HM Government

SEND Review:

Right support
Right place
Right time

SEND Review:

Right support, right place, right time
Government consultation on the SEND and alternative provision system in England

Presented to Parliament
by the Secretary of State for Education
by Command of Her Majesty

March 2022

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Ministerial foreword

This government is determined to level up opportunities for all children and young people – without exception. We are just as ambitious for children and young people with special educational needs and disabilities (SEND) as for every other child. This green paper sets out our proposals for a system that offers children and young people the opportunity to thrive, with access to the right support, in the right place, and at the right time, so they can fulfil their potential and lead happy, healthy and productive adult lives.

The 2014 reforms to the SEND system brought many positive changes: increased co-production with children, young people and their families, an expectation of greater joint working between education, health and care, and a focus on a child's journey from birth to 25.

But we know that, too often, children and young people with SEND, and those educated in alternative provision, feel unsupported, and their outcomes fall behind those of their peers. Too many parents are navigating an adversarial system, and face difficulty and delay in accessing support for their child. And we know that the pandemic has disproportionately impacted children and young people with SEND, exacerbating the challenges that already existed within the system.

We commissioned the SEND Review to understand these challenges better and determine what it would take to establish a system that consistently delivers for children and young people with SEND. We have listened carefully to children, young people and their families. We have listened to those working in education across early years, schools and further education; those working across health, care, local government; and the many voluntary and community sector organisations that support children and young people with SEND. We thank them all for their time, input and for their patience.

This green paper sets out proposals to ensure that every child and young person has their needs identified quickly and met more consistently, with support determined by their needs, not by where they live. Our proposals respond to the need to restore families' trust and confidence in an inclusive education system with excellent mainstream provision that puts children and young people first; and the need to create a system that is financially sustainable and built for long-term success. We know that there are places where this is already the case, and we want to make this a reality across the whole country.

We are proposing to establish a single national SEND and alternative provision system that sets clear standards for the provision that children and young people should expect to receive, and the processes that should be in place to access it, no matter what their need or where they live. We are setting out proposals for strengthened accountabilities and investment that will help to deliver real change for children, young people and their families.

Creating a single national system that has high aspirations and ambitions for children and young people with SEND and those in alternative provision, which is financially sustainable, is not a straightforward task. However, the reward for getting this right is huge: children and young people supported to succeed and thrive for generations to come.

We are committed to continuing to listen to children, young people, parents, carers, and those who advocate for and work with them, as well as system leaders, to achieve this ambition. We encourage you to reflect on the proposals set out in this green paper and respond to our consultation. Together, we can ensure every child and young person with SEND, and all those in alternative provision, can thrive and be well prepared for adult life.

Nadhim Zahawi

Secretary of State for Education

Sajid Javid

Secretary of State for Health and Social Care

Key Facts: the SEND and alternative provision system in numbers

As of 2020/21 in the state-funded education system in England

15.8% of all school pupils – 1.4 million – were identified with Special Educational Needs (SEN)[1].

In 2021, 36% of pupils in year 11 had been identified with SEN at some point in their educational journey[2]. 82% of pupils with SEN were in state-funded mainstream schools, 10% in state-funded special schools, 7% in independent schools, and 1% in state place-funded alternative provision[3].

12.2% of pupils were identified as requiring SEN Support

This is an increase on recent years, from 11.6% in 2016, prior to which the rate had been decreasing[4].

Amongst pupils on SEN Support in state-funded primary schools, the most common primary type of need in 2021 was Speech, Language and Communication Needs (34%). In secondary schools, this was Social, Emotional and Mental Health (SEMH) (22%)[5].

A further 3.7% of all pupils had an Education, Health and Care Plan (EHCP), receiving more support than available through SEN Support

This is an increase on recent years, from 2.8% in 2016[6].

Amongst pupils with an EHCP, the most common primary type of need in 2021 was Autistic Spectrum Disorder (30%)[7].

50% of pupils with EHCPs were in state-funded mainstream schools, 41% in state-funded special schools, 7% in independent schools, and 1% in state place-funded alternative provision[8].

Of all children and young people with an EHCP, 77% are in schools or alternative provision

Of the remaining 23%, 1% are in early years, 17% are in further education, and 6% are educated elsewhere or Not in Education, Employment or Training (NEET)[9].

The proportion of 3- and 4-year-olds in receipt of funded early education with SEN fell from 6.6% in 2020 to 6.3% in 2021[10].

82.7% of children and young people in alternative provision were identified with SEN

In state place-funded alternative provision in January 2021, 24.0% of pupils had an EHCP and 58.7% received SEN Support[11]. The most common primary type of need was SEMH (78.3%)[12].

The high needs budget has risen by more than 40% over three years

The high needs budget, which will total £9.1 billion in 2022-23 (over £8 billion in 2021-22), enables local authorities and institutions to better meet their statutory duties for those with SEND, including children and young people in alternative provision[13].

Many parts of the SEN system aren't working as well as they should

For parents and carers:

In 2021 during the pandemic, 68% of parents reported that their child's needs were 'not met at all' or only 'somewhat met' in accordance with their EHCP[14], during the pandemic.

For teachers:

In 2019, 41% of teachers reported that there is appropriate training in place for all teachers in supporting pupils receiving SEN Support[15].

For local areas:

Of the 141 local area inspections published by 21 March 2022, 76 resulted in a written statement of action, which indicates significant weaknesses in SEND arrangements[16].

Outcomes for those with SEN, or in alternative provision, on average are low

In the Early Years Foundation Stage Profile[17]:

In 2018/19, 76% of children identified with SEN did not achieve at least the expected level across all early learning goals, compared with 24% for those with no identified SEN[18].

In key stage 2:

22% of pupils with SEN reached the expected standard in reading, writing and mathematics in 2018/19, compared to 74% of those with no identified SEN[19].

In key stage 4:

In 2020/21, there were 87,210 pupils identified with SEN at the end of key stage 4, with an average attainment 8 score of 31.1. This compares to pupils with no identified SEN with an average attainment 8 score of 54.5[20].

In state place-funded alternative provision:

55% of pupils from state place-funded alternative provision sustained an education, training, or employment destination after key stage 4 in 2019/20, compared with 89% and 94% from state-funded special and mainstream schools respectively[21].

Executive summary

1. The reforms to the SEND system introduced in 2014 had the right aspirations: an integrated 0-25 system spanning education, health and care, driven by high ambition and preparation for adulthood. Since 2014, there is much to celebrate: 90% of state funded special schools are graded outstanding or good by Ofsted[22] and 2,200 young people were successfully placed on a supported internship in 2021[23]. As we have seen, particularly over the course of the pandemic, the system is driven by a hard-working and dedicated workforce who are committed to delivering excellent support for children and young people with SEND.

2. But despite examples of good practice in implementing the 2014 reforms, this is not the norm and too often the experiences and outcomes of children and young people are poor. There are growing pressures across the system that is increasingly characterised by delays in accessing support for children and young people, frustration for parents, carers, and providers alike, and increasing financial pressure for local government.

3. The government commissioned the SEND Review in September 2019 as a response to the widespread recognition that the system was failing to deliver improved outcomes for children and young people, that parental and provider confidence was in decline, and, that despite substantial additional investment, the system had become financially unsustainable. The Review has sought to understand what was creating these challenges and set out a plan to deliver improved outcomes, restore parents' and carers' confidence and secure financial sustainability.

4. Over the course of the Review, we have listened to a wide range of people from across the SEND system, including children, young people and their families; early years providers, schools and colleges; local authorities; health and care providers; and voluntary organisations. We have considered a child's journey through the SEND system - from early years through to further education.

5. As the Review progressed it became clear that alternative provision is increasingly being used to supplement the SEND system; to provide SEN Support; as a temporary placement while children and young people wait for their Education, Health and Care Plan (EHCP) assessment; or because there is insufficient capacity in special schools. We have therefore looked at the specific challenges facing the alternative provision sector as part of this Review.

6. We have also considered how this Review can be best implemented alongside reforms to health and social care. This includes the introduction of Integrated Care Systems and wider reforms to adult social care, as well as the forthcoming Independent Review of Children's Social Care. There is significant overlap between the cohort with SEND and those who interact with the care system. It is therefore important that the education, health and care systems work together effectively to

support children, young people and their families. We will consider the response to this consultation in parallel to the Independent Review of Children's Social Care to ensure the cumulative implications of reform deliver for children with the most complex needs.

There are three key challenges facing the SEND system

Challenge 1: outcomes for children and young people with SEN or in alternative provision are poor

7. Children and young people with SEN have consistently worse outcomes than their peers across every measure. They have poorer attendance[24], make up over 80% of children and young people in state place-funded alternative provision[25] and just 22% reach the expected standard in reading, writing and maths[26]. In a 2017 study, special educational needs were more common in children with a mental health disorder (35.6%) than in those without a disorder (6.1%)[27].Young people with SEN often have fewer opportunities in later life: by age 27 they are less likely than their peers to be in sustained employment[28] and are at greater risk of exposure to a number of harms, including becoming a victim of crime[29].

Challenge 2: navigating the SEND system and alternative provision is not a positive experience for children, young people and their families

8. We have heard that for too many families their experience of the SEND system is bureaucratic and adversarial, rather than collaborative. Too many parents and carers do not feel confident that local mainstream schools can meet their child's needs. Parent and carers are subsequently frustrated with the difficulties and delays they face in securing support for their child. The system relies on families engaging with multiple services and assessments, making it difficult to navigate, especially for the families of children and young people with the most complex needs. Some families with disabled children tell us they are put off seeking support from children's social care because of fear they will be blamed for challenges their children face and treated as a safeguarding concern rather than receive the support they need. The difficulty faced in navigating children's social care assessments, and the lack of consistency in the offer among local authorities, can mean that support is often only provided once families reach crisis point.

9. The system is not equally accessible: parents and carers with access to financial and social resources are often better placed to navigate the system and secure support for their child. Parents and carers of children in alternative provision often have little choice over whether their child ends up in these specialist settings, or whether the support and education being provided meets their child's needs.

10. Despite the heavy emotional - and sometimes financial - costs associated with tribunals, since 2015 the appeal rate to First-tier SEND Tribunals has increased year on year, demonstrating parents' and carers' increasing frustration with the system. In the academic year 2020/21, Her Majesty's Courts and Tribunals Service recorded 8,600 registered SEN appeals, an increase of 8% when compared with the previous year. Of the cases the tribunal upheld, 96% were at least partly in favour of the parent or carer, an increase of two percentage points on 2019/20[30].

Challenge 3: despite unprecedented investment, the system is not delivering value for money for children, young people and families

11. The government is making an unprecedented level of investment in high needs, with revenue funding increasing by more than 40% between 2019-20 and 2022-23. However, spending is still outstripping funding. Two thirds of local authorities have deficits in their dedicated schools grant (DSG) budgets as a result of high needs cost pressures. By the end of 2020-21, the national total deficit was over £1 billion[31].

12. Forecasts show total high needs spending continuing to increase year on year, with recent increases driven predominantly by an increase in the proportion of children and young people with an EHCP,over and above general population change. The government has already announced additional investment of £1 billion in 2022-23. Whilst future funding will need to take account of the increasing prevalence of children and young people with the most complex needs, this needs to be balanced with targeting spending more at strengthening early intervention. Investment cannot continue to rise at the current rate, particularly since this is not matched by improved outcomes or experiences for children, young people and their families.

13. Although only making up a small part of total high needs spending, early years, further education and alternative provision can be heavily impacted by local funding decisions, over which they can feel they have minimal influence. High needs spending on alternative provision is also increasing, having remained relatively stable in recent years. Inconsistency in placements leads to unpredictable funding from year to year, or even within the same year, limiting the ability of alternative provision settings to plan and invest in services.

A vicious cycle of late intervention, low confidence and inefficient resource allocation is driving these challenges

14. For children, young people, families and providers, there remains significant inconsistency in how children and young people's needs are met, with a lack of clarity around what services can be expected and who provides them. Too often, decisions are made based on where a child or young person lives or is educated, rather than their needs. This is most prominent at school level, with the school that a child or

young person attends accounting for more than half the chance of a child being identified with special educational needs[32].

15. The current SEND system does not prescribe in detail exactly who should provide and pay for local services, leaving it to local agreement and First-tier SEND Tribunals. Similarly, delivery of alternative provision is inconsistent across areas and schools.In some places, alternative provision schools have a strong role in accommodating children and young people with significant needs and in providing support and services to help children and young people stay in mainstream schools. Elsewhere, provision is mixed, and children and young people may be placed in inappropriate settings that do not support their needs.

16. The Review has consistently heard that these challenges are driven by a vicious cycle of late intervention, low confidence from parents, carers and providers, and inefficient allocation of support which is driving the spiralling costs in the system. This cycle begins in early years and mainstream schools where, despite the best endeavours of the workforce, settings are frequently ill-equipped to identify and effectively support children and young people's needs[33]. Children and young people's needs are identified late, then escalate and become entrenched. In some cases, a child or young person may be incorrectly identified as having SEN when in fact they have not had sufficient access to high-quality teaching, particularly in reading and language[34].

17. Inconsistent practice across the system exacerbates the challenges caused by late or misidentification: parents, carers and providers alike do not know what is reasonable to expect from their local settings and so lose confidence that mainstream settings will be able to meet the needs of their children and young people effectively. As a result, parents, carers, and providers feel they have no choice but to seek EHCPs and, in some cases, specialist provision, as a means of legally guaranteeing the right and appropriate support for children and young people.

18. Increased numbers of requests for EHCPs and specialist provision means that children and young people often face significant delays in accessing support as they need to go through a long and bureaucratic process to access provision. They do not always end up with the right support, in the most appropriate setting, with some children and young people placed in specialist settings even when their needs could be met effectively in mainstream settings with high-quality targeted support.

19. In some cases, children and young people are placed in alternative provision due to lengthy delays in securing an EHCP assessment, seriously disrupting an already challenging educational journey. By the time they arrive there, they may have fallen behind to an extent that it is hard for them to fully catch up before they reach the end of key stage 4. Too often they remain there regardless of whether that setting is the most appropriate to meet their needs.

20. Increased numbers of placements in specialist provision also restricts capacity. Some children and young people have to be educated outside of their local area or face long

journeys to and from school taking them away from their local community and resulting in increase transport costs. More children and young people are also placed in independent specialist provision, even when this may not be best for them. Too often the costs of such provision represents poor value for money.

21. As more children and young people receive EHCPs and attend specialist settings, more financial resource and workforce capacity is pulled to the specialist end of the system, meaning that there is less available to deliver early intervention and effective, timely support in mainstream settings. As a result, the vicious cycle continues with outcomes and experiences for children and young people continuing to suffer, and cost pressures increasing.

We need to turn this vicious cycle into a virtuous one

22. We are clear that in an effective and sustainable SEND system that delivers great outcomes for children and young people, the vast majority of children and young people should be able to access the support they need to thrive without the need for an EHCP or a specialist or alternative provision place. This is because their needs would be identified promptly, and appropriate support would be put in place at the earliest opportunity before needs can escalate. Those children and young people who require an EHCP or specialist placement would be able to access it with minimal bureaucracy.

23. To shift the dial, we are setting out proposals for an inclusive system, starting with improved mainstream provision that is built on early and accurate identification of needs, high-quality teaching of a knowledge-rich curriculum, and prompt access to targeted support where it is needed. Alongside that, we need a strong specialist sector that has a clear purpose to support those children and young people with more complex needs who require specialist or alternative provision.

24. We need to deliver greater national consistency in the support that should be made available, how it should be accessed and how it should be funded. We need a system where decision-making is based on the needs of children and young people, not on location. This must be underpinned by strong co-production and accountability at every level, and improved data collection to give a timely picture of how the system is performing so that issues can be addressed promptly. This green paper sets out an ambitious plan for how we will deliver a more inclusive SEND system.

A single national SEND and alternative provision system

25. We propose to:

- establish a **new national SEND and alternative provision system setting nationally consistent standards** for how needs are identified and met at every stage of a child's journey across education, health and care
- review and update the **SEND Code of Practice** to ensure it reflects the new national standards to promote nationally consistent systems, processes and provision
- **establish new local SEND partnerships,** bringing together education (including alternative provision), health and care partners with local government and other partners to produce a **local inclusion plan** setting out how each local area will meet the national standards
- **introduce a standardised and digitised EHCP process and template** to minimise bureaucracy and deliver consistency
- **support parents and carers to express an informed preference for a suitable placement by providing a tailored list of settings,** drawn from the local inclusion plan, including mainstream, specialist and independent, that are appropriate to meet the child or young person's needs
- **streamline the redress process**, making it easier to resolve disputes earlier, including through mandatory mediation, whilst retaining the tribunal for the most challenging cases

Excellent provision from early years to adulthood

26. We will:

- **increase our total investment in schools' budgets by £7 billion by 2024-25, compared to 2021-22**, including an additional £1 billion in 2022-23 alone for children and young people with complex needs
- **consult on the introduction of a new SENCo National Professional Qualification (NPQ) for school SENCos**, and increase the number of staff with an accredited Level 3 SENCo qualification in early years settings to improve SEND expertise
- **commission analysis to better understand the support that children and young people with SEND need from the health workforce** so that there is a clear focus on SEND in health workforce planning

- **improve mainstream provision,** building on the ambitious Schools White Paper, through excellent teacher training and development and a 'what works' evidence programme to identify and share best practice, including in early intervention
- **fund more than 10,000 additional respite placements through an investment of £30 million**, alongside £82 million to create a network of family hubs, so more children, young people and their families can access wraparound support
- **invest £2.6 billion, over the next three years, to deliver new places and improve existing provision for children and young people with SEND or who require alternative provision**. We will deliver more new special and alternative provision free schools in addition to more than 60 already in the pipeline
- **set out a clear timeline that, by 2030, all children will benefit from being taught in a family of schools**, with their school, including special and alternative provision, in a strong multi-academy trust (MAT), or with plans to join or form one, sharing expertise and resources to improve outcomes
- **invest £18 million over the next three years to build capacity in the Supported Internships Programme**, and improve transitions at further education by introducing Common Transfer Files alongside piloting the roll out of adjustment passports to ensure young people with SEND are prepared for employment and higher education

A reformed and integrated role for alternative provision

27. We propose to:

- **make alternative provision an integral part of local SEND systems** by requiring the new local SEND partnerships to plan and deliver an alternative provision service focused on early intervention
- **give alternative provision schools the funding stability to deliver a service focused on early intervention** by requiring local authorities to create and distribute an alternative provision-specific budget
- **build system capacity to deliver the vision through plans for all alternative provision schools to be in a strong multi-academy trust,** or have plans to join or form one, to deliver evidence-led services based on best practice, and open new alternative provision free schools where they are most needed
- **develop a bespoke performance framework for alternative provision** which sets robust standards focused on progress, re-integration into mainstream education or sustainable post-16 destinations
- **deliver greater oversight and transparency of pupil movements** including placements into and out of alternative provision

- **launch a call for evidence, before the summer, on the use of unregistered provision** to investigate existing practice

System roles, accountabilities and funding reform

28. We propose to:

- **deliver clarity in roles and responsibilities** with every partner across education, health, care and local government having a clear role to play, and being equipped with the levers to fulfil their responsibilities
- **equip the Department for Education's (DfE) new Regions Group** to take responsibility for holding local authorities and MATs to account for delivering for children and young people with SEND locally through new funding agreements between local government and DfE
- **provide statutory guidance to Integrated Care Boards (ICBs)** to set out clearly how statutory responsibilities for SEND should be discharged
- **introduce new inclusion dashboards for 0-25 provision**, offering a timely, transparent picture of how the system is performing at a local and national level across education, health and care
- **introduce a new national framework of banding and price tariffs for funding**, matched to levels of need and types of education provision set out in the national standards
- **work with Ofsted/Care Quality Commission (CQC) on their plan to deliver an updated Local Area SEND Inspection Framework** with a focus on arrangements and experience for children and young people with SEND and in alternative provision

Delivering change for children and families

29. We will:

- **take immediate steps to stabilise local SEND systems by investing an additional £300 million through the Safety Valve Programme and £85 million in the Delivering Better Value programme,** over the next three years, to support those local authorities with the biggest deficits
- **task the SEND and Alternative Provision Directorate within DfE** to work with system leaders from across education, health and care and the Department of Health and Social Care to develop the national SEND standards

- support delivery through a **£70 million SEND and Alternative Provision change programme** to both test and refine key proposals and support local SEND systems across the country to manage local improvement
- publish a **national SEND and alternative provision delivery plan** setting out government's response to this public consultation and how change will be implemented in detail and by whom to deliver better outcomes for children and young people
- establish, for implementation of the national delivery plan, **a new National SEND Delivery Board** to bring together relevant government departments with national delivery partners including parents, carers and representatives of local government, education, health and care to hold partners to account for the timely implementation of proposals

Chapter 1: The case for change

Summary

1. The current SEND system means that too many children and young people with SEND are achieving poor outcomes. Parents and carers are facing difficulty and delay in accessing support for their child. Providers have to navigate a complex system where it is not clear what support should be provided or who should pay for it. Despite a more than 40% increase in high needs funding between 2019-2020 and 2022-2023[35], local government spending is outstripping funding and the system is financially unsustainable[36].

