



BACKGROUND

In 2019, the Government wanted to examine the challenges children and young people (0-25 years) who have special educational needs and/or disabilities ("SEND") were facing and in some instances are still facing within the current system. Additionally, the Government wanted to review the available alternative provision ("AP") whereby educational provision is provided to those who cannot access a mainstream setting.

The Government identified 3 key challenges within the review:

1. Outcomes for children and young people with Special Educational Needs ("SEN") or in alternative provision are poor.
2. Navigating the SEND system and alternative provision is not a positive experience for children, young people and families.
3. Despite unprecedented investment, the system is not delivering value for money for children, young people and families.

Following the SEND review, in March 2022 the Government published its SEND and AP Green Paper¹ setting out its proposals to increase opportunities for children and young people with SEND. The Government had on initial consultation proposed the following changes to the SEND and AP system in England to tackle the 3 key challenges identified:

- Introduce a single national SEND and AP system
- Excellent provision from early years to adulthood
- A reformed and integrated role for alternative provision
- System roles, accountabilities and funding reform
- Delivering change for children and families



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¹ [Summary of the SEND review: right support, right place, right time - GOV.UK \(www.gov.uk\)](#)

The Secretary of State for Education and the Secretary of State for Health and Social Care provided the following foreword at the time of publishing the Green Paper:

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

“We are committed to continuing to listen to children, young people, parents, carers, and those who advocate for and work with them, as well as system leaders, to achieve this ambition. We encourage you to reflect on the proposals set out in this green paper and respond to our consultation. Together, we can ensure every child and young person with SEND, and all those in alternative provision, can thrive and be well prepared for adult life.”²

The consultation ran from 29 March 2022 to 22 July 2022 with the Government seeking responses from children, young people, parents, carers, and those who support and advocate within the SEND departments and local and national system leaders.

A total of near 6,000 responses and additional written submissions were received. Responses were received by parents and carers totalling 53.4% of all responses. This was followed by headteachers, teachers, other teaching staff at 18.4%. Thereafter, 162 responses were received by children and young people who answered a separate set of consultation questions.

SUMMARY OUTCOME

The SEND and AP Improvement Plan was published in March 2023 in which the Secretary of State for Education and the Secretary of State for Health and Social Care stated the following in the Ministerial Foreword:

“This Improvement Plan draws on the rich feedback we heard from children and young people with SEND, their families and others. It is aligned with other reform programmes that we are taking forward to improve outcomes and experiences for all children and young people across education and care, including the Children’s Social Care Implementation Strategy and the upcoming Academies Regulation and Commissioning Review.”³

The Improvement Plan sets out the following:

1. A national system underpinned by National Standards:

The Government are seeking to establish a new national SEND and AP system that will set a new nationally consistent standard for identifying needs and how these are met across every stage of a child’s journey through education, health, and social care. This will begin in Spring 2023, with the aim to publish a significant proportion of the national standards by the end of 2025.⁴

² [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan \(publishing.service.gov.uk\)](#), Ministerial Foreword

³ [Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan \(publishing.service.gov.uk\)](#), Ministerial Foreword

⁴ [Ibid](#), paragraph 21

2. Successful transitions and preparation for adulthood:

Transitioning requires good planning and the Government want to ensure children and young people will have access to the support needed for effective transitions between further education, higher education, employment and/or adult social care services.⁵

3. A skilled workforce and excellent leadership:

The Government are seeking to build on the expertise of those within the education, health and social care departments and intend to create consistent standard and incentives to build a cohesive workforce to support children and young people.⁶

4. Strengthened accountabilities and clear routes of redress:

The Government intend to support improvement across the 0-25 system using local leadership, supporting effective relationships and providing accountability to ensure children and young people receive the correct support when and where required. They want to ensure decisions are made *'collectively and consistently by partnerships and informed by robust data and evidence.'*⁷

