

SEND Green Paper – response from the NNPCF

March 2022

The long awaited SEND Green Paper was published this morning. In this article, the NNPCF steering group present their initial response and analyse where the Green Paper delivers what parent carer forums had asked for, where it doesn't go far enough and where we have significant concerns.

You can find the Green Paper here: [SEND review: right support, right place, right time - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/SEND-review-right-support-right-place-right-time)

Introduction

The SEND review has been a long time in the making. It was originally launched in the summer of 2019. Delayed by general elections, government reshuffles and Covid 19, it represents an opportunity to reset and further reform the SEND system following the 2014 Children and Families Act.

The NNPCF have had a lot of input into the SEND review. When it was initially launched in 2019, the SEND review team met with the NNPCF steering group several times and they attended our 2019 conference where we devoted a whole afternoon to coproducing the NNPCF input. [NNPCF conference gives SEND Review seven clear messages – National Network of Parent Carer Forums C.I.C](#)

Following this the NNPCF steering group continued to engage with the SEND review and at our conference last year we presented our views on how the SEND system needed to change [NNPCF input into the SEND review - YouTube](#).

We updated this at our conference last week https://youtu.be/YVx2O_Y4soQ

In Autumn 2021, the SEND review was re-set following the pandemic and NNPCF co-chairs Tina Emery and Mrunal Sisodia were invited to join the reconstituted steering group. After careful deliberation, the NNPCF board decided that Tina and Mrunal should join the Review Steering Group once we had been satisfied that it was an opportunity to coproduce solutions and not just rubber stamp proposals. This group first met in late 2021.

In this paper, we step through the key things we have asked for from the SEND review and assess to what extent it delivers on this. We will also look at some

areas that the Green Paper is proposing things that we did not ask for and we disagree with.

Context

The SEND review cannot be seen in isolation. There are three other major pieces of legislation / policy in train that will have a major impact upon the lives of children and young people with SEND. They are:

The Schools White Paper – a major change in legislation for schools. This was released yesterday – you can find it here ([Opportunity for all: strong schools with great teachers for your child - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/opportunity-for-all-strong-schools-with-great-teachers-for-your-child)). It focuses on quality of teaching, standards, targeted support and the schools' system. We will publishing our initial response to the White Paper shortly.

The Children's Social Care Review – this independent review is being run by Josh MacCallister. The NNPCF has had extensive engagement with the review [NNPCF input into children's social care review – National Network of Parent Carer Forums C.I.C](#) including hosting a webinar [The Children's Social Care Review – "The Case for Change" - YouTube](#)

The Health and Care Bill – the bill that will establish Integrated Care Systems to replace clinical commissioning groups. The NNPCF have done a lot of work with NHSE to understand the changes and what they will mean for children and young people with SEND and parent carer forums. [Integrated Care Systems, what they mean for SEND and parent carer forums - YouTube](#). We will be publishing an update on the Health and Care Bill in the next few days.

What is wrong with the SEND system?

Before any solutions, there needs to be a clear understanding of the problem. The DfE Green Paper adopts the problem analysis as put forward by parent carer forums.

The 2014 SEND reforms were based on the right principles – coproduction, person centred services and joint working. However, they were implemented into an environment that meant that they could not be effectively implemented. The problems included:

- Incentives and accountability of leaders
 - Schools aren't incentivised to be inclusive