2. In this chapter, we set out the key findings from the SEND Review and what is driving these challenges. We set out our vision for what needs to change to ensure that more children and young people are set up to succeed in a sustainable, less bureaucratic system. And finally, we set out our plan for action for how we propose to deliver the improvements the system needs.

The SEND system since 2014

3. In 2014, the SEND system underwent significant reform, with Education, Health and Care Plans (EHCPs) being introduced as a replacement for the previous Statement of special educational needs. The fundamental principles that underpinned these reforms of co-production, joint working and a 0-25 child-centred approach were widely supported at the time and continue to be broadly supported now.

4. The Review has seen examples of mainstream early years settings, schools, academies and further education settings that have high aspirations for children and young people with SEND and provide excellent support. 90% of state funded special schools are graded outstanding or good by Ofsted[37] and 2,200 young people were successfully placed on a supported internship in 2021[38]. We have seen, particularly over the course of the pandemic, that the system is driven by a hard-working and dedicated workforce who are committed to delivering excellent support for children and young people with SEND.

5. We have also seen changes in the identification of some types of need. Since 2015, there has been an increase in the proportion of children and young people with EHCPs with a primary need of Autistic Spectrum Disorder (ASD), speech and language communication needs (SLCN), or social, emotional and mental health needs (SEMH) and a decrease in the proportion of those with moderate learning difficulty (MLD)[39]. See Annex Figure 2 for further details.

6. But, even accounting for these changes identified in need, it is clear that the SEND system is not operating effectively and the ambitions of the 2014 reforms have not yet

been realised fully, with too many children and young people not fulfilling their potential, parental confidence in decline and further pressure on a system already under strain.

The aims of the SEND Review

7. The SEND Review was launched in 2019 in response to growing concern about the challenges facing the SEND system in England and the future of the children and young people it supports. Successive public reports, including those from the Education Select Committee, the National Audit Office, and the Public Accounts Committee, highlighted a range of challenges to be addressed. The SEND Review committed to examining how the system has evolved since 2014, how it can be made to work best for all families and how it can ensure the effective and sustainable use of resources.

8. Alternative provision can serve children and young people both with and without SEND. While alternative provision was not part of the 2014 reforms, it is clear it is increasingly being used as part of the SEND system, demonstrated by the incremental rise in EHCP placements and the fact that over 80% of those in state place-funded alternative provision have SEN[40]. Close working with the sector during the pandemic, along with concerns about the poor outcomes for children and young people leaving alternative provision, demonstrates that reform is needed. We have therefore considered reform to alternative provision within the scope of this Review.

9. The SEND Review has looked at the full range of the SEND system, spanning early years provision through to further education and encompassing education, health and care. We have listened to hundreds of people, including children and young people, parents, the workforce within early years settings, schools, further education and alternative provision. We have listened to DfE's national young SEND advisory group, FLARE. We have spoken with health commissioners, designated clinical and medical officers, as well as social workers. We have spoken with those helping families to navigate the SEND system, as well as many charities whose focus is on supporting those with specific disabilities.

10. We have sought advice from independent advisers, key member organisations, further education commissioners, members of the government's SEND Review Steering Group and our Alternative Provision Stakeholder Group (see acknowledgements for members of these groups). We are very grateful to everyone who has taken the time to engage with us and offer their thoughtful insights and observations.

11. We conducted the SEND Review against the backdrop of the pandemic and understand how difficult the pandemic has been for so many people, including those families with children and young people with SEND. Despite the tireless work of

teachers, leaders, support staff, early years practitioners, local authorities and wider children's professionals across health and social care, children and young people with SEND missed out on learning and wider enrichment opportunities. But we recognise the challenges are not new: instead, the pandemic has exposed and exacerbated pre-existing difficulties[41]. For too many children and young people, the SEND system is not working well enough.

Children and young people with SEND and those in alternative provision have consistently poorer outcomes than their peers

12. Research from the Children's Commissioner's Big Ask Survey shows children and young people with SEND have the same aspirations as their peers. They value their education and want good friends, a social life, and good mental health. They desire independence, and the prospect of a good job or career in the future[42]. We believe that, with the right support, all children and young people with SEND can achieve their potential, with most achieving in line with their peers.

13. Despite these aspirations, children and young people with SEN fall behind their peers at every stage of education, regardless of their prior attainment. Children and young people with SEN are also more likely to be disengaged from education, pushing them further behind. They have poorer attendance[43] and are more likely to be excluded[44].

14. Key stage 4 outcomes for children and young people in alternative provision are poor, with 4.5% achieving grades 9-4 in GCSE English and maths in 2018/19[45] and only 55% sustaining their post-16 destination after six months in 2019/20[46]. This is often a reflection of the fact that over three quarters of children and young people in state place-funded alternative provision are in year groups 9–11[47], many having already fallen a long way behind in their education.

15. Children and young people with SEN face poor outcomes beyond education. Whilst the likelihood of children with SEN being involved in crime is low – just 8% of children who had ever had SEN Support had also ever offended and 14% of children who had ever had an EHCP had also ever offended - those who are identified with SEN at some point are more likely to have been cautioned or sentenced for an offence, including serious violence offences. Children who had been cautioned or sentenced for any offence were more likely to be recorded as having SEN (both with SEN Support and with an EHCP) than the all-pupil cohort. Of children who had been cautioned or sentenced for an offence, 67% had ever had SEN Support and 13% had ever had an EHCP[48]. Young people with SEND are also overrepresented in the justice system: one in four children and young people in young offender institutions have SEND[49].

16. As young people with SEN move into adulthood they find it more difficult to secure employment; at age 27 young people with SEN are 25% less likely to be in sustained employment than their peers with no identified SEN[50].

Experiences of the SEND and alternative provision system are negative

'Even once you manage to get an EHCP then a whole new fight with the local authority starts - it's such a massive ordeal to make sure it's written correctly so the child gets the actual support - ultimately parents (like me) end up forced to appeal and go through tribunal' – Parent, focus group 2021

17. Parents and carers want accurate information from their first contact with professionals and want to be partners in determining arrangements for supporting their child. However, this does not always happen. Parents and carers are not always made aware of the support that their child is accessing. Many parents and carers also find their child has been directed to alternative provision by their school and have little or no say in this decision.

18. Research from the Children's Commissioner's Big Ask Survey[51] showed many children and young people felt they had not received enough understanding or tailored support for their needs. When children and young people did not get the support they wanted, they often felt excluded, unable to form relationships with children their own age, and in some cases bullied. In the parents and pupils survey (2019)[52] and panel (2021)[53] commissioned by DfE, pupils with SEND were more likely to report experiencing bullying.

19. Families of children with SEND have spoken about the impact that trying to secure SEND provision has on them, including the financial costs and mental health impact[54]. We have heard the system is not always equally accessible parents and carers with access to financial and social resources are often better placed to secure support for their children. In a 2021 survey of 483 responses, conducted during the pandemic, 68% of parents reported that their child's needs were 'not met at all' or only 'somewhat met' in accordance with their EHCP[55].

20. The growing number of tribunal cases reflects this dissatisfaction. In the academic year 2020/21, there was an 8% increase in registered appeals in relation to SEND, with 96% of decided cases found at least part in favour of families[56]. Despite this high success rate, going to tribunal is not an easy decision for families as it carries a huge emotional, and sometimes financial, burden.

21. The financial and administrative burden of preparing for and responding to tribunal cases is also felt significantly by local authorities and diverts resources away from providing direct support, which in turn affects children and young people waiting to receive the support they need.

The SEND and alternative provision system is financially unsustainable

22. The government has made significant investment in the SEND system: by the 2024-25 financial year, the core schools' budget will have increased by more than £7 billion compared to its 2021-22 level. Within this overall budget, high needs funding for children and young people aged 0-25 with more complex needs has increased by £1.5 billion over the last two years and will increase by a further £1 billion in the next financial year to reach a total of £9.1 billion: an increase of more than 40% over three years. We will sustain and build on these increases through the rest of the current Spending Review period.

23. Despite this significant investment, the system is not delivering value for money and outcomes and experiences for children and young people with SEND are not improving. Instead, the system has become financially unsustainable, with investment being outstripped by spending which has left two thirds of local authorities with growing deficits. By the end of 2020-21, the total national deficit was over £1 billion.

24. Between 2014-15 and 2020-21, the largest contributor to the increases in high needs spend was the rising proportion of children and young people with an EHCP, over and above general population change, which accounted for roughly half of the more than £2 billion increase. See Annex Figure 3 for further details.

25. There is a lack of consistency in the costs of different types of specialist provision for children and young people with SEND, with the average cost of a placement in an independent special school costing more than double that of a placement in a maintained or academy special school (£54,000 compared with £22,000[57]). However, independent special schools often cater for children and young people with very complex needs which increases the average cost. Spending on this more expensive provision is taking up a greater proportion of local authorities spending – from 2014-15 to 2020-21, local authority spending on independent special and non-maintained special school places increased by 126%, compared with a 38% increase in spending on other special school provision; spending on alternative provision increased by 18% over the same period[58].

There is too much inconsistency across the SEND system in how and where needs are assessed and met

26. The 2014 reforms introduced, and placed significant emphasis on, local discretion with expectations based on the local authority working closely with local education, health and care partners, parents and carers.

27. However, this local discretion has resulted in significant inconsistencies in how SEND provision is delivered in practice across the country. This begins with inconsistency in how needs are identified and assessed: research by the Education Policy Institute

found that the school a child or young person attends is the greatest factor in whether they are identified as having SEN, and whether they access support, accounting for 67 to 69% of the inconsistency in identification[59].

28. A lack of consistent guidance as to the type of settings where needs should most effectively be met means that there is significant inconsistency across the country in whether children and young people with the same types of needs receive an EHCP and where they are educated. A child or young person may be effectively supported in a mainstream school in one area of the country, but would be placed in a specialist setting if they were living in another area. See Annex Figure 4 for further details. Rates of EHCPs also vary significantly: 5.5% of all pupils in Torbay have an EHCP compared with 1.7% in Nottinghamshire[60].

A vicious cycle is driving these challenges

29. These challenges are driven by a vicious cycle of late intervention, low confidence across the system, and inefficient resource allocation.

Figure 1: A vicious cycle of late intervention, low confidence and inefficient resource allocation is driving these challenges

30. This begins in early years and mainstream schools where, despite the best endeavours of the workforce, settings are frequently ill-equipped to identify and effectively support needs[61]. This results in children and young people's needs being identified late, or incorrectly, with needs escalating and becoming more entrenched. In some cases, poor quality teaching, particularly in reading, may cause a child or young person to fall behind their peers and be incorrectly identified as having special educational needs.

31. Inconsistency across the system, around the identification and support of needs, means that there is inconsistent practice: parents, carers and providers do not know what to reasonably expect from their local settings. This results in low confidence amongst parents, carers, and providers in the ability of mainstream settings to effectively meet the needs of children and young people with SEND.

32. As a result of this low confidence, parents, carers, and providers feel they need to secure EHCPs and, in some cases, specialist provision as a means of guaranteeing appropriate support for their child. This increased need for EHCPs and specialist provision creates further challenges across the system:

    - **children and young people face delays in accessing support** as they need to go through a time-intensive and bureaucratic process to access provision, even when what might be required is high-quality teaching to catch-up or time-bound access to a particular service.

    - **children and young people are not always placed in the most appropriate setting**. Not every child or young person with SEND requires a specialist placement, but a lack of clarity on when specialist provision is appropriate means that some children and young people end up in these settings even when their needs could be met effectively in mainstream, with some high-quality targeted support.

    - **increased requests for placements in specialist provision means that capacity is restricted**. Some children and young people, including those with more complex needs, face long journeys to school or have to attend out of area placements, resulting in increased costs for school transport. In some areas, alternative provision appears to be increasingly used to supplement special school places. Pressures on the capacity of specialist provision also mean that more children are placed in independent specialist provision, even when this may not be the most effective setting for them, resulting in poor value for money.

33. As more children and young people receive EHCPs and attend specialist settings, more resource and capacity is pulled to the specialist end of the system, meaning that there is less resource available to deliver early intervention and effective, timely support in mainstream settings. As a result, the vicious cycle continues with outcomes and experiences continuing to suffer, and costs pressures increasing.

A system where every child and young person can access the right support in the right place at the right time

34. Addressing these challenges, and delivering better outcomes, improved experiences and financial sustainability, requires a whole system response. Far more children and young people should be able to access the support they need in their local mainstream setting, without the need for an EHCP or specialist provision. That begins with clear and common standards across the SEND and alternative provision system so that needs are identified, assessed and supported fairly and consistently, no matter where a child or young person lives or is educated. Consistent standards will facilitate a more inclusive system, with more children and young people able to have their needs met in high-quality mainstream provision with high aspirations, a confident and expert workforce and access to high-quality targeted support as needed.

35. We also need a strong specialist sector that supports those children and young people with more complex needs, and a clear vision for an improved alternative provision system that offers upstream support as well as placements. We need funding reform and strengthened accountability across the system so that everyone knows the role they play, is incentivised and held to account for doing so. We need a strong focus on delivery, supporting the move to a more inclusive system that starts to deliver now, and in the long-term for children, young people and their families. This green paper sets out how we intend to deliver these changes in England so that every child and young person can achieve their potential.

Chapter 2: A single national SEND and alternative provision system

Summary

1. The Review has concluded that there is a need for much greater consistency in how needs are identified and supported, so that decisions about support and provision are made based on a child or young person's needs, in co-production with families, not where they live or the setting they attend. The Review has heard that parents and carers want greater confidence that their local early years setting, school and college will be able to effectively support their child's needs.

2. We propose to establish a new national SEND and alternative provision system that will set new standards for how needs are identified and met across education, health and care. This will include standards on what support should be made available universally in mainstream settings, as well as guidance on when an EHCP is required, and when specialist provision, including alternative provision, is most appropriate for meeting a child or young person's needs.

3. In this chapter, we set out what the new national standards would cover, and how they would be delivered in a local area. In Chapter 3, we expand on how we propose to improve provision across the system, starting with excellent teaching in mainstream settings and improved workforce expertise across early years, schools and further education. In Chapter 4, we set out how this system will operate specifically for alternative provision settings. In Chapter 5, we set out our proposals for ensuring there are clear roles and responsibilities, alongside funding reform and robust accountability across processes and procedures in the system. Finally, in Chapter 6, we set out our plans for delivering the proposals set out in this green paper.

We propose to:

- establish a **new national SEND and alternative provision system setting nationally consistent standards** for how needs are identified and met at every stage of a child's journey across education, health and care

- review and update the **SEND Code of Practice** to ensure it reflects the new national standards to promote nationally consistent systems, processes and provision

- **establish new local SEND partnerships,** bringing together education (including alternative provision), health and care partners with local government and other partners to produce a **local inclusion plan** setting out how each local area will meet the national standards

- **introduce a standardised and digitised EHCP process and template** to minimise bureaucracy and deliver consistency
- **support parents and carers to express an informed preference for a suitable placement by providing a tailored list of settings,** drawn from the local inclusion plan, including mainstream, specialist and independent, that are appropriate to meet the child or young person's needs
- **streamline the redress process**, making it easier to resolve disputes earlier, including through mandatory mediation, whilst retaining the tribunal for the most challenging cases

What this means for:

Children and young people: will be able to access the support they need, without bureaucracy and delay, and will be able to attend the setting that is right for them so that they can be supported to achieve improved outcomes.

Parents and carers: can be confident that their child's needs will be met effectively in the most appropriate local setting, without having to fight to secure the appropriate support for their child's needs. They can be clear about what support their child is receiving and are engaged in decision-making at every stage.

Education settings: can be clear about the support that they are expected to ordinarily deliver for children and young people with SEND. They can be engaged in strategic decision-making in their local area so that they can access the right targeted support for children and young people quickly and effectively.

Health and care providers: will be clear about their responsibilities in meeting children and young people's needs. Consistent processes and strategic planning will mean services can be jointly commissioned and delivered across regions to meet the needs of children and young people across their local area.

Local government: is clear on roles and responsibilities with the levers to fulfil their statutory duties. They can deliver the right, appropriate support to meet the needs of children and young people with SEND in their local area.

We propose to legislate for new national SEND standards

4. The 2014 reforms placed a strong emphasis on local decision-making. However, it is clear that there is too much local discretion, to the extent that there are now, in effect, 152 local SEND and alternative provision systems operating across the country. This is difficult for parents and carers navigating the system and for education settings, particularly MATs and further education providers across regions, who have to deal with different systems, processes and funding regimes across multiple local authorities.

5. We propose to create new national SEND standards spanning early years settings through to further education. These standards would make consistent the provision, processes and systems that should be made available across the country for every child and young person with SEND, acting as a common point of reference for every partner within the SEND and alternative provision system. We intend for these to apply across education, health and care. We propose to bring forward legislation to place the standards on a statutory footing within the early years and education sectors and revise the SEND Code of Practice to reflect these standards. Recognising the different legal framework for health and adult social care (for ages 18-25), we will work with relevant bodies to ensure the new national SEND standards are appropriate for health and adult social care, reflecting this in the relevant health commissioning guidance and in line with the Care Act 2014. The application of the national standards to children's social care will be informed by the government's response to the forthcoming Independent Review of Children's Social Care. The proposed national standards will include:

    - **How needs should be identified and assessed:** the standards will set consistent processes for decision-making on how a child or young person's needs are identified and recorded and instruct on how and when an assessment should take place, who should be involved in the assessment process, and how the information and evidence collected should be recorded and monitored. This will include standards on how and when a child or young person should be identified as requiring SEN Support, and best practice in reasonable adjustments for disabled children, such as those children with a sensory impairment. These standards should improve consistency of identification, reducing the likelihood of misidentification driven by place, setting or other factors such as race or disadvantage.

