

DfE call for evidence on funding for special educational needs and disabilities and those who need alternative provision

A response from the Special Educational Consortium

About SEC

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

SEC welcomes the opportunity to respond to this call for evidence. To support the points we make in this submission, we are attaching our submission to the National Audit Office call for evidence (2019, **Annex A**) and our submission to the DfE on the pressures on high need funding (2018, **Annex B**).

Please note: the content of this response gives a broad set of policy positions in relation to funding and alternative provision; this reflects a broad consensus across our membership. Most members are also submitting their own more detailed responses reflecting their more specific perspective, expertise and evidence. For the purpose of this call for evidence, the policy positions of NAHT are set out in NAHT's own submission to the DfE, and NAHT should not be counted as part of the SEC submission.

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Over-arching points in response to the call for evidence:

There are many different parties with responsibilities for ensuring that the special educational needs of children and young people are met. Shortage of funding in any one part of the system leads to children and young people being passed around the system, and reduces the capacity of the whole system to make suitable provision and adequately respond to their needs.

The current context is of reduction in funding across the piece. This reduction has occurred at a time of significant additional demands arising from the duties in the Children and Families Act in general, and, in particular, the extended responsibilities of colleges and local authorities for young people with SEN aged 16-25 and, in particular, aged 19-25. Yet this is without additional funding to meet these duties.

Other factors have affected the capacity in the system to address needs as soon as they are identified:

- Lack of clarity about the respective responsibilities of schools and local authorities for special educational provision;
- A significant reduction in the specialist services available locally to provide advice and support to schools in meeting a range of needs where schools themselves may not have the necessary expertise (reduction in VI support, RNIB report¹; inadequate support for pupils on the autism spectrum²; shortage of educational psychology time³). Such reductions subsequently leave teachers feeling unsupported (Ofsted report⁴);
- As well as the erosion of specialist support services, the removal of School Action Plus may have reduced schools' focus on securing advice to supplement and complement their own in-school skills and expertise.

The shortage of funding is creating pressures that lead to children being passed around the system (rise in EHCPs, exclusions, 'off-rolling', use of AP) and decisions being made that prioritise wider organisational needs over the needs and interests of the child. Ultimately, this is more costly:

¹ 2017-18: over a third LAs saw a decrease in QTVIs; at least 700 pupils with VI had support reduced. RNIB: *Our Futures Matter: Make sure no child with vision impairment is left behind.*

² APPG report: *Autism and education in England 2017*

³ DfE (2019) *Research on the Education Psychology Workforce*

⁴ From Ofsted's recommendations (2019) to improve teachers' wellbeing: *The Department for Education should continue to reduce administration in schools and FES providers and make sure that external support services, such as for special educational needs and disabilities (SEND) and mental health issues are properly resourced.*

- To children and families because needs are left unmet, causing distress to children and families, poorer outcomes for children and young people (growing SEN/non-SEN gap in GLD at EYFSP), waste of human potential and increased tension in the system (increased appeals to the Tribunal⁵);
- To local authorities because of increased EHC needs assessments and plans and higher cost placements (special schools and independent schools);
- To local education, health and care agencies where pressures have led to a lack of effective joint working;
- To the nation because of the higher cost to other agencies, for example health placements, the employment gap and benefits costs, and ultimately youth offending and prison costs.

The political horizon is too short and small amounts of funding to help address the shortfall in high needs funding at a local level, and capital to expand special schools, is an inadequate response to the overall problem. Without increased funding, a long-term strategy and effective local commissioning, we will continue to waste the potential of a whole generation of children and young people coming through our education system.

If the overall quantum is not addressed, and a comprehensive strategy is not in place (see Select Committee recommendations on funding⁶), the other points we make, below, in response to this call for evidence will have little or no impact.

Q: Should local authorities retain the flexibility to develop their own method of targeting extra SEN funding to schools with central government guidance, OR, should Central government should prescribe a consistent national approach to the targeting of additional funding to schools that have a higher proportion of pupils with SEN and/or those with more complex needs?

Local authorities have significant responsibilities for children and young people with SEN and need to retain the ability to deploy funding to meet those needs. However, there are various factors that make the targeting of funding deeply complex:

- With a relative definition of SEN, there is significant variation in local thresholds for attracting high needs funding and for an EHC needs assessment and plan.

⁵ DfE (2019) *Special educational needs: an analysis and summary of data sources*

⁶ Education Select Committee (2019) *A ten-year plan for school and college funding*

- It has proved problematic to attach funding directly to levels of identified need in respect of SEN as, with a relative definition of need, there are incentives to identify more and higher levels of need (see SEC submission to the NAO).
- Proxy measures provide an alternative basis for the calculation of need and provide a more objective measure. There are reliable linkages to deprivation, low prior attainment, English as an additional language and pupil mobility (turnover) as indicators of higher cost pupils. However, these proxies do not fit well with low incidence, high cost needs (see SEC submission to the NAO).
- Local authorities must respond to children whose needs are brought to their attention, yet they may have little ability to influence schools' implementation of SEN Support, especially as more schools have become academies.
- Failures at SEN Support are driving up demand for high needs funding.
- The high level of the ring fencing of the schools' budget at a local level has made it more challenging for local authorities to respond to children whose needs are brought to their attention.
- Local funding needs to be seen as one whole pot, to support all providers and all agencies in meeting their responsibilities.

