

SEND review: Right support, Right place, Right time

A response by the National Deaf Children's Society

July 2022



Summary

The SEND Review sets out a bold ambition to “ensure that every child and young person has their needs identified quickly and met more consistently, with support determined by their needs, not by where they live.” We support the aims of the review and the focus on ending the ‘postcode lottery’ – parents of deaf children have long told us that the system does not always work well for them.

We also support the ambitions set out in the Schools White Paper for 90% of children to achieve expected standards in reading, writing and maths in primary education by 2030. Given that in 2019 only 44% of deaf children reached this milestone, with this pattern of underachievement continuing over many years from early years onwards¹, the SEND review must deliver on these ambitions for deaf children also.

In our response to the consultation, we have sought to provide constructive feedback on the proposals and to suggest areas that we think the Department should explore further. One key primary concern remains the lack of the focus within the SEND review on the specialist SEND workforce. We believe that investment in Teachers of the Deaf and other specialists is the biggest single step that the Department could take to restore confidence and ensure that deaf children, families and mainstream teachers all receive the specialist knowledge, advice and expertise needed to promote deaf children’s development.

Our response has been informed by the views of 130 parents who attended two webinars on the SEND review as well as from 14 deaf young people who attended two focus groups.

Please note that we have not responded to all the questions in the SEND review.

¹ www.ndcs.org.uk/media/6917/ndcs-note-on-attainment-data-2021.doc

1: What key factors should be considered when developing national standards to ensure they deliver improved outcomes and experiences for children and young people with SEND and their families? This includes how the standards apply across education, health and care in a 0-25 system.

In principle, we support the concept of new national standards, providing that reassurance can be provided on a number of key concerns. Given the postcode lottery that many families experience when accessing specialist support, we support efforts to ensure more consistency in the experiences of deaf children and young people. We also support anything that would help provide clarity for parents on what they should expect. With more than 90% of deaf children born to hearing parents, many parents can be uncertain about how their child should be supported, particularly in the early years.

We note that there is very little in current legislation or guidance which explicitly sets out specifically what support and provision deaf children and young people should expect. Indeed, the only statutory requirements that we are aware of that are deaf-specific are: 1) that qualified Teachers of the Deaf should be consulted when undertaking a statutory assessment for an Education, Health and Care (EHC) plan for a deaf child²; and 2) that teachers of classes of deaf children should hold an additional teaching qualification in deafness³.

Whilst the Equality Act 2010 states that schools and services should ensure reasonable adjustments are made to ensure disabled children can access education, many parents report feeling uncertain what they should reasonably expect and what a reasonable adjustment might look like in practice. We believe the national standards could helpfully support parents in this.

At the same time, there are a number of risks in how any new national standards are drafted and introduced, and the detail will be crucial. It will be important that the Government provide reassurance on a number of key concerns that have emerged, including from parents of deaf children who have participated in webinars on the SEND review. Our support at this stage is conditional on the following factors:

- the national standards include standards which are deaf-specific. Without this, it is difficult to see how any new national standards will be an improvement on the current system
- the national standards still allow some flexibility to accommodate children's individual and changing needs. We believe the national standards should enable, rather than constrain, the right support for deaf children
- that there is no erosion of existing legal rights and that the national standards do not constrain parents' rights to appeal at Tribunal. For example, the SEND review suggests that national standards will set out the circumstances in which an EHC plan or a specialist placement is necessary. If it does so, the national standards should be clear that parents will still retain the right to appeal against decisions around the EHC plan. National standards should build on the rights and the statutory framework established through the Children and Families Act 2014. National standards are also more likely to raise parental confidence if they are clearly focused on strengthening early intervention and inclusion and not on constraining any existing parental rights
- the Department for Education make clear that any new national standards must not in themselves lead to any reduction in existing support for children with SEND. This was something that particularly concerned parents who attended our webinars. The only exception to this should be where children's

² Clause 6(2) of SEND Regulations 2014

³ Education (School Teachers' Qualifications) (England) Regulations 2003

needs have changed and where ongoing support is demonstrably no longer needed to maintain good outcomes

- that the standards for deaf children represent a genuine consensus among leading stakeholders on what should reasonably be provided and what good looks like. It is important that any new national standards do not lead to a 'race to the bottom'.

We also believe that the Department should consider how to ensure a robust and meaningful accountability framework around any new national standards. Whilst the SEND review suggests that the Department for Education will quality assure local inclusion plans against the national standards, it would be helpful to provide more detail on what this will look like in practice. We are concerned that the national standards will quickly become meaningless and discredited unless parents can see that any persistent failure to meet the national standards, without good reason, are acted upon. This suggests to us that there should be a clear process for ongoing review of local inclusion plans and the fit with the national standards. We also believe the Department should consider the development of a simple and straightforward mechanism for parents to feedback any concerns they may have about this directly with the Department. The Department should also ensure there is transparency over how such concerns are acted upon.

In the following section, we set out our views on what should be included in the national standards for deaf children and young people:

1) How needs should be identified and assessed:

Early identification

National standards should set out a clear and robust pathway from identification of hearing loss to high-quality early identification, drawing on quality standards already in place for newborn hearing screening, audiology and specialist education services for deaf children. This should include the following:

i) **Newborn hearing screening.** An effective newborn hearing screening programme is in place to identify as many children as possible who are born deaf. National standards should reference quality standards⁴ already in place. In particular:

- at least 98% of children undergo screening within 28 days
- at least 97% of children offered a first appointment within 28 days for audiology assessment where newborn hearing screen does not provide a clear response.

ii) **Audiology identification.** High-quality audiology services are in place across England to identify hearing loss quickly in all children where there is a concern. National standards for deaf children should also reference the quality standards developed by the British Academy of Audiology⁵. In particular:

- at least 98% of children referred to audiology outside of the newborn hearing screening programme offered an appointment within six weeks
- appointment to fit hearing aid offered within four weeks of a hearing loss being identified, where decision to fit amplification made.

iii) **Early intervention support to families.** High-quality specialist education services are in place in England to ensure families are quickly provided with high-quality early intervention support following a confirmed

⁴ www.gov.uk/government/publications/newborn-hearing-screening-programme-quality-standards/newborn-hearing-screening-programme-standards-valid-for-data-collected-from-1-april-2022

⁵ www.baaudiology.org/professional-information/baa-paediatric-support/

diagnosis of hearing loss in line with quality standards developed by the National Sensory Impairment Partnership (NatSIP)⁶. In particular:

- The service contacts the family as quickly as possible following identification:
 - within two days of notification from audiology if identified through the newborn hearing screening programme
 - within five days of notification from audiology if identified through a different route
- the service visits the family within ten days of notification from audiology, unless otherwise agreed with the family. At the end of the first visit, the family should:
 - feel more confident they understand what their child's deafness means
 - know that there is support available to them and understand how they can access it
 - feel they can ask any questions they like, in the first visit and thereafter.

iv) **Partnership working.** Specialist advice and support from qualified Teachers of the Deaf should be sought for the health development review at age 2 and used to inform the integrated review. Qualified Teachers of the Deaf should work closely with health visitors and other professionals, along with parents, to ensure assessments and reviews are holistic and joined up.

v) **Pathways for identification of hearing loss.** All practitioners working in the early years and in primary education should receive information and training on the signs of hearing loss so that they feel confident that they could identify the possibility of an undiagnosed permanent or temporary hearing loss and understand the importance of ensuring that a referral is made for an audiology assessment. There should be care pathways in place in the local area which allow for timely hearing assessment and referrals from multiple routes, including screening services, GPs, health visitors, speech and language therapists, parents, etc. There should also be a school entry screening programme in place to ensure all children aged between 4 to 5 receive a hearing screening at school.

Ongoing specialist assessment of need

We believe there should be a clear expectation that the specialist education service for deaf children employs qualified Teachers of the Deaf who are able to use specialist assessments to identify deaf children's developmental and learning needs (particularly around language and communication), establish baselines and targets, identify learning interventions and support needed and monitor progress. This information should be shared with families and with other education professionals working with a deaf child.

In identifying support needed, assessments should make reference to the duty to provide reasonable adjustments under the Equality Act. The following section on appropriate provision provides examples of what might ordinarily be considered to be a reasonable adjustment.

SEN support

We know that even a mild hearing loss can have a significant impact on a child's development and learning unless the right support is in place. In light of this and given the importance of the Equality Act duties on removing disadvantage, we believe that all children and young people with permanent deafness, regardless of their level of hearing loss, should be placed on SEN support.