    - **The appropriate provision that should be made available for different types of need:** the national standards will set out the full range of appropriate types of support and placements for meeting different needs. This will include setting out when needs can and should be met effectively in mainstream provision, and the support that should be made ordinarily available in mainstream settings to facilitate this. It will also bring clarity to the circumstances in which a child or young person needs an EHCP, and additionally whether their needs should be met in a specialist setting (including alternative provision). For those parents and carers with children with complex needs, there will be greater clarity too in when a special school is appropriate. There will be greater clarity about which partners should fund specific forms of support and provision.

    - **Standardised processes for accessing and reviewing support:** the standards will set out clear processes for accessing and reviewing the support that is put in place in mainstream settings, including consistent standards on co-production with children, young people, parents and carers. It will also set clear standards for how

and when EHCPs should be effectively reviewed, with a much greater emphasis on effective time-bound support and achieving individual outcomes.

- **Standards for co-producing and communicating with children, young people, parents and carers:** co-production with children, young people and families is a fundamental principle of the SEND system and enables children, young people, parents and carers to be valued partners in decision-making[62]. We will introduce consistent standards for co-production and communication with children, young people and their families so that they are engaged in the decision-making process around the support that they receive and the progress they are making.
- **Standards for transitions:** transitions standards will ensure there are consistently deliverable arrangements in place as children and young people move to their next phase, particularly into further education, employment, and adulthood.The standards will have the preparation for adulthood goals at their heart, and will provide consistency on the quality, timeliness and effectiveness of transitions for children and young people in both mainstream and specialist settings.

Consultation Question 1: What key factors should be considered when developing national standards to ensure they deliver improved outcomes and experiences for children and young people with SEND and their families? This includes how the standards apply across education, health and care in a 0-25 system.

We propose to introduce new local SEND partnerships to ensure effective local delivery

6. National standards will ensure that there is greater fairness and consistency in decision-making across the country in how needs are identified, assessed and supported. However, we recognise that some local discretion will be required and necessary, taking into account differing prevalence of need, geographical contexts, and patterns of provision to enable effective local delivery. We want to create a system that promotes a collaborative approach to supporting children and young people with SEND, built on common understanding of needs and provision, with effective joint working, mutual trust and accountability between all system partners.
7. We propose to legislate to enable statutory local SEND partnership arrangements that bring together representatives across early years, schools, further education, alternative and specialist provision, in addition to health and care partners and other partners, including youth justice. The partnerships will be convened by local authorities who will continue to hold responsibility for high needs funding and coordinate the local system to deliver statutory responsibilities including duties for vulnerable children. We want to establish these new partnership arrangements, mindful of current local partnerships and not wanting to duplicate other partnership

arrangements including Integrated Care Partnerships. Statutory guidance will be clear on what is expected of every partner involved to enable these partnerships to be successful.

8. This local partnership will be responsible for working with parents and carers to carry out an assessment of need and existing provision across their local area, capturing the prevalence of different types of need locally, and the range of provision that will need to be available locally to effectively meet those needs. For alternative provision, this must include the provision necessary across a continuum of support, with a strong focus on targeted support in mainstream settings (further detail in Chapter 4). This partnership arrangement will enable local authorities to work collaboratively with health and care partners as well as local education settings, including MATs, to meet their statutory responsibilities for children and young people with SEND. We therefore propose to review the current co-operation duties and requirement to keep education and care provision under review.

9. Following the needs assessment, the local partnership will work with parents and carers to produce a local inclusion plan. The local inclusion plan should be a strategic plan for delivery including setting out the provision and services that should be commissioned in line with the national standards and based on the results of the joint needs assessment. Local partnerships will be expected to consider local issues, such as transport arrangements, when determining the provision that is included within the local inclusion plan. The local inclusion plan will inform the local offer, with the national standards being clear on what should be included within the local offer. We will undertake a local authority new burdens assessment as part of this proposal, including consideration of the capacity required to manage delivery of this change, such as the training and development needs of local authority SEN officer teams. In Chapter 5 we expand on how inclusion plans will be quality assured.

10. Whilst we would expect most planning and commissioning for provision to take place at a local authority level, for some types of provision a regional approach may be more appropriate. We propose that the national system encourages more commissioning at a regional level. This is likely to be the case for further education settings, whose footprint often spans across multiple local authorities[63] and for specialist provision to meet the most complex needs which tend to be less prevalent.

11. The local partnership will need to work alongside multi-agency safeguarding partnerships and Integrated Care Systems, with the joint needs assessment and local inclusion plan informing health and care commissioning to ensure integrated delivery of services across education, health and care.

Consultation Question 2: How should we develop the proposal for new local SEND partnerships to oversee the effective development of local inclusion plans whilst avoiding placing unnecessary burdens or duplicating current partnerships?

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

We propose mandating the use of local multi-agency panels to improve parental confidence in the Education, Health and Care (EHC) needs assessment process

12. We have heard from parents that improving the impartiality of the needs assessment process will improve their overall confidence in EHC needs assessments and local authority decision-making. Some areas have already taken steps to address this through the use of multi-agency panels. We propose introducing statutory local multi-agency panels to review and make recommendations on requests for EHC needs assessments, the needs assessments themselves and the consequent placement and funding decisions.

13. This panel would include representation from schools and colleges, health, social care, parents and carers to take a holistic view of the child or young person. They would make recommendations to the local authority on whether (following the decision-making processes set out in law) an EHC needs assessment must be carried out, whether or not an EHCP is required, and that the provision specified in a plan is in accordance with the national model. The local authority must then take these recommendations into account when making their final decisions.

We propose to standardise EHCPs to ensure consistent access to specialist provision

14. The component sections and information that must be included within an EHCP are defined in law, and local areas have the discretion to create their own versions of the EHCP template and the process of inputting into them. However, recent analysis[64] by the Children's Commissioner highlights a lack of consistency in the specificity of information included within EHCPs, and how outcomes are defined, including the timeframe in which a child or young person is expected to achieve them by. There were inconsistences too in the structure, length and formatting of EHCP forms, with the samples included in the analysis ranging from a maximum of 40 pages in one local authority to between 8 and 23 in another. The EHCPs produced by the local authorities in the sample would take approximately 50 minutes on average to read aloud to a child. This lack of consistency means that partners who work across multiple local authorities must navigate multiple processes and templates, reducing their capacity to deliver support and adding to their administrative burden.

15. We therefore propose to introduce standardised EHCP templates and processes. This will place greater focus on the support that is being put in place, including whether

support should be classed as education, health and care interventions, and therefore funded by the appropriate service. Documentation must be co-produced with parents, carers, children and young people to ensure the templates produced are user-friendly and accessible.

16. We know that families can feel overwhelmed and overburdened by multiple assessments. The national standards will make clear the input required from different services, including health and social care, to contribute to an EHC needs assessment. We will more clearly define the statutory requirement for social care input into EHC assessments, so that at a minimum children and young people with SEND are signposted to appropriate advice and guidance when more formal social care support may not be necessary.

17. We will explore opportunities for streamlining EHC and social care assessments following publication of the Independent Review of Children's Social Care. We will also review whether the distinction between sections H1 (provision under Chronically Sick and Disabled Persons Act 1970) and H2 (any other social care provision reasonably required by the young person's learning difficulties or disabilities) of EHCPs remain helpful and necessary.

18. We will standardise the annual review process for reviewing EHCPs, with new standards on documenting and celebrating progress achieved towards milestones and outcomes. We will introduce a requirement to discuss and record whether a step down to targeted support, and cessation of an EHCP, is more appropriate for meeting the child or young person's needs. This will ensure that when an EHCP is no longer necessary it can be ended whilst also ensuring that children and young people continue to access appropriate levels of support.

19. We propose to change the timescale for the issuing of draft plans following annual reviews. In light of a recent High Court judgment[65], local authorities must now issue proposed amendments to the plan within four weeks of a review meeting. We are concerned that this deadline does not strike a balance between timeliness and certainty for families and enabling local authorities to gather and consider all the information and advice they need to draft quality amendments to an EHCP. We will therefore consult shortly on a proposal for a timescale that will enable a quality EHCP to be produced.

We propose to digitise EHCPs to reduce bureaucracy

20. We will also digitise the EHCP process with a new digital EHCP template and a secure central location for parents, carers and professionals to upload key information, reducing the bureaucracy of the current process. We will work with parents, carers and professionals to make sure that they can submit and access all

the relevant information for producing, maintaining and reviewing the plan in a streamlined way that is easy to navigate and access.

21. We will make sure that the new system takes full advantage of the potential of technology and can give a holistic picture of the child or young person, for example, by including photos and videos. We will ensure there are appropriate controls in place so that the plan cannot be changed without parent or carer input and that it will provide an audit trail of previous decisions and amendments. The process will take account of General Data Protection Regulations (GDPR) considerations and information sharing protocols.

22. A digital EHCP process will also allow for better data collection including anonymous tracking of progress made towards outcomes and analysis of trends in the prevalence of need, and the support and provision that is made available. This data will be used by DfE to review and update the national standards so that they remain relevant and issues can be addressed proactively.

23. These changes will particularly support those children and young people who move school in the middle of an academic year. We will also consider how we can better support those who return to England following deployment abroad or in other parts of the UK, such as families in the Armed Forces or Crown Servants.

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

We propose to amend the process for naming a place within an EHCP

24. In instances where it has been identified that a child or young person's needs require a placement in specialist provision, the local inclusion plan will set out the provision that is available within the local area, including units within mainstream, alternative and specialist provision.

25. In order to support parents and carers to express an informed preference of a suitable placement, they will be provided with a tailored list of settings based on the local inclusion plan, including mainstream, specialist and independent, that are appropriate to meet the child or young person's needs. These settings may be outside of the boundary of the local authority where this is appropriate. The local authority will allocate the first available place in order of the parent's or carer's preference and this school will be named in the child's EHCP.

26. Parents will continue to have the right to request a mainstream setting for their child, even when they are eligible for a specialist setting. Local authorities must name the mainstream setting where this is the parental preference, unless it is incompatible with the provision of efficient education for others. These changes will not impact children

or young people already in a specialist setting and will apply to future decisions about school places. This change will not come into effect until the local inclusion plan for an area has been quality assured and signed off as being in accordance with the national standards.

27. For children and young people with an EHCP, the setting named on the plan has a legal duty to admit the child or young person. We are aware of instances of alleged inappropriate or unlawful practices: 94% of local authorities said that "resistance from some schools to admit or retain pupils with additional needs or vulnerabilities" happened occasionally or regularly[66].

28. There are processes to allow local authorities to direct admissions in maintained schools. Although academies are required to admit a child or young person with an EHCP, the power to direct admissions for academies remains with the Secretary of State for Education. We will consider changing this process, so that, as a final safety net to cover rare circumstances where collaborative working breaks down, local authorities have a backstop power to direct trusts to admit children, with a right for the trust to appeal to the Schools Adjudicator. This is important to ensure that children and young people with SEND are not left without a school place for unreasonable lengths of time. It will also support the wider pupil movements process, including placements into and out of alternative provision, with further detail on this set out in Chapter 4.

Consultation Question 5: How can parents and local authorities most effectively work together to produce a tailored list of placements that is appropriate for their child, and gives parents' confidence in the EHCP process?

We propose to strengthen earlier redress through clear national standards and the introduction of mandatory mediation

29. The new national system will be designed to minimise uncertainty and disagreements throughout the system and improve parental confidence. We recognise, however, that disputes around decision-making may still occur, but these should be addressed and resolved promptly where possible.

30. Through the national system, we will set standards for how complaints related to SEND processes and provision should be dealt with and who is responsible for resolving concerns. This will include improved quality assurance and greater clarity on the local authority commissioned dispute resolution and mediation services, alongside greater clarity on the role of local SEND Information, Advice and Support Services (SENDIASS) who provide impartial support to families and help them navigate processes including their options for redress.

31. Mediation helps to maintain and improve relationships between providers, local authorities and families which is important for long-term collaborative working and supports better outcomes for children and young people. In the current system, families must secure a mediation certificate before registering an appeal with the tribunal[67], but they do not have to go through mediation itself. We propose to change this so that families and local authorities must engage in mediation prior to registering an appeal to the tribunal. The national standards will set clear expectations of how different parties should engage in mediation, including timescales for mediation to take place and ensuring that local authority decision-makers attend meetings. We will make sure there is appropriate support available to parents to help them understand the mediation process and how best to engage with it.

32. We propose to keep the impact of mandatory mediation under review as we start to deliver these changes. If the national standards and mandatory mediation does not prove effective in strengthening earlier redress, we will consider whether it is necessary to introduce an additional redress measure in the form of an independent review mechanism. This could be the same multi-agency panel proposed in paragraph 13 that reviews evidence at the EHC needs assessment stage to ensure consistency. In these circumstances, the panel would be responsible for reviewing the evidence in any dispute cases that are eligible for tribunal appeal, including refusal to assess need, refusal to offer an EHCP and the content of a plan. Cases would need to go through mediation first and then be reviewed by the independent local panel prior to a tribunal appeal being registered. We would need to consider whether this panel could make the binding legal judgements required to overturn previous local authority decisions and how this would apply across education, health and care.

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

33. The First-tier SEND Tribunal plays an important role in resolving disputes between parents, carers, young people and local authorities over a range of decisions. Appeals to the tribunal should only need to be made in cases where parents feel that their child's needs or proposed provision arrangements are not in line with the new national SEND standards, and mediation has not resolved the dispute.Tribunal decisions would be made in line with the new statutory national SEND and alternative provision standards. The extended powers, tested under the National Trial, given to the SEND Tribunal to hear appeals and make non-binding recommendations about health and social care aspects of EHCPs, provided those appeals also include education elements, will continue. This enables parents and carers to access a single route of redress across education, health and care.

34. The Equality Act 2010 makes clear that schools must operate inclusively and ensure that children and young people who are disabled can access and participate in education and other activities schools provide. However, where this is not the case

and practices may have been discriminatory, families and young people are able to bring a claim to the First-tier SEND Tribunal, which has the power to award a range of remedies to redress the wrong with the aim of putting a child or young person's education back on track. These remedies can include training of school staff and ordering a change to school policies. The government proposes to explore how well this arrangement is working in practice.

Consultation Question 7: Do you consider the current remedies available to the SEND Tribunal for disabled children who have been discriminated against by schools effective in putting children and young people's education back on track?

Chapter 3: Excellent provision from early years to adulthood

Summary

1. The Review has heard that we need a more inclusive system in order to ensure that children and young people with SEND are set up to thrive and are prepared for adulthood. The national standards introduced in Chapter 2 will provide consistency on where needs should be met, and how. This will give parents and carers increased confidence that their child can be supported effectively in their local mainstream setting and will offer providers greater clarity on the range of needs that can be met within a mainstream setting. An inclusive system will also ensure that children and young people have timely access to specialist services and support, including specialist placements where this is appropriate.

2. In this chapter, we set out our ambition for a continuum of support where needs are identified early and accurately so that the right support is delivered in the right setting at the right time. We will deliver improved mainstream provision, through a highly skilled and confident workforce across early years, schools and further education. Children and young people will access the support needed for effective transitions, especially as they move into further education, higher education, employment or adult social care services. There will be improved access to wraparound services for families, and more timely access to specialist support from health and social care partners where a child or young person requires this. We will invest in new specialist places, ensuring that those children and young people with more complex needs can access the support they need quickly and closer to home.

We will:

- **increase our total investment in schools' budgets by £7 billion by 2024-25, compared to 2021-22**, including an additional £1 billion in 2022-23 alone for children and young people with complex needs
- **consult on the introduction of a new SENCo National Professional Qualfication (NPQ) for school SENCos** and increase the number of staff with an accredited Level 3 SENCo qualification in early years settings to improve SEND expertise
- **commission analysis to better understand the support that children and young people with SEND need from the health workforce** so that there is a clear focus on SEND in health workforce planning
- **improve mainstream provision,** building on the ambitious Schools White Paper, through excellent teacher training and development and a 'what works' evidence programme to identify and share best practice, including in early intervention

- **fund more than 10,000 additional respite placements through an investment of £30 million**, alongside £82 million to create a network of family hubs, so more children, young people and their families can access wraparound support
- **invest £2.6 billion, over the next three years, to deliver new places and improve existing provision for children and young people with SEND or who require alternative provision**. We will deliver more new special and alternative provision free schools in addition to more than 60 already in the pipeline
- **set out a clear timeline that, by 2030, all children will benefit from being taught in a family of schools**, with their school, including special and alternative provision, in a strong multi-academy trust (MAT), or with plans to join or form one, sharing expertise and resources to improve outcomes
- **invest £18 million over the next three years to build capacity in the Supported Internships Programme**, and improve transitions at further education by introducing Common Transfer Files alongside piloting the roll out of adjustment passports to ensure young people with SEND are prepared for higher education and employment

What this means for:

Children and young people: can have their needs met effectively in the setting that is most appropriate for them, with far more children and young people able to attend their local mainstream setting. Children and young people will receive excellent teaching and can get access to the support they need quickly and easily.

Parents and carers: can be confident that their child's needs will be met in the most appropriate local setting, with clarity about what support will be made available. Families can access wraparound support so that they can thrive.

Education settings: have clarity on the provision that they should be making available as standard. The workforce has access to training and development at every stage of their career giving them confidence and expertise to effectively identify and support needs.

Health and care providers: can work with education settings to identify and support needs early. Improved strategic SEND leadership and greater clarity on the specialist support they need to make available will allow them to ensure the right resources are in place in each local area.

Local government: will have access to local specialist services and places that they can commission to support children and young people locally where appropriate. Improved clarity about where needs should be met, alongside increased investment in wraparound support and services, will allow needs to be met earlier, reducing budgetary pressures on specialist services.

We will identify need at the earliest opportunity in high-quality early years provision

3. Excellent early years provision can play a key role by identifying needs early and putting the right support in place so that children can progress. Research has found that high-quality early years provision for children significantly decreased the likelihood of a child being identified with SEN in later years[68].

4. The Early Years Foundation Stage (EYFS) two-year old progress check and the Healthy Child Programme (HCP) development review offer two valuable opportunities to identify additional needs for children aged 2 to 3 and put the right support in place for the children who need it in partnership with parents, carers and any relevant professionals. These are important interventions in assessing a child's progress and optimise children's development, which includes a focus on communication and language, personal, social and emotional development, as well as on children's physical development milestones. We will explore ways to upskill early years practitioners in undertaking the EYFS two-year-old progress check and encourage further integration to join-up across education and health services.

5. We have heard that early years practitioners can struggle to accurately identify where a child may have SEND. Although group-based early years providers are expected to identify a SENCo, early years SENCos are not subject to a minimum statutory requirement regarding the level of qualification. We will increase specialist SEND expertise by increasing the number of trained and qualified SENCos in early years settings, with a view for training to be delivered to up to 5,000 SENCos. We will also conduct a review of the Level 3 early years educator qualification and increase the number of SEND-qualified Level 3 practitioners in early years settings.

Consultation Question 8: What steps should be taken to strengthen early years practice with regard to conducting the two-year-old progress check and integration with the Healthy Child Programme review?

The example of Daniella shows how the system will feel for children and young people following the proposed changes

Daniella is 4 and educated at her local mainstream nursery. The new SEND system means her needs are identified early and Daniella and her mum receive wraparound support.

Current experience and trajectory

In the early part of the pandemic, despite Daniella's nursery staying open, she missed out on some aspects of support and valuable time with her peers.

The nursery suspect that Daniella might have moderate learning difficulties, which have been compounded by the implications of the pandemic on her learning.

The nursery staff are not sure how best to identify her needs to provide the right support for her and do not know what extra support might be available.

Daniella continues to fall behind.

When Daniella arrives in reception, her needs are not clear and there is little record of the previous support she has had. Therefore, provision is not in place – Daniella's needs become more significant and challenging as she gets older.