To address these issues:

- There needs to be greater transparency about funding (Do SENCOs and governors know what their budget is?).
- Schools should have greater accountability for how they spend their funding.
- Across all local areas, there should be much greater standardisation of the provision that is made 'ordinarily available' by schools and colleges.

Q: What does SEC think about the £6,000 threshold given to schools in order to make sufficient specialist provision?

Where a child is in a mainstream school, funding to meet the first £6,000 of their support must be found from the school's overall budget. Where a child or young person is in a special school or alternative provision, responsibility for funding all their support shifts to the high needs block. The more children who are educated in non-mainstream settings, the greater the pressure on the high needs block (SEC position paper).

SEC wants to see:

- Greater transparency about what each school's budget is, with SENCOs, governors and parents all aware;
- Greater clarity about how schools' delegated budgets should be used and what provision should be made 'ordinarily available';
- A clear menu of specialist support available to schools, and advice about the support needed for particular pupils;
- Greater accountability by schools for the use of their delegated budget;
- Linked to this, a higher profile for the leadership of SEN and inclusion in the inspection process;
- Greater consistency in the expectations of 'ordinarily available' provision in schools across the country.

Q: What changes could be made to improve the way that the AP budget is spent, to better enable local authorities, schools and providers to use the local AP budget to provide high quality AP, intervene early to support children at risk of exclusion from school, or reintegrate pupils in AP back into mainstream where appropriate?

Where a child has been permanently excluded from school, the local authority has a legal duty to provide them with a suitable education until another mainstream placement is found for them. Funding for this alternative provision must be found from the high needs block (SEC position paper). However, pressure on funding has led to more children and young people in alternative provision. These more expensive options then lead to even less support being available from local authorities for children on SEN support. (see SEC submission to the NAO).

- There are few incentives to intervene early when a different agency picks up the costs further along the line.
- To address this, there is a view among members of SEC that schools should retain responsibility for funding pupils they exclude.
- Early intervention is cost effective in the long term and funding needs to be allocated specifically for this purpose. Early intervention needs to be both at a young age (there has been a significant increase in exclusions of young children from school, 5 year-olds and 4 year-olds and under) and at an early stage (see concerns above about lack of focus on SEN Support).

- As part of a strategic and funded early intervention approach, AP should be commissioned to provide outreach and preventive work in schools.

Q: Are there aspects of the operation of the funding system that prevent young people from accessing the support they need to prepare them for adult life?

- The Children and Families Act 2014 introduced significant new entitlements for young people with SEND up to the age of 25. As a result, there has been a huge rise in the number of young people aged 16-25 requiring support from the high needs block. These are new legal responsibilities; there were no resources allocated to meet these responsibilities; and these demands come on top of all the other pressures. (SEC position paper)
- Colleges are being funded less well for core provision. This means the offer to young people with SEN may be compromised, sometimes by offering 3 days a week provision. This does not encourage families to support progression to college.
- Invest to save and early intervention still apply in post-16 provision. A failure to meet the costs of early intervention at this stage is likely to mean that higher costs are passed on to social services.
- In this context, joint commissioning is key.
- The pooling of funding and the use of personal budgets could lead to the development of much better packages and better support for 'independent living support'.

There are some specific considerations for particular groups of young people:

- Those who have moved from AP into FE, or from being out-of-school for some time may need a significant amount of personal adjustment and additional support as they move into FE. This is not recognised in the funding.
- Students with a vision impairment or a hearing impairment may have come through school without an EHCP, but find there is no support without an EHCP as they move into FE.

Q: What do SEC think about current funding arrangements' ability to enable good early intervention?

Local authorities face an increasingly challenging world of decision-making and managing competing priorities. When tough budgetary decisions are being made,

effective early help and intervention programmes may be disproportionately affected. It has also become more challenging for local authorities to offer any support and advice to schools to supplement and complement what schools can do on their own. (see SEC submission to the NAO).

- The requirements are that a child should receive support as soon as their special educational needs become apparent. With increases in exclusions (including increases in exclusions of young children from school: 5 year-olds and 4 year-olds and under) and increased EHC needs assessments and plans, the evidence indicates that action to meet needs is not being taken at the earliest opportunity.
- With financial constraints on all parties, there appear to be no incentives to encourage early intervention or invest-to-save approaches. Rather, there are incentives to delay action and pass on costs and children and young people to other agencies and other budgets. Cutting costs in the short term may be attractive, but the long-term costs are much higher.
- Early intervention is cost effective in the long term and funding needs to be allocated specifically for this purpose. Early intervention needs to be both at a young age and at an early stage (see concerns above about lack of focus on SEN Support).
- Funding for early intervention should be ring-fenced at a local level across education, health and social care, with clear accounts of both the cost savings and the improved outcomes that can be achieved.

Q: What aspects of the funding and financial arrangements are helping the right decisions to be made, both in securing good provision for children and young people with additional needs, and in providing good value for money?

To support effective local decision-making, there needs to be:

- Clear local strategies based on a comprehensive assessment of local needs and developed with all local agencies.
- Effective support for and local sign up to joint commissioning and, where relevant, cross border commissioning.
- Early intervention, at any stage and at any age, is cost effective (personal and financial costs of delay) and provides good value for money.