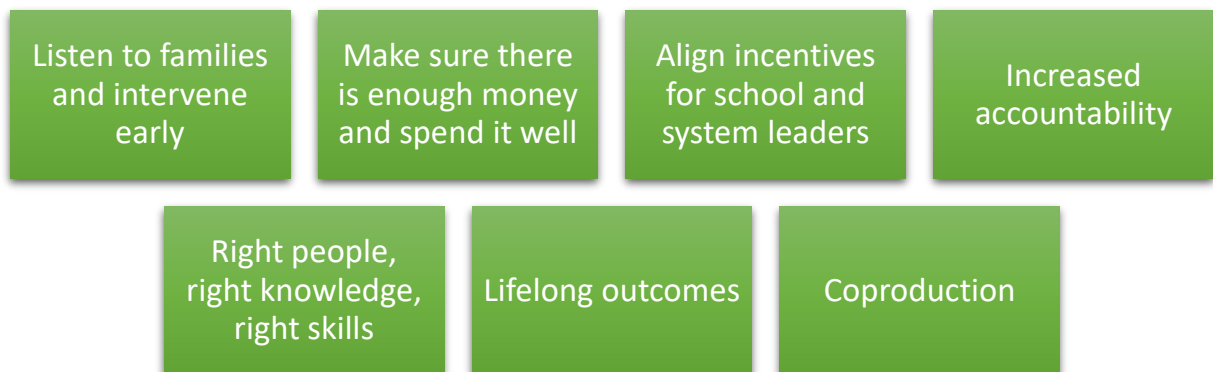
- SEND is too often a low priority across health and social care
- Poor accountability and few consequences for failure
- Leaders, managers and staff aren't equipped and supported to deliver
 - They don't know the law
 - The system hasn't made the cultural changes needed
- Money - There just isn't enough money in the system and the money that is in the system isn't being used effectively
- Not enough coproduction is taking place – both strategic and individual

This has led to a vicious circle of services not listening to families and seeking to protect scarce resources or prioritising other measures (e.g. school league tables). This leads to families not getting the services they need and because accountability and redress in the system is confused more time passes which results in the situation worsening whilst trust declines and anger increases.

We are pleased that the SEND review has agreed with and adopted this problem analysis.

What needs to change?

Based on this, forums outlined seven things they said needed to change at the 2019 NNPCF conference. These are:



These are the things that parent carer forums believe need to change. We need to coproduce with the system to identify the levers that will actually deliver these changes.

How do we change it?

Following on from this, the NNPCF steering group worked with system partners (most notably the Department for Education and NHSE) to identify the practical steps that needed to be taken to deliver these changes.

We identified five key areas:

Set a minimum standard for services

- A consistent national definition of SEND with minimum standard of services available to families
- This should be linked to time targets for delivery and a set of reasonable adjustments that can be expected.

Clarity on Joint commissioning and "who pays for what"

- National guidance on "who pays for what" across education, health and social care services including what should be jointly commissioned.

How the Money is allocated and spent

- A change in the funding for SEND in mainstream schools where
 - some money follows the child
 - is ringfenced
 - spent in coproduction with families
 - with improved transparency.

Improve accountability, inspections and data

- Tidy up the confused accountability framework so that everyone understands the responsibilities and powers of local authorities, schools, regional schools commissioners and NHSE.
- Use the data gathered and inspection processes to reinforce early intervention, inclusion and coproduction.

Right people, right knowledge, right skills

- A programme of workforce development to drive a culture of coproduction, early intervention and inclusion.

In the remainder of this paper, we analyse where we got what we asked for, where we have had partial success and / or need more clarity and the areas that we are very concerned about.

The Green Paper contains a lot of what we asked for

A set of minimum standards

The Green Paper proposes to create a single national SEND system with national standards and promises to review the SEND code of practice to ensure it is fit for purpose. There will be a standardised and digitised EHCP process and templates. We would like to see this go a little further and specify the reasonable adjustments that children and young people can expect.

Clarity on joint commissioning and who pays for what

It will establish new local SEND partnerships across education, health and care that must produce a local inclusion plan. There will be greater clarity on who pays for what based upon more rigorous understanding and analysis of local needs that is coproduced with families. This will formalise the joint planning, working and commissioning that is needed in the system

There is a greater focus on workforce development in schools

The Green Paper proposes the introduction of a new NECO NPQ in schools and increase the number of SEND qualified staff in schools. This needs to go further and include health and social care practitioners as well and must ingrain the values of coproduction.

A greater focus on implementation

The Green Paper proposes a National SEND delivery plan. One of the failings of the 2014 reforms was inadequate planning and focus on how the reforms would be implemented. Because the key data gathered focussed on the conversion of statements to EHCP, this became the objective of the reforms. We welcome the role of a new national SEND Delivery Board to oversee this process.