Future experience

The staff at Daniella's nursery received SEND specific CPD with a focus on child development.

They utilise these skills to identify children who have been significantly impacted by a lack of interaction and services as a result of the pandemic.

The nursery staff exercise best practice and conduct a 2 ½ year integrated check with a health visitor. The health visitor uses the Early Language and Identification Measure Framework to identify the emerging need that explains why Daniella is beginning to fall behind her peers.

The local family hub model supports integrated working between professionals. The nursery staff and health visitor speak to the family and work together as a team around Daniella to identify what support can be put in place, supported by an effective local data sharing agreement so everyone in the multidisciplinary team has the information to make a good decision quickly.

On transition, the information about the support Daniella has received is passed from her nursery to her primary school. The school has access to a speech and language therapist (SaLT) if Daniella needs access to time-bound support.

We will support families at every stage of their child's journey

6. To improve the availability of early support for families, we will invest £82 million in family hubs across 75 local authorities in England, as part of a wider £300 million package to transform services for parents, carers, babies, and children. These hubs will offer improved access to services, with better connections between families, professional services and providers. Hubs will be expected to help families who have a child with SEND to navigate support by signposting and referring them to appropriate services within the hub network and incorporate evidence-based support for children with SEND into their provision where appropriate. Local authorities receiving funding to develop family hubs through the £12 million Transformation Fund will be expected to integrate SEND provision into their 0–2-year-old offer, offering children the best start in life.

7. We will expand the reach of the Supporting Families Programme through a £695 million investment over the coming three years to secure better outcomes for up to 300,000 families. This will ensure more families are able to access quality, multi-agency support across a wide range of needs, including SEND.

8. Families take on many additional roles to support their children practically and emotionally, without any break. Access to respite, short breaks and opportunities to take part in activities in the local community can reduce stress and increase wellbeing. However, many families struggle to access the additional support they need. A survey carried out by the Disabled Children's Partnership (DCP) showed 53% of parents and carers had been forced to give up a paid job to care for their disabled child[69].

9. Councils will be able to bid for projects to be funded from a new £30 million investment over the next three years, to set up more than 10,000 additional respite places. This small-scale project will enable innovative approaches to providing support to be evaluated over the course of the three-year programme, with best practice learning being shared across the system so that more families can benefit.

10. We recognise that even with this additional investment there is more that could be done to provide support for those children and young people with the most complex needs. We know that the forthcoming Independent Review of Children's Social Care has looked closely at early help and we await the report with its final recommendations in the spring.

We will deliver excellent teaching and high standards of curriculum in every mainstream school

11. Excellent mainstream provision serves as the foundation for a strong SEND system that delivers for all children and young people and allows them to have their needs met effectively in their local setting. That is why we are investing an additional £7

billion in the core schools' budget by 2024-25, including a further £1 billion in 2022-23 alone for all those aged 0-25 with more complex needs, to ensure that the system has sufficient resource in the years to come.

12. But we are clear that there is further to go in delivering a mainstream system that can support children and young people with SEND effectively. This government's Levelling Up mission for schools is that, by 2030, 90% of primary school children will have achieved the expected standard in reading, writing and mathematics. But in 2019, only 22% of pupils with SEN met the expected standard in reading, writing and mathematics by the end of key stage 2[70]. We will not achieve our mission for 90% of children to reach the expected standard by 2030 in reading, writing and mathematics if we do not better support children and young people with additional needs or in alternative provision, many of whom do not have needs that, in and of themselves, should prevent them from achieving in line with their peers.

13. The Schools White Paper sets out a vision of the school system in which every child and young person can fulfil their potential, supported by an excellent teacher, high standards of curriculum, behaviour and attendance, backed by high-quality targeted support for those that need it. This includes a Parent Pledge from government to parents that wherever they live, and wherever they go to school, the school will provide evidence-based support if their child falls behind. We believe that, with excellent teaching and improved identification of need in inclusive educational settings, fewer children and young people will need additional interventions as they will be getting the support they need as part of high-quality teaching within the classroom.

14. Thanks to bodies such as the Education Endowment Foundation (EEF) and its international comparators, we have considerable knowledge and understanding about what works in improving children and young people's attainment and educational outcomes. To deepen our understanding, we will invest in new research on SEND classroom-based practice, exploring options to build this evidence base with a range of partners, including the EEF. This research will build on 'what works' initiatives currently underway in the SEND system to identify and share best practice, seeking to include trials on screening approaches to support early identification of special educational needs.

15. Excellent teaching is the bedrock of strong mainstream provision and is especially important for children and young people with SEND: research from the EEF found that teacher strategies, additional teaching, and positive interactions with teachers are important factors for improving the outcomes of children and young people with SEND[71].

16. However, the level of confidence amongst teachers in supporting children with SEND is low. In 2019, 41% of teachers reported that there is appropriate training in place for

all teachers in supporting pupils receiving SEN support. This is a significant decrease since summer 2018 when 59% of teachers agreed with this statement[72].

17. We have already begun to deliver a transformed professional development pathway for teachers, with high-quality training at every step of their career. We will invest up to £36 million in Initial Teacher Training and deliver 500,000 teacher training and development opportunities across Initial Teacher Training, the Early Career Framework and National Professional Qualifications by the end of this parliament:

    - **the mandatory Initial Teacher Training (ITT) core content framework**, published in November 2019, sets out a minimum mandatory entitlement for all trainee teachers. This includes receiving clear, consistent and effective mentoring in supporting pupils with a range of additional needs
    - **the Early Career Framework**, introduced in September 2021, entitles early career teachers to a further 2 years of development. This framework was designed in consultation with the education sector, including SEND specialists, and includes training on identifying pupils who need new content further broken down
    - **a reformed suite of National Professional Qualifications** (NPQs) for teachers and leaders, introduced in September 2021, have been designed to help the teaching profession hone and develop the skills they already have and to ensure they support all pupils to succeed in both mainstream and specialist settings
    - we will establish an **Institute of Teaching** which will become England's flagship teacher development provider, working closely with the Education Endowment Foundation. It will provide cutting edge training and build the evidence base on effective teacher development driving standards of teacher training even higher

18. In February 2022, we announced more than £45 million of continued targeted support for children and young people with SEND; this includes funding for programmes that will directly support schools and colleges to effectively work with children and young people with SEND, for example through training on specific needs like autism.

19. During the pandemic, we offered training to teachers for the first time in using assistive technology that can reduce or remove barriers to learning for children with SEND. We are currently testing how training can increase school staffs' skills and confidence in using assistive technology, which is more widely available following investment in remote education and accessibility features.

20. Teaching assistants play a key role in supporting children and young people with SEND to access learning in the classroom. We will set out clear guidance on the effective use and deployment of teaching assistants to support children and young people with SEND as part of the national standards.

We propose to introduce a new SENCo qualification

‘I work with all our local mainstream schools. Having a good SENCo is beyond vital, but almost impossible to find.’ Head, Special School, Provider Fieldwork, DfE Delivery Unit (2019)

21. All mainstream schools must have a qualified teacher or headteacher designated as the SENCo. SENCos’ play a critical role in sharing SEND expertise within schools, providing specialist guidance to the wider school workforce, setting the strategic direction, and making day-to-day provisions to support children and young people with SEND, including those with EHCPs. Currently training is available via the NASENCo qualification. We recognise that there is variability in terms of SENCos’ experience of the NASENCo and whether it provides the knowledge and skills needed for the role. The government also recognises that the NASENCo currently sits outside of wider teacher development reforms.

22. To improve the level of expertise and leadership amongst SENCos, we are proposing to introduce a new Leadership SENCo NPQ. The NPQ would replace the current NASENCo, bringing the SENCo qualification in line with other teaching training. The NPQ would help improve SENCos’ leadership expertise, making them well-placed to sit on a senior leadership team and inform the strategic direction of a setting. As the mandatory qualification for SENCos, all SENCos who have not previously completed the NASENCo would be required to complete the SENCo NPQ.

23. We also recognise that the 3-year window within which SENCos must complete their mandatory qualification creates an inherent risk of variation of when SENCos complete their qualification. We therefore propose to strengthen the statutory timeframe so that in addition to requiring training to be completed within 3 years, headteachers must also be satisfied that a SENCo is in the process of obtaining the qualification when taking on the role. We believe that this approach will ensure that SENCos have the knowledge and skills needed for the role at the earliest opportunity, enabling them to meet the needs of children and young people with SEND, their families and the school workforce.

24. Too often, SENCos’ time is spent on completing bureaucratic administrative tasks instead of working with teachers to support children and young people with SEND: 74% of SENCos say that administrative work takes up the majority of their allocated SENCo time, with only 23% of SENCos reporting they have enough time to ensure that children and young people with EHCPs can access the provision they need[73]. We therefore recommend that SENCos are given sufficient protected time to carry out their role and are provided with dedicated administrative support to reduce the time they spend on administrative work.

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

Consultation Question 10: To what extent do you agree or disagree that we should strengthen the mandatory SENCo training requirement by requiring that headteachers must be satisfied that the SENCo is in the process of obtaining the relevant qualification when taking on the role?

Governance

25. As set out in the SEND Code of Practice, schools are expected to identify a member of the governing body with specific oversight of the school's arrangements for SEND. This role is important in supporting the work of the SENCo, headteacher and the governing body in determining the strategic development of SEND policy and provision, and ensuring the school meets its responsibilities for reasonable adjustments. Through the revised Code of Practice, we will be looking to strengthen the relationship between the SEND governor and the SENCo.

Case study – Autism Education Trust

The Autism Education Trust (AET) is a national partnership that operates across England and is supported by DfE. The AET creates and delivers a national professional development programme to enhance knowledge, understanding and skills in the workforce across early years, schools and post-16 settings to meet the needs of autistic children and young people.

The partnership consists of a range of organisations, including local authorities, the voluntary sector, universities and schools. These organisations apply to become AET programme partners, appointed and licenced by the AET to deliver the AET programme.

The AET provides a framework that can be used to change culture within education settings. Embedding the AET Programme creates a mainstream workforce who are skilled and confident to educate their local population of autistic children and young people, thus reducing the pressure on specialist services, preventing exclusions, and increasing the positive experiences of education for autistic children and young people.

The AET programme promotes whole-school development which is consistently applied through both the AET training and the implementation of the AET standards and competency frameworks. AET programme partners use these frameworks to benchmark how 'autism friendly' education settings are, and it enables them to assist education leaders to reflect and identify ways to improve their good autism practice by making reasonable adjustments as a whole setting.

The AET refer to this as a mainstream plus approach and it ties directly to their Good Autism Practice Principles (enabling environments, positive and effective relationships, understanding the individual, learning and development) that are evidence and research-based.

We will improve timely access to specialist support

26. Children and young people with SEND frequently require access to additional support from a broad specialist workforce across education, health and care to enable them to effectively access the mainstream curriculum.

27. During the pandemic, there were reports of delays or challenges in accessing support, resulting in children's needs escalating[74]. This challenge was particularly acute for children's community health services with some key professions in high demand but lacking the capacity to deliver to all children that needed them. Data from the Mental Health Services Data Set (MHSDS) showed that between April 2019 and June 2021, only 16% of under 18-year-olds received a first appointment following an autism referral within the 13 week deadline recommended by NICE, while 17% of under 18-year-olds waited over half a year for an appointment following referral[75].

28. Furthermore, 75% of families reported delays to routine health appointments for their disabled child in the first lock down[76]. The Ask, Listen, Act study reported that during the first national lockdown, 77% of health and social care professionals reported that the quality of care they were able to provide for children with SEND was 'much worse' or 'slightly worse' than prior to the pandemic[77].

29. We are taking steps to increase the capacity of the specialist workforce. Since 2020, we have increased the number of educational psychologist trainees that we fund, to over 200, from 160 per annum, and have invested £30 million to train three more cohorts for academic years 2020, 2021, and 2022[78].

30. We have put a clear focus on mental health and wellbeing, working in partnership with the Department for Health and Social Care (DHSC), NHS England and NHS Improvement to implement the proposals in the 'Transforming children and young people's mental health provision' green paper. We have committed to offer senior mental health lead training to every state-funded school and college by 2025, developing the knowledge and skills to implement and sustain a holistic approach to mental health and emotional wellbeing. In addition to this, NHS-funded Mental Health Support Teams (MHSTs) are in the process of being rolled out with an estimated 35% of the school population expected to have access to an MHST by 2023.

31. We are taking action across government to invest in health services and tackle waiting times for access to diagnosis and therapies. We are investing £2.5 million per year to support autism diagnosis for children and young people in line with the NHS Long-Term Plan. The NHS England-funded Realist Evaluation of Autism Service Delivery will continue work to support local areas to develop effective autism diagnostic pathways that will work well for children and young people.

32. Data and evidence on the precise demand for therapy from children and young people with SEND is limited. In order to ensure that the needs of children and young people with SEND are supported through effective workforce planning, the

Department of Health and Social Care will work with Health Education England, NHS England and DfE to build on existing evidence and build a clearer picture of demand for support for children and young people with SEND from the therapy and diagnostic workforce. This will allow workforce planning to focus on the areas of the health workforce which are a priority for meeting the needs of children and young people with SEND. We will also ensure that the joint needs assessment and local inclusion plans introduced in Chapter 2 support better joined-up workforce planning across education, health and care to enable schools and colleges to access specialist workforce on a targeted basis.

33. We want to build on the existing functions of Designated Clinical Officers (DCOs) and Designated Medical Officers (DMOs) in supporting health commissioners to fulfil their statutory obligations around SEND, and in driving improvements within the health system. To ensure there is consistency in the functions across all local areas, and to reflect learning from current models and inspection outcomes, we propose to clarify the strategic and operational functions that these officers should have at both place-based and Integrated Care System level. This would be reflected in the revised SEND Code of Practice. To better reflect the functions for health, we propose that it be entitled 'Designated Health Officer'.

34. There is currently no provision for an equivalent Designated Officer in social care. To improve strategic leadership and engagement with the SEND system among social workers, the Council for Disabled Children (CDC) has been piloting the role of Designated Social Care Officer (DSCO) across 30 local authorities. This is a senior position within the local authority's children's social care function, with responsibility for supporting better engagement between social care and SEND teams. It has the potential to deliver better join-up between social care and other partners, such as the Virtual School Head, and in developing a quality support offer for families of children with SEND. We therefore propose to revise the Code of Practice to strongly encourage the adoption of DSCOs and use findings from the CDC work to establish what a high-quality standardised DSCO role would look like.

35. For adult social care, resources are being invested by the Department of Health and Social Care (DHSC) to improve the workforce capability and practice and will include learning and development to augment existing best practice on social work for children with SEND and broader care needs to transition to support from adult social care services.

36. We will test the value of embedding multi-disciplinary teams of specialists in alternative provision, through a £15 million, 2 year pilot in alternative provision settings. The Alternative Provision Specialist Taskforces went live on 1 November 2021 and are already working in 22 serious violence hotspots across England. As part of the pilot, professionals from across health, education, social care, youth justice and youth services are co-located in alternative provision settings to provide intensive wraparound support to vulnerable children and young people.

37. The pilot is built on the understanding that by having localised teams of specialists (such as mental health workers, speech and language therapists and family support workers) embedded within alternative provision settings, the outcomes of children and young people will improve, including reducing serious violence. The Youth Endowment Fund (YEF), a What Works Centre for serious violence, are working with the Department for Education (DfE) on the evaluation of the pilot which will help build crucial evidence of what works in alternative provision settings.

We will invest in high-quality specialist placements where needed

38. We understand that for some children and young people, specialist provision will be the most appropriate placement for them to be able to learn and succeed. The proportion of pupils in specialist provision increased by 19% from 2016 to 2021[79]. Some children and young people have to be educated outside of their local area and face long journeys to and from school and college with a resulting additional cost pressure for local authorities on SEN transport in the region of £800 million. This limits their opportunities to be active members of their local community. More children and young people are also attending independent specialist provision, even when this may not be the most appropriate setting for a child or young person, because there are no other state specialist settings nearby.

39. We will invest £2.6 billion over the next three years to deliver new places and improve existing provision for children and young people with SEND or who require alternative provision. This funding represents a significant, transformational investment in new high needs provision and will support local authorities to deliver new places in mainstream and special schools, as well as other specialist settings. It can also be used to improve the suitability and accessibility of existing buildings.

40. As part of our new special and alternative provision free schools wave, we will prioritise local authorities in need of further specialist provision, identifying local authorities where a new local special free school will help local authorities reduce their dedicated schools grant (DSG) deficits, enabling the local authority to provide more effective and efficient SEND provision that will achieve better outcomes for children and young people with SEND.

We will set out a timeline so, by 2030, every specialist setting can benefit from being part of a strong trust

41. We are clear on the benefits for schools, parents, carers and pupils of having a well-regulated trust-led system. The Schools White Paper set out plans to work with the sector to complete the journey towards a system where all schools are in a strong

trust, including special schools and alternative provision, of which 766 settings are not yet in trusts[80].

42. As the specialist sector evolves into a fully trust-based system, it is important to ensure that there is still alignment and sharing of expertise between mainstream and specialist settings, with strong peer networks promoting both support and challenge, and upstream training opportunities from the specialist into the mainstream sector. We recognise that this best practice is found within strong trusts, whether they are specialist-only or mixed (where mainstream and specialist sectors are combined). We therefore propose that both types of trusts are encouraged to coexist in the trust-led future and that currently local authority maintained special schools and alternative provision are given the choice as to which type of trust to join based on their individual and local circumstances, unless the school is becoming a sponsored academy due to underperfomance in which case the regional director will determine the most appropriate trust to secure improvement.

Consultation Question 11: To what extent do you agree or disagree that both specialist and mixed MATs should coexist in the fully trust-led future? This would allow current local authority maintained special schools and alternative provision settings to join either type of MAT.

Dixons Academy Trust

Dixons is a multi-academy trust consisting of 15 schools serving the communities in West Yorkshire and the North West. Dixons' success stems from the high aspirations it shares across the trust for all its pupils, with the aim of maximising achievements. The trust is committed to high-quality teaching for all pupils, including those with SEN, by ensuring teachers have the knowledge and resource to meet the wider needs of all in the classroom. There is an emphasis on continuing professional development for all staff, and pupils are encouraged to share their opinions with student voice activities conducted throughout the year. Parents and carers are actively engaged with the school: strong communication allows for up-to-date feedback on progress, so families feel confident in the support being provided.

The trust also has a strong focus on wellbeing, and pupils can access social communication sessions, with teaching of basic skills like turn-taking and self-regulation. For those pupils who need targeted social and emotional support, the academy provides small pastoral groupings for registration, DEAR (reading) programmes, and Personal Development Studies. The trust has a rigorous system for identifying, reporting and following up alleged bullying incidents and has incorporated anti-bullying themes into the curriculum to ensure an open culture. The basis on which all this support rests is true inclusion: equal quality of education and experience for all pupils irrespective of need, increasing confidence amongst parents and carers that mainstream school can meet their child's needs.

The example of Sophie shows how the system will feel for children and young people following the proposed changes

Sophie is 5, she has an EHCP and is educated in a special school. The new SEND system means her family and health and care partners can contribute easily to her EHCP and she is educated in her local special school.

Current experience and trajectory

Sophie has profound and multiple learning disabilities as well as complex health needs which require daily management and specialist support.

The EHCP process was challenging and draining for Sophie's family. There was not an easy way for social care and health to contribute effectively to the plan.

When Sophie finally got her EHCP her parents did not feel the provision specified was properly quantified and lacked the specialist wraparound support needed to address her complex needs.