⁶ www.ndcs.org.uk/media/1874/natsip_quality_standards_for_sensory_support_services_in_england_2016.pdf

2) The appropriate provision that should be made available for different types of need:

We believe that the below should all be regarded as steps that will need to be taken by education settings and/or the local authority as reasonable adjustments under the Equality Act.

Early years

- **Technology.** All deaf children who receive a hearing aid or an auditory implant should be provided with a suitable assistive listening device package to provide additional amplification and to support language and communication development in early years settings and at home. Given the moves to integrated hearing technology, this should be funded by health. All families and any early years practitioners working with a deaf child should receive ongoing support and advice around the effective use of this technology.
- **Specialist support.** All families should receive ongoing support and advice from a peripatetic qualified Teacher of the Deaf from the point of identification of a hearing loss.
- **Support with language and communication.** All families should be offered support to help their child develop language and communication. This should include access to appropriate family-friendly sign language courses to an advanced level.
- **Early education and childcare.** Where a deaf baby or child attends any kind of early years provision, early years practitioners should receive tailored information and advice on deafness and deaf awareness from a peripatetic qualified Teacher of the Deaf within four weeks of being notified that a child is starting there.
- **Listening environment.** The local area should ensure that parents are able to access early year settings with appropriate acoustics (in line with those required in schools under Building Bulletin 93). More generally, all necessary steps should be taken to improve the quality of the listening environment in other early years settings attended by deaf children unless there are practical reasons why this is not possible. The costs of this should be met by the early year setting or unless the costs are so significant that they should be met by the local authority through the high needs budget.

Education support in schools and colleges

- **Deaf awareness.** All staff working with deaf children in a mainstream education setting or in a specialist setting not specifically for deaf children should receive initial and ongoing information and training from a peripatetic qualified Teacher of the Deaf on deaf awareness and effective inclusion of deaf children.
- **Specialist support.** All education settings should be able to receive ongoing specialist information, advice and support from a peripatetic qualified Teacher of the Deaf. Teachers of the Deaf should hold advanced qualifications in British Sign Language (BSL) if they are directly supporting a deaf child who uses BSL.
- **Listening environment.** Classrooms in which a deaf child is being taught should be assessed for the quality of the listening environment with appropriate remedial steps taken to bring the teaching space into line with the standards set out in Building Bulletin 93. The costs of this should be met by the school/college or the multi-academy trust, unless the costs are so significant that they should be met by the local authority through the high needs budget.
- **Technology.** Teachers should be provided with and trained to use any assistive listening device used by a deaf child. The device should be funded by health, with training provided by the specialist education service for deaf children. The service should also provide information and support to deaf children and young people to independently use and trouble-shoot issues around their assistive listening devices. Deaf children should be allowed to use these devices at home and in their local community if they would like to.

- **Classroom support.** Where a deaf child has been identified as needing additional and tailored one-to-one support to access the curriculum in a mainstream education setting, they should be provided with a teaching assistant who has specialist knowledge in deafness. Where a deaf child uses British Sign Language, the specialist teaching assistant (sometimes known as a communication support worker) should hold a qualification of **at least** level 3 in British Sign Language, depending on the child's individual needs. The teaching assistant should either be recruited by the specialist education service for deaf children, or by the school/college with ongoing specialist training from the service on effective support. Older deaf children and young people should also be provided with a competent notetaker and/or an interpreter where this is needed to help them follow the curriculum. The costs of any additional classroom support should be met by the school, college or the multi-academy trust unless the costs are so significant that they should be met by the local authority through the high needs budget.
- **Opportunities to learn sign language.** The specialist education service for deaf children should ensure that all deaf young people and their families and friends have the opportunity to learn British Sign Language (BSL) in primary, secondary and post-16 stages of education if the deaf young person would like to do so. Deaf young people should have also the opportunity to undertake a qualification in BSL (including a GCSE once this is developed).
- **Emotional wellbeing.** Given the risk factors associated with deafness, deaf children and young people should be regularly screened and assessed for any emotional wellbeing difficulties. The specialist education service for deaf children should also provide information and support to deaf children and young people to support the development of social skills, emotional literacy, self-advocacy skills and positive self-esteem and self-identity. Deaf children and young people should be provided with the opportunity to meet with other deaf children and young people, as well as with adult deaf role models. There should be clear pathways in place for deaf children to access specialist support with mental health if needed, including from deaf CAMHS.
- **Supporting deaf young people to be independent.** Specialist education services for deaf children should have a programme in place to help deaf young people feel more independent and confident in managing their deafness. This should include support in managing their own hearing technology. More widely, it should also include supporting and signposting to accessible information about moving to adulthood (e.g. learning to travel independently).

Specialist provision

- Each local area should ensure there is a high-quality range of provision in place to meet the specialist needs of all deaf children within their area and parental preferences. Alternatively, there should be arrangements in place to commission from nearby areas as needed. This should include specialist resource provisions or bases for deaf children in mainstream schools and colleges, and special schools for deaf children.
- Given the very individual needs of deaf children and the fact that deafness is a low incidence need, local authorities must be open to the possibility of an out-of-area placement where this is necessary to meet the individual needs of deaf children.
- All specialist settings for deaf children and young people must employ qualified Teachers of the Deaf (or they must be undergoing training to qualify within three years) to meet the needs of deaf children who have been placed in that school to access the specialist provision. In resource provisions/specialist bases, this applies to those working to ensure the effective inclusion of deaf children within mainstream classrooms, as well as those teaching separate classes of deaf children

We don't believe it's appropriate for national standards to specify when a placement in a specialist setting is needed as this will depend on the individual needs of deaf children and should be informed by the professional view of a qualified Teacher of the Deaf and the views of the family. However, the factors or

combination of factors that may make a placement in a specialist deaf setting appropriate will likely include:

- significant delays in language and communication or wider communication difficulties requiring sustained ongoing tailored support
- a communication methodology or modality additional to or instead of spoken English (e.g. British Sign Language)
- a peer group of other deaf children and young people
- support for emotional health and wellbeing, and wider support to their families.

Education, Health and Care plans

We don't believe it's appropriate for national standards to specify when an Education, Health or Care plan is needed as this will depend on the individual needs of deaf children and should be informed by the professional view of a qualified Teacher of the Deaf and the views of the family.

However, national standards should retain the existing requirement that advice from a qualified Teacher of the Deaf must be sought and considered when considering if an Education, Health and Care plan is necessary for deaf children and on the contents of any such plan.

In terms of processes, we support the retention of the existing requirements around statutory assessments and reviews of EHC plans that are already included in the Children and Families Act and the SEND Regulations 2014.

3) Standardised processes for accessing and reviewing support

An eligibility framework should be in place which sets out clearly the levels of support that would ordinarily be provided by the specialist education service for deaf children, depending on individual needs.

Frameworks should, in particular, take into account children's language and communication development and disadvantage. The eligibility framework should be easily accessible through the website for the service and through the Local Offer.

4) Standards for co-producing and communicating with children, young people, parents and carers

In addition to the expectations that already apply in relation to all children with SEND, we believe the national standards should also include:

- results of assessments by qualified Teachers of the Deaf are shared with families within ten days of the assessment being carried out. The results of the assessments and the implications of this for the child's learning and support are explained in a clear, appropriate and jargon-free way
- families understand how decisions about the level of support their child receives from the specialist education service for deaf children are made, with reference to the eligibility framework for the service
- families feel they can give feedback at any time to the education setting or to the specialist education service for deaf children on how the needs of their child are being met
- where needed, deaf young people are provided with additional support (including communication support) to participate in meetings about their support to enable them to meaningfully contribute. They are treated and respected as active participants in such meetings.

5) Standards for transitions

Specialist advice

The specialist education service for deaf children should provide the education setting with tailored information and advice on the deaf child's individual needs before the child starts at a new education setting or within four weeks of being notified that a child or young person is starting there. A qualified Teacher of the Deaf and an appropriate lead within the setting (e.g. a SENCO or lead disability advisor within a college) should work together to develop and implement a plan for an effective transition into that setting.

Transition into employment

There should be clear responsibilities on schools and colleges on what they should do to support their students to prepare for employment. These should include:

- tailored careers guidance from Year 9 at the latest
- securing accessible work experience placements
- provision of information on support to find work and in-work support
- exposure to disabled role models.

Schools and colleges should also work together with specialist services so that young people receive disability-specific information (including on the Access to Work employment scheme). It should be a requirement that all local authorities have SEND representatives on local Careers Hubs.

Transition into higher education

Schools and colleges should be required to inform all young people with SEND on Level 3 programmes about what support and adjustments are available in higher education, Disabled Students Allowances and how to apply for them. They should collaborate with specialist services to deliver this information.

