

SEN POLICY RESEARCH
FORUM: POLICY PAPER

An early review of the
new SEN / disability
policy and legislation:
where are we now?

2016

An early review of the new SEN / disability policy and legislation

Section 1: Summary of SEN policy paper

This policy paper is based on a whole day policy seminar about an early review of the new SEN / disability policy and legislation which was organised by the SEN Policy Research Forum in June 2016.

Impact of the legislation on parental assurance by Brian Lamb (Consultant/Derby University): he concluded that the reforms are in the context of a squeeze on LA and Health budgets. However, limits to the ability to deliver a reasonable level of provision could undermine some clear gains from the reforms. Early evidence suggests that while there is more to do to achieve a decisive shift in culture, parent carer forums at the level of strategic planning are affecting planning positively through the Local Offer for the Schools Information Report. For new recipients, the EHC Plan process is working for a majority of families in improving confidence and co-production. However, evidence from wider parent carer surveys and the recent acceleration in tribunal cases indicates some doubts about how far the system has secured the confidence of a significant number of families.

Impact of the legislation on school practices and SENCO role by Kate Browning (SENCo trainer): she concluded that the reforms for most part have had a positive impact on the SENCO role and school practices, particularly when school leadership embraces the reform principles, such as collaboration with parents and carers of children and young people with SEN and recognising the importance of the SENCo role. However, the SEND reforms depend on shifting educational policy and practice that are not aligned with improving SEND outcomes. Individual schools, multi academy trusts and local areas take different approaches to the implementation of the reforms which calls for more detailed research.

Impact of legislation from national perspective by Andre Imich (SEN and Disability Professional Adviser, DFE): he concluded that implementation was moving forward positively; the varied evidence indicated that the vision for the new system was starting to be embedded. The examples of success need to be celebrated, but there remain significant roads to travel as the process involves an evolutionary process of change. The volume of transfers, the capacity of local authorities, the full realisation of joint-agency working continue to challenge the system. Nevertheless, those involved in the SEN system believe in the new ways of working, co-production with families and in embracing collectively the opportunity afforded to achieve improved outcomes and life chances.

Impact of the legislation on local authorities by Chris Harrison (SEND consultant): he concluded that reforms had sparked welcome changes by shifting ways of working through engagement with families. Though the reforms are 'the right thing to do', their implementation has proved a challenge with uneven change across LAs. The reforms came at a time of austerity led to financial constraints, restructuring and the refocusing of LA attention away from schools. He suggests some simple ways to prevent LAs slipping into a negative cycle.

The summary of the group discussions reinforces some of these conclusions and contributes further examination of the issues in more depth.

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Section 2: Introduction

This whole day policy seminar on ***An early review of the new SEN / disability policy and legislation: where are we now?*** Took place on 30 June 10.30 for 11-4.30/5pm, St Alban's Centre, London.

Forty-five members of the SEN Policy Research Forum attended the seminar. The seminar was organised into a morning and afternoon set of presentations each followed by small group discussions amongst participants. The morning presentations were by Brian Lamb (Consultant) on the impact of the legislation on parental assurance and Kate Browning (SENCo trainer University of Northampton) on the impact of the legislation on school practices and SENCO role. The afternoon sessions were given by Andre Imich (SEN and Disability Professional Adviser, DFE) on the impact of legislation from national perspective and by Chris Harrison (Independent SEND consultant: formerly head of SEND and inclusion for Nottinghamshire County Council) on the impact of the legislation on local authorities. This policy paper includes papers based on these four presentations and summaries of participants' conclusions from the small group discussions.

SEN Policy Research Forum

The SEN Policy Research Forum, which organised this seminar, incorporates the aims and work of the previous SEN Policy Options group in a new format and with some expanded aims. The Forum's website is at:

<http://blogs.exeter.ac.uk/sen-policyforum/>

The aim of the Forum is to contribute intelligent analysis, knowledge and experience to promote the development of policy and practice for children and young people with special educational needs and disabilities. The Forum will be concerned with children and young people with special educational needs and disabilities from preschool to post 16. It will cover the whole of the UK and aim to:

1. provide timely policy review and critique,
2. promote intelligent policy debate,
3. help set longer term agendas – acting like a think-tank,
4. deliberate over and examine policy options in the field.
5. inform research and development work in the field.
6. contribute to development of more informed media coverage of SEND policy issues.

The uncertainties over what counts as 'special educational needs' and 'disabilities' in relation to a wider concept of 'additional needs' are recognised. These will be among the many issues examined through the Forum.

The Forum, which continues the work of the SEN Policy Options group has been continuing this work for over 20 years. It started as an ESRC seminar series with some initial funding from the Cadbury Trust. The Forum appreciates the generous funding from nasen and the Pears Foundation to enable it to function, though it operates independently of these organisations.

Lead group and coordination of the Forum:

Dr Peter Gray - Policy Consultant (co-coordinator)
Professor Brahm Norwich - University of Exeter (co-coordinator)
Yoland Burgess, Young People's Education and Skills, London Councils
Professor Julie Dockrell - Institute of Education, University of London
Niki Elliott - Sheffield Hallam University / Special Education Consortium
Brian Lamb –Policy Consultant/Derby University
Professor Geoff Lindsay - University of Warwick
Debbie Orton, Hertfordshire local authority
Nick Peacey, First Director , SENJIT. Institute of Education
Professor Liz Pellicano, Institute of Education
Linda Redford - Policy Consultant
Penny Richardson - Policy Consultant
Chris Robertson, University of Birmingham
Professor Klaus Wedell - Institute of Education, University of London

Membership:

If you would like to join the Forum, go to the website and follow link to registering as a member. You will be invited to future seminars and be able to participate in discussion through the Jiscmail system. SEE SENPRF website for joining instructions. <http://blogs.exeter.ac.uk/sen-policyforum/>

For further information please contact the co-coordinators of the Forum, Brahm Norwich, Graduate School of Education, University of Exeter, Heavitree Road, Exeter EX1 2LU (b.norwich@exeter.ac.uk) or Peter Gray (pgray@sscyp) .

Past Policy Options Papers (see website for downloadable copies)

1. Bucking the market: Peter Housden, Chief Education Officer, Nottinghamshire LEA
2. Towards effective schools for all: Mel Ainscow, Cambridge University Institute of Education
3. Teacher education for special educational needs: Professor Peter Mittler, Manchester University
4. Resourcing for SEN: Jennifer Evans and Ingrid Lunt, Institute of Education, London University
5. Special schools and their alternatives: Max Hunt, Director of Education, Stockport LEA
6. Meeting SEN: options for partnership between health, education and social services: Tony Dessent, Senior Assistant Director, Nottinghamshire LEA
7. SEN in the 1990s: users' perspectives: Micheline Mason, Robina Mallet, Colin Low and Philippa Russell
8. Independence and dependence? Responsibilities for SEN in the Unitary and County Authorities: Roy Atkinson, Michael Peters, Derek Jones, Simon Gardner and Phillipa Russell
9. Inclusion or exclusion: Educational Policy and Practice for Children and Young People with Emotional and Behavioural Difficulties: John Bangs, Peter Gray and Greg Richardson
9. Baseline Assessment and SEN: Geoff Lindsay, Max Hunt, Sheila Wolfendale, Peter Tymms
10. Future policy for SEN: Response to the Green Paper: Brahm Norwich, Ann

Lewis, John Moore, Harry Daniels

11. Rethinking support for more inclusive education: Peter Gray, Clive Danks, Rik Boxer, Barbara Burke, Geoff Frank, Ruth Newbury and Joan Baxter

12. Developments in additional resource allocation to promote greater inclusion: John Moore, Cor Meijer, Klaus Wedell, Paul Croll and Diane Moses.

13. Early years and SEN: Professor Sheila Wolfendale and Philippa Russell

14. Specialist Teaching for SEN and inclusion: Annie Grant, Ann Lewis and Brahm Norwich

15. The equity dilemma: allocating resources for special educational needs: Richard Humphries, Sonia Sharpe, David Ruebain, Philippa Russell and Mike Ellis

16. Standards and effectiveness in special educational needs: questioning conceptual orthodoxy: Richard Byers, Seamus Hegarty and Carol Fitz Gibbon

17. Disability, disadvantage, inclusion and social inclusion: Professor Alan Dyson and Sandra Morrison

18. Rethinking the 14-19 curriculum: SEN perspectives and implications: Dr Lesley Dee, Christopher Robertson, Professor Geoff Lindsay, Ann Gross, and Keith Bovair

19. Examining key issues underlying the Audit Commission Reports on SEN: Chris Beek, Penny Richardson and Peter Gray

20. Future schooling that includes children with SEN / disability: Klaus Wedell, Ingrid Lunt and Brahm Norwich

VI. Policy Options Papers from sixth seminar series

21. Taking Stock: integrated Children's Services, Improvement and Inclusion: Margaret Doran, Tony Dessent and Professor Chris Husbands

22. Special schools in the new era: how do we go beyond generalities? Chris Wells, Philippa Russell, Peter Gray and Brahm Norwich

23. Individual budgets and direct payments: issues, challenges and future implications for the strategic management of SEN

Christine Lenehan, Glenys Jones Elaine Hack and Sheila Riddell

24. Personalisation and SEN

Judy Sebba, Armando DiFinizio, Alison Peacock and Martin Johnson.

25. Choice-equity dilemma in special educational provision

John Clarke, Ann Lewis, Peter Gray

26. SEN Green Paper 2011: progress and prospects

Brian Lamb, Kate Frood and Debbie Orton

27. A school for the future - 2025: Practical Futures Thinking

Alison Black

28. The Coalition Government's policy on SEND: aspirations and challenges? P. Gray, B. Norwich, P Stobbs and S Hodgson.

29. How will accountability work in the new SEND legislative system?

Parents from Camden local authority, Penny Richardson, Jean Gross and Brian Lamb

30. Research in special needs and inclusive education: the interface with policy and practice, Brahm Norwich, Peter Blatchford, Rob Webster, Simon Ellis, Janet Tod, Geoff Lindsay and Julie Dockrell.

31. Professional training in the changing context of special educational needs disability policy and practice. Neil Smith, Dr Hazel Lawson, Dr Glenys Jones.

32. Governance in a changing education system: ensuring equity and entitlement for disabled children and young people and those with special educational needs. Peter Gray, Niki Elliot and Brahm Norwich.

33. School commissioning for send: new models, limits and possibilities, Tom Jefford, Debbie Orton and Kate Fallon.

Copies of most of these papers can now be downloaded from the website of the SEN Policy Research Forum <http://blogs.exeter.ac.uk/sen-policyforum/>

Section 3:

The SEND Reforms and Parental Confidence: are the reforms achieving greater parental confidence in the SEND system?

Brian Lamb

Introduction

A major strategic aim of the Special Educational Needs and Disability (SEND) reforms, embodied in the Children and Families Act (2014), was to enhance parental confidence in the special educational needs system. This in part followed from the Lamb Inquiry (2009) which had found that “In the most successful schools the effective engagement of parents has had a profound impact on children’s progress and the confidence between the school and parent. Parents need to be listened to more and brought into a partnership with statutory bodies in a more meaningful way.” (Lamb 2009).