Q: Are there any aspects of the funding and financial arrangements, not covered in your previous responses, that are creating perverse incentives?

- Funding needs to be higher across the board. In particular, there needs to be higher funding to enable schools and settings to work more inclusively.
- We have recognised, above, the difficulties of attaching funding directly to levels of need in respect of SEN, and, therefore, the greater reliance on proxy measures. However, proxy measures do not recognise the higher costs of meeting low incidence needs, for example, equipment, technical support, habilitation costs, etc. Where the costs are not recognised, there are greater challenges in ensuring children's needs are met.
- Schools cannot be expected to have the expertise to address the needs of all children with SEN; support services that supplement and complement the expertise that exists in schools, are dwindling; urgent action needs to be taken to address this gap.
- The current pressures on schools are evident and lead to more costly options without necessarily achieving better outcomes for children and young people.
- The concept of invest-to-save is very problematic in the current climate, where savings are likely to be achieved much later on through, for example, a saving in benefits from the DWP or the prevention of a young person entering the criminal justice system.
- Improved local and individual planning, in terms of both the medium and longer term could stop late post-16 placements. These placements currently lead to additional costs for providers and financial viability issues.

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On behalf of the Special Educational Consortium

July 2019

Annex A

Consultation on the National Audit Office Value for Money Study: Support for pupils with special educational needs and disabilities (SEND)

A response from the Special Educational Consortium

1 - To what extent has the Department for Education created a set of incentives that influence local authorities and schools to direct funding to pupils on the basis of need?

It has proved problematic to attach funding directly to levels of need in respect of SEN as, with a relative definition of need, perverse incentives can too easily lead to higher levels of identification. Proxy measures provide an alternative basis for the calculation of need and provide a more objective measure. There are reliable linkages to deprivation, low prior attainment, English as an additional language and pupil mobility (turnover) as indicators of higher cost pupils but these do not necessarily fit well with low incidence, high cost needs.

With the overall quantum of funding coming under such significant pressure, more pupils are being put forward for EHC needs assessments and EHC plans; there are rising numbers of children being educated in special schools; and rising numbers of children being excluded.

From the very start of implementing the 2014 SEND reforms it was clear that local authorities were likely to come under significant additional funding pressures, not necessarily linked directly to levels of need. Reasons for this include:

- EHC Plans available for 0-25 year olds
- Greater expectation of engagement with both parents and children
- A new system for local professionals to navigate (additional training etc)

In addition, as nasen point out, local authorities face an increasingly challenging world of decision-making and prioritization of services resulting in 'fragmented approaches which introduce thresholds into the assessment and support process and within which appropriate prioritisation amongst

competing services remains extremely difficult.’ In such cases effective early help and intervention programmes may be disproportionately affected when tough budgetary decisions are being made. It has also become more challenging for local authorities to offer any support and advice to schools to supplement and complement what schools can do on their own.

Both local authorities and schools are facing significant challenges with the allocation of funding. The high level of the ring-fencing of the schools’ budget at a local level has made it more challenging for local authorities to respond to children whose needs are brought to their attention. As our members NDCS have pointed out, this is evidenced by the large number of local authorities that applied to the Department for Education for permission to go beyond 0.5% rule on the ring-fence. In 2018/19, 27 local authorities made a formal request for ‘disapplication’ of rule on the ring-fence, of which 12 were turned down. NDCS’ subsequent Freedom of Information request at the end of 2018 has identified that a further 30 local authorities have made a similar request for 2019/20.

However, conversely, there has been no ring-fencing of the funding from the DfE to support the implementation of the reforms. How have local authorities spent the millions (£223m between 2014 and 2018) assigned to implement the SEND reforms? Although LAs have attempted to use these funds for the purposes for which they were intended, it has been reported that this funding has been used for, amongst other things, legal support for SEND tribunals, preparation for SEND inspections and away days⁷. Furthermore, there has been little accountability nationally to link this expenditure to the successes (or failures) of the SEND reform process.

2 - Do you consider that need is assessed consistently across England, and between different groups of pupils (for example, between boys and girls or between different sorts of need)?

The single category of ‘SEN support’ replaced School Action and School Action Plus in the 2014 Code of Practice. There has been too little formal evidence or evaluation of the consequences of this change or of the quality of the provision being made for children and young people on SEN support. SEC believes that attention has been disproportionately focused on EHC

⁷ <https://specialneedsjungle.com/600-million-send-reforms-disabled-children-have-had-poor-value-for-money/>

plans, at the expense of the much larger proportion of children with SEND who do not have an EHC plan.

While there is a shortage of evidence on the introduction of SEN support, SEC has noted with concern a number of indicators that point to a reduction in the capacity of mainstream schools to meet the needs of children and young people with SEND from their own resources:

- Rising numbers of EHC plans;
- Rising numbers of children being educated in special schools;
- Rising numbers of exclusions;
- Rising numbers of children being 'electively' home educated.