2: How should we develop the proposal for new local SEND partnerships to oversee the effective development of local inclusion plans whilst avoiding placing unnecessary burdens or duplicating current partnerships?

In principle, we support the proposal for new local SEND partnerships and local inclusion plans, providing that action is taken to ensure that low incidence needs such as deafness are not overlooked. We think it's important that local inclusion plans do not treat children with SEND as if they are a homogenous group. We recommend that guidance be issued around the membership of local SEND partnerships and the content of local inclusion plans to ensure they consider the full range of needs, including deafness.

We believe local SEND partnerships should, at the minimum, include representation from the local specialist education service for children with sensory impairment. We also believe that local inclusion plans should set out what action will be taken to maintain or improve provision for deaf children, starting with support to the families of deaf children identified through the newborn hearing screening programme all the way up to adulthood.

We also believe that the proposed new funding agreements between the Department for Education and local authorities should include an explicit requirement around funding of specialist education services for deaf children.

As well as considering how the local inclusion plan delivers the national standards, we also believe that local SEND partnerships should have a specific duty to:

- 1) consider if and when cross-border commissioning between local authorities and joint commissioning between health, education and social care might be required in order to meet the needs of children with SEND, especially those with low incidence needs (this is explored further in our response to Q3)
- 2) conduct a review of the specialist SEND workforce in the local area to identify if and what steps need to be taken to ensure sufficient numbers of specialist SEND professionals in coming years and the CPD needs of the current workforce in the local area. This should include a succession plan for experienced staff who may be due to retire in coming years. As we explain in our response to Q20, there are significant concerns around numbers of qualified Teachers of the Deaf and the lack of incentives for local areas to invest in training the next generation.

Local inclusion plans should also reference local skills plans (as set out within the Skills and Post-16 Employment Act 2022) to help ensure joined up working around measures to address the disability employment gap.

3: What factors would enable local authorities to successfully commission provision for low-incidence high-cost need, and further education, across local authority boundaries?

We strongly support any steps to secure more commissioning of provision for deaf children across local authority boundaries. We believe that larger services would be better able to deliver a more comprehensive and joined-up offer to deaf children and their families at a local level

Specific benefits for deaf children of more cross-border commissioning are likely to include:

- greater consistency in the quality and equity of support provided to deaf children, addressing any postcode lottery gaps in provision and developing a more consistent approach in the management of eligibility criteria, thresholds and levels of support across the area
- more effective planning and commissioning specialist provision and the creation of a wider continuum of support from 0 to 25. As specialist education services will be working with children with sensory impairment from birth, there is often more scope to anticipate the future need for specialist provision based on current assessments of need
- more scope for strategic workforce planning, particularly important in a context where services/schools often struggle to appoint qualified Teachers of the Deaf and where there has been a long-term decline in these numbers. Larger services are also better able to maintain continuity in provision where there are staff illnesses, vacant posts, etc. than a service that only employs one or two Teachers of the Deaf
- services better able to develop specialisms within the service (e.g. early years, post-16) or further expertise on specific needs, so better enabling them to meet the diverse range of needs among deaf children in each local area (e.g. deaf children who use English as an Additional Language or sign language, or who have specific additional needs) – expert staff can be deployed where need is, across a wider area
- greater scope for economies of scale and savings that can be reinvested into raising outcomes for deaf children
- more sharing of knowledge and good practice across an area
- more scope for greater coordination with health and social care (e.g. on provision of equipment).

The secondary benefits would likely include improved outcomes, increased parental confidence and reduced appeals.

Current position

Currently, we believe there are too many relatively small services seeking to meet the full range of provision needed by deaf children in their area. Data from the 2021 Consortium for Research into Deaf Education (CRIDE) survey of specialist education services for deaf children⁷ illustrates the wide range in numbers of peripatetic Teachers of the Deaf and resource provisions across different services:

- the number of qualified peripatetic Teachers of the Deaf in each service ranges from 0 to 12.3 (fte). 33 services employ two or fewer peripatetic Teachers of the Deaf, of which seven services employed one or fewer (e.g. 0.5 fte) fully qualified peripatetic Teachers of the Deaf
- there are 34 services (26%) where each visiting Teacher of the Deaf has a theoretical caseload⁸ of, on average, 80 or more deaf children, of which there are 14 services (11%) where there are, on average, 100 or more deaf children on the theoretical caseload

⁷ <https://www.ndcs.org.uk/media/7641/cride-2021-england-report-final.pdf>

⁸ In simple terms, and for consistency across all parts of England, we calculate the theoretical caseloads by dividing the number of permanently deaf children living in any given area and in non-specialist provision⁸ by the number of visiting Teachers of the Deaf who are qualified or in training for the mandatory

- 43 services (32%) appear to have no resource provision for primary-aged children in their area whilst 52 (39%) appear to have none for secondary-aged children in their area
- looking at the spread of resource provisions against the overall population of deaf children, on average, there is one resource provision for every 190 deaf children. Again, there is wide variation around this – the largest spread is found in the West Midlands where there is, on average, one resource provision for every 370 deaf children.

Separately, we also know that there are just 18 special schools for deaf children across England.

It should be noted that cross-border commissioning is already encouraged through the existing SEND Code of Practice which, in relation to children with highly specialised and/or low incidence needs, states that:

“partners should consider strategic planning and commissioning of services or placements for children and young people with high levels of need across groups of authorities, or at a regional level. The benefits include:

- *greater choice for parents and young people, enabling them to access a wider range of services or educational settings*
- *greater continuity of support for children and young people in areas where there is a great deal of movement across local authorities (for example, in London).”* (paragraph 3.68)

Recently published guidance for local authorities *Sustainability in high needs systems*⁹ also states:

“... LAs may wish to consider combining specialist SEN and disability services, for example for expert professionals such as educational psychologists and specialist teachers, so that sustainable centres of expertise are created, providing schools and other institutions with the extent and quality of specialist support they need. A number of LAs are already developing such collaborative approaches and seeing better value for money and savings as a result. LAs should consider their neighbours as key partners in their sufficiency planning and develop relationships accordingly.”

“Children and young people with low incidence but highly complex special educational needs may require highly specialised provision which is not available in every local area. Such provision is frequently offered by providers which operate at a regional or national level, often through independent or non-maintained special schools and specialist post-16 institutions. LAs should consider what co-operative arrangements across local boundaries could be put in place to meet the needs of these children.”

We understand that there are currently 10 areas¹⁰ where specialist education services for deaf children are working together across local authority boundaries. In only three areas are more than two local authorities working together. Despite the positive references to cross-border commissioning in government guidance, we have not noticed any significant or intentional change in the number of areas working together in recent years. Indeed, our casework highlights some of the challenges in maintaining existing joint services:

- In 2021, Northamptonshire county council broke up into two unitary authorities – North Northamptonshire and West Northamptonshire. Currently, there remains one service covering both

qualification⁸. Responses have been excluded where there were obvious gaps or anomalies in either the number of Teachers of the Deaf or numbers of deaf children living in the area.

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084835/Local_authority_guidance_on_high_needs_sustainability.pdf

¹⁰ 1) Berkshire Consortium (West Berkshire, Reading, Bracknell Forest, Wokingham, Windsor and Maidenhead and Slough), 2) Middlesbrough, Stockton, Hartlepool, Redcar & Cleveland, 3) Bath & NE Somerset, Bristol, North Somerset and South Gloucester, 4) Dorset, and Bournemouth, Christchurch & Poole (BCP), 5) Telford & Wrekin and Shropshire, 6) Leicestershire and Rutland, 7) North Northamptonshire and West Northamptonshire, 8) Haringey and Enfield, 9) Richmond and Kingston, 10) Westminster and Kensington & Chelsea

authorities. However, a review is currently underway and there is uncertainty on whether the service may be required to break up. We understand that issues around funding are among the sticking points.

- In 2013, an arrangement between four authorities across the Humber broke up. It was apparent that there was relatively little ongoing partnership or discussion between the four authorities on the arrangement and a level of distrust between some of the partners. They remain as separate services although, when necessary, children from across the area are placed in resource provisions in Hull.
- In 2019, the Royal Borough of Kensington & Chelsea withdrew from a joint arrangement with the London Borough of Hammersmith and Fulham for the specialist education service. This resulted in a staffing crisis for Hammersmith & Fulham which was left with no Teachers of the Deaf. They have since rebuilt and have 1.4 Teachers of the Deaf in post.