The additional money going into the system

The Green Paper outlines more money to be spent on education generally and SEND in particular. This is much needed investment – we have consistently been calling for more money in the SEND system and for it to be spent more effectively.

There are many areas where we need more clarity

We do not understand how responsibilities, powers, accountability and regulation will work in the new system.

We welcome the increased focus on accountability in the Green Paper and we are encouraged by the new requirements on ICSs in the latest version of the Health and Care Bill. However, we do not yet have sufficient clarity on how powers, responsibilities, accountability and regulatory oversight will be organised across local authorities, schools, DfE regional directors (replacing schools commissioners) and health systems. There is a danger that in a confused system, the needs of children and families are lost. This was one of the greatest failings of the 2014 reforms, the perverse incentives and mis-aligned accountability in the system meant that different commissioners and providers did not prioritise or work together effectively enough.

New national system of banding and price tariffs

The Green Paper proposes a new national system of funding and tariffs which will include funding levels for all provisions including the independent special school sector. We do not know how this will work – whilst we welcome greater clarity on funding arrangements and bandings, we must ensure that the bandings and tariffs set are sufficient to meet needs and do not discourage education, health and care providers from supplying these services that families need.

We do not know how the new redress process will work

Currently, too many families have to go to tribunal to get what they are entitled to. Streamlining the redress process to prevent this from being necessary is clearly welcomed. But without further clarity on how mandatory mediation and independent review will work, we fear that families could still end up in tribunal but simply having had to wait even longer. If mediation and independent review is to work, it must be shown to be truly objective and must have some powers to compel local authorities, schools, health and care services to follow rulings.

Relationship with other key pieces of legislation and policy development

It is hard to assess the impact of the SEND Green Paper on its own. Much of the environment in which it will operate will be determined by the Schools White Paper, the outcome of the Independent Review into Children's Social Care and the Health and Care Bill. We must ensure that the system created for children and young people with SEND is coherent across all of these areas of policy development – most notably the incentives, powers and responsibilities of different players across the system – for example, the schools White Paper must stipulate that a good school is a truly inclusive school.

There are some things we are concerned about

We are very worried about the process for naming a place with an EHCP

The Green paper will amend the process for naming a place within an EHCP, enabling parents to name a preference from a tailored list of appropriate settings.

We understand that this is an attempt to cap spiralling costs of expensive specialist provision. The root cause of cost pressures on the system are a result of inadequate services that force families to seek more specialised support for their children. At a minimum these lists must be coproduced with parent carer forums and individual tailored lists must be coproduced with families. Most importantly, families must retain the right of redress through mediation or tribunal in the case of a disagreement (as they do now).

The Green Paper is silent on those young people not destined for further education, training or work.

The Green Paper focusses very heavily on educational and employment outcomes. Whilst we welcome the ambition, we must recognise there is a proportion of young people with SEND for whom that is not the right outcome (e.g. those with complex needs). The Paper must recognise the need to provide the right outcomes (e.g. independent or supported living) for this group.

Not enough about Health and Social Care

The Green paper is very focussed on schools and local authorities. It says little on health and care providers and commissioners. If we are to create a joined up system, we must have clarity on what is expected from other key sectors.

Next steps

The Green Paper is a consultation document. The consultation will run for 13 weeks and close on 1st July 2022.

The Department for Education has committed to holding a national event with the NNPCF and events in each of the regions for parent carer forums to feed into the consultation.

In addition, we will be hosting independent events to gather PCF views. We will share details of these as they are set up – there will be a mixture of regional and national events.

We are also working on a large parental survey with other parental groups such as Special Needs Jungle, the Disabled Children's Partnership and Let us Learn Too. We want to gather thousands of parental views on the proposals and ensure that the parental voice is loud and clear and cannot be ignored through the consultation process. We will be sharing the survey in the next few weeks.