IPSEA point out that there is a lack of consistency nationally when local authorities are considering whether to conduct an EHC needs assessment. Their experience is that 'some local authorities apply much more stringent local criteria, meaning children who may be assessed in one area would not be assessed in another'. Evidence for this includes being told of criteria such as that the child needs to be in the bottom 2% nationally, or that they need to be a certain number of years behind their peers academically. Such approaches are not compliant with the law. IPSEA have also identified wide variation between different areas in the levels of 'refusal to assess'; in 2017 the average percentage of requests for assessment which were refused was 22.6%. However, in some local authorities, the refusal rate was well over double this:

- Sutton: 57.2%
- Cheshire West and Chester: 54.3%
- Brent: 50.4%
- Nottingham: 49.4%

With growing concerns about the quality of the transfer of statements to EHC plans, in 2017 SEC undertook a survey⁸ of the transfer process. The results of a showed that the legal entitlements of children and parents were being systematically compromised. Specifically

⁸ Over 430 organisations and professionals responded to the survey, covering activity in 125 (83% of) local authorities.

- 52% of respondents said that children in their area being transferred from statements rarely or never received a full EHC needs assessment.
- 35% of respondents said that children in their area being transferred from statements sometimes received a full EHC needs assessment.
- Only 10% of respondents said that children in their area being transferred from statements always received a full EHC needs assessment.

Given that the transfer process was only completed in 2018 there is likely to be a significant number of children still subject to 'compromised' EHC plans that do not reflect their full entitlement. It is likely that similar compromises are being faced by new families entering the system and working with a flawed EHCP process that does not reflect the intentions of the principles set out in s19 of the Children and Families Act.

3 - How far do you consider that the Department has made clear what it expects local authorities and schools to do to support pupils with SEND, and supported the exchange of good practice?

For Regional Schools Commissioners, with significant responsibilities for decisions about academies and schools, it is not clear how decision-making takes into account the impact of those decisions on pupils with SEN and disabilities; or how the Children and Families Act and the Equality Act apply to their duties.

Some of the duties on local authorities have been clearly articulated and carefully followed up by DfE, for example the timescales for the completion of an EHC needs assessment and plan. Others, such as the responsibility of LAs for all children and young people with SEN, s24 of the Children and Families Act, have been left unexplained. LAs are either unaware of this responsibility or are reluctant to hold schools to account for pupils on SEN Support; many are uncertain about what powers they have to do so.

Surveys carried out by the National Autistic Society in 2017 found widespread issues of requests for assessments being refused, long delays between requests and support being provided, and too little training for education professionals in the particular needs of children who are on the autism spectrum.

DfE has funded a range of activities focused on developing, promoting and sharing good practice: dedicated Trusts and networks, a range of training and professional development opportunities and a wide range of resources and practice materials. Ofsted/CQC local area inspections can be a powerful way of nudging local developments – many LAs have made good use of their inspection letter to bring about changes they needed to make locally.

4 - To what extent do you consider that there are:

- a) enough school places, of the right type and in the right places to meet the needs of pupils with SEND effectively?**
- b) sufficient appropriately trained staff, including in local authorities and SEND co-ordinators in schools, to support pupils with SEND effectively?**

There is significant pressure on special school places, an increase in the use of independent special schools, an increase in the use of alternative provision and a trend towards home education. The 'choice' for parents of children with SEN is not a real one: if a mainstream place is not working well for your child, a mainstream place ceases to be a choice. The overall pressure on school places, now working its way through secondary schools, is a further factor in limiting choice for parents.

The SEND tribunal tells its own story. Between 2016/17 and 2017/18 there was a 20% increase in appeals registered with the Tribunal. In 2017/18 there were 5679 appeals, the majority of which were 'won' by parents (or 'lost' by LAs, depending on your view). Given the challenges, stress and sheer amount of work involved for parents to go through this process, it is fair to say that such an undertaking is not done lightly, and the majority of dissatisfied families are often not in a position to do so. Therefore, it is likely that a true reflection of parents dissatisfied with core aspects of the SEND system that the SEND Tribunal addresses (assessment, placements, provision etc) has also numerically seen a significant increase.

Staff development in both schools and local authorities is essential to improving outcomes for children, choice for parents and children, and an understanding of children's entitlement. Nasen suggest that 'A focus on, and investment in, real and ongoing teacher development through research-informed methodology is key'. IPSEA argue that 'initial teacher training and

the SENCO qualification should include at least one module dedicated to the SEND legal framework'. However, we know that schools are increasingly expected to cover a number of issues affecting children and young people, and so the time and space to learn about a wide range of SEND issues is becoming increasingly challenging. Nonetheless, if we are to achieve the aspiration that all teachers should be teachers of SEND, the provision of both initial and continuing professional development is vital.

5 - What more could be done to measure outcomes for pupils with SEND?

There are some essential elements in increasing our understanding of how to improve outcomes for children and young people with SEN:

- There needs to be a better understanding of what interventions work in enabling children and young people to make progress. The announcement of a new programme, a longitudinal study, by the DfE is welcome. There needs to be a robust evidence base, but also encouragement to schools to gather their own evidence of what works.
- There needs to be better sharing of the evidence that we already have. There is evidence, from the extended programme of research, the Deployment and Impact of Support Staff in Schools, led by Peter Blatchford, of the unplanned use of support assistants working against children's progress. Subsequent work has sought to support the better deployment of support assistants and there is evidence of good progress where teaching assistants are trained to deliver specific programmes on which they have been trained. However, the majority of provision (at SEN support or through an EHCP) is still calculated in terms of hours with little ambition in terms of outcomes, little specification of how those hours are to be used, or the skills required of those making the provision.
- A clearer articulation in the local offer of what schools, colleges and early years settings are expected to provide from their funding before approaching the local authority for high needs funding. In local areas where this is clearly articulated, there are indications of more appropriate requests for EHC needs assessments and EHC plans.