Sophie's parents felt isolated and unsupported and took the case to First-tier SEND Tribunal. The ruling went in Sophie's favour, but the local authority struggled to find Sophie a specialist placement.

Sophie is placed in a special school miles away from her local community. Sophie needs learning support and help with personal care, but the school lacks the capacity to support all her needs.

Future experience

The new standardised EHCP process means multi-agency professionals across education, health and care can work together, and with the family, to ensure Sophie's case is viewed holistically and meets her needs.

The EHCP process is efficient, and Sophie's parents feel that the system is designed to help them access the support they need.

Through the free schools programme, a new special school has opened in Sophie's local area, and she is able to get a place.

The workforce has the capacity and knowledge to support Sophie with personal care and attending appointments alongside her learning, using professionals across education, health, and care.

Sophie's parents can relax in confidence that she is receiving high-quality support. They access respite which has a positive impact on their mental health.

We will support young people in their transition to further education

43. The further education (FE) sector has a vital role to play in supporting young people with SEND: of all FE and Skills participants, 15.7% of those aged 19 and over had a self-declared learning difficulty and/or disability in 2020/21[81]. Through our reform on the post-16 skills system, we are driving improvements for all learners, including those with SEND. The Skills Bill places a duty on all colleges in the statutory sector to review their provision, at least once every three years, to ensure that the education and training provided meets the needs of all learners in the local area – including the needs of learners with SEND.

44. Well-planned transitions are key to setting young people up for success in further education. But too often, information about a young person's needs and required support is not shared in good time, making it challenging for colleges and other futher education settings to put the right provision in place. The new national standards will include standards for transition, providing consistent, timely, high-quality transition preparation for children and young people with SEND. We also propose to expand the use of Common Transfer Files to facilitate smooth transition planning. These files would share relevant data between schools and futher education settings about a child or young person's needs and ensure the right support is in place from Day 1.

45. Whilst there are examples of excellent SEND provision in the further education sector, senior leaders do not always appreciate their role fully in preparing young people with SEND for adulthood. That can lead to crucial roles, such as careers advice, or job coaching, being delivered by members of staff with no specific or additional training.

46. In January 2022, the Institute for Apprenticeships and Technical Education published a new Occupational Standard for Futher Education (FE) teachers. This forms the backbone of the new Learning and Skills Teacher Apprenticeship which is now available for delivery. Going forward, this occupational standard will also form the basis for all publicly funded FE teacher training routes, including qualifications. Any new qualification is likely to include a specialist option in SEND for FE teachers to support learners with additional needs. We will continue to offer financial support for trainees through a range of incentives, including bursaries worth £15,000 each, tax free, that are available to support pre-service training in the academic year 2022/23 for SEND specialists in FE.

47. We will also consider how the proposed NPQ for SENCos in schools could be aligned to support those with oversight of SEN provision in FE settings. Through our FE governance guide we will set an expectation that every governing body should have an individual with a SEND link governor role who would have a particular interest in the needs of students with SEND.

We will prepare young people with SEND for adulthood

48. With the right support, the vast majority of young people with SEND are able to secure sustained employment or go into higher education. But for too many young people, this is not the case: young people with SEN are 25% less likely to be in sustained employment at age 27 than their peers[82] and they are more likely to become long-term not in education, employment or training (NEET)[83]. As a result, young people miss out on the stability and satisfaction that comes with sustained employment, and the opportunity to demonstrate and develop their skills. They may remain in education settings for longer than is beneficial, because there is not a viable opportunity for them to progress to. This places financial pressure on local authorities, particularly when an EHCP is in place.

49. To give young people with SEND the best opportunity to progress into employment, we will roll out improved careers guidance, including better information about the support that is available to them as they move into work. This will be delivered via Careers Hubs and support for Careers Leaders leading the design and delivery of careers education programmes tailored to the needs of young people with SEND, and currently supported via the Careers & Enterprise Company. We will continue to work with the SEND sector in developing statutory guidance for local skills improvement plans as part of the approach to addressing the SEND employment gap and improve the employment prospects of young people with SEND.

50. We are investing up to £18 million in supported internships over the next three years, aiming to double the capacity of the supported internships programme to provide more young people with EHCPs with the skills they need to secure and sustain paid employment.

51. Alongside this, we are investing further in traineeships to deliver 72,000 traineeships between 2022/23 and 2024/25. Traineeships are open to young people with SEND to support them into an apprenticeship or a quality job. In recent years we have seen improved representation of learners who have declared a learning difficulty or disability starting apprenticeships[84]. We are investing in a comprehensive package of professional development which includes upskilling providers and employers in making reasonable adjustments for apprentices with learning difficulties and/or disabilities.

52. We are also consulting on the review of post-16 qualifications at level 2 and below, with the consultation closing on 27 April 2022. We are proposing a simplified qualifications landscape with a system which is easier to navigate with high-quality qualifications that better support students, including those with SEND, to progress to positive outcomes such as further study, employment, or adulthood and independent living. We will continue to work closely with those in the SEND community to ensure our reforms improve the life chances of both young people and adults.

53. We are working with the Department for Work and Pensions to pilot an adjustments passport that is owned by the young person with SEND and sets out the support that they require to succeed in higher education or in the workplace. We will use the findings from the pilot programme to consider whether adjustments passports should be expanded to all young people with SEND.

Consultation Question 12: What more can be done by employers, providers and government to ensure that those young people with SEND can access, participate in and be supported to achieve an apprenticeship, including though access routes like Traineeships?

Weston College

Weston College is an Ofsted outstanding college of further and higher education in Weston-Super-Mare, with around 30,000 learners across the country. Their whole college inclusive approach has created a sustainable, motivational SEND career structure allowing more learners to succeed and remain in their local area. The college provides individualised support programmes that are delivered by highly-qualified SEND practitioners. At the core of these is a sustained focus on preparation for adulthood. Work experience or an industry placement, digital skills development, careers information, advice, and guidance to facilitate meaningful and sustainable transitions, form integral parts of their learners' programmes. Staff are given specialist training opportunities, which are undertaken regularly, to ensure they can effectively meet the changing needs of learners and provide this level of support. In 2021, 95% of young people with high needs at Weston College progressed onto positive destinations.

The example of Naz shows how the system will feel for children and young people following the proposed changes

Naz is 18 and is transitioning from post 16 provision into employment. The new SEND system means the right support is in place for him straight away.

Current experience and trajectory

Teachers in Naz's college did not receive information on his needs before he arrived. This means the right support was not immediately in place.

The college does not have a qualified SENCo, so Naz is unsure who he can speak to about his concerns. Eventually the support Naz needs is put in place, but he has missed out on valuable learning time.

Naz has lost confidence in the college's ability to support his development.

When Naz starts thinking about his next steps post college, he considers several options such as an apprenticeship or attending higher education but is worried he won't receive the support he needs when he arrives.

Naz feels discouraged and disengaged from his learning. He struggles to progress and does not meet the expected standard.

Future experience

Naz's secondary school works with him to understand what options are available locally and to help him find the best place.

Naz decides to attend his local college. The use of a Common Transfer File helps ensure information can be shared with his new college so they are prepared for his arrival.

The college think early about preparing Naz for his next steps. Naz decides to do a traineeship, which enables him to get a place on an apprenticeship with a local employer.

Naz uses an adjustment passport which empowers him to take ownership of stating the support he needs when speaking to employers which means he is assured he will receive appropriate help when he starts his role.

Naz's employers have taken advantage of the Department for Education's package of professional development, which means they are confident in making the reasonable adjustments required to support Naz to succeed.

54. We recognise that some young people with more complex needs will require different forms of support as they move into adulthood. Where adult social care support is required, this should happen in good time so that young people are not left without support. This can cause anxiety for the young person and their family and can also result in EHCPs being retained beyond the point at which a young person can achieve

more within an education setting. There have been improvements to the practice of transition planning since the Care Act 2014 through the Care Statutory guidance and practice tools. We want to improve practice development and build on areas where this is working well already.

55. We will keep our approach to transitions to adult social care under review, considering the recommendations from the forthcoming Independent Review of Children's Social Care, as well as reforms to adult social care, including those which follow from the Department of Health and Social Care's Integration White Paper which was published in February 2021. In this White Paper the Department of Health and Social Care committed to responding to recommendations from the Independent Review of Children's Social Care which may be relevant to adult social care.

Chapter 4: A reformed and integrated role for alternative provision

Summary

1. The Review has heard about the positive role alternative provision can play in supporting a small number of children and young people facing multiple challenges. At their best, alternative provision schools are experts in dealing with behavioural or other needs which present a barrier to learning, including support for health needs in medical and hospital schools. They deploy their specialist skills in both mainstream and alternative provision settings to help children and young people get back on track. But a high-quality alternative provision offer does not exist everywhere. Structural barriers to effective delivery of alternative provision mean that, too often, its role is unclear and it is used too late or in a way that is not best focused on a child or young persons needs.
2. To address these barriers, we propose to create a national vision for alternative provision, enabling local areas to ensure that children and young people with challenging behaviour or with health needs get targeted support in mainstream settings, or access to time-limited or transitional places in alternative provision schools. This vision will be delivered by an integrated SEND and alternative provision system with clear national standards. We will drive improvement in the sector and enable all alternative provision schools to benefit from joining a trust. This will transform the sector, giving alternative provision a key role in improving outcomes for children and young people.

We propose to :

- **make alternative provision an integral part of local SEND systems** by requiring the new local SEND partnerships to plan and deliver an alternative provision service focused on early intervention
- **give alternative provision schools the funding stability to deliver a service focused on early intervention** by requiring local authorities to create and distribute an alternative provision-specific budget
- **build system capacity to deliver the vision through plans for all alternative provision schools to be in a strong multi-academy trust**, or have plans to join or form one, to deliver evidence-led services based on best practice, and open new alternative provision free schools where they are most needed
- **develop a bespoke performance framework for alternative provision** which sets robust standards focused on progress, re-integration into mainstream education or sustainable post-16 destinations

- **deliver greater oversight and transparency of pupil movements** including placements into and out of alternative provision
- **launch a call for evidence, before the summer, on the use of unregistered provision** to investigate existing practice

What this means for:

Children and young people: will receive quality support,such as coaching and self-regulation skills, as soon as they need it from skilled practitioners they can trust. They will know that no-one has given up on them and that they will be supported to reach their full potential.

Parents and carers: will have confidence that, if their child is placed in or supported by alternative provision, it is a way of helping their child succeed by providing quality education and support. Decisions about support and placements will be clear and collaborative, always in the child or young person's best interest, and communicated to families.

Education settings: mainstream primary and secondary schools will have a clear, tiered package of support from alternative provision settings to build capacity to address behavioural or other needs that present a barrier to learning. This will include targeted support in mainstream schools and time-limited placements in alternative provision. There will also be longer-term, transitional placements in alternative provision, but only when that is in the best interests of the child or young person. Alternative provision schools will be given the resources to deliver this.

Health and care providers: will understand the types of medical alternative provision and how they will support those children and young people who are unable to attend a mainstream or special school, or college because of health needs. This will include expectations of how schools, local authorities and health and care providers will work together to address these health needs whilst delivering high-quality education.

Local government: will be set clear expectations for arranging and funding alternative provision through local partnerships and inclusion plans. They will be held to account for this through local area inspections. Their commissioning decisions will be guided by performance data that reflects the challenges faced by alternative provision schools and the outcomes they seek to achieve. They will be given the resources to ensure these expectations will be met.

The needs met by alternative provision

3. Alternative provision supports a broad range of needs and consists of a wide provider base, including Pupil Referral Units (PRU), alternative provision academies and free schools, independent schools and unregistered providers. Alternative provision schools also include a small number of medical and hospital schools. These play an

important specialist role in supporting children and young people whose health prevents them from attending a mainstream school, re-engaging them in education as much as their health allows, and providing a supported transition back to mainstream school when appropriate.

4. The number of children and young people in alternative provision is small[85], with the majority (75%) not having been permanently excluded before arriving at alternative provision[86]. Most of these children and young people do not achieve the same levels of attainment, or sustained post-16 destinations, as their peers. They are also often vulnerable, including to criminal exploitation. A majority (70%[87]) of children and young people in state place-funded alternative provision have been classed as a Child in Need in the past 6 years. Of the pupil cohort which had ever been registered at a state or non-state place-funded alternative provision setting, 41% had ever been cautioned or sentenced for an offence (this rises to 45% for those that were registered at state place-funded alternative provision)[88]. These challenges often coincide with SEN, with around 80% of children and young people in state place-funded alternative provision having some need[89], primarily Social Emotional Mental Health (SEMH) needs[90]. Alternative provision has the potential to play a transformative role within an integrated SEND system for this group, who need specific, specialist support to address individual needs.

What prevents these needs being met?

5. Where good practice occurs, local leaders make a determined effort to collaborate and overcome disincentives in the current system. Where this does not happen, alternative provision lacks the leadership, quality, capacity, and stable funding to deliver a targeted outreach offer that has the confidence of mainstream schools.

6. There is no coherent, agreed purpose for alternative provision, and it is rare for local areas to have a shared strategic plan for how and when alternative provision can best support children and young people. Commissioning practices, including sometimes low-quality unregistered provision, can lead to children and young people missing out on the high-quality education they need. Funding is unpredictable due to the inherent volatility of demand, with a significant proportion of alternative provision's annual income dependent on whether places are used[91]. This makes it hard for alternative provision schools to invest in improving quality, recruit a skilled and stable workforce, or develop a consistent outreach service. Providers are small and often operate in isolation, hindering their capacity to improve and drive-up outcomes. There are gaps in how the system is held to account, including ensuring placement decisions are always in the best interest of the child or young person.

7. This results in a system where children and young people arrive in alternative provision too late and go on to achieve poor outcomes, with only 4.5% of children in

alternative provision nationally achieving grades 4 or above in English and maths GCSEs in 2018/19[92].

We propose to create a new national vision for alternative provision

8. Alternative provision will offer timely, world class support to children and young people whose behaviour or needs present a barrier to learning. All alternative provision schools will be ambitious in supporting children and young people to stay in, or return to, mainstream schools or colleges whenever appropriate. Decisions about support and placements will always be in the best interest of the child or young person. Alternative provision schools will provide the leadership and expertise to develop capacity in mainstream schools, building on strong behaviour cultures. Children and young people will have the confidence and skills to succeed in whatever they choose to do next.

9. This vision will be delivered by an integrated SEND and alternative provision system with clear national standards. Although the majority of children and young people in alternative provision have some form of SEND, it serves a distinct purpose that is different to special schools, primarily supporting children and young people to stay in or re-integrate back into mainstream education. Alternative provision addresses behaviour that presents a barrier to learning and supports children and young people whose physical or mental health needs prevent them attending school. It should not be used simply because a child or young person is identified with SEND, or they are waiting for an EHCP assessment, or because there is no capacity in special schools.

10. To deliver this vision, alternative provision schools will offer interventions and education across a continuum of support, rather than focusing exclusively on expensive long-term placements. We propose to establish a new delivery model based on a three-tier system of support:

    - **targeted support in mainstream schools** for children and young people whose needs lead to behaviour that disrupts theirs or others' learning, but for whom a strong school behaviour culture is alone not sufficient. For example, through 'on call' advice for mainstream schools, coaching, delivering self-regulation classes for small groups, or one-to-one support

    - **time-limited placements in alternative provision** for those who need more intensive support to address behaviour or anxiety and re-engage in learning. Schools should use their powers of off-site direction, ensuring that children and young people are dual registered and are supported to return to their original school as soon as is appropriate

    - **transitional placements** for those children and young people who will not return to their previous school but will be supported to make the transition to a different

school when they are ready, or to a suitable post-16 destination. Alternative provision schools will support these children and young people to recover as much academic progress as possible and have the skills and confidence to thrive in what they do next

11. This vision builds on the ambition in the Schools White Paper for all children and young people to be taught in a calm, orderly, safe, and supportive school, and links to the revision of the Behaviour in Schools guidance and the statutory Suspension and Permanent Exclusion guidance. For those children and young people for whom a strong behaviour culture alone is not sufficient, high-quality alternative provision will deploy evidence-led strategies to re-engage them in education, improving their attendance and behaviour. This will provide a coherent, national vision for alternative provision and establish a delivery model for achieving it in every area. Over time, this new system will reduce the number of preventable exclusions and expensive long-term placements, as needs will be identified and supported early. More children and young people will remain in mainstream schools, improving their experience, wellbeing, and outcomes.

Consultation Question 13: To what extent do you agree or disagree that this new vision for alternative provision will result in improved outcomes for children and young people?

Case study: Chessbrook Education Support Centre, Hertfordshire

Chessbrook is an Ofsted outstanding PRU that supports over a thousand pupils each year through a tiered intervention service with the core aim to keep children in mainstream education. Chessbrook's team of professionals are on call daily to provide outreach services to local primary and secondary schools so that pupil needs are addressed before they escalate. Approximately 15 pupils with the greatest needs receive onsite provision and Chessbrook set high expectations around behaviour which is reinforced in a calm and consistent environment. This approach is matched with high attainment standards. The core curriculum is supplemented by vocational courses to create bespoke pathways so every pupil can achieve meaningful qualifications. Chessbrook's collaborative and transparent relationships with other schools and track record of keeping pupils in mainstream schools has seen them gain recognition as a trusted partner in the region turning around the lives of vulnerable children.

We will embed this vision in the local delivery of alternative provision

12. We know a coherent, strategic approach to alternative provision does not exist everywhere. Currently, some local areas struggle to plan and deliver alternative provision, reacting only once needs have escalated. Without a clear strategy and plan for alternative provision, schools do not recognise its potential to address behavioural and medical needs when they are first identified. We will introduce new statutory

partnerships to address this by bringing all relevant local partners together to assess need and plan alternative provision. The results of this will be set out in each partnership's local inclusion plan.

13. There are structural barriers preventing alternative provision schools delivering a targeted support offer for mainstream settings. Alternative provision schools are subject to volatile funding, which fluctuates within and across years. Unlike mainstream or specialist SEND schools, where the numbers of children and young people are relatively stable, a large proportion of alternative provision funding is linked to unpredictable pupil movements, attached to every child or young person who has been permanently excluded or who requires a long-term placement[93]. This creates an incentive to support children and young people only once needs have escalated, rather than providing early intervention. This leads to children and young people being in alternative provision for longer than may be necessary, which is the exact opposite of what we want alternative provision to achieve. The unpredictable funding also makes it difficult to attract and retain high-quality staff, with many schools only able to offer short-term contracts. Addressing this problem will make alternative provision schools less of a financial risk for multi-academy trusts, helping to realise the vision set out in the Schools White Paper of a clear time that, by 2030, all children will benefit from being taught in a family of schools.

14. We also know that the current reliance on long-term placements is expensive, and if needs were identified earlier, the same amount of funding could be used to support more children and young people to thrive in mainstream school. Shifting the focus of alternative provision towards early intervention and embedding this in every local area will ensure children and young people get back on track quickly and have the skills to reach their full potential.

15. To ensure alternative provision schools have the funding security and stability they need to deliver a support service focused on early intervention, we will break the link between individual pupil movements and funding. Based on best practice, we propose that local partnerships agree a multi-year budget to be spent on alternative provision (ideally for a minimum of 3 years). In their inclusion plans, partnerships will then detail the number of targeted mainstream support places, time-limited placements, and transitional placements necessary to meet expected needs each year. Local partnerships will agree the cost of each service or placement type that they will provide, and how changes in demand will be managed within the alternative provision budget. We will expect local authorities to distribute full funding in line with the plan, in a way that gives alternative provision schools security – with funding no longer following the movement of each individual child or young person. We will consider the best way to embed these changes for all alternative provision schools as part of wider funding consultations.