We believe that the above indicates that a strategy based on *encouraging* local authorities to work together is unlikely to deliver significant change. There is no real incentive for local authorities to work together or any clear framework or ‘levers’ to bring them together. It is also clear that cross-border commissioning is highly reliant on robust joint agreements being in place and the goodwill of local authorities. It can also be vulnerable to changes in local authority political control. We believe that these challenges are the most significant barriers to any wider cross-border commissioning.

Options

We believe there are a number of options to how the Department might address this and secure more cross-border commissioning.

A: Financial incentives.

Introduce ongoing financial incentives for local authorities to initiate cross-border arrangements and for each year they continue to work together. This would be justified on the basis that any financial incentives would be outweighed by the likely savings in terms of improved provision.

B: Consider when developing local inclusion plans.

This would involve strengthening guidance to recommend/require local authorities (via the proposed local SEND partnerships) to, when developing local inclusion plans, actively and specifically consider if cross-border commissioning would help them secure effective provision for deaf children and other low incidence needs.

C: Active brokerage by the Department for Education.

This option would involve the Department for Education Region Boards playing an active brokerage role in encouraging, facilitating or directing local authorities to commission specialist education services for children with sensory impairment on a cross-border basis if the local inclusion plan for an area indicates that the local authority will not be able to secure effective provision for these children. This might apply, for example, if the local inclusion plan does not adequately address the new national standards or if the size of the service is judged to be unable to reach a ‘critical mass’ of deaf children to meet their needs. The proposed new funding agreements between the Department for Education and local authorities should provide the Department with a mechanism to broker these cross-border arrangements where necessary and ensure partnership working between local authority services.

D: Reshaping of commissioning responsibilities.

Moving local authority responsibility for commissioning provision and support for deaf children to a separate body. This separate body could be a new national commissioning lead or new regional commissioning leads that is able to look at the full range of deaf children’s needs.

Our experience of cross-border commissioning to date suggests that little substantive progress will be made if we rely solely on local authorities to work cooperatively with each other. We therefore believe the Department should pursue either option C or D above.

4: What components of the EHCP should we consider reviewing or amending as we move to a standardised and digitised version?

We support the plans to move to a standardised and digitised version of the EHC plan.

In terms of changes to the format of EHC plans, we agree with the suggestion in the SEND review that, for simplicity, sections H1 and H2 around social care should be merged.

We think it's important that any standardisation of the EHC plan does not come at the expense of any relevant age-specific information – for example, plans for young people should still also include information on preparing for adulthood. There may be a case for a different version of a standardised EHC plan for use with children from Year 9 onwards to ensure this.

In terms of processes around EHC plans:

- we think parents and young people should have the right to appeal against the content of section E (outcomes) of the EHC plan. In the spirit of coproduction, we believe that families and young people should have the right to help determine what outcomes are set for the child or young person
- we oppose any extension around timescales for decisions following an Annual Review. We do not believe that four weeks is a particularly unreasonable length of time for decisions to be made given that evidence and reports will already have been collected
- we believe that the National Trial where the SEND Tribunal has had extended powers to make non-binding recommendations on health and social care aspects of EHC plans should now be confirmed in place on a permanent basis. Our casework with families indicates that the National Trial is helping to:
 - ensure that all relevant assessments are taking place, particularly in social care
 - leading to a recognition of wider needs (e.g. emotional wellbeing)
 - secure a stronger focus on steps needed to ensure a successful transition into adulthood.

In terms of digitised plans, we believe another potential benefit around this is for professionals to easily see what other reports have been submitted about a child. This should support multi-disciplinary working. We recognise that this is something that parents would need to consent to. It will also obviously be important to ensure that families without ready or easy access to the internet are not disadvantaged by any moves to digitised plans.

We have reservations about proposals for new statutory local multi-agency panels. We believe the Department should address concerns about these by providing reassurance on the following aspects of the role of the panels:

1. they will be genuinely independent of the local authority (i.e. do not include anyone on the local authority payroll)
2. they will focus only on how local authorities have made decisions and don't interfere with parents' decisions or rights or usurp the role of the Tribunal in any way
3. any decisions or recommendations made by the panel will be transparent with written reasons given
4. it doesn't make the process of getting an EHC plan any longer
5. they seek advice from and include Teachers of the Deaf and/or specialist education services for deaf children when making recommendations about deaf children.

5: How can parents and local authorities most effectively work together to produce a tailored list of placements that is appropriate for their child, and gives parents confidence in the EHCP process?

We have strong reservations about this proposal. We believe that it will be important for the Department to provide reassurance to parents on how tailored lists of placements will work in practice and how it will be an improvement on the current legal framework where parents can make an open preference for a setting that they think will best meet the needs of their child. In particular, reassurance and clarification on the following points will be helpful:

- whether parents will still be free to express a preference for a placement that is not on any tailored list and to appeal a decision not to agree to this preference. Many parents have told us they are concerned that tailored lists could end up being used to discourage or restrict choice for parents. We could not support any proposal for tailored lists that involved constraining parents' choices in this way
- whether there are any circumstances in which a mainstream provision would not be included in a tailored list of settings. We would contend that nearly all mainstream settings can be an appropriate place for many deaf children providing that all necessary reasonable adjustments are made and that a school has a positive ethos towards inclusion
- whether it will include the full range of mainstream and specialist post-16 options for young people with SEND (including sixth form colleges, further education, training providers, etc.)
- how tailored lists will work for low incidence needs. Whilst we welcome the commitment that lists may include settings that are outside of the local authority, it remains unclear how this would work in relation to specialist deaf provision. For example, there are only 18 special schools for deaf children across England – if and how will these be included in tailored lists?
- how 'tailored' any lists will be given the very different individual needs of deaf children. We would contend that, to be useful for parents of deaf children, a tailored list would need to include detailed information about deafness, including:
 - levels of staffing and whether the specialist provision employs qualified Teachers of the Deaf
 - the communication methodology or modality used in the school – whether additional to or instead of spoken English (e.g. British Sign Language)
 - where applicable, the extent to which the provision is able to support children with significant delays in language and communication or wider communication difficulties requiring sustained ongoing tailored support
 - whether the provision caters for any additional learning needs that deaf children may have
 - whether the provision is able to provide a peer group of other deaf children and young people where this is needed
- the SEND review indicates there will be a quality assurance process in place to ensure that tailored lists and local inclusion plans are appropriate. It would be helpful to set out how this quality assurance will work and to what extent this would seek and incorporate advice from specialist education services for deaf children and/or Teachers of the Deaf.

Finding the right placement for a child is obviously also important for all children with SEND, including those without an EHC plan. As part of the SEND review, we think the Department should look at policy around school admissions to see if more can be done to support parents in seeking a place in a mainstream or specialist setting that is well placed to meet their child's needs. Making it easier for all parents of children with SEND to get their first-choice preference for an education setting, where that setting has specific provision for children with SEND, could be instrumental in raising parental confidence in the system whilst also potentially reducing demand for a statutory plan.

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

We strongly disagree.

We believe that these proposals will fail to, as suggested, strengthen parents' ability to seek redress. In light of the fact that the vast majority of appeals to Tribunal are conceded by local authorities or won by parents, it feels clear to us that the focus should be more on improving the quality of local authority decision-making rather than requiring parents to attend mediation meetings.

We also believe that moves towards mandatory mediation for parents is likely to be counter-productive if parents feel they are 'forced' to be there. In our experience, mediation also rarely leads to a successful outcome, because it comes too soon after the original decision, without any new evidence coming forward.

In addition, through our casework, we are aware of significant differences in the experience of mediation when parents have sought this. A common concern is that local authority representatives are not authorised to make decisions or simply do not turn up. Parents will be sceptical that any new national standards will make any difference given that statutory regulations are already prescriptive about how mediation should be undertaken. Currently, there do not appear to be any real consequence if these regulations are not followed.

We also believe that local authorities are very unlikely to have sufficient capacity to attend mediation meetings if these become mandatory in all disputes. We are concerned that this will introduce significant delays into the system. Where appeals are around placements for a child, any such delays are likely to significantly undermine parental confidence, as well as the child's wellbeing and happiness.

In terms of alternative approaches, we believe there may be merit in exploring the role of an independent review mechanism but with some differences to the approach suggested in the SEND review. Specifically, we think that any independent review mechanism could work if:

- it is genuinely independent and does not include anyone on the local authority payroll
- focuses on the quality of local authority decision-making and the likely outcome of any appeal to Tribunal, and has the power to make recommendations or binding legal judgements against the local authority
- considers cases **before** any mediation becomes an option, to reduce the level of burden and stress on families
- is done in a timely way and does not interfere in the parents' rights to make an appeal if they wish to (though we appreciate the Tribunal would want to take into account the view of the independent review panel when reaching its own judgements).