We will also continue to coproduce with the Department for Education and other partners through this period. In particular:

- We have asked the DfE to ensure that the powers, responsibilities, incentives and accountability of ALL of the commissioners and providers in the new proposed system are understood and mapped. These must also be tested with individual case studies to see how children and young people will be treated in the new system.
- We must also continue to monitor the development of the Schools White Paper, the Health and Care Bill and the Independent Review into Children's Social Care and understand the impact this will have on the SEND system.

Appendix 1: How do we change the SEND system?

The detail from the NNPCF “Skunkworks” sessions.

Minimum standard for services

A consistent national definition of SEND with a minimum standard of services available to families.

This should be linked to time targets for delivery and a set of reasonable adjustments that can be expected.



Money

- Greater clarity about the services that need to be provided across the system meaning planning and commissioning is simpler. Also eliminates the postcode lottery. Many of the interventions would not be expensive and would be covered under the category of reasonable adjustments.



Listening and early intervention

- Every local area, setting, service and family would know what they can expect if they have concerns or issues about specific situations. Greater specificity about universal and targeted services means there would be no debate about what should be provided



Inclusion

- Each school would know what they must ordinarily provide for children within their setting – some of this would be from health and social care partners. This would be published on the SEND information report, referenced to the local offer. It would be clear to families what they can expect.



Coproduction

- A clear definition of coproduction that everyone can work towards and tailor for their own situation.

Clarity on joint commissioning and “who pays for what”

National guidance on “who pays for what” across education, health and social care services including what should be jointly commissioned.



Money

- In conjunction with a list of minimum services, clear guidance would eliminate the gaps, overlaps and disconnects in local commissioning and drive more joined up system working. Local areas would know what they needed to commission themselves and what must be jointly commissioned.



Listening and early intervention

- Delays in delivering services as different parts of the system protect their own budgets would be eliminated.



Inclusion

- Schools would have greater clarity on the services they can access and who is responsible for providing them. This would enable them to support children in their existing settings.



Coproduction

- Proper funding and support for parent carer forums to ensure that they can engage successfully. This would be jointly funded from local authorities and health providers.

How the money is allocated and spent

A change in the funding for SEND in mainstream schools where:

- some money follows the child
- is ringfenced
- spent in coproduction with families
- with improved transparency.



Money

- Will encourage schools to identify SEND early and intervene early saving money across the system. Linked to a clear definition of what constitutes SEND, will limit perverse incentives to over-identify SEND. Greater coproduction and transparency over the use of SEND budgets will ensure that money is being spent effectively.



Listening and early intervention

- Removes the disincentives for schools to identify SEND early and intervening early for fears of draining notional SEND budgets.



Inclusion

- No school should lose out financially because they support children with SEND well.



Coproduction

- Greater involvement and transparency for families around how the money assigned to their child's setting is spent.

Inspections and data

Use the data gathered, and inspection processes to reinforce early intervention and inclusion and coproduction.



Money

- Gather data around use of SEND budgets in schools in a similar way to pupil premium.
- This should be published and available on the school website.



Listening and early intervention

- Collate statistics around requests for early help, how long the response takes and the support finally offered.
- Local area inspections can also review and encourage the culture and practice of early intervention.



Inclusion

- Schools statistics re SEND to be scrutinised in relation local and regional norms. Gather data on unofficial exclusions.
- School inspections continue to increase their focus on early identification and help.



Coproduction

- Gather metrics about the quality of both individual and strategic coproduction in an area.

Right people, right knowledge, right skills

A programme of workforce development to drive a culture of coproduction, early intervention and inclusion.



Money

- Outlines methods for school leaders to increase transparency and coproduction around school budgets and individual provision.

Showcase the benefits of strategic coproduction in producing the JSNA and related budgets and plans.



Listening and early intervention

- Promote the practice and benefits of a culture of early intervention. Listen to families and intervene early.
- Do some "mythbusting" – i.e. that "admitting" that a young person has SEND does not cost more in the medium and long term.



Inclusion

- Workforce development to make sure that every member of school staff and governors understand the culture of inclusion.



Coproduction

- Create a strong leadership narrative around the value of coproduction.
- A simple "how to" guide for the sector supported by evidenced case studies.