panels. Polly Sweeney, thank you for stepping in at such short notice. Eleanor Wright. Hayley Mason Seager and Kate Cox. It's just been such a really important evening. Thank you very much, Renata.

Renata Watts: Thanks also to our team behind the scenes. We've got Matt, Katrina, Rachel, and of course, Steve, who's lying in his sickbed, replying to messages for us, so thanks for that commitment. And also, Richard and Jill.

Tania Tirraoro/ SNJ: Thank you all, have a rest of the good evening. Thank you, and if you can donate to SNJ, please do. Thanks.

Renata Watts: And, do… do the exit survey as well, that's linked. Thank you.

Tania Tirraoro/ SNJ: Thank you, good night.

Eleanor Wright: Good night.