Setting this out clearly also allows for changes in the light of new understanding about what approaches secure the best progress.

- National data about the progress of all pupils acts as a backdrop to inform expectations of what might be an aspiration or an expectation for a child or young person.

There are wider considerations and longer term outcomes as well:

- Destination measures after leaving school: NDCS suggest that the data on long term outcomes such as destinations could be improved, with a closer focus on how young people with SEND have been supported into adulthood.
- Indicators of improved access and inclusion, showing greater welcome for children and young people into school and reductions in exclusions, and a reduction in parents seeking placement elsewhere. The issue of home education is particularly topical, and IPSEA who has previously highlighted the fact that many families do not choose to home educate, but have it forced upon them, agree with suggestions that greater local authority involvement with home educated children is needed.
- Indicators of parental 'satisfaction' over and above those reflecting satisfaction with their child's placement and reflected in reduced moves out of school.

6 - What are the main strengths and weaknesses in the current system, and what are the consequences of these?

The main strengths of the current system are in the principles and the design. Associated with this, there are examples, identified in a wide variety of ways, Ofsted/CQC inspections, Trusts and networks, of how the system can work well.

However, as it is working currently, too many children and young people with SEND are subjected to repeated failure before an EHC needs assessment is made. SEC has further concerns about EHC needs assessments as there is huge variability in local practice at all stages of the EHC needs assessment process, for example:

- Schools in some areas are told that they have to satisfy local authority criteria before a child or young person can be assessed, for example, the school must submit an educational psychologist report with a request for an assessment;
- There is a lack of knowledge about the law on EHC needs assessments, including who can request an assessment;
- There is insufficient involvement of children and young people, and their parents in EHC needs assessments;
- There is inconsistency across areas in professional input to an EHC plan;
- Variation is further exacerbated by the lack of a national template for an EHC plan.

Despite pockets of strong leadership across education, health and social care identified in some of the Ofsted and CQC joint inspection outcome letters, there is little evidence of systematic improvements to joint working and co-operation between agencies. Where there have been improvements, these have tended to be between health services and local authorities. Links between social care and the new SEND framework have been particularly slow to develop.

Lack of co-operation between agencies is in part due to funding pressures: all sectors are under funding pressures and this is inhibiting joint working and the development of joint commissioning. Other challenges include poor data sharing arrangements, a lack of strong strategic leadership, and a failure to involve children, young people and parents in joint arrangements.

Poor joint working is compromising the quality of EHC needs assessments and EHC plans, resulting in plans that are not holistic and that risk leaving children and young people with unidentified health and social care needs and without provision to meet those needs.

SEC has concerns about the lack of rigour in addressing transition requirements in EHC plans in year 9 and beyond. This raises concerns about how well young people with SEND are being prepared for adulthood. There has been progress in developing new routes into employment for young people with SEND, for example supported internships. However, these are not always well understood by those providing information, advice and

guidance or those undertaking transition reviews.

These concerns are reflected in DWP and DH statistics from 2016 that reveal one of the most significant inequalities in the UK today with less than half (48%) of disabled people in employment compared to 80% of the non-disabled population.

Provision for young adults when they leave college is insufficient and insufficiently joined up across education, health and social care, and across both children's and adult services.

7 - Is the current system sustainable? How could support, and outcomes, for pupils with SEND be improved, within current funding levels?

There is compelling evidence that High Needs Funding is under unsustainable pressure. This pressure is damaging local authorities' ability to meet their legal obligations to disabled children and young people, those with special educational needs, and those in alternative provision. SEC has identified 5 pressure points that contribute to this crisis:

- more children and young people with the most complex needs;
- more children and young people with Education, Health and Care plans;
- more children and young people being educated outside the mainstream system;
- more children and young people being permanently excluded;
- more young people with SEND receiving support beyond the age of 16.

Pressure on funding has meant that local authorities have reduced the support they make available to settings, for example specialist teachers and educational psychologists. At the same time, pressure on school funding has reduced schools' ability to buy in such support. This has led to fewer children being properly supported in mainstream schools, more EHC plans, more placements in special schools, and more children and young people in alternative provision. These more expensive options then lead to even less support being available from local authorities for children on SEN support.

Unlike schools, colleges receive no additional funding for young people on SEN support, unless they reach the 'high needs' threshold.

There remain significant challenges in the funding relationship between local authorities and post-16 providers. There has been difficulty in trying to fit Further Education into a schools model, particularly where some larger colleges have students from multiple local authorities.

With many colleges having over 100 High Needs students, there are significant problems for the college when decisions are delayed or payment is late.

8 - Has the Department established effective mechanisms for parents and young people to understand their rights and seek redress when their rights are not being met, and removed barriers to them doing so?

There has been a significant increase in support to parents, children and young people through Information, Advice and Support Services. However, many of the Ofsted/CQC inspection letters refer to the pressure on services and ways in which this compromises access to support.