7: Do you consider the current remedies available to the SEND Tribunal for disabled children who have been discriminated against by schools effective in putting children and young people's education back on track?

No – we think that the current remedies are insufficient. We believe that Tribunals should have the power to award compensation if it finds that a school has discriminated against a disabled child or young person.

We believe that strengthening the powers of the Tribunal in this way would raise parental confidence in the system. Our casework suggests that relatively few parents take disability discrimination cases to Tribunal. We believe this is partly due to parents not wanting to 'rock the boat', particularly if there is going to be no real consequence to the school if the Tribunal finds against the school. As such, this change could create a powerful incentive for schools to take more seriously the need to ensure that disabled children are not disadvantaged and that all reasonable adjustments are made.

We also believe that parents and professionals have low familiarity with what the Equality Act means for them in practice. In particular, parents are often not sure what they can reasonably expect as reasonable adjustments. The proposed new national standards have the potential to significantly address this barrier (providing that steps are taken to mitigate the concerns around how national standards might work in practice – as explained in Q1).

We also think it's important that there are other mechanisms in place to protect deaf and disabled children from discrimination.

In particular, we believe that the role of the Local Government and Care Ombudsman should be strengthened. Many parents currently seek redress through the Ombudsman where they feel that the local authority has acted unlawfully. They are often surprised that the Ombudsman does not have the power to consider cases against the school. This creates a perception that the current accountability framework is not joined up, leaving parents feeling forced to spend more time undergoing a disjointed, bureaucratic process, and less time supporting their child.

We note that the Ombudsman had the power (through the Apprenticeship, Skills, Children and Learning Act 2009) to consider complaints by parents or pupils about schools for a brief period from 2009 in 14 local authority areas. Our understanding was that this pilot was positively received by families in those areas and that the number of cases were in line with expectations.

8: What steps should be taken to strengthen early years practice with regard to conducting the two-year-old progress check and integration with the Healthy Child Programme review?

With half of deaf children born deaf and the other half becoming deaf, often during the early years, early intervention is crucial in ensuring that deaf children can develop good language and achieve good outcomes. Without this early intervention, it's difficult to see how progress can be made for deaf children in the government target of 90% of children achieving expected standards in reading, writing and mathematics in primary school.

To help secure high-quality early intervention, we believe it should be a requirement that Teachers of the Deaf be involved in an integrated review of a deaf child aged two and that they work closely with early years practitioners and health visitors as part of this.

We think that Teacher of the Deaf involvement can particularly add value to the Healthy Child Programme development review that forms part of the integrated review, alongside the progress check, for the following reasons:

- enables Teachers of the Deaf and other practitioners to share insight. Teachers of the Deaf can share information gained from specialist assessments and monitoring, including from a specialist resource on developmental milestones in deaf children (called Success from the Start¹¹)
- provides the health visitor with information to more accurately judge if any issues around language delay can be attributed to the child's deafness or if there is risk of wider development delays. Teacher of the Deaf involvement can provide expert input to support decision making and ensure that the right support packages are put in place whilst also reducing unnecessary referrals (for example to audiology)
- ensures that joint working between Teachers of the Deaf and health visitors becomes the norm/expected practice rather than relying on local relationships and historical pathways
- it's important to parents of deaf children that professionals work together, that the information and advice they provide is joined up and that the integrated review takes a holistic view of all of the child's needs
- helps to ensure that Teachers of the Deaf can reinforce any wider messages about the child's development in any future visits to the family or relay important messages to other professionals (e.g. early year practitioners).

There are also wider benefits in raising awareness of childhood deafness among health visitors to ensure that all practitioners are equipped with the knowledge and skills to spot the signs of an unidentified hearing loss as early as possible and to connect families with the right support to improve outcomes. Parents have also told us they would like their Teacher of the Deaf to be involved in the health development check that forms part of the integrated review, as the below quotes from families show:

"[The health visitor] didn't know my child had hearing loss and [the review] just seemed like a pointless tick boxing review... for example, she was asking about how is the speech, etc. and I would say well these sounds are missing I think it's because of the hearing loss and so on but then was there any advice or anything like that, ok, she's behind and then next question."

"It would definitely have been helpful to have both professionals in the same room (Teacher of the Deaf and health visitor) who could have both used their experience to do a joint assessment. There are some areas

¹¹ www.ndcs.org.uk/documents-and-resources/success-from-the-start-a-developmental-resource-for-families-of-deaf-children-aged-0-to-3/

where I'm always wondering if things are happening because my son is deaf, or just because he is a toddler, e.g. behavioural patterns."

"I believe that will be helpful if the Teacher of the Deaf could be involved in the review which mean [they] can help to encourage the targets for my son, such as motor skills which can be useful in nursery, so we can work together to achieve what best outcome for my son"

"The Teacher of the Deaf is brilliant and she would have made a big difference if she had been involved in the review."

In terms of current practice, we know that Teachers of the Deaf are already involved in integrated reviews in many areas. However, it is not universal. Figures from the Consortium for Research into Deaf Education (CRIDE) shows that 53% of local authority specialist education services do not contribute information to the integrated review (or do so only for a few children) whilst only 14% reported that they contribute information for all or nearly all deaf children.

We also know that in many areas, their involvement seems to depend on existing pathways and relations and can be vulnerable to changes in staffing. For these reasons, we think the involvement of Teachers of the Deaf in the integrated review should be statutory.

There is already a precedent for this – when a deaf child is undergoing an EHC needs assessment, regulations require that the local authority seek advice and information from a qualified Teacher of the Deaf. We believe it would be sensible to replicate this requirement in the integrated review, particularly given the importance of early intervention.

We know from our local engagement casework that many services are keen to be more involved and we believe that this proposal has the support of the wider sector, including from the Institute of Health Visiting.

9: To what extent do you agree or disagree that we should introduce a new mandatory SENCo NPQ to replace the NASENCo?

We question how much difference replacing the qualification will have in practice for deaf children unless there are changes to the qualification to ensure that SENCOs:

- have a basic understanding of deaf awareness
- understand the steps they should take on a practical and strategic level to ensure the setting is a deaf friendly school
- understand when they will need to seek further specialist support (from, for example, a Teacher of the Deaf) and the need to work closely with these specialist professionals for additional and ongoing information and advice.

More generally, any new SENCO qualification is unlikely to make a difference unless SENCOs also have the necessary time, knowledge and resources (including advice from specialist Teachers of the Deaf) to support deaf children and staff in their setting.

Deaf young people repeatedly tell us that they face a lack of deaf awareness in education and that this has a significant impact on their learning and their wellbeing. This has been especially clear during the pandemic where face masks and a lack of captions in any remote teaching or online learning presented serious challenges to their learning and socialisation.

In a Teacher Tapp poll of over 5,300 teachers in 2011, 68% reported that they did not feel confident they could educate a deaf child – in particular, that they could differentiate the curriculum and provide effective teaching.

Our Young People's Advisory Board have collected evidence from over 150 deaf young people across the UK on deaf awareness in the classroom. They found that only 20% of deaf young people surveyed reported that all their teachers showed good deaf awareness. They provided numerous examples of poor deaf awareness in the classroom:

- *"Teachers don't face me when talking so I can't read their lips."*
- *"If I could change one thing about my school, it would be that teachers remember to put captions on videos/films"*
- *"Some lessons the teachers walk around the class whilst talking so it's quite hard to lip read and I get very tired"*
- *"The facemasks in school made me feel pretty excluded, I had no idea what was going on, I wasn't getting anywhere near as much information as I would have been without them. I had to focus so, so hard to try and understand anything that teachers and classmates were saying which resulted in constant headaches and fatigue."*

In our focus groups on the SEND review, deaf young people reported that their SENCOs generally knew very little about deafness.

We believe the Department should take steps to ensure that any new SENCO qualification includes a section on deaf awareness. It should also include information on how SENCOs should work with other specialists, such as Teachers of the Deaf, to meet the needs of deaf children in schools. As part of this, it will be important to listen to evidence from deaf young people on what they need from their SENCOs when developing this new qualification.

Any steps to strengthen the SENCO qualification should not be taken in isolation from wider action around the specialist SEND workforce. SENCOs working with deaf children will still continue to need access to specialist expertise and advice from Teachers of the Deaf. However, as we set out in our response to Q20, there has been a 17% decline since 2011 in the number of qualified Teachers of the Deaf. We believe that investment in Teachers of the Deaf is the biggest single step that the Department could take to restore confidence amongst parents of deaf children and to ensure the SEND review delivers for deaf children.