The emphasis on greater parental engagement was based on evidence that the greater the level of parental engagement, especially at the level of good home school working, the more likely children are to achieve better progression, attainment and outcomes (Deforges et al., 2003; Goodall & Vorhaus 2011; Humphrey & Gary 2011). It also reflected growing evidence that greater parental involvement leads to more appropriate services and effective use of resources in areas such as short breaks (Grieg et al., 2010) and other statutory services. Further that transparency and joint working can improve parental confidence and the working relationships between parents and schools, and parents and the LA (Penfold et al., 2009; Lamb 2009).

Two years on from implementation of the legislation is a good point to take stock of how well the reforms are achieving greater parental confidence. There has been a long gestation period between the original Department for Education (DfE) proposals outlined in ‘Support and Aspiration’ (2011) and the formal implementation of the Children and Families Act in 2014, with the Pathfinders programme piloting aspects of the reforms. The system has been moving towards the new ways of working for a considerable time and it is reasonable to expect to see the legislation beginning to have an impact. While there is limited academic research available considerable operational and survey data has been produced, not least from the DfE, on which we can start to form an assessment of progress.

The Structure of the Legislation

Measures to secure parental engagement are woven into the structure of the legislation at a number of levels. From the overall duty in Section 19 of the 2014 Act to take account of parental wishes and ensure better outcomes to specific mechanisms such as the Local Offer, Schools Information Report and the greater weight given to parents and young people’s views in the new Education, Health and Social Care Plan (EHCP). The table below outlines the different levels at which involvement is intended to impact on the system, the key sections of the legislation and the types of engagement envisaged.

Level of Parental Engagement	Legislative and Statutory Requirements/Good Practice Requirements	Types of Engagement
Strategic LA-Local Offer, Health and Commissioning requirements,	<p>Duty to consult on the shape and content of the Local Offer.</p> <p>Duty to keep Local Offer under review and report on comments about the Offer.</p> <p>Duty to consult on the joint commissioning of services.</p> <p>Duty to consult on changes to SEND services.</p> <p>General duty to consult with parents in the delivery of services and produce better outcomes. (Sections 19, 23, 25, 28,29, 30, and 31 of the Children and Families Act 2014; The Care Act 2014; Health and Social Care Act 2012; Chapters 3 and 4 Code of Practice)</p>	<p>Health and Wellbeing boards.</p> <p>Consultation on the JSNA.</p> <p>Parent Carer Forums contribution to strategic and local planning, consultation with impairment specific groups.</p> <p>Individual comments from parents and carers on services and provision.</p> <p>Formal and informal feedback on the Local Offer.</p> <p>Specific service consultations and engagement on strategic working groups and boards.</p>
Education and Service Settings	<p>Consultation on the development and content of the Schools Information Report.</p> <p>Ofsted schools level inspection / Ofsted / CQC area reviews.</p> <p>Requirement to feedback once a year, good practice to meet once a term as part of the graduated response. (Sections 29, 35,66,67,68,69, of the Children and Families Act 2014. Chapter 6 Code of Practice, Equality Act 2010, OFTSED Schools and OFSTED and CQC area reviews.)</p>	<p>SEND Governors, parent meetings, individual meetings at school and other provision as part of SEN support process, contributing to the SEND Information Report, Ofsted/CQC area reviews.</p>
Assessment process and parental relationships with services	<p>Duty to consult with parents/carers in the production of an EHC Plan.</p> <p>Duty to discuss and potentially offer personal budgets. (Sections 36 – 50 of the Children and Families Act 2014; Chapter 9 Code of Practice (2015a))</p>	<p>Formal assessments for EHC plans, ongoing meetings and reviews with parents, personal budgets, care assessments, other health assessments.</p>
Redress	<p>Right to have a mediation process.</p> <p>Dispute resolution process.</p> <p>Right to appeal to a tribunal.</p> <p>Right to auxiliary aids and planning duties. (Sections 51 – 57 The Children and Families Act 2014. Introduction to Code of Practice and Chapter 11 Code of Practice (2015a). Equality Act 2010 and amendments.)</p>	<p>Mediation and Dispute resolution</p> <p>Individual assessment and adjustments, involvement and consultation in planning.</p> <p>Appeal to the Tribunal.</p>

The right to appeal to the Tribunal was maintained and enhanced Mediation requirements were put in place and intended to create confidence that disputes could be resolved without recourse to the Tribunal. While the Equality Act measures

pre date the SEND reforms, the extension of the requirement for schools to provide auxiliary aids was enacted in 2012 following a recommendation from the Lamb Inquiry (2009). There was also a clear attempt to bring the SEN and disability rights frameworks together in Chapter 1 of the Code of Practice.

It has been questioned how enforceable the consultation and planning duties are for parents, especially around areas such as joint commissioning and the Local Offer. However the early judgement against Warwickshire's Local Offer showed that the adequacy of the Offer could be legally challenged and improvement required if necessary (L&P,R 2015). Nevertheless, much of the change being sought in the system is cultural (Lamb 2013). The legislation is trying to frame expectations and change behaviour and expectations not regulate all aspects of the system. Many of the engagement mechanisms are more likely to succeed to the extent that they are embraced by those working for statutory authorities and because parent's heightened expectations about being engaged in decisions about their families have become the norm.

How are these different levels of involvement and coproduction being implemented and how far are they enhancing parental confidence?

Strategic Engagement The Local Offer

"[The Local Offer's] success depends as much upon full engagement with children, young people and their parents as on the information it contains. The process of developing the Local Offer will help local authorities and their health partners to improve provision" (DfE 2015a, p.60).

The most obvious strategic planning tool introduced by the legislation is the duty to consult in the production of the Local Offer and to keep this offer under review. The Local Offer is intended not only to be a repository for information about what is provided within a local authority (LA), but crucially the means of developing an understanding of local needs and how to address them which is built in consultation with parents and other stakeholders. Importantly the code of practice was clear that authorities had a duty to develop the local offer "in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co-ownership. This is often referred to as 'co-production'." (DfE 2015a sec 4.9)

Early work in the DfE funded Local Authority pathfinder areas in respect of the Local Offer produced poor results and the DfE final evaluation concluded that "only a minority of parents had heard of the Local Offer; only 12% of Pathfinder families had looked at it; and only half of those who had looked at it found it useful" (DfE 2015b p63). Further that "planning processes could have been significantly improved through better information on local provision was commonly expressed." However, the research was more focused on the Local Offers usefulness to individual parents than its relevance in the strategic planning of services and it was also early in the implementation process.

Evidence since implementation in respect of strategic engagement with the National Parent Carer Forums, which LA's have a statutory duty to consult with, has been

more positive suggesting that the process is beginning to have some traction at the strategic level. The series of Parent Carer/DfE surveys provides useful snapshots on some key issues. The 8th survey (Parent Carer Forum/DfE 2016b) of parent carer forums shows that 60% of forums feel that parents are largely or fully engaged in strategic planning with their local authority. This is a slight drop from 62% in the 7th survey and from the previous survey where it stood at 64%. This might suggest a slight stalling in what had been an upward trend in growing confidence since implementation of the reforms. This might be explained by expectations about the depth of consultation required is increasing and therefore satisfaction is reducing. (Parent Carer Forum/DfE 2016b)

The 7th Survey had found, specifically in relation to the Local Offer, that 86 forums (out of 107) reported that they had been involved in the further development of their local area's offer, 84 forums said that their Local Offer has a feedback page, and 43 areas have held focus groups with parent carers (Parent Carers Forum/DfE 2016a). Some of the most common means of engagement have been consultations with parent carer forums (86), online feedback forms on the Local Offer (84) and specific consultation forums with parents (43). Focus groups with children and young people have been much lower with only 26 forms providing evidence of this. Only 5% of forums report that their local authority has fully implemented processes to evaluate their use of feedback, data and intelligence for improving delivering and measuring progress and success while 40% have done this to a limited extent. (Parent Carers Forum/DfE 2016a). In respect of early years provision 67% of forums believe that their Local Offer gives clear information about what Early Years providers are expected to make available through SEN support, a 19% increase on survey 7 (Parent Carers Forum/DfE 2016b). This suggests that the Local Offer is providing a conduit to strategic engagement with formal parent carer groups but that more needs to be done in evaluating the information gathered and how it is used in strategic decision making.

Local Authority perceptions of how well they are engaging, gathered through the DfE survey, have remained consistently more positive than the parents' evaluations, with 83% saying that parents were fully or largely engaged in strategic planning and co-production of SEND services a drop of 1% from the previous survey and that 87% of parents were fully or largely engaged with making decisions about their own SEND provision which is a rise from the previous survey of 4% (DfE 2017a, DfE 2016b). Further, ensuring that the Local Offer has information about what is expected in relation to SEN support had a positive response from 85% of LAs surveyed and 75% of local authorities said that their parent carer forum was working in partnership with their local CCGs/Children's joint commissioner. The perception of parent carer forums was not as positive with only 54% of forums reporting they are working in partnership with their CCG and Children's Joint Commissioner. (DfE 2017a, Parent Carer Forum/DfE 2016b)

In relation to non-educational support, 48% confirmed that families have been consulted on plans around short breaks provision. (DfE2016a) In respect of joint commissioning the code of practice requires that "Joint Commissioning is an ongoing improvement cycle...Partners should agree how they will work together to monitor how outcomes in education, health and care are being improved as a result of the provision they make." (DfE 2015a) 43% of forums say that their local authority is

meeting their joint commissioning expectations with education fully or to some extent; 60% feel that they are meeting their expectation with health, whilst 58% believe that their local authority is meeting its expectations with social care fully, or to some extent. (Parent Carer Forum/DfE 2016b) Further 23% of LAs stated that they did not work together or worked together to a limited extent with education partners to monitor outcomes at all, with 42% stating the same for health partners, and 39% for social partners (DfE 2017a). While 82% of LAs believed that joint commissioning between health partners was working fully or to some extent. (DfE 2017a). This shows a very mixed perception of where the various agencies are working well with each other and parent forums. Joint commissioning with education, health and social care clearly has significant gaps in respect of parental involvement though the figures do show relatively high levels of engagement on the Local Offer. Further there is clearly a significant gap in work on monitoring the outcomes of the system.

The difference between LA perceptions and parents may represent over optimism on behalf of LA's or a desire not to report to the DfE anything less than success. However, it may also reflect the genuinely different perceptions about what is required as good co-production and progress made. Nevertheless, if parents are not feeling fully engaged, even if they are being involved, this is a problem that needs addressing. How this is achieved may be part of the evolving understanding as the culture of the system changes and parents and professionals explore the boundaries of what co production means in the new context.