Consultation Question 14: What needs to be in place in order to distribute existing funding more effectively to alternative provision schools to ensure they have the financial stability required to deliver our vision for more early intervention and re-integration?

We will build capacity to create world class support in every area

16. During the Review, we heard that many school leaders feel unable to access consistent, high-quality alternative provision. As set out in the Schools White Paper, by 2030 all schools, including alternative provision schools, will benefit from being part of a strong trust, which will address the small,often isolated, nature of alternative provision schools, and help drive up standards.

17. Alongside this, 7 new alternative provision free schools are already approved to open, run by strong multi-academy trusts in areas where new provision is most needed. This will form part of the £2.6 billion investment, over the next three years, to deliver new places and improve existing provision for children and young people with SEND or who require alternative provision. Alternative provision settings are also eligible for the new School Rebuilding Programme, which is transforming buildings in poor condition at 500 schools.100 projects, including 2 at alternative provision schools, have already been announced. This is on top of our £11.3 billion investment since 2015 in improving the condition of the estate. From financial year 2021-22, the weighting for special and alternative provision schools in these funding allocations has also been increased by 50% to better reflect their needs.

18. To underpin our planned improvements, we will work with the sector to develop and disseminate an understanding of effective alternative provision practice. This will build on the £15 million Alternative Provision Specialist Taskforce programme which has embedded multi-agency teams in 22 alternative provision schools to support young people in those areas with the highest rates of serious violence. The government also funded two years of an Alternative Provision Transition Fund to support Year 11 pupils affected by the pandemic make sustained post-16 transitions. We will use the learning from both programmes to inform the delivery of our reforms and ensure we make effective practice resources available to all alternative provision providers looking to improve for example through building better relationships with local partners like youth offending teams.

We will ensure the system is set up for success

19. To support improvement in alternative provision, and to help commissioners identify good provision, we will develop a bespoke national alternative provision performance framework. The information we currently publish in Compare School and College

Performance does not include alternative provision schools and existing measures of performance do not account for the progress which can be made in a short time by this fluid cohort or the success of providers in reintegrating the children and young people back into mainstream schools. We will therefore develop a new performance table for alternative provision schools. This will recognise that most children and young people arrive in alternative provision at a late stage in their education[94], having already fallen a long way behind their peers. The children and young people who remain in alternative provision until the end of key stage 4 will, therefore, attain better outcomes by focusing on the skills and qualifications that enable them to make a successful transition to post-16.

20. We propose a new national performance framework based on five key outcomes:

    - effective outreach support
    - improved attendance
    - reintegration
    - academic attainment, with a focus on English and maths
    - successful post-16 transitions

21. We propose to establish an expert working group to assist and advise us in developing this framework. The new performance framework will complement recent changes made by Ofsted to the Education Inspection Framework to strengthen alternative provision school inspections, and the planned inclusion of Local Area commissioning of alternative provision in the new joint Ofsted/Care Quality Commision Local Area SEND framework (set out in Chapter 5).

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

We propose to improve oversight of alternative provision placements

22. While early intervention support provided by alternative provision schools should reduce the number of children and young people requiring a placement in alternative provision, some children and young people will continue to benefit from the expertise and support which placements provide. Currently, there is no comprehensive statutory framework for pupil movements, including placements into and out of alternative provision. Children and young people can enter and leave alternative provision through multiple pathways, each with different levels of regulation, including unlawful off-rolling practices. This results in poor oversight, inconsistency across local authorities, and complex processes for children, young people and families to

navigate. Children and young people also told us that movements between schools are disruptive and can have a negative impact on their mental health.

23. Decisions to move children and young people into and out of alternative provision should always be made in their best interest. As far as possible, placements should be made after other forms of support have been tested, and with the aim of returning the pupils to mainstream schooling as soon as is appropriate. To achieve this, we will review how children and young people move around the school system, including through off-site direction and unregulated managed moves, with a view to introducing a statutory framework for all pupil movements. We will draw on existing good practice, including Local Placement Panels and Fair Access Protocols, to inform this future policy and legislation.

24. As set out in the Schools White Paper, we will also consider a new backstop power for local authorities to direct trusts to admit children, with a right for the trust to appeal to the independent Schools Adjudicator. This will ensure that placements into and out of alternative provision are in the best interests of the child or young person, and that they are not left without a school place for unreasonable lengths of time.

25. Many mainstream, special and alternative provision schools, and local authorities, commission part of their educational offer from unregistered providers, such as one-to-one tutors or mechanics. Used well, this provides a ‘hook’ back into learning. Used badly, learning needs are unmet and children and young people become less visible across the system. We will strengthen protections for children and young people in unregistered alternative provision settings, so every placement is safe and has clear oversight.

26. The use of unregistered provision requires very careful planning and oversight, but current practice is too often poor. The provision is often used in the absence of sufficient local planning to ensure there are high-quality alternative provision school places, and poor oversight puts the educational attainment and safety of children and young people at risk. We are concerned that commissioners are using a combination of part-time placements to create a full-time education package for children and young people. This is not joined-up, and no single local body is currently responsible for ensuring that children and young people are attending full-time education across the week. To find the right solution, we will issue a call for evidence on the use of unregistered alternative provision before the summer. This will seek views on how unregistered provision should operate, including whether the use of unregistered settings should be limited to part-time provision only as a re-engagement tool that complements education in registered schools.

Consultation Question 16: To what extent do you agree or disagree that a statutory framework for pupil movements will improve oversight and transparency of placements into and out of alternative provision?

Chapter 5: System roles, accountabilities and funding reform

Summary

1. We have consistently heard throughout the Review the need to align system incentives and accountabilities to reduce perverse behaviours that drive poor outcomes and high costs in the current system. Where local systems work more effectively, they are often too reliant on good will and relationships and this is the exception rather than the norm. We need every partner to be clear on their responsibilities in the system, have the right incentives and levers to fulfil those responsibilities and be held accountable for their role in delivery.
2. This chapter sets out our proposals to align incentives and accountabilities that will drive this culture change and ensure effective local delivery against the national standards.

We propose to:

- **deliver clarity in roles and responsibilities** with every partner across education, health, care and local government having a clear role to play, and being equipped with the levers to fulfil their responsibilities
- **equip the Department for Education's (DfE) new Regions Group** to take responsibility for holding local authorities and MATs to account for delivery for children and young people with SEND locally through new funding agreements between local government and DfE
- **provide statutory guidance to Integrated Care Boards (ICBs)** to set out clearly how statutory responsibilities for SEND should be discharged
- **introduce new inclusion dashboards for 0-25 provision**, offering a timely, transparent picture of how the system is performing at a local and national level across education, health and care
- **introduce a new national framework of banding and price tariffs for funding**, matched to levels of need and types of education provision set out in the national standards
- **work with Ofsted/Care Quality Commission (CQC) on their plan to deliver an updated Local Area SEND Inspection Framework** with a focus on arrangements and experience for children and young people with SEND and in alternative provision

We will deliver clarity in roles and responsibilities

3. Supporting children and young people with SEND depends on complex relationships between multiple bodies. Our aim is to create a system where incentives prioritise the needs of every child and young person and where effective, integrated, local delivery is achieved through collaboration, joint working and strategic leadership. Every partner will have a clear role and be equipped with the levers to fulfil their responsibilities to achieve this.

What this means for:

Children, young people and their families: will be a partner in local decision-making with their views and wishes taken into account and reflected in the support they receive, with co-production embedded at every level of the SEND system.

Education settings:

- **early years:** will be responsible for enabling children's needs to be identified and met early from 0-5 years old
- **mainstream schools/MATs:** will be responsible for delivering high-quality teaching for all pupils, providing targeted support where needed (as set out in the recent Schools White Paper) and collaborating with local authorities to deliver for the community
- **FE providers:** will be responsible for helping young people transition into employment and adulthood equipped with the right skills to succeed

Health and Care partners: will be part of a truly integrated SEND and alternative provision system, using the opportunity presented by the creation of Integrated Care Boards (ICBs) to enable effective joint working and commissioning of local services. ICBs will have a duty to cooperate with local authorities and will proactively provide input and shape local strategic planning and be responsible for funding and delivery of local health provision to meet the needs of children and young people with SEND.

Voluntary community sector and private sector delivery partners: we value the expertise, role and contributions of voluntary and community organisations, and that of our delivery and improvement partners across the country. We want to continue to work with them both nationally and locally to deliver better outcomes for children, young people and their families.

Independent inspectorates: Ofsted and the Care Quality Commission will continue to assure the quality of providers and local area services through provider level and Area SEND inspections. We know this is essential to giving parents and carers confidence in the system.

Local authorities: are uniquely placed to be a champion for the best interests of every child and young person in their area. They will continue to be responsible for the high

needs budgets and lead local delivery, convening the new local SEND partnerships to develop the proposed local inclusion plans. We will equip them with the right levers to match this role with the legislation for enabling local multi-agency partnerships and new backstop powers to direct admissions in schools.

The government: will set the new national SEND standards, steward and regulate the system jointly across education, health and care. DfE's new Regions Group will take responsibility for integrated delivery for schools and local authorities, including children's social care and SEND.

We propose to strengthen system accountabilities

4. The Education Select Committee[95] and the National Audit Office[96] sought wide ranging views and identified the need to strengthen accountabilities across all parts of the system. In addition, the Review has heard the need for a much better and timely understanding of how the system is performing locally and nationally, so that we can enable local system leaders to drive performance and the government to fulfil its regulatory function and steward the system effectively. We therefore propose to strengthen accountabilities, through a range of measures, ensuring the right checks and balances are in place to drive better outcomes and prevent failure in the system with every partner held accountable for every role they perform.

We propose to hold local authorities and MATs to account for local delivery

5. DfE will establish a new Regions Group by summer 2022 bringing together functions currently distributed across the DfE and the Education and Skills Funding Agency (ESFA) into a single interface[97]. This function will lead system regulation, holding local authorities and MATs to account for local delivery in line with the new national SEND standards.

6. DfE will support local authorities in the development and review of local inclusion plans to ensure that they are built on strong evidence, are forward-looking, have considered emerging trends and are coproduced with parents to inform effective local delivery. This extra layer of quality assurance will promote best practice and strengthen oversight of local authorities.

7. We also propose that DfE, in its role as the regulator, will enter into new funding agreements with local authorities to provide greater accountability and transparency in how high needs budgets are spent to ensure that value for money is being achieved. The new funding agreements between DfE and local authorities propose to provide clarity on spending of the high needs budget in line with the new national SEND standards and set the circumstances where DfE will intervene.

8. To ensure the conditions set out in the funding agreements are met, DfE will monitor ongoing delivery against local inclusion plans and where delivery is not in line with the national standards, DfE will take action. There will be a clear ladder of intervention that is built on DfE's existing intervention programmes such as Safety Valve and Delivering Better Value (see Chapter 6) and will focus on creating financial sustainability and improving outcomes for children and young people. Where intervention is required, this may look like an improvement plan, pairing with high performing local authorities, imposed conditions such as working with expert advisers and in extenuating circumstances, a change in leadership to control high needs budgets and manage local delivery.

9. DfE will collect timely data and create trigger points that result in an intervention. We will work with local authorities and stakeholders in developing these triggers to ensure they are fair and proportionate. These would be put in place to prevent financial failure, acting early so that the issues do not become entrenched. Sometimes those who know what is happening best are those who are most affected, such as children and young people, their families, and professionals; DfE will use reports from those on the ground to build up an understanding of what is happening.

10. As we move to a fully trust-led system, the government will adapt the regulatory and legal arrangements for trusts. DfE's new Regions Group will act as a single risk-based regulator for trusts, as well as oversight of local authorities. This includes bringing together existing requirements into a set of statutory academy standards. New statutory intervention powers will underpin the standards and provide a robust framework for ensuring we can tackle any trust which fails to achieve the expected outcomes by managing and governing their schools effectively. We have a clear vision for a more inclusive system to be embedded within these requirements and will work with stakeholders to define what we expect of MATs in relation to children and young people with SEND.

11. In the Schools White Paper we will define for the first time the qualities of a strong trust against five key principles including delivering a high-quality and inclusive education. In the longer term, we must shape a regulatory approach that is fit for a fully trust-led system. We will work with stakeholders to design an overall regulatory setup that is risk-based and proportionate through the launch of a regulatory review in May 2022, looking at accountability and regulation.

We propose to strengthen accountability within the health system for SEND

12. The NHS has put in place a system oversight framework to help the NHS manage resources to deliver high-quality, sustainable care. The framework sets out how NHS England and NHS Improvement monitor the performance of Integrated Care Systems (ICSs), Clinical Commissioning Groups and trusts. It is used by NHS England and

NHS Improvement's regional teams to guide oversight of ICSs at system, place-based and organisation level, and sets out how they will work with the CQC and other partners at national, regional and local level to ensure activities are aligned. Regional NHS England and NHS improvement teams work closely alongside the SEND Improvement teams within DfE to ensure that improvement and intervention action is well aligned and has impact across the system.

13. We are working with DHSC to provide statutory guidance to ICBs, subject to the passage of the Health and Care Bill. The guidance will set out clearly how the statutory responsibilities for SEND should be discharged within the ICBs including that ICBs must identify an Executive Lead for SEND who sits on the Board. The Health and Care Bill also provides intervention powers for NHS England where ICBs are found to be failing. NICE has also recently published new guidelines around the support that disabled children and young people with severe and complex needs should receive. These guidelines will support commissioners in planning and securing appropriate services for this group.

We propose to make better use of data in the SEND system

14. Data collection in the current system is inconsistent: we do not always collect the right information, at the right time, in a way that enables local systems and leadership to respond to local needs before it is too late. Local Area SEND inspections are currently the only tangible means of assessing performance at a local level, but the current system only allows for one-off inspections of every local authority within a 5-year window, with a revisit approximately 24 months after inspection for those local authorities that have been required to produce a Written Statement of Action. As a result, poor performance can continue without timely action and improvement resulting in poor outcomes for children, young people and their families.

15. We are proposing to introduce new local and national inclusion dashboards, setting out clear performance data and metrics across education, health and care for strengthened accountability and transparency to parents. These metrics will form the basis of monitoring, planning, and delivering services by local SEND partnerships, showing changes in how the system is performing, and changing patterns of need and provision, in a more timely way. The metrics will also be used by the DfE and other departments to determine progress over time, providing a holistic picture of local area performance.

16. We will work with all those involved in the SEND system to identify the most informative and appropriate data across themes against the national SEND standards at a national and local authority level, and where data isn't currently available, we will work with partners to develop it. This will enable us to consistently capture the following key metrics to monitor and track system health nationally and locally:

- **outcomes and experiences** – examples include attainment and absence rates, tribunal appeal rates, proportion of children with SEN excluded and percentage of young people with SEN in employment, apprenticeships or higher education after 16-18 study
- **identification of need** – examples include proportions of children with different types of needs, percentage of pupils with EHCPs, timeliness of EHCP assessments, and measures on the availability and access to community health services (such as waiting times)
- **value for money** – examples include high needs spending, high needs budgets surplus or deficits and percentage of spend in and out of area provision

17. We will consider carefully how we best align this with the FE Performance Dashboard proposed as part of DfE's reforms to the FE funding and accountability system and the new independent body in England focused on data, transparency and robust evidence announced in the Levelling Up White Paper.

18. One important way in which DfE is committed to improving data on outcomes, experiences and value for money, is via our flagship SEND Futures programme of research and analysis. This comprises both a value-for-money study of SEND provision, and a new longitudinal cohort study focusing specifically on children and young people with SEND, and their families.

19. We have seen the benefits that can be achieved through effective data sharing in allowing families to access prompt support, including through the Supporting Families Programme, and want to promote this more widely across the system.

20. We are working with NHS England to introduce new innovative tools that will facilitate better data sharing across education and health partners. NHS England are also exploring a proof of concept to develop a new innovative family-held digital record for children and young people with SEND that will allow local partners to share relevant information about a child or young person in a timely way. The proof of concept will work with parents and carers, local authorities, and health partners to explore how data can be shared safely and effectively with relevant partners, such as healthcare practitioners and early years settings.

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

We propose to update performance metrics for education providers

21. Whilst some mainstream schools are inclusive and support children and young people with SEND, we have heard too many examples where this does not happen. Accountability measures can be seen as a disincentive for schools to be inclusive and take on pupils. There is a perception that those that do welcome pupils with SEND become 'magnet schools' and see increasing numbers attending which becomes unsustainable over time. The issues are complex, with a range of incentives pulling in different directions. We will need to continue to strike a balance between ensuring that inspection and performance metrics for education provision adequately speak to the complexity of the SEND cohort and ensuring they offer a true picture of performance to hold schools accountable for the outcomes of children with SEND, and their role in delivering these outcomes.

22. We propose to update Compare School and College Performance (also known as performance tables) to support parents, young people and wider stakeholders to consider contextual information about a school or college alongside their results data. This will make it easier to recognise schools and colleges that are doing well for children with SEND.

23. The new Ofsted Education Inspection Framework (EIF) (2019) has a greater emphasis on how schools support children and young people with SEND to succeed. To be judged outstanding, settings must show that children and young people with SEND achieve exceptionally well. Inspectors expect schools to provide all children and young people with access to the same broad and ambitious curriculum. Schools should recognise that children and young people with SEND have different needs and starting points and will need different levels of support to make progress through the school's curriculum. Under the EIF, it is not sufficient for schools to have a curriculum that is ambitious and well-designed for the majority of learners, if it leaves some behind. Ofsted's early analysis shows that schools are thinking more about individual needs and how they can be met through a well-designed curriculum and the value of high ambition for children and young people with SEND[98].

24. All schools and further education providers will be inspected at least once by the end of the summer term 2025 under the new EIF. This means families will have an up-to-date picture of the quality of education that children and young people with SEND are receiving under the new framework.

We will work with Ofsted to update the Local Area SEND and alternative provision inspection framework

25. Local Area Joint Ofsted and Care Quality Commission inspections will continue to have an important role in the system with a focus on how local delivery of services,

including health and care, impacts the experience, progress and outcomes for children and young people with SEND.

26. The government is pleased with the plan for a new Local Area Joint Ofsted/CQC SEND inspection framework due to launch in 2023. This will create an ongoing cycle of inspections and visits of local authorities, monitoring aspects of the liberty protection safeguards scheme and look more closely at children under 5, those aged 16-25 and those in alternative provision. This will pave the way and help build accountability for the changes proposed through the new national SEND standards, including for alternative provision. Ofsted/CQC will review the framework following implementation to ensure that inspections consider how key reforms and legislation impact the experience, progress and outcomes for children and young people.

We propose to reform funding for a strong and sustainable system

27. We propose funding changes to help make the most effective use of our investment in high needs funding, which will total £9.1 billion in 2022-23 and will increase further over the following two years of the spending review period. We want to work with local authorities to make the best use of this investment to deliver quality support for children and young people with SEND and, through the national system, enable local authorities to balance their high needs budgets. This alongside our broader changes to the national funding system will ensure money is targeted to where it's needed most and incentivise and equip settings to provide high-quality education provision thereby improving outcomes for children and young people with SEND.

28. As part of the new national SEND and alternative provision system, we propose the introduction of a new national framework of banding and price tariffs for high needs funding, matched to levels of need and types of education provision set out in the new national SEND standards. Bandings would cluster specific types of education provision (aligned to need) as set out by national standards. Tariffs would set the rules and prices that commissioners use to pay providers – for example, pricing attributed to specific elements of provision such as staffing. This tariff system would draw upon similar examples that are seen in local authorities and other services that cover broad spectrums of support, such as the NHS. Tariffs would ensure the right pricing structures are in place, helping to control high costs attributed to expensive provision. The bands and tariffs would be developed to appropriately reflect need, including the most complex needs and sufficiently meet the cost of provision. They will be designed to give providers clarity on how much funding they should expect to receive in delivering support or a service and enable commissioners to determine the cost of places or services.