12: What more can be done by employers, providers and government to ensure that those young people with SEND can access, participate in and be supported to achieve an apprenticeship, including through access routes like Traineeships?

In our response to this question, we have taken the opportunity to comment on the wider text in the SEND review around transitioning to further education and preparing for adulthood. We have seen and support the points made by the Youth Employment Group in their response to this question in the SEND review.

Careers advice

School and college careers programmes must be improved to better prepare deaf young people for moving into employment. Our data tells us most deaf young people and their families do not receive careers guidance that addresses their specific needs. For example, they are not given the opportunity to discuss or learn about the reasonable adjustments deaf people can have at work. In addition, they do not learn about the Access to Work employment support scheme and what support can be funded in the workplace.

This was evidenced through a report by our Young People's Advisory Board¹² in 2019 which found that:

- careers advice and support for deaf young people can be compromised by: absence of specialist and tailored careers advice; limited aspirations for what they can achieve; and a lack of support to enter the workforce.
- 45% of deaf young people reported that they hadn't been provided with support by their school or college to help them think about choices for the future
- 90% of deaf young people didn't know what Access to Work was
- 75% of deaf young people didn't know or weren't sure what technology was available to support them in work.

In addition, a YouGov poll of over 800 teachers in 2019 found that only 15% were confident they could provide effective and tailored careers support to deaf young people.

And in a survey of parents of deaf young people aged 14-18, we found that only one in ten deaf young people received tailored careers guidance whilst one third received no careers advice at all.

We believe the following steps could improve careers programmes for deaf and other disabled young people:

- guidance should be strengthened and the new national standards on transitions should place clear responsibilities on schools and colleges to work together with specialists (such as Teachers of the Deaf) to ensure disabled young people receive information about reasonable adjustments in work and post-16 education, work-based training opportunities (i.e. apprenticeships, traineeships and supported internships) and employment schemes such as Access to Work and Jobcentre Plus programmes. Disabled young people should also be provided with opportunities to meet adult role models from a range of different backgrounds
- Careers Hubs should include SEND representatives from local authorities to ensure joined-up support between Careers Hubs and schools, colleges and employers
- the National Careers Service should be required to promote and provide access to advisors with specialism in disability through its helpline and live chat service

¹² <https://www.ndcs.org.uk/media/5665/dwe-yab-report.pdf>

- young people with SEND should be prioritised for work experience placements. The national standards should place clear responsibilities on schools and colleges to secure accessible placements
- the SEND Code of Practice should reference the Gatsby Benchmarks and use them as guide for provision.

Further education

Paragraph 46 of chapter 3 of the SEND review states that a new occupational standard is being developed for further education teachers and that will “likely” include a specialist option in SEND. We strongly believe that this should be mandatory, particularly given the high numbers of young people with SEND in further education. We also believe that any new module on SEND should include a section on deafness and working with specialist teachers, and that deaf young people have the opportunity to help develop the content for this.

Moving into employment

The Access to Work scheme is valuable for deaf young people but it could work better for people using the scheme for the first time. We welcome the concept of an Access to Work adjustments passport. However, we believe the product currently being trialled by the Department for Work and Pensions is unfit for purpose. A much more sophisticated tool is needed to address the diversity of needs amongst disabled young people and the range of settings that they are in.

More also needs to be done to promote the Disability Confident scheme amongst both employers and young people. Our focus groups have suggested young people lack awareness of this scheme.

Apprenticeships and supported internships

Around 50% of deaf young people do not achieve Level 2 qualifications in Maths and English by the age of 19. This is often linked to delayed language development and a lack of specialist support earlier in life. It is therefore important that the flexibilities for apprenticeship completion are extended to all young people with SEND where there is a link between their disability and difficulties with literacy and numeracy. Additionally, more should be done by the Department for Education to challenge employers who may unnecessarily require applicants to already have Level 2 Maths and English passes to start a Level 2 or 3 apprenticeship.

Supported internships and traineeships will provide some deaf young people with a potential route to an apprenticeship. We welcome their expansion. However, more consideration needs to be given to the transition from a supported internship or traineeship to an apprenticeship and how the gap can be bridged.

17: What are the key metrics we should capture and use to measure local and national performance? Please explain why you have selected these.

We think it's important that any new local and national dashboards include information on deafness. A generic dashboard that assumes children with SEND are a homogenous group is very unlikely to be welcomed by or be helpful to parents of deaf children. It's also unlikely to be useful to local authorities if it cannot help them identify the specific areas and types of SEND that need more attention.

Outcomes

We think it's especially important that dashboards include information on the outcomes achieved by deaf children from early years up to higher education. It should also include information on their post-education destinations.

Deafness is not itself a learning disability and there is no reason why most deaf children should not be achieving the same range of outcomes as other children. However, government figures show that deaf children continue to under achieve in education from early years onwards. Any attainment gap between deaf and other children should be seen as a warning sign that the SEND system is not working for deaf children. And in a context where the Government has established a target that 90% of all children achieve expected standards in reading, writing and mathematics in primary school, we believe it's especially important to shine a spotlight on how children with different types of need are performing.

As deafness is a low incidence need, we recognise that cohort sizes at a local level may be relatively small. Where this is the case, we believe data on deaf children's outcomes should be aggregated over a number of years.

The SEND review asks if there any additional data that the Department will need to start collecting for the dashboards. We believe that the Department should amend how data is collected through the School Census to ensure that data on all deaf children is being captured. Currently, the School Census only captures information on deaf children if they have been formally identified as having a special educational need. We believe that schools have too much discretion to determine if a deaf child is formally identified in this way, particularly given that the definition of SEN within the Children and Families Act as children who have a "disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions".

A comparison of Department for Education data with other figures indicates that up to and around 42% of school-aged deaf children are not recorded in the School Census.

To address this, we think the Department should ask schools to collect data on whether a child has a disability, in addition to whether they have a special educational need. Alternatively, the Department should issue clearer guidance to schools that a child with any level of hearing loss should be regarded as having a special educational need and/or require schools to take advice from a Teacher of the Deaf on whether a child should be regarded as having a special educational need. We believe this is justified on the basis that even a mild hearing loss can have a significant impact on a child's developments and outcomes.

Separately, we also believe there are significant gaps in the data collected on deaf young people post-16. These gaps include:

- there is very limited data available on the post-education destinations of deaf young people which makes it impossible to understand what outcomes they achieve beyond 18 or 19

- a lack of data about attainment within different settings (e.g. schools, FE colleges, training providers)
- an absence of grading data for A-level and BTEC students
- no data on supported internships and traineeships. Whilst there is some data on the number of deaf young people undertaking apprenticeships, we don't know what outcomes they achieve following this
- data on Higher Education only includes those who have self-declared as "severely hearing impaired".

We would like the Department for Education to carry out a more fundamental review of post-16 data, to bring together different data sets and align them with the School Census, to ensure that data collected is robust and more complete.

Experiences

We believe that dashboards should include information around the experiences of families in navigating statutory processes for Education, Health and Care needs assessments and plans, including data around whether statutory timescales are met, appeal rates and outcomes of appeals to Tribunals.

We also think the Department should consider developing (or adapting metrics already used by Ofsted) on how satisfied parents and young people are with the support they receive around SEND.

Identification of need

We believe that dashboards should include data on early identification and intervention among deaf children in line with existing quality standards already in place. These should include:

Newborn hearing screening

- % of children who undergo newborn hearing screening within 28 days
- % of children offered a first appointment for audiology assessment within 28 days where newborn hearing screen does not provide a clear response.

Audiology identification

- % of children referred to audiology outside of the newborn hearing screening programme offered an appointment within six weeks
- % of children receiving an appointment to fit hearing aid offered within four weeks of a hearing loss being identified, where decision to fit amplification made.

Early intervention support to families

- % of families contacted by the specialist education service for deaf children following identification:
 - within two days of notification from audiology if identified through the newborn hearing screening programme
 - within five days of notification from audiology if identified through a different route
- % of families who receive a visit from the specialist education service for deaf children within ten days of notification from audiology (unless otherwise agreed with the family).

18: How can we best develop a national framework for funding bands and tariffs to achieve our objectives and mitigate unintended consequences and risks?

We do not support the proposal to develop a national framework for funding bands and tariffs. We believe this will have a negative impact on deaf children, specialist education services and specialist settings. We are also concerned that a national framework may provide a new flashpoint for disagreement and conflict which would undermine the government's goal to increase parental confidence in the system.

