

NGA's response to the government consultation on the SEND green paper

Background

This consultation took place from 29 March 2022 to 22 July 2022. It sought views on the proposed changes to the special educational needs and disabilities (SEND) and alternative provision system in England as set out in the [green paper](#).

NGA's response to the publication of the green paper

We welcome the publication of the green paper as will most governing boards who use their best endeavours to make sure that a child with SEND gets the support they need. The proposals have the potential to address the flaws in the current system and provide a route to more inclusive education. However, the devil will be in the detail and, most crucially the implementation.

Significant and sufficient funding is also needed implement the proposals. This requires recognition that the key challenges facing the SEND system do not simply relate to culture, but a persistent lack of funding from the government.

We call on the government to show urgency in implementing these proposals. It is regrettable that it has taken so long to publish the green paper when so many pupils and families experience delays and challenges in getting the support they need.

NGA's response to specific questions in the consultation

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 this applies across education, health and care in a 0-25 system. (Please refer to Chapter 2, paragraphs 4-6 for further details).

NGA agrees with the introduction of national standards to help ensure a consistent approach across the SEND system and help everyone involved to navigate it and improve outcomes. It also aligns with the expectation on those governing to use their best endeavours make sure that a child with SEND gets the support they need.

Two important factors must be considered in the development of the standards. Firstly, the extent to which they provide clarity for every partner on what good inclusive education means, whilst acknowledging the need for some flexibility to reflect available provision and differing levels of need. Whilst not an easy task, this is crucial to mobilising stakeholders and especially governing boards to create policy and a culture that aligns with the standards. Secondly, ensuring the standards include realistic, evidence-based recommendations on the level of resources needed to achieve them and foster a culture of collaboration at all levels. 47% of respondents to NGA's annual governance survey 2022, placed the cost of supporting SEND and high needs pupils within the top three challenges for their boards when setting a balanced budget. Feedback from our members suggests that lack of resources are a root cause of challenging relationships with parents, families and partners in the system. Those governing are unlikely to view the proposed standards as a panacea for system reform whilst a lack of resources remains their central issue.

We view the proposal to standardise the process of reviewing EHCP as a positive step, provided that local authorities receive the necessary support required to ensure compliance.

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? (Please refer to Chapter 2: paragraphs 6-12 for further details).

NGA welcomes the proposal for new local SEND partnerships. For these partnerships to work effectively, there needs to be a balance between the desire to achieve greater fairness and consistency of decision making across the country and allowing local discretion, which the green paper acknowledges is both required and necessary. Also, given that the partnerships will be convened by local authorities who hold responsibility for funding and co-ordination, it is important that they have adequate powers for holding partners, including multi-academy trusts, to account for their contributions to meeting the needs of children and young people with SEND.

What components of the EHCP should we consider reviewing or amending as we move to a standardised and digitised version? (Please refer to chapter 2 paragraphs 15-23 for further details).

The purpose the EHCP serves for a child or young person is the main priority. It is NGA's view that the component parts of the EHCP should remain.

We think that a standardised EHCP will help ensure consistency and better serve the needs of children and families, especially those who move between local authorities. However, standardisation should not be at the expense of accessibility, or restrict opportunities for families to contribute to an EHCP. Therefore, we would want to see careful consideration being given to how enhancements such as photos and videos can be introduced without the unintended consequence of creating a digital divide.

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? (Please refer to chapter 2: paragraphs 24-28 for further details). (free text box, up to 250 words).

For this to be achieved, local authorities require adequate resourcing and clarity on the available provision, both in their area and in neighbouring authorities. Clarity on the available provision in academies which are outside their control is also important. It is essential therefore that academies are required to collaborate with local authorities.

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

NGA agrees with the overall approach. However, we are concerned that the aim of resolving disputes earlier by introducing mandatory mediation, will be undermined if local authorities are not resourced to engage sufficiently. Also, that the introduction of the multi-agency panels might make the process overly bureaucratic and add stress to families.

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. (Please refer to chapter 2: paragraphs 33-34 for further details).

NGA recognises the important role played by the SEND tribunal in resolving disputes and putting children and young people's education on track. Our broad observation is that the mechanism serves its purpose.

However, we are concerned about the trend of increasing proportions of appeals relating to the contents of EHCPs, the impact it has on families and what it says about the whole system.

In our experience, local authorities, mainstream and special schools alike work incredibly hard to support the needs of all children. The overwhelming majority of governing boards strive to embed a highly inclusive culture, supporting every child to the best of their abilities and putting additional support in place where it is needed.

That this is at odds with the number of parents who feel their child's needs are not being met. It suggests that the challenge is not culture, but a persistent lack of funding from central government.