The first seven area reviews completed and published by Ofsted and CQC, which are designed to look at how well the overall framework is being implemented in a local area, also paint a relatively positive picture of parental engagement. The review teams review not just local authority evidence, but also parental views gathered from the parent carer forums and also wider contact through social media and webinars. Analysing the first seven reports (Ofsted 2016) against a grid of how well the inspectors felt the Authority had engaged parents at an individual level, strategic level and in providing information there was an overall positive picture.

Five authorities had broadly positive comments on the individual engagement, five on strategic engagement and the same on information though not always the same authorities. This was typical of positive comments on co-production;

“The parents’ forum is involved at a strategic level in implementing the reforms. This group seeks the opinions of a wide range of parents and uses this valuable information to help to improve the provision in the local area.”

“Co-production, where services and families work together to review and plan provision, is well embedded. Children and young people and their parents attend local area planning meetings..... They (local advocacy and support groups) have strongly influenced the local area to improve services for families..... Co-production between services, schools at all stages and parents is very strong.”

“Inspectors found that parents and frontline professionals are committed strongly to the co-production (a way of working where children and young

people, families and those that provide the services work together to create a decision or a service that works for them all) of provision for children and young people who have special educational needs”

The more critical comments from the reviews focused on the process of parents and young people’s engagement;

“The local area partners have not done enough to ensure that providers, parents, carers and young people are aware of the role they could play in helping to shape the local offer and the mechanisms to do so.”

“The local area’s self-evaluation does not take into account enough information gathered from parents, children and young people.”
Also the outcomes from such engagement;

“Over the past year, parents have been well represented at meetings with senior leaders about improving services. However, despite awareness of parents’ views, the local area is not using these views sufficiently to inform improvement work.”

Many parents were simply not aware of the local offer and therefore any assurance or guidance around what services might be available was simply not happening in a wide enough way;

“The local offer is only used by a small proportion of parents and young people.”

As the area reviews continue they will build up an extremely valuable pool of evidence of how individual authorities are responding to the reforms at a particular moment in time. However the lack of consistent reporting format for the inspections will continue to make it difficult to draw overall conclusions across a number of authorities and compare specific aspects of practice.

Surveys of parents and carers conducted by voluntary organisations and parent organisations tend to give a much more pessimistic view of the success of the new system. An early review by the Driver Trust (2015) found that “many parents are unaware that they (Local Offers) even exist”. Another survey by SEND Direct (2016) of over 300 families found that only 27% of families said that they were asked to give feedback on their Local Offer. Further a recent survey by the National Autistic Society of over 1,000 parents found that while 52% of parents said they had looked at the local offer in their area, 42 % had not. They also concluded that only 28 per cent of parents said they had been able to access services for their child as a result of the Local Offer, while 72 per cent had not. In relation to those services they found that;

- 74% of parents have not found it easy to get the educational support their child needs
- 69% of parents said that their child had waited more than a year for support after concerns were first raised – and 16 per cent had waited more than three years

- While 50% of parents say they are satisfied with their child's SEND provision, just 33% are satisfied with health care and 30% with social care (Moore 2016).

These reports suggest a mismatch between perceived needs and strategic response once analysis goes beyond the formally constituted parents' groups and includes particular SEND groups and organisations. It may be that they are picking up disproportionately on those parents who are still dissatisfied with the new system but nevertheless it does not mean that such concerns can be dismissed.

It is obviously difficult to gauge how broadly strategic engagement is reaching beyond parent carer forums and how much impact it is having on improving outcomes given the mixed evidence so far. Nevertheless, looking at parent carer forums as the formal conduit for parent's engagement, it is clear that just under two thirds of those surveyed are now fully engaged or partly engaged in strategic planning generally or in developing the Local Offer and that this is leading to significant changes in LA practice in some areas. There clearly remains an ongoing issue of how well the information from the better engagement with parents is being used to inform strategic decision making. Is failure to use this information simply a time lag or are there more fundamental issues in working towards a consensus between statutory authorities and parent groups and if so is there further investment of time in working through conflict? There is also the challenge to ensure that consultation goes wider than the formal engagement structures and moves from towards co-production as envisaged in the legislation and code of practice.

Fears about how far consultation duties around joint commissioning would be implemented are justified so far. This may reflect as much that joint commissioning appears still to be in the very early stages of development, but at the moment this area lags behind the implementation of other aspects of the reforms. This may be due to the complexity of joining together different commissioning arrangements, budgetary constraints and cultures of operating. However, it needs a much more strategic focus, especially from Health and Wellbeing boards, if the culture is going to change.

Schools Information Report and the Local Offer

The Schools Information Report is a key tool for parents to know what is available at school level and potentially to influence the development of schools' policy. The support of specialists such as SENCO's is also crucial for parent's perceptions of the level of support available and confidence. Most local authorities monitor if schools have a completed Information Report on their website and many LA's provided templates or guidance for schools on how to develop the report. It is less clear what level of challenge is given where the quality of reports is lacking or that parents are aware of the existence of the reports. More generally there has been much less focus on the needs and functioning of the system for pupils in the SEND Support category in implementation so far.

The Parent Carers Forum survey (2016b) found that over half (68 n123) of forums are aware that their local authority monitors the availability and quality of School Information Reports. However a higher proportion of LAs (79%) said they are ensuring the availability and quality of School Information reports (DfE 2017a). It is

surprising level of scrutiny is not higher given schools have now had three years to implement the reports which is a statutory document required by Ofsted and it is one of the main tools which LA's have to provoke a conversation with schools about the level and quality of provision. When asked about developing and maintaining effective SEN support systems in Schools, forums in 101 out of 123 areas (83%, and static from the last survey) reported that their local authority leads or facilitates regular SENCO forum meetings for LA maintained Schools (Parent Carer Forum/DfE 2016b).

The legislation requires the LA to set out what special educational provision and special training provision it expects schools and early years and post-16 providers to make available in the Local Offer (DfE 2015a). 61% of parent carer forums thought that the Local Offer did have information about what the LA expected schools to make available through SEN Support suggesting that the link between schools' provision and the Offer was being made in many areas.

However when the Council for Disabled Children (2016) surveyed 20 Local Authority websites to see what had been put on the sites and found that much of the material and expectations predated the current legislation. They found that while some Local Authorities had specific assessments of what they expected to be ordinarily available, which of course links with the Schools Information Report, these were in the minority. They recommend that LAs review their published information with parents, schools, early year's providers and colleges to ensure that there is an area-wide shared statement that meets the requirements. Importantly a number of authorities have taken this approach, with Barnet (2016) and Portsmouth (2016) having an ordinarily available document on their website which specifies what can be expected from schools.

With the development of the Governments academy proposals and the development of multi academy trusts (MAT's) (DfE 2016c), it will also be important to ensure that the focus on SEND and parental engagement is not lost. Currently there is no similar requirement to the Schools Information Report in the planning requirements on MAT's and it would be relatively easy for the Government to introduce a similar level obligation to produce a SEN strategy and report at the level of the MAT and involve parents in that report. Without such a measure there is a danger of accountability being lost in the new education arrangements.

Individual Engagement

EHC Plans

The evaluation of the SEND Pathfinder Programme (DfE 2015b) found that families reported overall higher levels of satisfaction with the pilot EHC process than the previous statementing process. However, there remained a significant percentage who were not satisfied citing issues with information, how joined up the process was, joint commissioning and the outcomes of the process. The Driver Trust (2015) also produced an early evaluation which noted that parents liked the new EHCP process but that the system was in transition and still characterized by conflict and a lack of a coordinated response.

Authorities have now had longer to plan for and implement the new EHCP though this has been done against the background of also having to transfer all the existing statemented children and young people into the new system by 2018. This has caused significant stress in many authorities and the Government has already adjusted the timescales for completion of the transfers. Only 59.2% of new plans were produced within the 20 week deadline required by the legislation, excluding exception cases (DfE 2016b). This was a reduction on the previous year where 64.3% were issued within the time limit. DfE statistics are presented using a different methodology at this stage, but just 5.5% of those with a Learning Difficulty Assessment (LDA) were transferred to the new plans. This suggests there is a major issue on timing and provision EHCP's post 16.

The failure of a significant number of LA's to meet the timescales for the new EHCP process suggests they are still struggling with the new system's additional demands, but it is also worth noting that the completion rate for statements reduced significantly before the new system was implemented. Only 79% of statements were completed within the 26 week period required under the old system with a less complex set of requirements for a statement than an EHCP (DfE 2016b). 53% of LAs stated that capacity of the LA SEND team was a barrier, with 50% of LAs stating that timeliness of health care professionals was another barrier to completing EHCPs on time (DfE2017a).

One of the main blockages in completing the new transfers has been the absence of up to date information to complete assessments and continuing difficulty in implementing joint assessments (OFTSED/CQC 2016, Parent Carers Survey 2016 a, b). It is, perhaps, therefore not surprising that even with the additional resources LA's have been given that the figures are low and part of the delay is the new system flushing out bad practice in the old statementing arrangements. Further therefore that confidence levels in EHCPs being completed by the 2018 deadline is low amongst parents groups. When asked about how confident they are that their local authority will have completed the transfer of statements and issued final EHC Plans by April 2018, 18% are very confident that this will occur; 32% are moderately confident rising from 25% confidence in survey 7; and 35% are not at all confident. More encouragingly parent carer forums said that 66% of LAs now publish guidelines about the threshold for an EHC needs assessment and 73% of forums said that their local authority had published guidelines about the threshold for an Early Years ECH assessment, which represents an increase of 35% since the June survey (Parent Carer Forum/DfE 2016b). These figures suggest that transparency about criteria is improving. However failure to meet the timescales for competing EHCP's has a significant impact on parental confidence. For even where the assessment process has been done in a more co-produced way, if there are significant delays in accessing services, this will undermine the confidence created by the new more personalised approach.

The parent carer survey does suggest growing confidence of parents at the individual level, with 49% of parents feeling largely or fully involved in decision making around their child or young person's provision which is unchanged from the 7th survey but is up from the 6th survey where it was at 40%. 21% of children (down 1% from the last survey) and 27% of young people (up from 23% in the last survey) are either fully or largely involved (Parent Carer Forum/DfE 2016b). However given

confidence levels for parents are static and only hovering around 50% there is clearly more to be done and a considerably larger gap for children to be bridged.

There is also a major problem in assessing the success of the new process as the experience of those coming into the system for the first time may be markedly different to those who are part of transfer process and much of the anecdotal feedback from parents' groups suggests this is the case as does some of the published research (Adams et al., 2017)

A substantial report from DfE funded research (Adams et al., 2017) based on 13,643 parents, carers and young people with plans in 2015, found overall satisfaction with the EHC process. In respect of the process itself they found that;

- Around two-thirds of parents and young people expressed satisfaction with the overall process of getting an EHC plan (66% said they were satisfied);
- Just under two-thirds agreed that the help/support described in the EHC plan will achieve the agreed outcomes for the child/young person (62% agreed);
- Two-fifths felt the process was a positive experience for the child/young person and one in ten felt it was negative;
- Three quarters (75%) of parents and young people reported that the process was family-centred, in that their family's personal needs and circumstances were taken into account at least some of the time;
- The majority of parents (80%) agreed that their own wishes and opinions were included in the EHC plan.