Impact on individual deaf children

We believe that a banding system is too blunt and inflexible an instrument for deaf children, who are a diverse population with very individual needs. Many deaf children will also have other additional needs. Their needs are not fixed or static and will often change in response to other factors and the wider environment around them. As such, we are concerned that any new system risks leaving these children without the necessary support they need to thrive.

A system of tariffs would seem to rely on being able to clearly define all the inputs and unit costs associated with providing support to a deaf child. This may be possible in some cases – for example, it's possible to quantify the cost of a radio aid listening device for deaf children. However, it is clearly much harder in other cases – for example, to quantify the time and the level of one-to-one support needed to ensure effective use of a radio aid. This will depend on a range of external factors that are difficult to control. These factors might include: the training needed by families and teachers to feel confident in using a radio aid; any technical issues with the radio aid; the need to provide a new device or to change the settings if a deaf child's hearing loss worsens, etc. This additional support needs to be provided by highly skilled professionals who are able to use their judgement in a flexible and responsive way.

We are also concerned that the use of tariffs might simply lead to the "cheapest" available being used, taking away professional judgement and autonomy over which role or equipment is best placed to meet a specific need.

We are also unclear how any national framework for bandings and tariffs would interplay with the current statutory framework around Education, Health and Care (EHC) plans. There is a duty on local authorities to secure any provision that is set out as necessary in section F of the EHC plan. We could not support any proposal that would erode or caveat this duty. In particular, we think it is important that section F continue to take precedence over any bandings or tariffs that may be in place.

Impact on specialist settings

The SEND review recognises that a number of children with SEND will have needs that cannot be met in mainstream schools. This applies equally to deaf children. However, with deafness being a low incidence need, there are only 18 special schools for deaf children across England. We also know that there are wide variations in the number of mainstream schools with resource provisions/SEND units.

We are concerned that the introduction of bandings and tariffs could result in less funding being available to these specialist settings to meet the individual needs of deaf children. Even small changes in the funding available could risk undermining their viability, reducing the specialist provision available to deaf children.

Impact on specialist education services

Specialist education services for deaf children are usually funded through the high needs block. In stating that banding and tariffs would apply across high needs expenditure, the SEND review implies that they will apply also to these peripatetic services.

We are very concerned about how this could work in practice. Currently, most services provide support to most families, children and mainstream settings as part of a local authority core offer, without any kind of 'charging' to education settings¹³. It has long been recognised that a traded services model (whereby all or part of the high needs budget is delegated to schools, which then purchase services from the local authority) does not work well for low incidence needs such as sensory impairment. This is because even small fluctuations in funding risk compromising the viability of these important central services. There is also an additional risk that education settings and commissioners may not have a sufficient understanding of what support they need to purchase, given that many will only rarely encounter deaf children and will not have the skills to be able to carry out specialist assessments of their needs.

Previous examples of how charging has been used with services for deaf children have not been successful:

- Lancashire: The local authority moved to traded services in 2011/12 but experienced two significant difficulties.
 1. Schools sought to buy the 'cheapest' support available - for example, from a technician, rather than a qualified Teacher of the Deaf. There was a failure to recognise and value the high level of specialist skills needed to support deaf children.
 2. The price was too high for schools to afford. This led to the schools seeking to purchase from elsewhere, and a private enterprise was set up by ex-local authority Teachers of the Deaf, which under-cut the local authority central peripatetic team. As such, the local authority lost out financially. The service is now being restructured and posts are being filled to ensure the local authority has sufficient staff and the right expertise to support deaf children.
- Worcestershire: The local authority outsourced the specialist education service to Babcock in 2014. As part of this, it delegated its team of specialist teaching assistants to schools. The local authority is now bringing back management of the service but the specialist teaching assistant workforce is now significantly fragmented and not at the same level as it was prior to delegation.

The National Sensory Impairment Partnership (NatSIP) also reported on the risks of traded services in their commissioning guidance¹⁴, which was informed by work with over 70 service leaders:

"Moving to a traded service where only the core statutory work is LA funded, with the expectation that schools will commission the rest of the service, has been cited as one of the most common changes. However, feedback from SI Services has suggested that schools are highly unlikely to commission the required volume of support that was either being provided previously or that the service assesses as being required. Where there has been a diminution of service this has also led to a lack of early intervention with the consequence that additional support has then been required at a later stage which inevitably falls back on the LA with an increased demand for EHCPs or additional intervention."

¹³ Some services will charge for support that falls outside of support that sits outside their eligibility framework – e.g. support for children with 'lesser' needs or additional training to mainstream professionals.

¹⁴ www.natsip.org.uk/doc-library-login/future-of-the-sector/1427-commissioning-guide-and-workbook

It is also important to remember that services also provide support to families of pre-school deaf children, to help develop them support their children's language and communication. It is difficult to see how this support can be provided within a market model of bandings and tariffs.

Our evidence shows that local authority funding for specialist education services for deaf children have been cut in many areas in recent years. We also know that many services have seen staffing posts cut or frozen, with the threshold for children to receive being raised in many areas. We believe that any introduction to national bandings and tariffs could result in less funding being available to them, and so make a bad situation worse.

We believe the government's priority should be to protect and ensure there is adequate funding for specialist education services for deaf children that enables them to deliver specialist support using appropriately trained staff, for all deaf children and young people, based on a professional assessment of their needs. A national framework of banding and price tariffs does not appear to be compatible with this goal.

Impact on parental confidence

We are also concerned that the use of national bandings and tariffs will generate further conflict in the SEND system, as well as delays in identifying the right support for children.

For example, if a child's needs cannot be met within a certain band, it feels likely that the child will undergo further assessment to try and get them into the 'right' band. This will likely generate further costs that could be spent on front-line support. It also feels likely that assessment will end up focusing less on children's needs and more on how the needs will be documented to make sure it gets into the 'right' band. This would seem to undermine the importance of personalised and timely support and coproduction with families.

It's also important to emphasise that the needs of deaf children often change as they get older. For example, some children experience progressive hearing loss. We are concerned about the risk of bureaucracy involved if it becomes necessary to change the band that a child is in. There is also again a risk that this takes professionals away from using their professional judgement to respond flexibly to these changing needs.

In light of the above, we are concerned that national bandings and tariffs will lead to more disagreements between local authorities, professionals and families on where individual children are placed within national bands, and ultimately lead to parents feeling it is necessary to secure statutory assessments and to appeal decisions. This would seem to be at odds with the aims of the SEND review.

It is interesting to note that research *High needs budgets: effective management in local authorities*¹⁵ appeared to be ambivalent about the potential benefits of bandings and tariffs in helping to manage costs:

"A number of the case study authorities had developed banding systems. These were seen initially to have supported greater consistency in LA decision-making about funding levels. However, they did not appear to be critical in supporting a more managed approach to high needs funding. Indeed, some of those interviewed felt that they might contribute to further inflation of costs."

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084458/DFE_HN_Budget_case_study_report.pdf

Mitigation

As set out above, we have significant concerns about the introduction of a national framework of bandings and tariffs for support for deaf children. If the Department decided to proceed anyway, we would want to see the following safeguards put into place:

1. any bandings or tariffs being for illustrative purposes only, with guidance making very clear that the focus must at all times be on securing the necessary provision to meet the individual needs of children. This includes a clear steer that section F of the EHC plan must continue to take priority
2. that high needs funding for specialist education services is excluded from any new national framework, on the basis that it sits strongly at odds with the current delivery model
3. that any pilot specifically considers and models the impact on provision for deaf children and young people. In particular, it should carefully consider the specialist skills needed by different professionals to support deaf children
4. that a transparent and independent process is put into place to develop the national bandings and tariffs and that all figures are reviewed at least annually and adjusted with inflation.

19: How can the National SEND Delivery Board work most effectively with local partnerships to ensure the proposals are implemented successfully?

We think that it's important the National SEND Delivery Board include representation from organisations representing deaf children, in particular the National Deaf Children's Society and the National Sensory Impairment Partnership (NatSIP), and that there is guidance making clear that the Delivery Board is tasked to consider the full range of needs, including low incidence needs that could otherwise be easily overlooked. As set out earlier, we believe it would be a mistake to assume that children with SEND are a homogenous group.

Both organisations already have strong links with local bodies and are well-positioned to share insight of how reforms are being implemented at a local level. For example, the National Deaf Children's Society attends Children's Hearing Services Working Groups (CHSWG) which are multi-disciplinary groups that bring together local services for deaf children in each area and which also normally include representation from parents of deaf children. NatSIP also have close links with heads of specialist education services for children with sensory impairment.