29. Most local authorities make use of 'banded' funding arrangements, building on local consensus about types/levels of available provision and associated levels of funding.

A national framework of national funding bands has the potential to establish a more consistent basis for the funding of provision. This would address concerns about the inconsistency in current local authority arrangements including the added administrative burden faced by many education settings receiving pupils from several local authorities.

30. The national bands and tariffs would apply across the breadth of education provision in the SEND system, including places in independent specialist provision, providing a more consistent basis for commissioning and funding of provision. All specialist providers will need to ensure the provision they offer is in line with the national SEND standards if they are to continue receiving placements funded by the local authority.

31. We do not underestimate the challenge and complexity of developing a national framework of bands and tariffs. That is why we will work with local authorities and stakeholders, drawing on their expertise, and propose to pilot approaches on a smaller scale, prioritising high-cost provision, before carefully sequencing implementation on a national scale.

32. We propose to set guidelines for who pays for support, and how local authorities set funding levels. Working with DHSC, DfE will set out joint funding guidance across education, health and care. We will also consult further on funding tariffs for education provision, including the extent to which local flexibility is required (for example, scope to fund lower or higher than the funding tariff) whilst remaining within the national SEND standards.

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

Early years funding

33. In early years, local authorities are required to establish a SEND Inclusion Fund to provide additional top up funding to providers to improve outcomes for children with SEND. Funding for the SEND Inclusion Fund can come from both the early years and high needs funding blocks of the dedicated schools grant (DSG). We will work with local authorities, providers and stakeholders to establish whether changes to the SEND Inclusion Fund or the current early years funding system more widely are needed, to support the proposed national framework for bands and tariffs and ensure funding arrangements remain appropriate and well-targeted to improve outcomes for all children and young people, including those with SEND.

Schools' notional SEN budgets

34. The notional SEN budget is an amount within each mainstream school's overall budget that the school may set aside for its pupils with SEND. This amount is calculated by the school's local authority. We will move to standardise the calculation

of schools' notional SEN budgets in the context of full implementation of the direct National Funding Formula (NFF) for mainstream schools – in which DfE, rather than local authorities, will determine budget allocations for individual mainstream schools through a single, national formula. This will help to underpin our objective to equip all mainstream schools, wherever they are in the country, with the resources they need to provide high-quality support for children and young people with SEND in their settings.

35. In the short term, we will issue guidance to local authorities on how they should calculate their notional SEN budgets within their local funding formula to bring some consistency to what is currently a very variable approach taken by different local authorities. This will give schools more confidence in the funds that they are being provided with to help them support their pupils with SEND.

36. As part of the further consultations on the direct NFF, we will also consider options for calculating notional SEN budgets within the schools NFF. This will take into account the views expressed during the SEND Review and in the 2019 call for evidence, and an updated analysis of what schools should be able, and expected, to afford to spend on SEN support. In the context of the direct NFF, we will consult on options for how DfE, rather than individual local authorities, could determine notional SEN budgets for schools and agree how schools can demonstrate what they achieve with their budgets.

37. We are clear that there should continue to be a national expectation on how much of the additional costs of supporting pupils with SEN mainstream schools should meet from their formula funding, so that schools and local authorities can plan their budgets appropriately. While we are clear that some threshold should be retained, we will consider whether £6,000 per pupil, per year remains the right threshold beyond which schools can expect to draw down additional high needs funding. The appropriate threshold will be considered in context of the responsibilities that sit with mainstream schools under the new national standards, and we will consult before taking decisions on any changes to the level of the threshold.

Chapter 6: Delivering change for children and families

Summary

1. The proposals set out in this green paper represent our commitment to supporting children and young people with SEND and lay the foundation for improvement. We will set out a well-designed delivery programme with a clear roadmap for improvement that stabilises the system in the immediate term and delivers the necessary culture change to build an inclusive system in the longer term so that more children and young people are supported to thrive and succeed.
2. Following our consultation, we will work with partners to design a delivery plan that recognises the context of the ongoing response to and recovery from the pandemic, and that different settings and areas of the country are at different stages of readiness as we introduce change. The plan will align with wider reforms around levelling up, including policy set out in the recent Schools White Paper, as well as the forthcoming Independent Review of Children's Social Care and wider reforms to the delivery landscape across health and care.
3. We will have a strong focus on evidence-based delivery, using well-designed feedback loops and processes to identify and manage unintended consequences promptly. We will learn from best practice in the system. We have seen that the best performing SEND systems are those with a consistent focus on co-production. We will therefore embed co-production with children, young people, and their families at every level in our delivery planning.

We will:

- **take immediate steps to stabilise local SEND systems by investing an additional £300 million through the Safety Valve Programme and £85 million in the Delivering Better Value programme**, over the next three years, to support those local authorities with the biggest deficits
- **task the SEND and Alternative Provision Directorate within DfE** to work with system leaders from across education, health and care and the Department of Health and Social Care to develop the national SEND standards
- support delivery through a **£70 million SEND and alternative provision change programme** to both test and refine key proposals and support local SEND systems across the country to manage local improvement
- **publish a national SEND and alternative provision delivery plan** setting out government's response to this public consultation and how change will be implemented in detail and by whom to deliver better outcomes for children and young people

- establish, for implementation of the national delivery plan, **a new National SEND Delivery Board** to bring together relevant government departments with national delivery partners including parents, carers and representatives of local government, education, health and care to hold partners to account for the timely implementation of proposals

4. We will support the system to secure immediate improvements. We are clear that there are changes all system leaders can make now to better support the system to deliver for children and young people with SEND. Through the Safety Valve programme, introduced in 2020-21, we have given local authorities with the highest percentage of dedicated school grant deficits an immediate opportunity to get on the front foot to resolve issues with the sustainability of their high needs budget. This programme has demonstrated just how quickly good leadership and genuine collaboration across education and finance can identify suitable and innovative solutions, for the benefit of children and young people with SEND. The recent Spending Review identified an additional £300 million over the next three years (2022-25) for the Safety Valve programme, and we recently wrote to a group of 20 local authorities, indicating that they would be invited to join the programme in 2022-23.

5. In addition, we are also investing £85 million over three years in the Delivering Better Value in SEND (DBV) programme to support up to 55 local authorities to reform their high needs systems, addressing the underlying issues that lead to increased pressure, and putting them on a more sustainable footing. This will help to stabilise local authorities so that they are better able to support children and young people with SEND and prepare for change.

We propose to establish a National SEND Delivery Board

6. The dedicated SEND and Alternative Provision Directorate within DfE will be responsible for overseeing the development of new national SEND standards. DfE and DHSC will work with relevant health and care bodies to align these with expectations for health and adult social care. The new national SEND standards will draw on the latest evidence, data and system expertise to ensure standards reflect best practice and are updated to reflect changing prevalence of need and available resource. This will ensure that expectations remain relevant and appropriate in delivering better outcomes for children and young people. The directorate will be aligned with DfE's new Regions Group which brings together functions that are currently distributed across the department into a single interface.

7. Alongside this, we propose to establish a National SEND Delivery Board that will bring together the relevant government departments with national delivery partners including parents, and representatives of local government, education, health and

care to hold partners to account for the timely development and improvement of the system.

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

We will align with wider reforms and changes to the delivery landscape

8. We have heard frequently that the primary reason the high aspirations of the 2014 reforms have yet to be achieved is because insufficient attention was paid to implementation. Achieving the goals for children and young people set out in this green paper will require a concerted and careful focus on delivery by all in the system. This is a complex system, and it will be vital that all working in it understand the changes, their role in them, and how this will help meet the needs of children, young people and their families.

9. It will be crucial that changes to the SEND and alternative provision system are sensitive to the different starting points of local areas and especially sympathetic and accommodating of the fact that the system is recovering from the pandemic. Equally, these proposals are not made in isolation but in the context of complementary changes to the education, social care, and health systems. We therefore want to seize this unique opportunity to deliver system-wide change for children and young people but are clear-eyed about the delivery challenges this represents. We will pay careful attention to what local areas tell us is realistic and we are clear change will only work if it happens at a pace that local areas have capacity to deliver. We will ensure delivery plans align with and take account of this wider context, in particular:

    - The pandemic has disproportionately impacted children and young people with SEND and the system that supports them[99]. Plans are in place to support the system to **recover from the pandemic** to ensure those who need help receive high-quality and effective support and that all pupils, including those with SEND, are supported to make up lost learning. Guidance setting expectations was published in September 2021. We also provided additional funding for those who attend specialist settings (including special units in mainstream schools) in both the catch-up premium paid in the 2020/21 academic year and the recovery premium, as well as the school-led elements of the National Tutoring Programme. Implementation plans following the green paper consultation will be sensitive to this recovery context.

    - The **Schools White Paper** set out a vision of a school system in which every child and young person can fulfil their potential, supported by an

excellent teacher, high standards for all, and targeted support for those that need it. It amplifies and supports the proposals set out in this green paper, to ensure we support all children and young people through their journey to adulthood. The proposals in this green paper will build upon the ambitious vision for an effective education system that the Schools White Paper seeks to deliver.

- The **Independent Review of Children's Social Care**, launched in March 2021, is taking a fundamental look at what is needed to make a real difference to the needs, experiences, and outcomes of those supported by children's social care. Almost half of all children in need have SEN[100]. Together these reviews have the potential to transform the lives of some of the most vulnerable children and young people. The Care Review will set out its final recommendations in the spring and the government response will follow. We have taken into account the areas of focus identified in the Care Review Case for Change and considered this in our approach to this green paper. We will continue to ensure that any changes resulting from these reviews lead to a coherent system that has the best interests of families and vulnerable children at its heart.
- **Integrated Care Boards (ICBs)**, replacing Clinical Commissioning Groups, are being rolled out across the country, and will be in all parts of England subject to the passage of the Health and Care Bill. They aim to remove traditional divisions that caused too many people to experience disjointed care. They help to coordinate services across an area by forming partnerships between the organisations that meet health and care needs. Stronger integration between strategic partners such as physical and mental health services and between NHS and council services will help deliver better and more convenient services. The introduction of ICBs will help local areas to commission at scale, solve common issues together, share good practice and help deliver a consistent approach across larger areas to early identification and transition for children and young people with SEND.

We will deliver change for children and families

10. We are determined to create the right conditions for lasting change that delivers on our shared aspirations for children and young people with SEND. We know this will require careful and collaborative planning and clear sequencing. It will also require extensive and continued engagement and communication to enable leadership of change at every level in the system. And most of all it requires genuine and continual co-production with parents from local to national-level to ensure we implement the

changes in line with our aspiration and as children, young people, and their families need.

11. We will support delivery through a £70 million SEND and alternative provision change programme to test and refine key proposals and support local SEND systems across the country to manage local improvement.

Consultation Question 20: What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success?

Next Steps

12. The publication of this green paper marks the start of a 13 week consultation process, closing on 1 July 2022. Alongside this written consultation will be a series of events to gather additional views and contribute to the overall consultation. We know that engaging the sector, children, young people and parents to communicate and develop understanding of the proposals is a vital first step for successful implementation. As we do so, we will be clear that the time for change to start is now. There is a lot that local areas can begin to do to realise the vision of these changes; indeed, proposals build on practice that exists in some areas. We will therefore ask people not only to engage in shaping future plans but also to consider how they can make a difference today to support for children and young people with SEND.

13. Later this year, we will publish a national SEND delivery plan, setting out government's response to the consultation and how change will be implemented.

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

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

List of consultation questions

1. What key factors should be considered when developing national standards to ensure they deliver improved outcomes and experiences for children and young people with SEND and their families? This includes how the standards apply across education, health and care in a 0-25 system.

2. How should we develop the proposal for new local SEND partnerships to oversee the effective development of local inclusion plans whilst avoiding placing unnecessary burdens or duplicating current partnerships?

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

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

5. How can parents and local authorities most effectively work together to produce a tailored list of placements that is appropriate for their child, and gives parents confidence in the EHCP process?

6. To what extent do you agree or disagree with our overall approach to strengthen redress, including through national standards and mandatory mediation?
   Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

   - If you selected Disagree or Strongly Disagree, please tell us why, specifying the components you disagree with and alternatives or exceptions, particularly to mandatory mediation.

7. Do you consider the current remedies available to the SEND Tribunal for disabled children who have been discriminated against by schools effective in putting children and young people's education back on track? Please give a reason for your answer with examples, if possible.

8. What steps should be taken to strengthen early years practice with regard to conducting the two-year-old progress check and integration with the Healthy Child Programme review?

9. To what extent do you agree or disagree that we should introduce a new mandatory SENCo NPQ to replace the NASENCo?
   Strongly Agree, Agree, Neither Agree or Disagree, Disagree, Strongly Disagree

   - If you selected Disagree or Strongly Disagree, please tell us why.

10. To what extent do you agree that we should strengthen the mandatory SENCo training requirement by requiring that headteachers must be satisfied that the SENCo is in the process of obtaining the relevant qualification when taking on the role?
    Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

    - If you selected Disagree or Strongly Disagree, please tell us why

11. To what extent do you agree or disagree that both specialist and mixed MATs should be allowed to coexist in the fully trust-led future? This would allow current local authority maintained special schools and alternative provision settings to join either type of MAT.
    Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

    - If you selected Disagree or Strongly Disagree, please tell us why

12. What more can be done by employers, providers and government to ensure that those young people with SEND can access, participate in and be supported to achieve an apprenticeship, including through access routes like traineeships?

13. To what extent do you agree or disagree that this new vision for alternative provision will result in improved outcomes for children and young people?
    Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

    - If you selected Disagree or Strongly Disagree, please tell us why

14. What needs to be in place in order to distribute existing funding more effectively to alternative provision schools, to ensure they have the financial stability required to deliver our vision for more early intervention and re-integration?

15. To what extent do you agree or disagree that introducing a bespoke alternative provision performance framework, based on these 5 outcomes, will improve the quality of alternative provision?
    Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

    - If you selected Disagree or Strongly Disagree, please tell us why

16. To what extent do you agree or disagree that a statutory framework for pupil movements will improve oversight and transparency of placements into and out of alternative provision?
    Strongly Agree, Agree, Neither Agree nor Disagree, Disagree, Strongly Disagree

    - If you selected Disagree or Strongly Disagree, please tell us why

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

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

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

20. What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success?

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

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

Glossary

Academy: A state-funded school in England that is directly funded by DfE, through the Education and Skills Funding Agency. Academies are self-governing and independent of local authority control.

Alternative Provision: Education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education and support arranged by schools, including for pupils receiving targeted support in their mainstream school; pupils being directed by schools to off-site provision to improve their behaviour; and provision for pupils on a fixed period exclusion. When we reference state place-funded alternative provision, we mean alternative provision receiving £10,000 per place from a local authority or the Education and Skills Funding Agency, comprised of all Pupil Referral Units, alternative provision academies and alternative provision free schools.

Annual review: The review of an EHCP which the local authority must make as a minimum every 12 months.

Care Quality Commission (CQC): The independent regulator of health and social care in England, responsible for registering care providers, monitoring, inspecting and rating services, and taking action to protect people who use services.

Child and Adolescent Mental Health Services (CAMHS) / Children and Young People's Mental Health Services (CYPMHS): These services assess and treat children and young people with emotional, behavioural, or mental health difficulties. They range from basic pastoral care, such as identifying mental health problems, to specialist 'Tier 4' CAMHS, which provide in-patient care for those with more complex needs.

Children in need: A child in need is defined under the Children Act 1989 as a child who is unlikely to reach or maintain a satisfactory level of health or development, or their health or development will be significantly impaired without the provision of children's social care services, or the child is disabled.

Compulsory school age: A child is of compulsory school age from the beginning of the term following their 5th birthday until the last Friday of June in the year in which they become 16, provided that their 16th birthday falls before the start of the next school year.

Dedicated schools grant (DSG): This grant is allocated on a financial year (April to March) basis to local authorities, and consists of four funding blocks: mainstream schools funding (often referred to as the schools block), funding for services the local authority provides to all schools (the central schools services block), high needs funding for children and young people with more complex needs (the high needs block), and the early years funding block.

Disagreement resolution: This is a statutory service commissioned by local authorities to provide a quick and non-adversarial way of resolving disagreements between parents or young people and bodies responsible for

providing education, whether the child or young person has an EHCP or not, or health and social care in relation to EHC assessments and plans. Disagreement resolution services can also be used in cases of disagreement between local authorities and health commissioning bodies during EHC needs assessments, the drawing up of EHCPs or the reviewing of those plans.

Early help: Early help means providing support as soon as a problem emerges, at any point in a child's life, from the foundation years through to the teenage years.

Early Years Foundation Stage (EYFS): The EYFS covers children from birth to age five. Many children attend an early education setting soon after their third birthday. The foundation stage continues until the end of the reception year and requires settings to deliver a broad early years curriculum across seven statutory areas of learning and development. It prepares children for learning in Year 1, when programmes of study for key stage 1 are taught.

Early years provider: A provider of early education places for children under five years of age. This includes schools, pre-schools, private nurseries and childminders.

Education and Skills Funding Agency (ESFA): An arm of DfE that manages the funding for learners between the ages of 3 and 19 years and for those with SEN or disabilities between the ages of 3 and 25. The ESFA allocates funding to 152 local authorities for maintained schools and voluntary aided schools. It is also responsible for funding and monitoring academies, University Technical Colleges, studio schools and free schools, as well as building maintenance programmes for schools and sixth-form colleges.

Education, Health and Care Plan (EHCP): An EHCP details the education, health and social care support that is to be provided to a child or young person who has SEN or a disability. It is drawn up by the local authority, with relevant partner agencies, after an EHC needs assessment of the child or young person has determined that an EHCP is necessary.

First-tier Tribunal (Special Educational Needs and Disability): An independent body which has jurisdiction under Section 51 of the Children and Families Act 2014 for determining appeals by parents and young people against local authority decisions on EHC needs assessments and EHCPs. The tribunal's decision is binding on both parties to the appeal. The tribunal also hears claims of disability discrimination under the Equality Act 2010.

Free school: A free school is a type of academy, which is free to attend, but is not controlled by the local authority. Free schools receive state funding via the Education and Skills Funding Agency. Parents, teachers, businesses or charities can submit an application to DfE to set up a free school.

Further education (FE) college: We define provision for all young people with SEND who are post 16 as FE. This includes colleges offering continuing education to young people over the compulsory school age of 16.

Healthy Child Programme: Healthy Child Programme runs from 28 weeks

pregnancy to 19/24 years of age. It provides universal, targeted and specialist interventions including screening, immunisation, health and development reviews, supplemented by advice around health, wellbeing and parenting for younger children and health advice for older children and young people.

High needs funding/budget: This funding is for children and young people aged 0 to 25 with complex needs, currently defined as those with SEND needing additional support costing more than £6,000 per annum, including the costs of special school and specialist college provision, and those requiring alternative provision. The majority of this funding is allocated to local authorities through their DSG (see above). We refer both to the national high needs budget, which DfE allocates, and to local authorities' high needs budgets.

Integrated Care System (ICS): New partnerships between the organisations that meet health and care needs across an area, to coordinate services and to plan in a way that improves population health and reduces inequalities between different groups. Subject to the passage of the Health and Care Bill, ICSs will be in all parts of England and will include the following statutory entities at system-level:

> **Integrated Care Partnership (ICP):** The broad alliance of organisations and representatives concerned with improving care and the health and wellbeing of the population, jointly convened by local authorities and the NHS.
>
> **Integrated Care Board (ICB):** Bringing the NHS together locally to improve population health and care. Clinical Commissioning Groups (CCGs) will be abolished.