Importantly satisfaction rates were generally higher when a Statement had been in place before the EHCP was undertaken. For example agreement that both the parents' and the child/young person's wishes and opinions had been included was more prevalent where a SEN Statement had been in place previously.

However it is also important to note that on most measures the answers for children's and young people's engagement and satisfaction, while still positive, were lower. For example that the wishes and opinions of the child or young person had been included just over half of children and young people (55%) agreed.

Families were also asked how much they agreed or disagreed with statements about what difference their EHC plan had already made:

- Nearly three-quarters (73%) agreed that the EHC plan has resulted in the child/young person getting the help/support they need;
- Two-thirds (67%) agreed it has improved the child/young person's experience of education;
- Three-fifths of those whose EHC plan addressed health needs (62%) agreed it has improved the child/young person's health or wellbeing.

Again agreement regarding these future impacts was higher where there was a SEN Statement previously in place. Reactions were also more positive where the 20 weeks deadline was met, where health and social care needs were also addressed, the older the child or young person was and where good information was provided.

This research suggests that EHCP's are achieving the objective of improving on previous statementing regime for a majority of parents even though there are also significant groups of parents who are less positive especially where they are new entrants to the system.

Fewer than one in five (18%) recalled being offered a Personal Budget. Among those offered a Personal Budget, take-up was relatively low at just 28% suggesting that this area of extending choice and control is not yet integrated into the offer from statutory authorities (Adams et al., 2017). This is also confirmed in the DfE figures nationally with only 140 education related personal budgets having been issued out of the 2205 provided (DfE 2016b).

Skipp and Harword (2016) researched 77 parents and 15 young people's experiences of the EHCP assessment process across 4 local authorities of varying size and characteristics. They found that across a number of measures at different stages of the process from referral and assessment to action planning at the end of the process, that parents overall were satisfied with the new EHCP process. The authors did suggest a number of improvements including enhanced consultation with parents and carers groups and better use of the data gathered from such exercises.

The OFSTED/CQC area inspections were also very positive about a number of LA's practice and this comment was typical where good practice was found:

“They work very effectively with parents to co-produce new EHCPs.... The co-production of new EHCPs is very effective. Parents report that their views are taken seriously and that they contribute fully.”

However, a number of reviews pointed towards EHCP's not working as intended especially in respect of a coordinated approach:

“EHC plans have a disproportionate emphasis on education. Health and social care contributions are not yet consistently reflected in many EHC plans.” (OFSTED/CQC 2016)

The review letters also consistently raised the issue of a lack of coordination or use of health and social care information in EHCP's even when the overall comments on the production of the plans and co-production was positive.

Mediation and Tribunals

An explicit aim of the reforms was to take some of the conflict out of the system through greater transparency over decision making strategically but also at the level of individual decision making. Therefore, recourse to the legal system over individual decisions around EHCP's can be seen, in part, as a barometer of how well the new system is working.

Dispute resolution services are not a new element of the system, though the requirement for formal Mediation to be offered before proceeding to Tribunal is. The operation of dispute resolution services was examined by Tennant et al., (2008) and were adopted as part of Scottish SEN legislation before the reforms in the UK. There

is evidence that they have been extensively used before the reforms by LA's with varying degrees of success (Harris et al., 2009; Riddell et al., 2009, 2010). The formal separation of dispute resolution and mediation in the current legislation makes comparing current rates of mediation and its impact on parental confidence with the previous situation difficult.

Just looking at the current figures there were 1,400 mediation cases held in 2015, of which 24.9% went on to an appeal to the tribunal during 2015. This might suggest that mediation was at least in part responsible for three quarters of those cases not proceeding. While there was a drop in Tribunal cases following implementation we are now beginning to see a rise with the number of appeals registered in the latest quarter (April-June 2016); this was 1,146, an increase of 29% compared to the same period 12 months earlier, when there were 890 recorded between April-June 2015 (DfE 2016b; MOJ 2016).

However, the rise in numbers going to Tribunal has not yet reached the record of over 4,000 cases in 2014-15. It is nevertheless the sharpest increase on record from a lull in the previous year which probably reflected the slow start in issuing new EHCP's and only 18 per cent of statements having transferred to EHCP's a third of the way through the process. Therefore, if the number of Tribunal cases was seen as a proxy for levels of satisfaction in the system, there would have to be some caution about the level of confidence in the new EHCP process for a number of parents.

Research commissioned by the DfE into how mediation was working found that mediation was associated with a significant 14 percentage point reduction in the likelihood of disagreements escalating to an appeal to the First-tier Tribunal SEND in the cases studied. They found that;

- In the 109 LAs that responded to any of the three surveys, 3,003 parents/young people had contacted mediation for mediation information and made a decision whether or not to take up mediation;;
- Of these 3,003: 42% took up mediation and 58% did not;
- Of those who took up mediation, 22% went on to appeal;
- Of those who did not take up mediation, 36% went on to appeal.
- Appeals to the First Tier Tribunal were mainly or in part decided in favour of the family, 88% in 2015-2016. (Cullen et al., 2017)

An ongoing issue which saps at the viability of the new framework is the unequal statutory footing of Education, Health and Social Care services in respect of services specified in an EHCP. Parent's feedback as well as some professionals is that the inability to enforce provision in respect of health and social care weakens the impact of EHCP as a co-ordinated plan. Further, there continue to be disputes as to what is health as opposed to educational provision and in getting health and social care input. The Tribunal has been running a pilot in 13 local authority areas (extended to 16 in July 2016) allowing the Tribunal to make non-binding recommendations on health and social care needs and provision specified in EHC plans.

The review of these pilots found that the idea of being able to combine appeals across education, health and care was popular with parents. (Cullen et al., 2017)

The DfE and Ministry of Justice (MoJ) have committed to introducing a two-year national trial of the expansion of the First-tier Tribunal SEND powers to make non-binding recommendations on the health and social care elements of EHC plans. (DfE/MoJ 2017b) It will be important to see if bringing together the appeals process across agencies in line with way EHCP's are intended to operate can address some of the concerns around the weaker statutory rights to services in those areas given that the judgements will still be non-binding on health and social care.

Summary

Implementation of the reforms has to be put in the context of the squeeze on LA and Health budgets which has reduced support around some of the key elements of provision both at SEN support and for EHCP's. There is also a perception by school leaders that they do not have the resources to deliver the reforms especially given local authority cut backs. With 89% of school leaders saying that LA cutbacks have had a detrimental impact on the support the school receives for SEN provision (The Key Survey 2016). Something which is likely to be exacerbated by the proposed school funding reforms if these are implemented (DfE 2016d). Greater transparency and involvement, without the ability to deliver a reasonable level of provision, could be at risk of undermining some of the clear gains the reforms have made. Notwithstanding these concerns the reforms are not just about resources but also, if not pre-eminently, about changing the culture of parental and young people's involvement in the system (Lamb 2013).

The early evidence reviewed here suggests that while there is much further to go in making a decisive shift in culture across the system, at the level of strategic planning, formal parent carer forums are having a significant impact on planning services through the Local Offer and some impact through mechanisms such as the Schools Information Report. Also the new EHCP process is working for a majority of families, if not all, in improving confidence and co-production with parents. However, if the evidence from specific SEND groups, other surveys and the recent acceleration in tribunal cases are included then there are still serious questions about how far the system has secured the confidence of a significant number of families. We also need more time to judge if some of the positive perceptions translate into hard data about improvements in outcomes for children and young people.

What Next?

The introduction of the OFSTED/CQC area reviews has clearly refocused LA's and CCG's on their statutory responsibilities and overall the assessments have been positive but these are early days and we will need the results of more inspections to get a clearer picture. Nevertheless there is a danger in relying on compliance mechanisms for driving cultural change in the system. The continued focus from the DfE through its advisor teams and partner organisations on the reform process are crucial in supporting culture change in more developmental way.

There is a danger that the wider context of change in education with the new Academy proposals, changes to the High Needs Block funding and wider schools funding proposals, outlined in Educational Excellence Everywhere and associated documents (DfE 2016c) will draw focus and funding away from the reforms. Not least

as there is a danger of LA's and schools becoming further decoupled unless new accountability mechanisms for SEND and parental engagement are put in place at the level of MATs governance arrangements. Further the focus of the reforms so far has been on the implementation of EHCP's and the Local Offer, there now needs to be much greater focus on what happens at SEND Support and the engagement of parents within school settings.

Parent Carer Forums have grown in importance and influence within the new system and are crucial in helping statutory authorities drive forward change. But we also need to see a widening of focus to parents not currently formally connected to these Forums and to garner how they are experiencing the system. This will need facilitating and investing in. This could include more locally based engagement mechanisms, developing links with parents' groups at schools and better use of social media. There also needs to be more work on demonstrating whether co-production leads to better outcomes, both in formal accountability measures but also in the quality of experience of services and the wider outcomes produced. Culture change takes time but the system also has not long to bed down this new change, before the impetus for cultural change is lost. We therefore need a renewed focus on ensuring that the current gains are secured and that the gaps illustrated here are urgently addressed, especially around the involvement of health and social care.

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Section 4:

An early review of the new SEN / disability policy and legislation: where are we now? Impact of the legislation on the SENCo role and school practices.

Kate Browning

Introduction

The evidence I am providing here is based on my experience of working with primary and secondary schools to support the implementation of the SEND reforms. It is not a straightforward task to isolate the impact of new legislation on the SENCO role and school practices, without also acknowledging the turmoil surrounding the wider education landscape at this time and the extent to which that too is influencing schools' capacity and capability to implement the reform agenda. Around the same time that the Children and Families Act achieved royal assent, schools were in the midst of trying to make sense of and steer a manageable passage through major curriculum and qualifications reform, changes to end of key stage primary assessment arrangements, a redefining (if not de facto reduction in some areas) of LA SEND based services, Academisation and a new Ofsted inspection framework. It is also important to acknowledge that the impact of many of the SEND reforms on the SENCO role and school practices is in part determined by a school's individual starting point. Some schools have felt that the description of the Graduated Approach to SEN Support was broadly where their practice had already evolved to over time, whereas other schools have seen this aspect of the reforms requiring a more significant shift in day to day practices.

The role of the SENCO

The continuation of the requirement for all new SENCOs to undertake the national award for SEN Coordination is widely viewed by those who have achieved the qualification to be pivotal in their ability to undertake the role with confidence. It is enabling new SENCOs to quickly impact upon both the operational and strategic leadership of SEN provision and practice across their school, particularly, I believe, where they have undertaken the Award through a provider who has been part of the QA framework. Where SENCOs have undertaken the training through a local provider and have trained alongside SENCOs geographically close, there often develops a professional network of SENCOs where continued SENCO to SENCO support and sharing of good practice lasts way beyond the term of the course. I have also recognised that the course has empowered SENCOs with the professional courage to lead on change where existing school practices are not realising the Code's 'best endeavours' duty or to have the confidence, for example, to challenge exclusions for children and young people with SEND.