To what extent do you agree or disagree that we should introduce a new mandatory SENCo NPQ to replace the NASENCo? (please refer to chapter 3: paragraphs 21-24 for further details).

NGA agrees with the proposal to introduce a mandatory SENCo NPQ but further detail is needed on how it will be developed, introduced and embedded in the system.

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? paragraphs 21-24 for further details).

NGA strongly agree with strengthening the mandatory SENCo training requirement. Only 13% of boards responding to our annual governance survey in 2022 said their SENCo regularly attended governing board meetings to provide feedback and only 23% of nominated SEND governors/trustees said that they maintained regular contact with their SENCo. We view the introduction of the mandatory qualification as a lever for improving the routine governance oversight of SEND so that it is on a par with the oversight of safeguarding.

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. (please refer to chapter 3: paragraphs 39-40 for further details).

NGA agrees that specialist and mixed MATs should be allowed to co-exist and support a more inclusive system.

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? (please refer to chapter 3: paragraphs 44 – 51 for further details).

Careers education for young people with SEND should be both adequately resourced and tailored to meet their specific needs. Settings must be committed to working towards readying pupils for employment. Where appropriate, the option to study for academic qualifications should be available.

Employers should be supported and not deterred from employing young people with SEND. Financial and non-financial assistance from Government should be easily available with minimal bureaucracy - this is especially important for smaller employers.

We welcome the further investment in traineeships however, these must not be seen as an extension to education. Suitable and sustained employment must be a real possibility after completion.

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? (please refer to chapter 4: paragraphs 8 - 11 for further details).

NGA supports the vision for alternative provision and its broad intent. More detail is needed on how the proposals will be implemented. In particular, how families and other stakeholders will be involved in decision making in the 'best interests of the child or young person'.

With approximately 80% of young people in alternative provision (AP) identified as having SEND, it makes sense to bring alternative provision and SEND together and strengthen the offer of specialist expertise to mainstream schools. However, it will not result in improved outcomes unless there is sufficient long-term planning and funding to allow AP settings to meet the needs of children and young people as set out in local inclusion plans.

The proposed three-tier system has the potential to meet individual needs and ensure that as many children as possible stay in or return to mainstream education and full-time places in AP settings are allocated to those most in need.

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? (please refer to chapter 4: paragraphs 12 – 15 for further details).

NGA agrees with the proposals that are linked to early intervention and creating financial stability through multi-year budgets. However, as we have previously stated, the level of funding given to local authorities must be sufficient in the first place to allow AP settings to meet the needs of children and young people as set out in local inclusion plans.

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? (please refer to chapter 4: paragraphs 12 – 15 for further details)

NGA thinks that introducing a performance framework has the potential to improve the quality of alternative provision. However, we would like more information on how the framework will be developed and outcomes measured. Also, how it will apply context and acknowledge the unique aspects of individual settings.

The five outcomes proposed are relevant, but we think other factors should also be considered. Crucially, how the views of parents and carers will be accounted for.

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? (please refer to chapter 4: paragraphs 22 – 26 for further details).

NGA agrees that a statutory framework for pupil movements will improve oversight and transparency of placements into and out of alternative provision. We welcome the proposed review on how children and young people move around the school system, backstop powers for local authorities to direct trusts to admit children, strengthened protections for children and young people in unregistered alternative provision settings and the focus on unregistered provision.

What are the key metrics we should capture and use to measure local and national performance? (please refer to chapter 5: paragraph 14 – 20 for further details). Please explain why you have selected these.

NGA supports using the metrics referred to in chapter 5: paragraph 16 to measure local and national performance. However, we are concerned about an overreliance on data and/or data being used in isolation to judge how well any local SEND system is working.

How can we best develop a national framework for funding bands and tariffs to achieve our objectives and mitigate unintended consequences and risks? (please refer to chapter 5: paragraph 27- 32 for further details).

NGA does not have the level of insight required to respond in detail to this question. Whilst we recognise that a framework for funding bands and tariffs has to be flexible enough to adapt to local circumstances, we also recognise the risk of flexibilities being used to constrain support.

What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success? (please refer to chapter 6: paragraphs 8 – 14 for further details).

Those governing in our schools and trusts consistently point towards a lack of resources and underfunding as the barriers to building an inclusive system that prevents needs from escalating and provides similar services irrespective of which school a child attends or what postcode they live in. Therefore, these proposals must be fully costed and funded if they are to be implemented successfully. The costing exercise should consider current levels of need and the fact that demand for SEND support will continue to rise over the several years it will take to fully implement the proposals.

What support do local systems and delivery partners need to successfully transition and deliver the new national system? (please refer to chapter 6: paragraphs 8 – 14 for further details).

Detailed plans, which set out more clearly the route to funding and implementing a new national system. Above all, adequate funding and resources.

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