Independent school: A school that is not maintained by a local authority and is registered under part 4 of the Education and Skills Act 2008. Section 347 of the Act sets out the conditions under which an independent school may be approved by the Secretary of State for Education as being suitable for the admission of children with EHCPs.

Maintained school: Schools in England that are maintained by a local authority – any community, foundation or voluntary school, community special or foundation special school.

Mediation: This is a statutory service commissioned by local authorities which is designed to help settle disagreements between parents or young people and local authorities over EHC needs assessments and plans and which parents and young people can use before deciding whether to appeal to the First-Tier Tribunal about decisions on assessment or the special educational element of a plan. Mediation can cover any one or all three elements of an EHCP and must be offered to the parent or young person when the final plan is issued.

NHS England (NHSE): NHS England is an independent body, at arm's length to the government and held to account through the NHS Mandate. Its main role is to improve health outcomes for people in England by providing national leadership for improving outcomes and driving up the quality of care; overseeing the operation of clinical commissioning groups; allocating resources to clinical

commissioning groups, and commissioning primary care and specialist services.

Non-maintained special school: Schools in England approved by the Secretary of State for Education under Section 342 of the Education Act 1996 as special schools which are not maintained by the state but charge fees on a non-profit-making basis. Most non-maintained special schools are run by major charities or charitable trusts.

Ofsted: Office for Standards in Education, Children's Services and Skills is a non-Ministerial government department established under the Education & Inspections Act 2006. It has responsibility for the inspection of schools, children's services, and local SEND provision in England.

Parent: Under Section 576 of the Education Act 1996, the term 'parent' includes any person who is not a parent of the child but has parental responsibility (see below) or who cares for him or her.

Parent Carer Forum: A Parent Carer Forum is a group of parents and carers of disabled children who work with local authorities, education, health and other providers to make sure the services they plan and deliver meet the needs of disabled children and families.

Parental responsibility: Parental responsibility is defined under Section 3 (1) of the Children Act 1989 as meaning all the duties, rights, powers, responsibilities, and authority which parents have with respect to their children and their children's property. Under Section 2 of the Children Act 1989, parental responsibility falls upon:

- All mothers and fathers who were married to each other at the time of the child's birth (including those who have since separated or divorced)
- Mothers who were not married to the father at the time of the child's birth, and
- Fathers who were not married to the mother at the time of the child's birth, but who have obtained parental responsibility either by agreement with the child's mother or through a court order

Under Section 12 of the Children Act 1989, where a court makes a residence order in favour of any person who is not the parent or guardian of the child, that person has parental responsibility for the child while the residence order remains in force.

Under Section 33 (3) of the Children Act 1989, while a care order is in force with respect to a child, the social services department designated by the order will have parental responsibility for that child, and will have the power (subject to certain provisions) to determine the extent to which a parent or guardian of the child may meet his or her parental responsibility for the child. The social services department cannot have parental responsibility for a child unless that child is the subject of a care order, except for very limited purposes where an emergency protection order is in force under Section 44 of the Children Act 1989.

Pupil: A child or young person enrolled at a school, pupil referral unit or state-funded nursery, or a child who is no longer enrolled but meets one of several exemptions (for example, permanent exclusion).

Pupil Referral Unit (PRU): Any school established and maintained by a local authority under Section 19 (2) of the Education Act 1996 which is specially organised to provide education for pupils who would otherwise not receive suitable education because of illness, exclusion or any other reason.

SEND Local Offer: Local authorities in England are required to set out in their Local Offer information about provision they expect to be available across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have EHCPs. Local authorities must consult locally on what provision the Local Offer should contain.

Special Educational Needs (SEN), Special Educational Needs and Disability (SEND): A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her. A child of compulsory school age or a young person has a learning difficulty or disability if he or she has a significantly greater difficulty in learning than the majority of others of the same age or has a disability which prevents or hinders him or her from making use of educational facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions. 'Special educational needs' and 'disability' have different definitions in law and guidance.

In England, the Equality Act 2010 defines a person as having a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. As such, some pupils have disabilities that meet the Equality Act's criteria because of the effect on their day-to-day activities, but which do not call for special educational provision; and some pupils have special educational needs because of learning difficulties that do not meet the Equality Act's disability criteria. However, there is a significant overlap between children with disabilities and children with special educational needs, hence the common use of terms such as "SEND" and "SEND system".

Special Educational Needs Co-ordinator (SENCo): A qualified teacher (or headteacher or deputy) in a school or maintained nursery school who has responsibility for co-ordinating SEN provision. Other early years settings in group provision arrangements are expected to identify an individual to perform the role of SENCo and childminders are encouraged to do so, possibly sharing the role between them where they are registered with an agency.

Special educational provision: Special educational provision is educational or training provision that is different from, or additional to that normally made for others the same age in mainstream schools, maintained nursery schools, mainstream post-16 institutions or places at which relevant early years education is provided.

Special school: A school which is specifically organised to make special educational provision for pupils with SEN. Special schools maintained by the local

authority comprise community special schools and foundation special schools, and non-maintained special schools that are approved by the Secretary of State under Section 342 of the Education Act 1996.

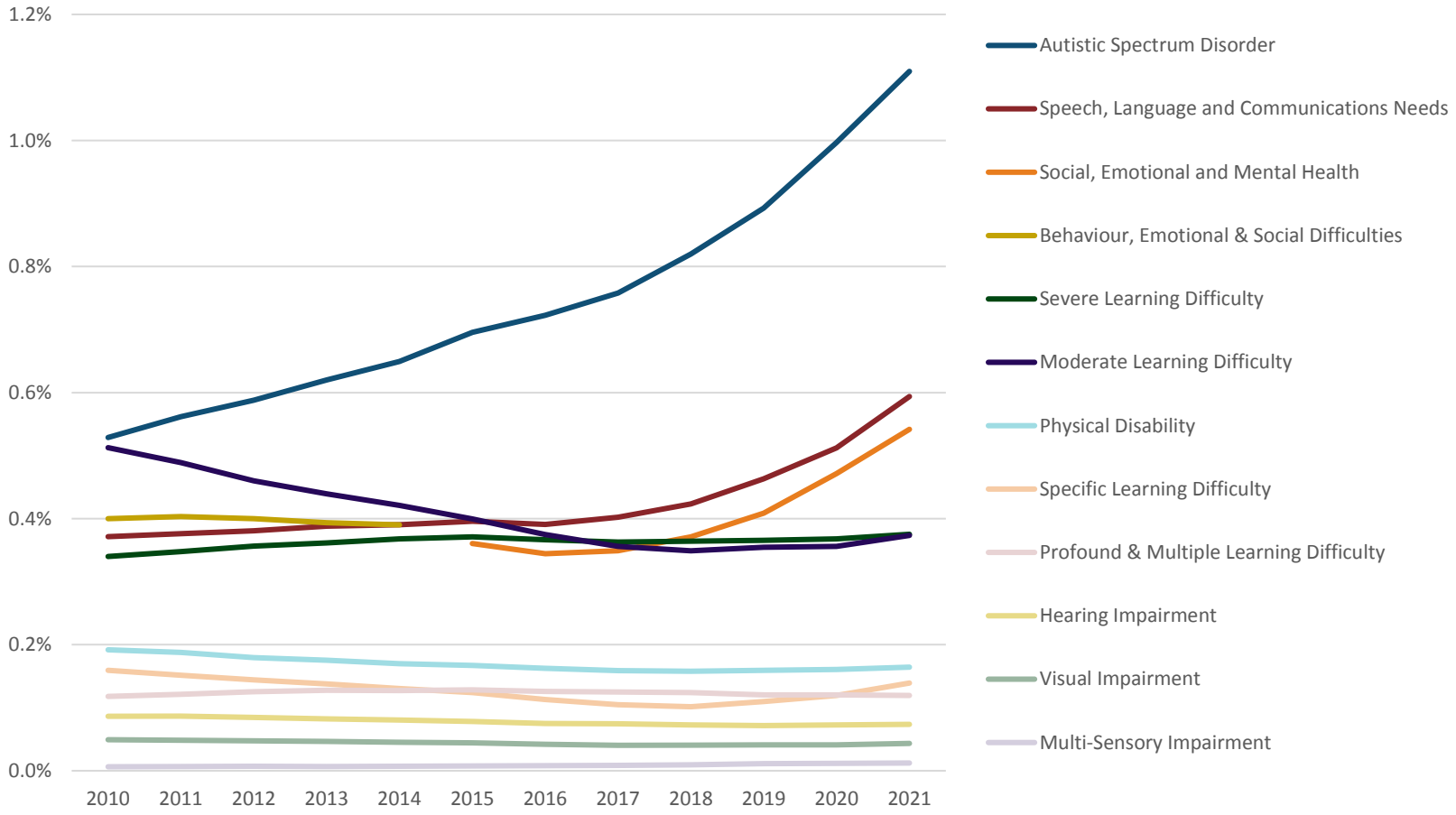
Speech and language therapy: Speech and language therapy is a health care profession, the role and aim of which is to enable children, young people and adults with speech, language and communication difficulties (and associated difficulties with eating and swallowing) to reach their maximum communication potential and achieve independence in all aspects of life.

Virtual School Head (VSH): The Virtual School Head (VSH) is an officer of a local authority who leads a virtual school team that tracks the progress of children looked after by the authority as if they attended a single school. The Children Act 1989 requires every local authority to appoint an officer who is an employee of that or another authority to discharge this duty.

Young person: A person over compulsory school age (the end of the academic year in which they turn 16) but under 25. From this point the right to make decisions about matters covered by Part 3 of the Children and Families Act 2014 applies to the young person directly, rather than to their parents. An individual becomes an adult at the age of 18.

Annex: selected analysis and evidence

Figure 2: Proportion of pupils with an EHCP, by primary type of need, as at January of each year

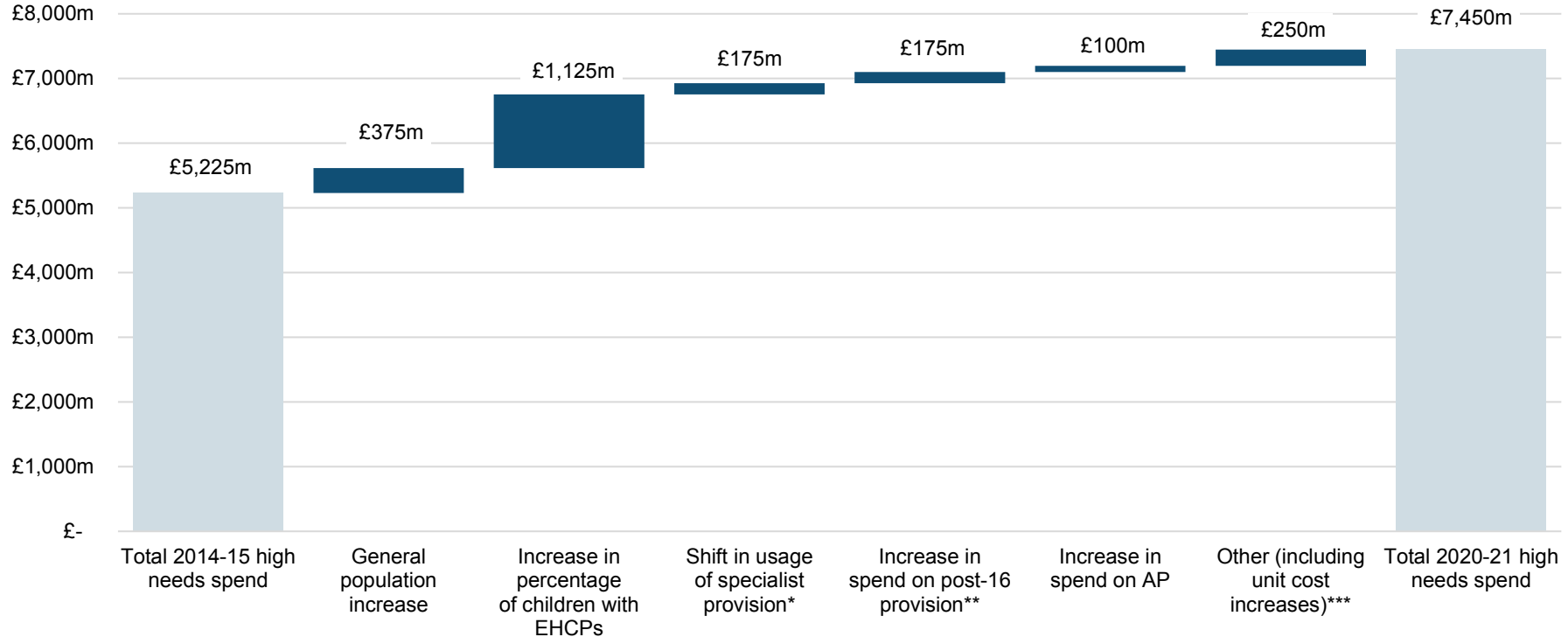


See note [101]

Table 1: Proportion of pupils with an EHCP, by primary type of need, as at January of each year

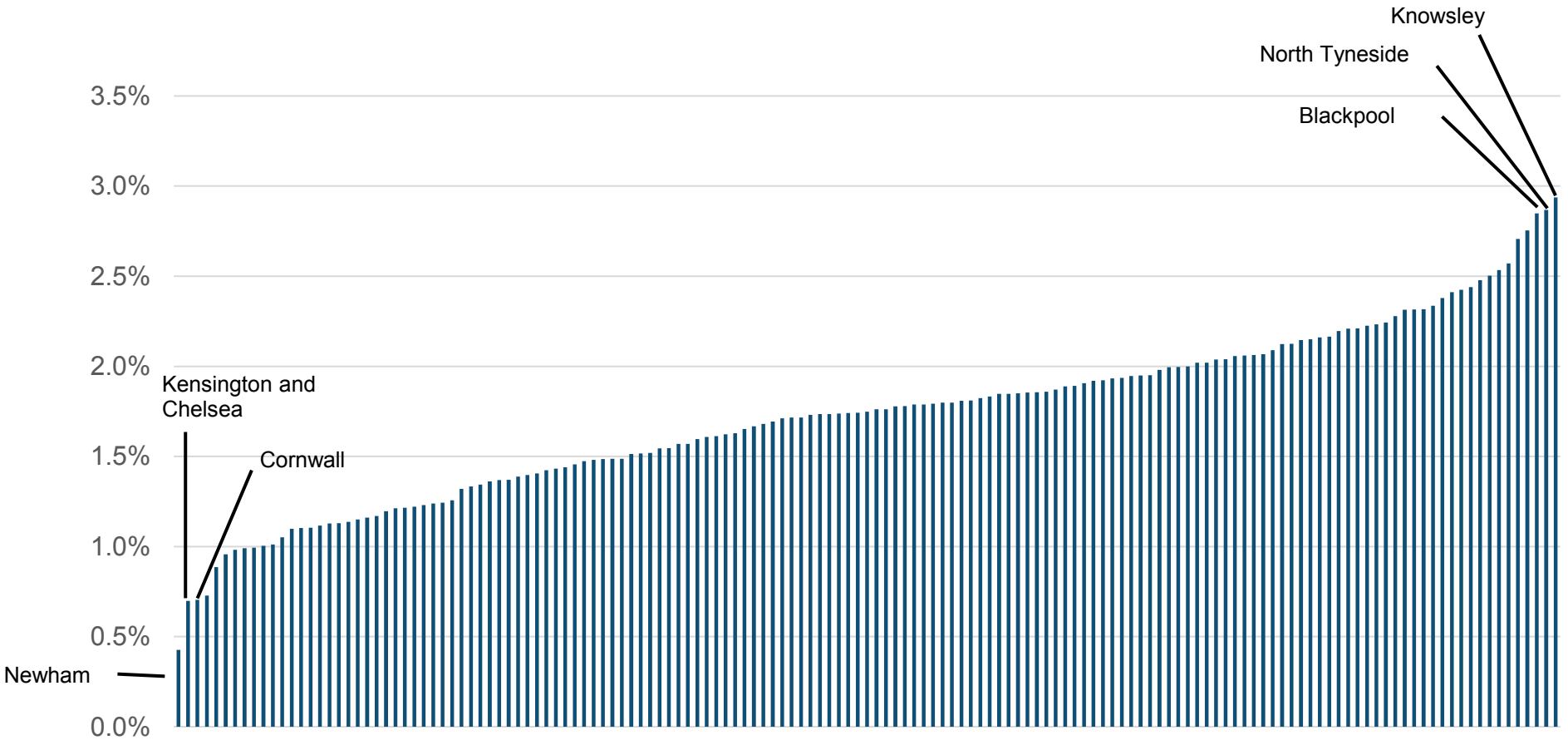
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Autistic Spectrum Disorder	0.53%	0.56%	0.59%	0.62%	0.65%	0.70%	0.72%	0.76%	0.82%	0.89%	1.00%	1.11%
Speech, Language and Communications Needs	0.37%	0.38%	0.38%	0.39%	0.39%	0.40%	0.39%	0.40%	0.42%	0.46%	0.51%	0.59%
Behaviour, Emotional & Social Difficulties	0.40%	0.40%	0.40%	0.39%	0.39%							
Social, Emotional and Mental Health						0.36%	0.34%	0.35%	0.37%	0.41%	0.47%	0.54%
Severe Learning Difficulty	0.34%	0.35%	0.36%	0.36%	0.37%	0.37%	0.37%	0.36%	0.36%	0.37%	0.37%	0.38%
Moderate Learning Difficulty	0.51%	0.49%	0.46%	0.44%	0.42%	0.40%	0.37%	0.36%	0.35%	0.35%	0.36%	0.37%
Physical Disability	0.19%	0.19%	0.18%	0.18%	0.17%	0.17%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%
Specific Learning Difficulty	0.16%	0.15%	0.14%	0.14%	0.13%	0.12%	0.11%	0.10%	0.10%	0.11%	0.12%	0.14%
Profound & Multiple Learning Difficulty	0.12%	0.12%	0.13%	0.13%	0.13%	0.13%	0.13%	0.12%	0.12%	0.12%	0.12%	0.12%
Hearing Impairment	0.09%	0.09%	0.08%	0.08%	0.08%	0.08%	0.07%	0.07%	0.07%	0.07%	0.07%	0.07%
Visual Impairment	0.05%	0.05%	0.05%	0.05%	0.05%	0.04%	0.04%	0.04%	0.04%	0.04%	0.04%	0.04%
Multi-Sensory Impairment	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%

Figure 3: Change in high needs spend 2014-15 to 2020-21



*The shift in the usage of specialist provision has led to a net increase as a result of changes in proportions of needs met in different types of provision, of which most significant is the increase in the proportion of needs met in independent specialist settings (+£245m)
**Post-16 refers to FE provision (including SPIs), and includes post-16 population growth and growth in 19-25 provision. Other post-16 provision is included in the other relevant categories. The 2014-15 baseline does not include funding for LDAs.
***Other includes changes in average unit cost (including impacts of general inflation), therapies and other health related services, SEN support services, hospital education services, personal budgets, early years, funding targeted to mainstream schools for inclusion, SEN transport, carbon reduction commitment allowances for PRUs and income.
See note [102]

Figure 4: Proportion of pupils with an EHCP and in a special school, by local authority, as at January 2021



See note [103]

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- Sharon Roscoe, CEO of the Education Partnership Trust
- Tim Morfin, Founder and CEO of Transforming Lives for Good

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