The Code of Practice states that the role of the SENCo is 'most effective if part of the leadership team'. My experience of working with over 200 SENCOs since 2009 through the National Award for SEN Coordination is that there is now an increased likelihood that SENCOs, particularly in primary, having a place on the school's leadership team. However, this leadership role has often come with added responsibilities such as leading more widely on 'vulnerable groups'. More schools, particularly the larger primaries, seem to be recognising the significance of the workload SENCOs undertake and I am beginning to see more (but not most)

SENCOs with reduced class-based responsibility. The context in secondary schools seemed to be different, where there may be a member of the SLT who may hold the SENCO Award, but the day-to-day operational role, as outlined in the Code of Practice, is predominantly carried out by a member of support staff (often HLTA). It would certainly be a valuable area to research more comprehensively.

An emerging practice occurring, in particular, across some Multi Academy Trusts, appears to be where the trust appoints one executive SENCo to operate across all the schools within the MAT. It is difficult to say what the key driver for this practice is, however, it feels at best, to be bending the Code's expectation that there is a qualified or suitably experienced SENCo working in every school. Again, there is need for further research into the impact this is having on outcomes for children and young people with SEND and in particular the school's ability to deliver on the personalisation agenda.

Due to the cost of undertaking the training, some schools are 'tying-in' newly qualified SENCOs to stay in the role in the school for a specified number of years following qualification. They require them to 'pay back' to the school a proportion of the training costs if the now qualified SENCo moves on to another job away from the school within the pre-agreed period of time.

Identification of SEND

In the move away from School Action and School Action Plus to SEN Support, one of the first 'actions' schools undertook within the academic year 2014/15 was to review the children and young people they had on their school's SEN register. Despite the fact that the legal definition of SEND has not changed, there appeared to be somewhat of a national confusion around which children and young people should remain on schools' SEN registers at SEN Support and who should 'come off'. This seems to have been exacerbated by a lack of clarity and subsequent varied interpretation around the revised School Census coding. Some schools followed guidance from organisations such as NASEN which recommended schools take each child on a case by case basis to review current understanding of need and appropriateness and effectiveness of current provision. Many schools, however, simply transferred all children and young people from School Action / School Action Plus to SEN Support whilst some others, predominantly secondary schools, removed many students who were at School Action from the register altogether, citing their reason for doing so that these pupils were not (and possibly never had) been receiving any additional / different provision and therefore did not need to remain on the register. This appears to be born out in the January 2016 National SEN Statistics which shows the largest recorded year on year reduction of children identified with SEN without EHCP / Statement in all schools from 15.1% in Jan 2014 to 12.6% in Jan 2015; this reduction being more marked in Secondary from 15.9% Jan 2014 to 12.4% in Jan 2015.

There has always been a variation from school to school, let alone region to region, in the practice of identification of SEN. Following the implementation of the new SEND Code of Practice came the removal of National Curriculum levels, which many schools were drawing upon to aide decisions around placement on the register i.e. placement on the SEN register being directed by the point in time where a pupil became a specified number of NC levels 'behind' what was the expected for the age.

The combination of these two reforms are beginning to lead schools to engage in more thorough and personalised process of undertaking the identification of SEN by engaging teachers in providing a wider evidence of need and response to differentiated support over time, rather than over reliance upon a numerical criterion, to determine whether SEN Support is needed. The question now is whether, through undertaking this process, we have moved toward a more consistent national profile of Special Educational Need at SEN Support.

The shift within one of the four broad areas of need from Behaviour, Emotional and Social Difficulties to Social Emotional and Mental Health has come at a time of growing national awareness of the increased concern regarding the perceived rise in mental health difficulties being experienced by children and young people at a younger age than seen before. Subsequent guidance documents from government departments, both education and health, are leading schools to look more closely at their whole school practices to promote and support emotional health and well-being as well as targeted provision and support schools can offer children and young people on their SEN registers with identified SEMH difficulties. In January 2016, the DfE produced departmental advice for counsellors and school leaders entitled 'Counselling in Schools: a blueprint for the future'. FE-00117-2015 Paragraph 2.1 of this document reports on the findings of data from a nationally representative survey of teachers which suggest that 62% of schools offer counselling services to their pupils (70% of secondary schools and 52% of primary schools) and that the availability of school based counselling services is increasing over time.

High Quality Teaching

“Teachers are responsible and accountable for the progress and development of the pupils in their class, including where pupils access support from teaching assistants or specialist staff. High quality teaching, differentiated for individual pupils, is the first step in responding to pupils who have or may have SEN” (para. 6.36 – 6.37)

This probably the most often quoted statement from Chapter 6 of the SEND Code of Practice made by SENCOs to teachers in their schools. It felt as if SENCOs had been given the mandate to push to the fore the crucial principle that the teaching and learning of children with SEN is first and foremost the responsibility of the class or subject teacher and not the SENCO. Many schools lived out this principle in practice already, however, it is now increasingly likely that class, subject teacher and heads of English and Maths departments, are taking a more active part in the decision making around the nature of SEN Support required for individual and groups of pupils and are becoming more directly accountable for the ongoing monitoring and evaluation of these students' progress, which traditionally, had been seen as the remit of the SENCO alone.

The code's assertion that teachers of children with SEND should give an equal amount of their teaching time to children with SEND as non-SEND, is also beginning to change practice in the classroom. There is no doubt that the highly influential findings of the DISS and MaST report and subsequent well received 'Making Best Use of Teaching Assistants Guidance Report' by Jonathan Sharples Rob Webster

and Peter Blatchford (2015) has added both impetus and a much needed strategic framework changing practice in this area.

In turning the focus of schools' attention to the importance of the 'daily diet' of High Quality Teaching for children with SEND there has also been some awareness of the need for schools to ensure that they are providing regular high quality professional development opportunities. This is to support improvements in teachers' knowledge and understanding of a growing range of special educational needs and disabilities alongside the skills to be able to adapt teaching and learning to meet these needs within everyday classroom context. Many schools have sourced recent CPD in this area and are beginning to recognise the need for a regular cycle of professional development around SEND.

Working with specialists

The expectation of schools that the reforms would bring about improvements in early intervention and collaboration at all levels, ages and stages between education, health and social care were high. However, two years on, in many areas of the country, this still feels like a principle that is struggling to be borne out in practice. Many SENCos still continue to struggle to get access to specialist support in a timely manner. Even where they can, this is more often coming at an increasingly high cost to the school, leading to uncomfortable choices as to which children they can afford to make a referral for and which may have to wait. Where access to a specialist does not come at a direct cost to the school, the waiting times are often very long.

As local authority SEN services are, in some areas of the country, steadily diminishing, teaching schools, MATs and in some cases individual schools are now directly employing their own specialists, the most common being an educational psychologist or speech and language therapist. If not directly bringing such specialists onto the school payroll, schools are now accessing more non-LA based specialists to provide assessment, advice or intervention. With this new way of working has come the need for schools to be aware of the importance of checking professional qualifications and statutory regulation. Some schools are now paying for a member of teaching staff, most commonly the SENCo, to become qualified in undertaking diagnostic assessment of specific learning difficulties, such as dyslexia. Schools are increasingly feeling that they need to work in this way to deliver more speedily on the need for early identification and intervention.

Record keeping

The Code's assertion that it is up to schools to determine their own approach to record keeping and the lack of a mention of IEPs seemed to lead to one of two reactions from schools. This was either a sigh of relief from those who felt their IEPs were no longer working as a useful working document to support learning; or mild anxiety – but if not an IEP, then what? The emergence of Pupil Passports, which, pre-new Code, was more prevalent in secondary school practice, has broadened into primary schools too. These documents predominantly focus on the key adaptations to day to day teaching, learning and support and less on the 'targeted' provision or intervention, they are personalised to the individual child and crucially incorporate the views pupil and parents and specialist agencies.

Two years down the line, there is huge variation from one school to another as to how they are recording and evidencing their application of the Graduated Approach

to SEN Support and it still feels like the driver is one of accountability and less so on supporting a personalised approach to SEN Support.

Person Centred Approaches

Central to achieving the outcomes that drove the reforms onto the statute books is the application of comprehensive and consistently applied person centred approaches. Many SENCOs I meet acknowledge the importance of this principle, but do not necessarily know how to put it into practice in a meaningful way. Where 'green shoots' of good practice are emerging, this is often where the drive to put this principle into practice has come from the local authority (such as Leicester City), where implementation grant funding has been used to provide quality training in PCA to all SENCOs, alongside health and social care staff. Where SENCOs have been involved in a well led person centred review they have reported a positive difference in the quality of the outcomes of the meeting and a deepened understanding of children and young people's needs.

There is no doubt, however, that to implement person centred approaches properly as a regular feature of school practice requires time - such a precious commodity to most teachers, let alone SENCOs, who often have finite non-contact time over a week. With that in mind, person centred planning approaches are at this point in time, most often utilised for children and young people with high level needs, often at the point of a transfer review or at the point of drafting an EHCP.

SEN Information Report

The SEN Information report, being a new regulation required of schools under the Children and Families Act, was one which schools were keen to quickly adhere to. Where LAs sought to provide support for schools to produce their SEN information reports (almost certainly spurred on by the DfE's monitoring of LAs in regard to this regulation), this sometimes led to the unintended consequence of schools seeing this as a report required *by the LA for the LA* rather than by schools for parent and carers & young people with SEND. Best practice, however, is emerging where schools have embraced the original intention of this regulation by involving parents and sometimes children and young people in the process of producing this report. In some cases, this has led to schools to establish forums for parents of children with SEND to support the schools further endeavours to improve parental engagement. A further, perhaps unintended consequence of this regulation, has been the interpretation, by some schools, that the SEN IR takes the place of an SEN Policy. This has been further exacerbated by the fact that the SEN Policy no longer sits on the DfE's list of statutory policies a school must have.

Education, Health and Care Plans

The process of transferring Statements to EHCPs has been and continues to be, a rocky road for schools, LA and parents alike. In the most part, the transfer process has been almost entirely undertaken by school SENCOs, with little preparation or understanding of how to undertake the process, how to go about producing a One Page Profile with the child and parents (Section A) let alone how to write an 'Outcome' (Section E). Greater collaboration between education, health and social care in drawing up a plan is still in the most part an aspiration with head teachers reporting that health and medical needs are too often allocated to education responsibilities. With some LAs revising their thresholds around statutory

assessment and special school placement, schools fear they will not have the capacity to meet the increasing complexity of need they are seeing from their existing resources. Since the reforms, some LAs are moving toward allowing schools to request Top Up Funding without needing to request an initial Statutory Assessment. More schools are now working with 'non-statutory EHCPs' which have no place within the statutory framework. Careful monitoring of the impact of this way of working on the intended outcomes of the reforms surely needs to be in place.