However, as IPSEA clearly state, 'the current legislative framework puts the onus on parents or young people to enforce their own rights where things go wrong'. This is clearly seen during the EHC process, and the increasing number of parents going to tribunal.

Annex B

SEC position statement - unsustainable pressure on high needs funding

There is compelling evidence that funding for the education of children and young people with 'high needs' is under unsustainable pressure. This pressure is damaging local authorities' ability to meet their legal obligations to disabled children and young people, those with special educational needs, and those in alternative provision.

In this paper we set out the evidence that high needs funding is under unsustainable pressure. A combination of demographic change, new entitlements for children with SEND set out in the Children and Families Act 2014, and a mainstream system that is increasingly struggling to meet the needs of children and young people, is pushing local authorities to the brink of bankruptcy.

Pressure on high needs funding makes it harder for mainstream settings to be inclusive. Local authorities support mainstream settings to be inclusive in a range of ways, including by commissioning specialist support services and providing top-up funding to mainstream settings with higher numbers of children with SEND. As high needs budgets have come under pressure, mainstream settings have had less support. This loss of support has contributed to a rise in exclusions, more children and young people in special schools, and a greater number of Education, Health and Care plans maintained by local authorities.

A vicious cycle is pushing the system to breaking point. As fewer children are being included in mainstream settings, local authorities are legally obliged to fund more EHC plans, more placements in special schools, and more alternative provision. These additional costs all make demands on high needs funding, leaving even less support for mainstream settings. This further undermines the mainstream system and leads to even more children relying on high needs funding. SEC believes this unsustainable situation needs urgent action.

High needs funding pressure #1 – more children and young people with the most complex needs

Children and young people with the most the complex needs includes those with autism, severe learning difficulties and challenging behaviour, those with social, emotional and mental health needs, and those with profound and multiple learning difficulties.

The latest evidence suggests that the number of children with the most complex needs has risen from 49,300 in 2004 to 73,000 in 2016, a rise of nearly 50% in just over a decade⁹. This increase is due to a number of factors, including increased survival of preterm babies and increased survival of children after severe trauma or illness. Meeting this additional demand must be funded by local authorities from the high needs block.

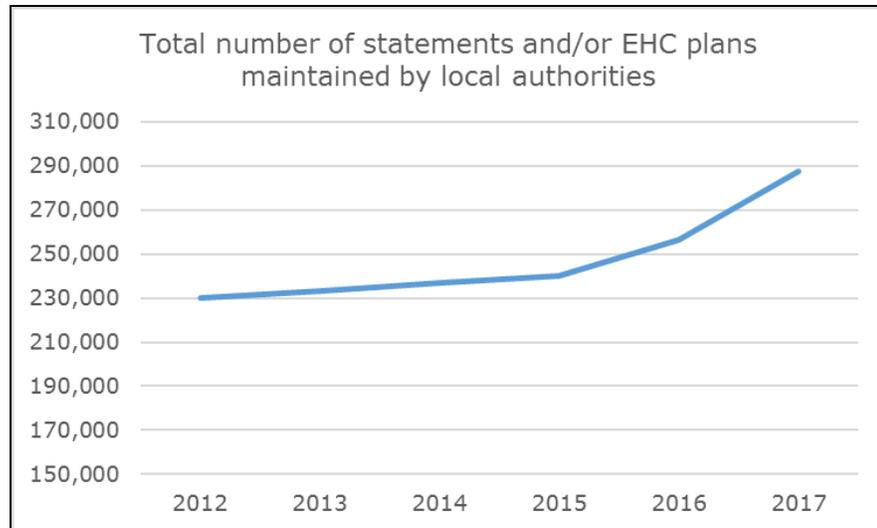
High needs funding pressure #2 – more children and young people with Education Health and Care plans¹⁰

Education, Health and Care plans (previously 'statements of SEN') must be provided by local authorities when mainstream settings cannot be expected to meet a child or young person's special educational needs. EHC plans attract high needs funding and therefore a higher number of EHC plans means a greater draw on high needs budgets.

⁹ Pinney, A, *Understanding the needs of disabled children with complex needs or life-limiting conditions: What can we learn from national data?* Council for Disabled Children 2017

¹⁰ Department for Education, *Statistical First Release 22/2017*, 25 May 2017

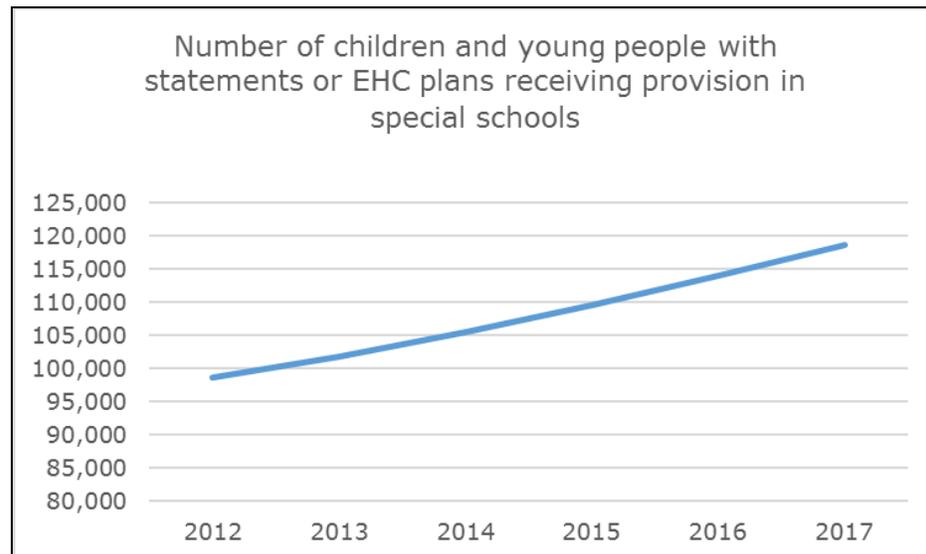
There are over 57,000 more statements and/or EHC plans being maintained by local authorities than in 2012