5. A financially sustainable system delivering improved

In order to implement the improvement Plan, the Government acknowledge funding reforms to current funding arrangements will be needed to support their delivery and ensure that providers can provide the expectations which will be set out in the new national standards. The Government intends for the funding reforms to allow for additional resource allocation and effective support early on to assist in reducing the burden on parents to navigate the statutory EHC assessment process to receive support, in turn this will implement a fairer and financially sustainable national SEND and alternative provision.⁸

Further to the above, additional measures the Government has confirmed are:

- Creation of a leadership level Special Educational Needs Co-ordinator ("SENDCo") qualification;
- Increasing the number of supported internship places to 5,000 by 2025 to assist young people transitioning into adulthood; and
- That the Government is seeking to develop new approaches for short breaks for children, young people and their families, in order to provide respite for families of children with complex needs.

This is a plan to ensure tools and interventions are available to teachers, schools and trusts in the country to identify any student who may be at risk of not meeting their potential.

At present there are no immediate changes to the current legislation as set out in the Children and Families Act 2014 or the SEND Regulations, these must continue to remain in place and be adhered to.

⁵ [Ibid.](#), Chapter 3

⁶ [Ibid.](#), Chapter 4

⁷ [Ibid.](#), Chapter 5

⁸ [Ibid.](#), Chapter 6

OTHER CONSIDERATIONS

The Children and Families Act 2014 helped to create a more collaborative approach to children and young persons with SEND and so whilst the SEND and AP Improvement Plan will create a new system it must be implemented taking into account the Government's White Paper: Opportunity for all, Strong schools with great teachers for your child.⁹

This is a plan to ensure tools and interventions are available to teachers, schools and trusts in the country to identify any student who may be at risk of not meeting their potential.

CONCLUSION

At present there are no immediate changes to the current legislation as set out in the Children and Families Act 2014 or the SEND Regulations. Therefore, these must continue to remain in place and be adhered to.

The Government will begin seeking engagement from education, health and care organisations to start to develop the new national standards and with the aim of trialling any standards agreed by the end of 2023.

As well as publishing a proportion of the new national standards by 2025, the Government is investing £2.6 billion between 2022 and 2025 in order to provide new places and improve existing provision for children and young people with SEND, and those who require alternative provision, reducing the need for independent provision.¹⁰

The Government aims for the improvement plan to address the above three key challenges identified and that moving forward it will improve the outcomes, experience and deliver the financial stability to children and young people with SEN and the families that access and require support from the education, health and care organisations.

⁹ [Opportunity for all - Strong schools with great teachers for your child \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/671111/opportunity-for-all-strong-schools-with-great-teachers-for-your-child.pdf)

¹⁰ [Ibid](#), Chapter 6

About Pathfinder Legal Services Ltd's SEN Team

We have a highly skilled team of lawyers specialising in Special Educational Needs and Disability Tribunal cases. We advise and represent local authorities in appeals and advise schools in respect of disability discrimination claims. Our lawyers have a wealth of experience in identifying needs, provision, and placement issues and work closely with SEN officers, educational psychologists, and other specialist witnesses. We pride ourselves on our collaborative approach with parents, for whom the tribunal process can be very stressful. We get to know our client and their schools and colleges very quickly and are able to tailor our service to our client's needs.

About Pathfinder Legal Services Ltd

As a 'social enterprise law firm', Pathfinder Legal Services Ltd is one of the first of its kind to be established in the UK and is wholly owned by Cambridgeshire County, Central Bedfordshire, North Northamptonshire, and West Northamptonshire Councils. We are experts in our field and provide a tailored legal service exclusively to the public and not-for-profit sectors, our clients are key, and our fees reflect this: our charging rates are substantially reduced and our billing system transparent. Our credibility, values and focus remain paramount to all that we do as a publicly owned legal service provider, with clients including Local Authorities, Integrated Care Boards, Foundation Trusts, Charities and Fire Services. In 2021 the firm was awarded 'Law Firm of the Year' (under its previous trading name of LGSS Law Ltd) at the prestigious Cambridgeshire Law Society's legal awards.

If you are keen to find out more about Pathfinder Legal Services including how our services work, our billing process and how to instruct us, please contact us at operations@pathfinderlegal.co.uk

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