CPD and collaboration between schools

Improving legislative consistency across the 0 – 25 age range has added recent impetus to improved collaboration between schools and Early Years settings, between primary and secondary and between secondary and FE to support transition through a child's over-arching path to a fulfilling adulthood. This has taken the form, for example, of collaboration around the development of SEN policies, writing the transition elements of school's SEN Information reports and bringing Early Years and FE settings into existing SENCo networks.

Bringing SEND to the top of the agenda (albeit for a limited time before other competing agendas have taken centre stage), has seen some head teachers review the uniqueness of the SENCo role. Some head teachers see the importance of them belonging to a wider professional network of SENCOs for continued support and development and to keep in touch with best practice in this area. The reduction, in some areas, of coordinated LA support for SENCos has seen a keen rise in schools recognising the need to establish for themselves a local collaborative group of SENCOs who can support each other in the drive to both implement improvement in their school's Graduated Approach to SEN support and also to navigate new LA practices around EHCPs. They are many and varied in their make-up including those allied to a teaching school, a multi academy trust, or family of schools.

Leadership of SEND

The implementation of a new CoP led to an initial flurry of Governing Bodies accessing training on the Code's new and updated requirements. In the best cases, this has spurred schools into a closer working relationship between the SENCo and the SEN Governor. In providing training for many school governors in the SEND reforms over the last 2 years, I have noted in particular a lack of awareness of governing bodies as to their duties in relation to disability under the Equality Act 2010 and therefore raises questions about the ability of many governing bodies to provide an appropriate level of challenge in this area.

The Code's expectation that SENCOs, alongside head teachers and governors, establish a 'clear picture of resources that are available to the school' (para. 6.97) could not, in practice, be less muddy one. In my experience, very few SENCOs and Governors know what their school's Notional SEN budget is, which of course limits their capacity to influence the school's strategic approach to meeting SEN. The monitoring and accountability of the impact of a school's allocation of its resources to SEN does feel like a poor relation in comparison to the requirement for schools to evidence the impact of Pupil Premium funding.

In conclusion, the impact of the reforms on the SENCO role and school practices are in the most part positive, particularly where the leadership of the school fully

embraces the principles on which the reforms were founded and distributes the leadership for delivering them across the whole school community. This can be seen where the head teacher, leadership team and governing body fully embrace the importance of meaningful collaboration with parents and carers of children and young people with SEN. It also depends on recognising the importance of the role of the SENCo and distributing the accountability for improvements in provision, practice and self- evaluation to all levels. However, the reform agenda sits upon the ever shifting sands of wider educational policy and practice which are not always concomitant with improving outcomes for children and young people with SEND and are hampering school's capacity to achieve them. As individual schools, multi academy trusts and local areas take different approaches to the implementation of the reforms, more detailed research is certainly needed.

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Section 5:

An early review of the new SEN / disability policy and legislation: where are we now? Impact of legislation from national perspective

André Imich

Introduction

This morning, I contributed to an event that, for me, captures the essence of the cultural change intended by the reforms to the SEN system. A Parent Carer Forum invited me to participate in a review session that they organised for parents in their local area which included the senior children and young people's officers from health, social care and education. The PCF organised and chaired the day which was attended by over one hundred parents. Having worked on the Lamb Inquiry, this is the scenario we envisaged for all local areas, that parent carers would be routinely involved in strategic planning, development, and review – in co-production. This morning's example would not have happened without the new culture created through the Children and Families Act (CFA) 2014.

I will now highlight some of the key elements of the CFA and reflect on the progress made across the country, based on evidence arising from published data, feedback from local authorities and parent carer forums, and various published reports into progress.

Indicators of successful implementation

It is important to start by highlighting the indicators that will help judge whether implementation of the system has been successful. The diagram below highlights what key evidence we need to draw upon in reaching that judgment:

Figure 1: Successful implementation of reforms



A second important measure of successful implementation is that local authorities and their many partners fulfil statutory duties. It is critical that everyone knows what the law is, that they are applying and implementing it well. This covers a wide workforce, including those who work with children and young people in social care

and health services, and requires ongoing training. As champions of vulnerable children and young people, we do need to get the statutory framework right on their behalf if we are to promote their interests effectively.

We want to improve satisfaction of local services. This includes all providers and educational settings as well as the more specialist support services provided by the three agencies. There needs to be much greater clarity about when services are provided and how they are accessed, as well as making a difference through evidence-based interventions. There also needs to be accurate and timely identification of children with SEN and disabilities. Whilst identification at an early age is crucial, we also need to be alert to emerging needs at older ages. However, identification needs to be followed by appropriate evidence-based intervention and support.

We need to ensure there is a strong focus on SEN Support. The large proportion of children and young people with SEND are in receipt of SEN Support, and there is a risk that our attention is dominated by those with education health and care (EHC) plans. During the first year of implementation, there has been a strong focus on the statutory end, and we need to recognise that there is a much larger group of children with SEN and disability who do not have statements or EHC plans. Our focus on that statutory end must not be at the cost of those who have SEN and disability who do not require access to the statutory EHC needs system.

Central to improving life outcomes is that young people with SEND go on to post-16 education, training or employment. The reforms have provided an extended age range for those with SEND who may need longer to achieve their education or training outcomes and drawn in a range of new post-16 providers, in particular colleges. Finally, when all these indicators are in place, we would expect to see much greater levels of parental confidence in the SEN system, feeling reassured that their children's needs are being well identified and that suitable provision and interventions are being made for them.

Progress with key elements of the reforms

In order to achieve successfully the vision behind the reforms, there are six key features that underpin the new legislation and the Code of Practice. These are: co-production; SEN Support in all state-funded schools and colleges; the local offer; joint commissioning; a new assessment pathway; and a focus on preparing for adulthood.

In relation to co-production, good progress has been made with parents and carers. Parent Carer Forums in most local areas are making a significant contribution to strategy development - 84% of local authorities say that that this is going well - and it is important that this is maintained if we are to embed the new culture, and raise the confidence of parents. However, LAs report significantly less progress in relation to the engagement of young people and children. Where LAs have worked with representative groups, they have found this to be enriching and illuminating. One example is the Isle of Wight who worked with young people in developing their local offer and their EHC plan template. We do need to do more to put these types of approaches in place as a matter of routine.

The second element is that all the duties in the Children and Families Act apply equally to all types of educational settings. Academies, free schools, studio schools, maintained schools, alternative provision – all state-funded schools and colleges are equally required to follow the Code of Practice. Parents and children opting for one school over another should notice no difference in their experience or what they can expect to find. So, fully qualified SENCOs in every school, a focus on quality first teaching, quality school information reports, adherence to the Equalities Act 2010. are key features that all school must have in place. This is a particularly important element of the reforms as we move towards the vision of a much greater academised educational system.

Thirdly, the requirement that a local area produces, maintains and further develops a clear and transparent local offer. A good example, building on its work already referenced with children and young people as well as its Parent Carer Forum, is the Isle of Wight local offer - good range of icons, straightforward to navigate, and a feedback and comment mechanism as well as containing required information. Joint commissioning is the fourth element. The Act introduced a duty on health, social care and education to work together to commission services jointly. This is an area, however, that most would agree is still in its early days of development. There is more to do, both nationally and locally, to ensure that all the agencies, including health, is able to make the type and level of contribution envisaged in the Code so that we are able to identify examples of services and provision that have been put in place or improved as a result of a joint commissioned approach.

The system for carrying out assessments has changed and a new coordinated assessment system has been introduced as part of EHC assessment and planning. It is intended to be a much more joined together pathway as part of the process of creating a 0-25 education health and care plan. The DfE commissioned independent research which looked at parental experiences in four local authorities across the country (EHCP Journeys, 2016). Researchers met parents in the four participating areas who had received a new education health and care plan in the first year of implementation - early stages. They found that parents did genuinely value the philosophy behind the reforms, being involved the person-centred approach, the child being at the heart of the process and professionals taking a multi-agency view. However, a number of the parents reported issues based on their own experiences. For some, their child's SEN had not been identified early enough, there was a lack of appropriate education of health and care input, and outcomes were not SMART enough. This has been a particular challenge for the new system – the workforce across health, social care and education is finding it difficult to write outcomes. Producing good, agreed, and relevant SMART outcomes is an area that requires more training, development and, in particular, feedback.

The new system was also intended to reduce conflict; one measurement of this is the number of appeals to the tribunal. There is some evidence of a downward turn, but it is early days and we need to see data over the coming three years or so to begin to get a feel for the longer-term impact of the changes. In fact, with the position created by the transfer process, there are many more individual cases which can be subject to appeal, a situation that will pertain until transition is completed in April 2018.

The challenge of transferring statements to EHC plans by April 2018 has placed significant demands on local authorities, and on some of their partners, especially schools and colleges. SEN data published in January 2016 showed that 29% of all statutory SEN documents, either EHC plans or statements, were already education health and care plans. Since that data was collected, a significant number of further transfers have occurred, including Y6, Y9 and school leaver transfers. In a recent survey, almost half of LAs reported that they are now extremely or very confident about being able to achieve this. LAs are gaining in confidence and experience at managing the transfer process. However, with less than two years until the deadline for completion of all transfers, it is a situation that DfE will continue to monitor carefully.

Regarding the numbers of children and young people with statements and EHC plans, we have seen the percentage remain static at 2.8% for the past few years. Given that the statutory definition of SEN has not changed with the new Act, this is not surprising. However, with a rising school population, the actual numbers have increased, and this has placed some additional pressure on services.

In relation to performance on completing EHC needs assessment with twenty weeks, the national average in 2015 was 59.2%, with a range of performance across local authorities from those that have completed 100% of assessments in the timescales to a small number that have yet to achieve a 10% completion rate. Barriers to completion reported by LAs include challenges in securing advice in six weeks, particularly from health and social care colleagues, as well as the LA's own capacity. We already know from parents that keeping to timeliness is an important factor in their overall satisfaction with the assessment system. We need to learn from the higher performing areas how to achieve consistently high levels of timeliness and quality across the country. We have also further commissioned independent research into the parental experience in all LAs which is due to report in the new year.

Many local authorities are collecting feedback themselves from parents who have completed the new assessment process. Where parents have had a good experience, their comments reflect the intention behind the reforms. Examples include:

- "What was most improved was the involvement of Philip whose opinion was listened to and taken into consideration. It made a big difference"
- The EHC plan "is less convoluted and confusing..... Not just a name or an age"
- "This new openness means she has a real chance of achieving her outcomes"
- "I really don't think this plan looking forward could have been any better"
- "All professional bodies involved have really supported her which has been excellent. We are very grateful"

The area that provides the greatest opportunity for improvement to the system, but also which has offered the greatest challenge to implementation is the reforms on behalf of the 16-25 population. For colleges, having regard to a SEND Code of Practice in this area is a new demand, and it will take time for all those with leadership and delivery responsibility to fully understand and implement their duties this is an ongoing training and development priority. The majority of local authorities

report that their key providers are fully or to some extent de-designing their SEN provision. Some, such as Oxford College, are delivering innovative supported internship scheme with local employers. Another college I met was celebrating the fact that they are now admitting more young people with more complex needs – although they also felt it was presenting them with new challenges.