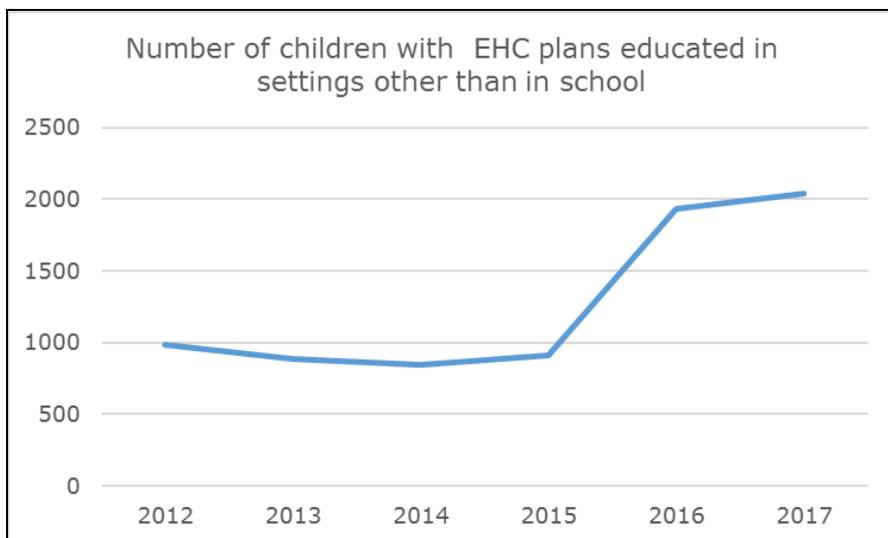
High needs funding pressure #3 – more children and young people being educated outside the mainstream system¹¹

Where a child is in a mainstream school, funding to meet the first £6,000 of their support must be found from the school’s notional SEN budget. Where a child or young person is in a special school or alternative provision, responsibility for funding all their support shifts to the high needs block. The more children that are educated in non-mainstream settings, the greater the pressure on the high needs block.

The number of children and young people being educated in special schools has increased by 20,000 over the past 5 years



¹¹ Department for Education, *Statistical First Release 22/2017*, 25 May 2017



The number of children with EHC plans funded by local authorities in settings other than a school has doubled over the past five years

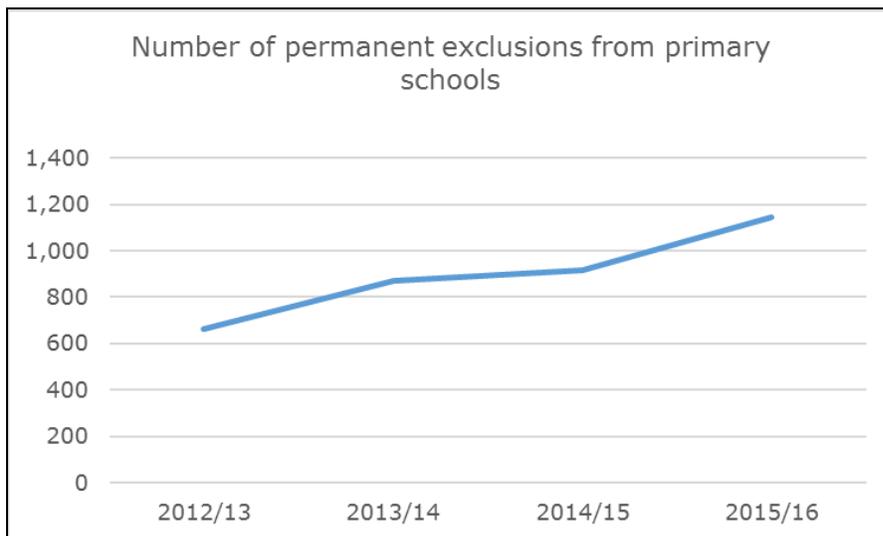
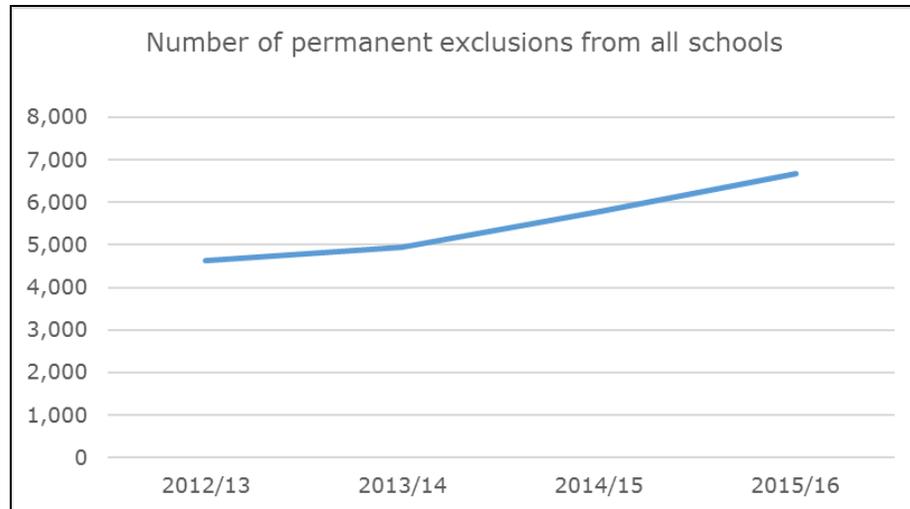
High needs funding pressure #4 – more children and young people being permanently excluded¹²