To strengthen the accountability of local areas, a new inspection framework has been introduced undertaken jointly by Ofsted and CQC. These are already underway, and several from the first inspections have been published (Ofsted and Care Quality Commission, 2016). It is too early to identify definitive national trends. However, the early reports do show that local areas have embraced the spirit of reforms and are committed to co-production with parents and joint commissioning across services. However, more work is clearly needed to translate this consistently into improved experiences and outcomes. Early identification has been highlighted as a strength in some LAs, but transition to post-19 provision is an area identified for further work.

Conclusion

In conclusion, implementation is moving forward positively - the evidence, numerical, qualitative and experiential, does show that the vision for the new system is beginning to be embedded. There are examples of success and these need to be celebrated. But, of course there remains a significant road to travel in terms of developments. This is an evolutionary process of change. The system faces challenges – the volume of transfers, the capacity of local authorities, the full realisation of joint-agency working. However, all in the SEN system do believe in the new ways of working, in co-production with families, and in ensuring that collectively, we embrace the new opportunity afforded by the reforms to achieve improved outcomes and life chances.

References:

EHCP Journeys (2016) Access on 10.5.17 at <http://ehcpjourneys.com/>

Ofsted and Care Quality Commission (2016) Local area SEND inspection outcome letters.) Access on 10.5.17 at <https://www.gov.uk/government/publications/local-area-send-inspection-outcome-letters>

Section 6:

Two years on: The impact of the SEN Reforms on Local Authorities

Chris Harrison

Introduction

Local authorities (LAs) in England have been working closely with partners, parents and young people in their local areas to implement the SEND Reforms as set out in the Children and Families Act 2014. The reforms have been largely received as a step in the right direction, but many local areas are still struggling to make the changes they had hoped for.

This paper examines some of the possible reasons for the varying levels of success across the country and suggests how progress may be accelerated. The paper has been written as part of a wider analysis considering the impact of the reforms on families, education services and Local Authorities. The paper is based on the author's experience as an SEN officer in a pathfinder LA, as part of a team of consultants working across a range of LAs in England supporting the implementation of reforms and as a result of information gathered through a small-scale survey in two regions which have SEN officer liaison groups.

The paper is written from the perspective of an LA SEN officer with the aim of stimulating discussions that will bring about positive change.

National Context

Each LA is slightly different in the way it organises itself in relation to SEN, but there are some basic activities that form the core duties of an LA officer.

- Assessment
- Commissioning
- Providing (to greater or lesser degrees across LAs)
- Strategic planning.

Since the reforms these duties have remained the same, but the way in which they are carried out has changed significantly. The following table shows this shift in relation to Education, Health and Care (EHC) plans by comparing the approach before and after the reforms.

Before	After
"Done to"	Co-produced, person-centred
3 to 19 (years)	0 to 25 (years)
Education	Education, Health and Care
Timelines 26 weeks	Timelines 20 weeks
Paper process	Personal and multimedia
LA resources	Personal budget
Various sources of information	The local offer
Separate commissioning arrangements	Joint commissioning

The duty for the LA to facilitate an SEN assessment process remains, but the way in which the EHC plan is co-produced and constructed in an integrated way with health partners is radically different. It requires different relationships with families and with partner agencies. The content needs to be focussed on outcomes and should support young people towards their ambitions into adult life. In some areas much of this was new to the traditional SEN teams prior to the reforms, and required a significant cultural shift in working practice and behaviour.

The requirement for the LA to commission services and education placements remains, but the way in which they now do this needs to be radically different. LAs now have the opportunity to jointly commission services with health, which means efficiencies can be made and attention can be focussed on the service families need across all agencies. However, this is a fairly significant challenge if services are to be commissioned jointly to secure real benefits for families.

LAs have varied hugely in their approach to providing services. Many no longer see themselves as service providers and have moved to a model of commissioning. Others have retained services either as a free or sold service to schools and families.

LAs still need to have a strategic planned approach to SEN and disability. This approach needs to plan how the LA with its partner agencies will develop its new arrangements and this should build on the views of its families. There is now a need to plan in collaboration with partners and involve parents in developing new services.

Local SEN officer feedback on implementing the reforms

We asked SEN officers about their aspirations at the start of the reform process.

They said they welcomed the:

- Principles of the reforms
- Expectation of a new dialogue with families
- New ways of working holistically with health and social care
- Opportunity to remove the deficit model
- Transparency of the local offer
- Potential for improvement

After 18 months, we asked SEN officers how they had found the experience of implementing the reforms. They said it had been:

- Difficult
- A continuing journey with much more to do
- Stressful
- Challenging
- Fraught
- A little disappointing because a big system change has delivered only partial success

When we asked them what they thought the main benefits were. They said:

- They now had a more transparent process
- In the majority of cases parents liked the process

- The process was more engaging
- They enjoyed the aspects of co-production
- They had better relationships with key partners
- The reforms gave license to innovate

We asked what the main challenges they faced were. To summarise, they said:

- Meeting challenging timescales - 20 weeks EHC statutory assessment process
- Meeting challenging timescales for the transfer review process
- Gaining a real understanding of post 16 issues
- Managing an ambitious programme of change against a backdrop of diminishing resources
- Managing a multitude of challenges and changes as well as implementing reforms
- Having the capacity to meet timelines and managing high volumes of work
- Having the capacity to deliver quality as well as quantity
- Writing person-centred plans with well written outcomes
- Managing the expectations of families
- Having a workforce with knowledge beyond education
- Dealing with waning enthusiasm of partner agencies
- Worrying about the prospect of the end of temporary reform grants.

We asked what impact this had had on the teams implementing the reforms:

- In many cases there has been a high staff turnover
- New approaches need new skills
- High risk, high stress environment needs resilient teams
- In a quest to make teams more holistic some temporary de-skilling has happened
- People still think 'it's the right thing to do' but 'hadn't appreciated how difficult it was going to be'.

In observing a number of LAs across England it has become apparent that there are varying levels of success in implementing the reforms. There are a number of reasons why this is the case. The reforms are not the only thing impacting on an LA's capacity to deliver change. Other important factors include:

- Budget reductions
- Restructuring
- The LA's changing relationships with schools
- Working with health at a time of significant pressure in that service area.

All these things have an impact on the capacity and resilience of staff in delivering change. In areas where there have been multiple layers of simultaneous change, the impact on teams has been high and potentially negative. In areas where implementation of the reforms has been relatively successful the impact on all areas affected by the changes has been well-managed and controlled.

In areas experiencing difficulty the level of change and the level of challenge has impacted on the ability of the team to operate effectively. High levels of challenge, results in high levels of staff illness and high staff turnover. In one authority it appeared that all members of the EHC team were either off sick, intended to leave or had already left and been replaced by either temporary or agency staff. This particular team was experiencing significant difficulties in managing timelines, delivering high quality EHC plans and managing expectations of families.

In other areas the picture is much more positive, with high levels of engagement, good quality EHC plans delivered on time with strong levels of engagement from agencies and good 'customer' satisfaction and feedback from families.

Throughout the impending cycle of Ofsted/CQC local area inspections the above scenarios and the many associated features will be observed.

Managing the pressure on EHC teams to get a good outcome for families

Where the pressure on teams has been managed well, teams have been able to deliver a good quality service. There are a number of features inherent in LAs which have put additional pressure on EHC teams.

Systems and processes

- The functionality of IT and data systems
- Effective budget and financial management
- Effective information sharing between agencies.

Financial pressures

- Meeting targets for budget reductions
- The capacity of the EHC team
- Changes in pay levels of a team as a result of restructuring
- Restructuring of teams causing uncertainty and disruption.

Implementation of Reforms

- Good tracking of timelines
- Receipt of timely and quality responses from agencies
- Quality assurance of plans
- Levels of parental engagement
- Levels of agency engagement
- Numbers of statements that require transferring to EHC Plans
- The focus on SEN support as well as EHC plans.

In LAs where these pressures are well managed a positive scenario emerges. Families are highly engaged with the process, agencies give quality advice, systems are understood, budgets are managed, EHC plans are issued on time and families like the plans that they receive.

In LAs where it has been more difficult to manage these pressures, a less positive scenario can emerge. Families are not fully engaged, partner agencies do not contribute effectively to the process, EHC plans are late and families are not happy with the 'product' they receive.

This negative scenario can spark a negative cycle. If parents are not happy with or confident in the process and feel they have not been listened to, they are more likely to lodge a complaint, to appeal to SENDIST and to register dissatisfaction with councillors. Parent groups are more likely to lobby and register concerns about the staff, managers and processes. Councillors start to lack confidence and become concerned about SEN arrangements. Senior managers in the LA become nervous about the competency of the teams they oversee. Managers in the SEN teams become embroiled in managing the impact of the negative cycle rather than managing a team and the delivery of a service. Staff retention, staff wellbeing and staff morale become complex issues to manage. Ultimately families do not get the service they need.

What LAs can do to avoid such negative cycles

- Quality assure EHC plans on a regular basis and get parental feedback on reports you have written about their children
- Have effective tracking systems in place for EHC timelines and take steps to ensure professionals contribute on time, and your teams issue plans on time.
- Provide appropriate training for newly established teams. Invest in and value the teams.
- Keep up active engagement with parents. Parents do know how well the team is doing, so invest in your relationships with parent groups.
- Risk assess service restructures in relation to the impact on team knowledge and resilience.
- Refocus attention on SEN support in mainstream schools.
- An EHC Plan is not the only solution, do not lose sight of SEN Support planning at a school level
- Focus on outcomes and the 'so what' factor. Monitor whether the processes and plans are truly making a difference for the child or young person
- Look at what is working well in other LAs.

In Summary

The SEN reforms have sparked welcome changes by shifting the way we think and operate through engagement with families. Ultimately the reforms are 'the right thing to do'. Yet implementing the reforms has proved to be a challenge and change has not been uniform across LAs. The reforms came at a time of austerity which triggered financial constraint, restructuring and the refocusing of LA attention away from schools.

As a result, the progress of change has been variable. In some areas a very positive outcome has been achieved, while in others there has been only a partially positive outcome. In some areas it has been altogether much more problematic with real difficulties delivering the much-desired reforms. As a result, parents are receiving very different experiences across the country.

There are some simple activities that will help prevent LAs slipping into a negative cycle. Ensure that there is a robust SEN Support Offer. Develop a strong planning continuum which includes thresholds that are clear and understood so that progression to an EHC plan is for the children with the most complex needs. Engage with families. Quality assure your products and services. Invest in the wellbeing of your teams. Overall, it is a matter of sustaining effort, an LA officer said:

“This is a challenging time and frustrating but also exhilarating. Have to keep reminding myself to hold onto the aspiration – we will get there but it will take time”

Section 7:

Summary of discussion groups and conclusions

Group Questions

In planning the seminar several questions relevant to first the morning and then the afternoon sessions were developed to cover each presentation for the small group discussions.