There has been a significant rise in the number of children and young people excluded from school, including amongst our youngest children.

Where a child has been permanently excluded from school, the local authority has a legal duty to provide them with a suitable education until another mainstream placement is found for them. Funding for this alternative provision must be found from the high needs block.

¹² Department for Education, Statistical First Release 35/2017, 20 July 2017

Between 2012/13 and 2015/16, the number of children permanently excluded rose by 44%



Between 2012/13 and 2015/16, the number of children permanently excluded from primary schools rose by 77%

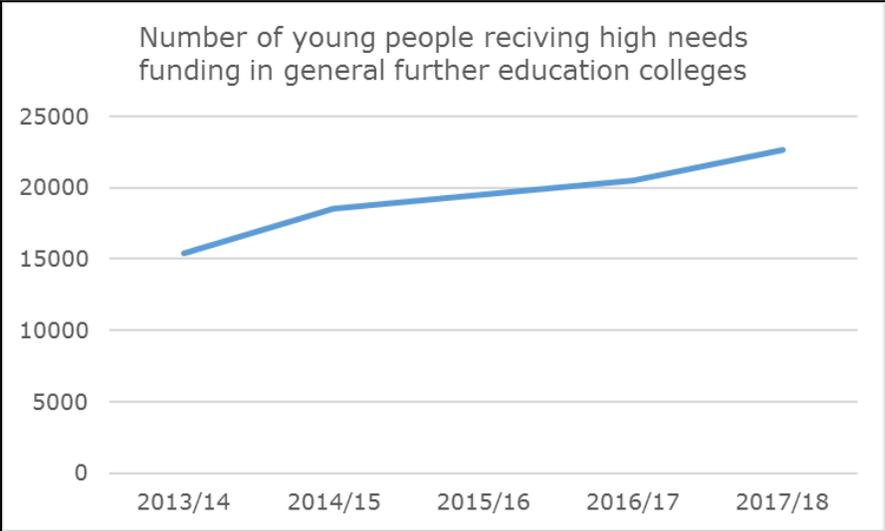
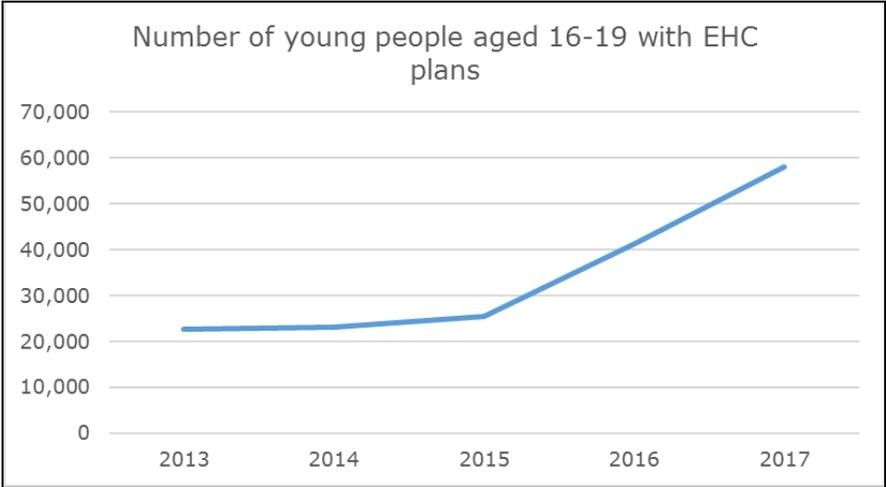
High needs funding pressure #5 – more young people with SEND receiving support beyond the age of 16¹³

The Children and Families Act 2014 introduced significant new entitlements for young people with SEND up to the age of 25. As a result, there has been a huge rise in the number of young people aged 16-25 requiring support

¹³ Department for Education, SFR 22/2017, 25 May 2017

from the high needs block¹⁴. There is growing evidence that local authorities do not have sufficient resources to meet these new legal responsibilities, despite exceptional demand.

Between 2013 and 2017, the number of young people aged 16-19 with statements and/or EHC plans rose by 155%



The number of young people receiving high needs funding in FE colleges has increased by 46% in the last four years

¹⁴Department for Education, *High needs: allocated place numbers*, November 2017