Parents:

1. What were the issues experienced by parents/families in the old system, before the reforms were introduced?
2. How far do you think that the reforms have helped resolve these?
3. Have the reforms helped improve parents' confidence that their children's needs can/will be met?
4. What steps could be taken to help parents' experiences be more positive and what innovative practice are you aware of in your area of work?

Mainstream schools/settings:

1. What impact have the reforms had on the commitment of mainstream schools/settings to SEND?
2. What impact have the reforms had on the way they work with parents/children?
3. How have school/settings been supported to understand and implement the reform agenda?
4. How could commitment and good practice be further extended?

National and local government:

1. The latest DFE stats show that there has been an 11% increase in numbers of pupils with statements/EHC plans from 2012-2016, with most of this occurring during the last 2 years.
 - a. What might be contributing to this trend?
 - b. Is the increase a good or bad thing?
 - c. What issues/challenges are likely to be faced if numbers increase further?
2. What other national and local factors are affecting schools' and colleges' capacity to meet SEN?
3. What other forms of entitlement might be available for children & young people with SEND that are less dependent on statutory processes?
4. How might expectations best be managed locally if the Government goes ahead with proposals to allocate a finite HN budget to local authority areas (distributed by formula)?

At the end of the two sessions of small group discussions a member of group summarised the key points discussed in that group. These were audio recorded and transcribed. The following summary is based on a qualitative analysis of these summaries in terms of the broad areas of the presentations and the suggested discussion questions.

PARENTS

Continuing issues for parents

One group discussed how parents do understand that the children have particular needs. But there was a need for a 'real grown up' conversation with professionals about how their children can be supported so parents can become involved. Another group also discussed how from a parent's point of view not that much had changed. There were the same sorts of problems, e.g. health and social care not working together and parents feeling that things were being done to them.

New system improved parent confidence and resolve problems

One group discussed how partnerships and relationships needed to move to a more mature level. This needed a collective culture; in which parents worked in co-production and took some degree of responsibility for working within a finite budget and the constraints that local authorities are under. Some in the group believed that there are certain forces out there that were still promoting an adversarial relationship between parents and local authorities.

One group talked about a positive example in Greenwich where parents had been involved in the recruitment process for local authority staff. This was a positive way in which they could ensure that the people coming into the local authority had the right values. This provided the basis for building staff competence through professional development.

Another group gave an example of innovative practice in another service. EPs had a role in training parents both around the various processes, what parent entitlements, how parents could work with schools and do things for children at home to meet their needs. This was aimed at helping to enhance parental understanding. One group wanted to make a distinction between an increase in parental engagement and an improvement in their experience. The former might not lead to the latter.

What practices are needed to improve parent confidence

One group questioned whether parental involvement in strategy work was as representative as it could be in terms of ethnic and demographic diversity. This might be more an issue in some areas than others.

Another group considered that it really is important that parents understand what is available for their children; what they can have, how do we meet the needs and where the gap is. There needed to be a conversation with parents about these matters.

Another group discussed how expectations needed to be more public in the context of the financial budget. This would involve having a national expectation about what schools should be doing. It would include more openness about funding when talking to parents. This conversation would involve talking about what provision might cost and how things might be done in different ways.

Parent choice

One group thought that parental choice needed to be considered further in terms of an informed parental choice and two other less preferable versions of choice. One was an uninformed choice which was based on anecdotal evidence, and the other,

parental manipulated choice, where, for example, a school might say that another school would be better to suit that child's needs.

MAINSTREAM SCHOOLS

Impact on schools' SEN commitment

In one group there was discussion about a greater focus on SEN as a consequence of the legislative changes; that it was hard to say whether they have been a success. Another group also discussed that there were a number of positive things that were happening.

But, another group suggested that similar problems are in evidence anecdotally now as they were before. But, they recognized that one of the difficulties was that you do not know how much change there has been in the system. This was about gathering evidence to be able to know what that change is.

How schools respond to change

One group considered the possibility that there was a process of polarisation between schools. Some may be accepting that in the future they will have to get on with their responsibilities for SEN without much outside support, while for other schools they were showing reluctance, a forced choice, some of these schools were experiencing the pressures in disadvantaged areas.

What factors are working against the reforms

Some groups recognised forces in mainstream education which were in opposition to some of the positive SEN/ disability developments. One group considered that schools cannot be expected to do that much because of other competing agendas. For this group other universal services have to be done well and that there was a need to embed inclusive practices throughout the curriculum, including initial teacher training.

One group argued that the use of self-assessment by local authorities tells only part of the story. An accompanying narrative was also required. For this group there was a concern about the future over-reliance on what Ofsted inspections might bring to this whole debate.

How extend good practice

One group had a visitor from Canada who introduced the practice of inclusion coaches who aim to build teacher capacity in the classroom. This was well received as an opportunity to nudge classroom teaching practices in positive ways. For another group the key was still leadership; the leadership of schools, of the local authorities and of trusts. This was echoed in another group about the continuing need for a sophisticated dialogue with school leaders about the characteristic of SEN leadership. But, they realised that there was no mandate for this approach. It was not part of the inspection framework and its use depends very much on the local authority culture.

For one group it was important to restate what children were entitled to: having in inclusive education in an inclusive school. This involved a multi-professional team in the school so that early intervention could be practised. In this way EPs or speech

and language therapists would not spend their time doing statutory assessments but rather use their expertise more appropriately.

What was still needed

One group argued that if every teacher is supposed to be a teacher of special needs, that this will be hard to achieve unless there is training of all involved in the system. This includes head teachers and local authority staff, sharing of experience between SENCOs and with heads working together so everybody understands what was involved for the bigger picture, rather than just focusing on one particular area. Another group had a concern about a pattern of informal exclusions that was still going on in a number of schools. They wondered about what could be done to challenge that.

NATIONAL AND LOCAL GOVERNMENT

Why an increase in statements / plans in last four years

Several groups had views about this matter. One factor that was suggested was the move from 3 levels of SEN (school action, school action plus, Statement) to the binary of SEN Support and EHC plan. For this group it was an 'all or nothing' matter now. Another group pointed to school funding changes in 2013 and the fear of the reforms with parents wanting to get something in place when those reforms were taking place. Another possible factor was greater networking between parents and a greater awareness of the ability to get support. But, this group thought that a key factor now was the ability for post sixteens to get Plans.

One member of another group pointed out that without full statistical analysis this trend might not be significant. For another group such a trend had to be seen in the context of exclusions. If Statements/ Plans and exclusions were increasing, then there is a more exclusive culture that was being generated. This driver would then need to be examined further.

EHC plans

One group suggested that when examining the data, it was important as well as to analyse the overall population of children with statements and plans, keeping an eye on first time plans trends. For another group the key issues were also about how Plans were formulated. This group was very keen to see a proper template for Plans. This was put in terms of avoiding Plans which were 45 pages long but containing not much of value. The formulation of Plans needed to make them accessible to parents and usable by teachers. Another group also focussed on the quality of the EHC plans rather than their number. For Plans to be meaningful was crucial. At issue for another group was how the threshold for issuing Plans was set. This group saw having an area consensus on what provision would be normally available across all schools through the ordinary school funding formula; in this way the threshold would become clearer.

How manage expectations if High Need budget finite

For one group concerns were expressed about the high needs budget being ring-fenced and therefore having no consequence for schools and the education community. Spending more on high needs did not mean spending less on other children with special needs. This sets up a line between the have and have not children. For this group this was hard to justify as the distinction between these two

groups are fairly arbitrary. School communities, it was suggested, should be put to work out how they are going to manage this fixed amount of resource.

EHC agencies collaboration

For one group the collaboration between education health and social care was more an ideal on paper than working in practice. For someone in this group it was social care of the three partners that had increased thresholds and depleted budgets. This meant that they did not collaborate and practised what could be described as 'dirty games'.

Factors affecting capacity to meet SEN

One group in responding to the presentation about local authorities had concerns about the Secretary of State's ambivalence to local authorities. This was shown in her evidence to the Select Committee. This was interpreted as saying that Government valued the expertise of local authority officer profession as long as it is not being done in a local authority.

Another group identified several factors that affected SEN capacity; local authority budgets, a lack of skills and experience of authority staff. The reforms involved a more complex task being carried out by people who probably have got less skills and knowledge to do so.

For another group, capacity to meet SEN at school and college level were affected by the changes to the overall school and college systems. For this group there may be a danger in focussing on the minutiae of the SEN reforms while overlooking bigger things that affected SEN pupils and students, not in the SEN legislation. The view expressed by another group was to recognise that the funding system is a system of rationing and a consequence of the political, policy and economic environment. This drives the problem, when the solution actually was about pedagogy and the curriculum, about learning in schools. For this group there was also the issue of whether the key focus was on supporting the child or supporting staff. The latter problem was about enabling staff, improving staff recruitment and retention.

Clarifying the meaning of outcomes and quality first provision

Several groups identified problems about current terminology. What was meant by 'outcomes' was one mentioned by three groups. This needed to be examined in terms of outcomes for whom; local authorities, the schools, the parents and/or the child. In another group someone referred to the mid 2000s Every Child Matters perspective on outcomes which regrettably had been lost. For someone else, it was not so difficult to write outcomes referring to a body of research on how to write smart outcomes. For this person the problem of writing outcomes was a conflict between a focus on participation and life skills and functioning, what is portrayed in the law, and a focus on academic outcomes.

For another group the term 'quality first' provision also needed clearer definition. This was because for parents who did not have a Plan for their child, are likely to not know 'quality first' means for their child. What will prevent them wanting the gold standard of a Plan as their aim? How does a school explain the school's SEN Support means apart from phrases like 'quality first' and 'universal offer' which do not mean very much to parents with children on the boundaries of SEN or receiving SEN Support.

POST-16

Several groups referred to this area of provision following the 2014 legislation, an area that had not been covered specifically in the seminar presentations. For one group there were questions about what was meant by parental involvement in potentially shaping services and beyond formal education. Expectations had been raised but there were many issues to address. It was also suggested that there was a tendency to continue with what was previously provided rather than examine aims and approaches for transition to adulthood.

For another group there were questions about why the challenges of post sixteen had not been anticipated prior to the legislation. There was a critical Ofsted report on post sixteen in 2011, followed by a new one which reported similar conclusions. Amongst the main concerns from various quarters was the lack of choices for young people when it comes to post sixteen. It was suggested that if a young person had not experienced segregating provision prior to 16, there was now a strong chance the s/he would experience it post-16. Another important aspect was whether planning for adulthood genuinely included people from housing, health and social care when planning at the education level. Seen like this, these issues become one about the inclusive society as a whole. It also relates to the problem of young people with SEN / disabilities getting supported internships, when employers did not really understand invisible disabilities. Employers tended therefore to not take on those young people for those internships. This was part of a bigger conversation than the focus of the day's seminar.