Separately, we believe it will be helpful for the Department for Work and Pensions (DWP) to be represented on the National SEND Delivery Board. We believe that their involvement would help ensure there is joint working on preparing disabled young people for adulthood and that employment support schemes are effective for all. Currently, there are few links between DWP-funded programmes and education providers leading to a risk of young people falling into a gap between provision. DWP's involvement in the Delivery Board would also help ensure there is read-across between DWP's work to support disabled people more generally. This includes work to support users of British Sign Language (BSL), following the passage of the BSL Act earlier this year.

20: What will make the biggest difference to successful implementation of these proposals? What do you see as the barriers to and enablers of success?

We think there are two important factors that will help ensure these reforms deliver better support for deaf children:

1) Workforce.

We believe that the development of a specialist SEND workforce strategy, which includes investment in Teachers of the Deaf and other specialist professionals is the biggest single step that the Department could take to ensure the reforms deliver for deaf children and to restore confidence in the SEND system among parents of deaf children.

Teachers of the Deaf play a crucial role in ensuring that deaf children achieve good language outcomes. As well as advising on and supporting the inclusion of deaf children in mainstream schools and colleges, their early intervention work with families of pre-school deaf children also helps to ensure the best possible start in life for deaf children. Indeed, this early intervention work in the early years is likely to have a critical impact on deaf children's later development, including in reading, writing and mathematics.

It is striking that in Ofsted/Care Quality Commission local area inspection reports on SEND Teachers of the Deaf and specialist education services for deaf children are nearly always described in positive terms. Our analysis has found that where deafness is mentioned in a report, support for deaf children is cited as a relative strength 84% of the time¹⁶. This is strikingly high when you consider that half of all areas have been asked to produce written statements of action to improve.

Individual reports provide several examples of the effectiveness of these services:

- Dorset: *“Professionals who work in the area’s specialist services have increased the local area’s capacity by providing training and support for colleagues in schools. Consequently, most children and young people receive timely specialist support so that they make at least expected progress from their starting points.”*
- Gloucestershire: *“The local area is successfully building the skills and capacity of staff in mainstream schools to support pupils who have special educational needs and/or disabilities. Central to this work is the development of the role of special educational needs leaders. These leaders work closely with advisory specialist teachers to ensure that mainstream staff deliver effective support to pupils with hearing impairment, visual impairment and communication and interaction needs. This work is changing the culture in the local area schools, with a greater focus on delivering provision in pupils’ local community schools.”*

Where Ofsted and the Care Quality Commission have identified weaknesses, this has tended to be centred on support being reduced:

- Southampton: *“Provision for those who have hearing or visual impairments has been negatively affected by recruitment issues in this area. This means that the experience for children and young people with visual and hearing impairments is not of a consistently good quality. Although aware of this issue, leaders have not tackled it sufficiently.”*

¹⁶ We found references to deafness in 82 (54%) of inspection reports. Of these, we judge that provision for deaf children was identified as a strength or partial strength in 69 of these areas (84%). Analysis available on request.

- Enfield: *“A few parents of children and young people who have hearing impairments were dissatisfied because recruitment issues had reduced the amount of support their children had received.”*

Teachers of the Deaf should be seen as being at the forefront of early intervention. A world in which there are fewer Teachers of the Deaf is likely to add to the vicious cycle of late intervention, low confidence and inefficient resource allocation identified in the SEND review. Specifically in relation to deaf children, we believe that fewer Teachers of the Deaf will result in more:

- parents of deaf children struggling to communicate effectively with their child
- deaf children starting school with poor language
- mainstream teachers being unable to meet the needs of deaf children, struggling to (for example) differentiate their teaching for deaf children or not knowing how to use hearing technology
- deaf children being more likely to require a specialist placement and/or an Education, Health and Care plan
- local authorities at risk of being unable to meet statutory requirements around assessments for an Education, Health and Care plan for a deaf child.

Many of our members describe the difference that Teachers of the Deaf have made to their confidence in the SEND system. An example of a parent quote is shown below:

“Our Teacher of the Deaf is the only member of staff who truly understands and liaises with all the team involved with our son, from audiologist, SLT [speech and language therapist], teachers to our family. Communication between services would not exist if it was not for them. They know the specific and very individual needs of my child as they know him very well... All the staff from nursery, pre-school and school have been very impressed with our Teacher of the Deaf and feel they would not have been able to support our son as well without their input.”

In addition, in our webinars and focus group, parents and deaf young people repeatedly told us how important and how much they valued their Teacher of the Deaf. They expressed their disappointment at the lack of reference to them in the SEND review.

Mainstream teachers also value the support provided by Teachers of the Deaf. In a Teacher Tapp poll in 2021 of over 5,300 teachers, 96% reported that it was important they received ongoing advice and support from Teachers of the Deaf if they had a deaf child in the classroom. It was concerning that 37% reported that they had not received this advice when they had last taught a deaf child.

Data collected by the Consortium for Research into Deaf Education (CRIDE)¹⁷ shows that, despite the importance of their role, there are significant challenges in ensuring that Teachers of the Deaf are able to fulfil this role within the SEND system:

- There has been 17% decline in the number of qualified Teachers of the Deaf since 2011 (or 15% decline if including those in training).
- Since 2019, over half (51%) of services reported a decline in the number of Teachers of the Deaf they employ.
- Over half (53%) of Teachers of the Deaf are due to retire in the next 10 to 15 years.

¹⁷ www.ndcs.org.uk/media/7641/cride-2021-england-report-final.pdf

- On average, each peripatetic Teacher of the Deaf has a theoretical caseload of 62 deaf children, up from 46 in 2012. In 1 in 10 areas (11%), peripatetic Teachers of the Deaf have a theoretical caseload of over 100 deaf children.
- Services continue to find it challenging to recruit new Teachers of the Deaf. 35 services (27%) reported difficulties in recruiting to **either** permanent or supply posts, often because of a lack of applicants, qualified or unqualified.

Families also continue to tell us their concerns of support increasingly being rationed or not being sufficient to meet their child's needs. Parents who attended our webinar highlighted the lack of support available from Teachers of the Deaf to deaf young people post-16 in many areas. They also highlighted the reductions in support during the pandemic and the need for Teachers of the Deaf to be able to provide additional catch-up support to compensate for this.

The SEND review included measures to recruit 200 more educational psychologists and to create a new qualification for SENCOs. It also announced a review of the NHS workforce for children with SEND. However, it did not announce any plans to develop a more substantive specialist SEND workforce strategy nor any action to address the decline in the number of Teachers of the Deaf. **We believe this is a significant oversight.**

We believe it will be very difficult to see a step-change in the number of deaf children reaching expected standards in reading, writing and mathematics in primary education by 2030 unless there are sufficient numbers of Teachers of the Deaf to support the early development of language skills in deaf children and to provide advice and support to mainstream teachers.

To address this, we believe that the Department should a) invest in training and b) ensure that funding for specialist education services for deaf children is sufficient and is protected.

Training

A 2016 report by the National Sensory Impairment Partnership (NatSIP)¹⁸, funded by the Department for Education, found that lack of funding for training is a major factor inhibiting the supply of new Teachers of the Deaf. It also found that local authorities are failing to plan for future workforce needs. Local authorities tell us that they do not always have the funding to train the next generation of Teachers of the Deaf.

We believe that the same arguments used by the Department to justify the bursary for educational psychologists also apply in relation to Teachers of the Deaf – that there are insufficient incentives for others to invest in training, leading to a downward cycle where the number of vacant posts is higher than the number of qualified Teachers of the Deaf seeking employment.

The sensory impairment sector is currently developing a new apprenticeship pathway which may eventually release funding to train new Teachers of the Deaf. However, assuming this is successful, it will be several years before any new Teachers of the Deaf qualify as apprentices. As such, this does not obviate the need for urgent action now to address the gaps in the specialist workforce for deaf children.

¹⁸ www.natsip.org.uk/doc-library-login/supporting-the-si-workforce/report-on-the-factors-promoting-and-inhibiting-the-successful-supply-of-specialist-teachers/1040-a-report-on-the-factors-promoting-and-inhibiting-the-successful-supply-of-specialist-teachers

Funding

Issues around investing in training are compounded by wider challenges around funding for local authority specialist education services for deaf children. Although there is more funding going into the high needs block, we still come across examples of funding for local authority specialist education services being cut.

Evidence from our annual Freedom of Information requests to local authorities show a sustained pattern of cuts to budgets to these vital services for deaf children over many years. Our initial analysis of data for this year indicates that at least 39 out of 139 local authorities (28%) have made cuts to their budgets for specialist education services for deaf children over the past year whilst 28 (20%) have frozen their budget (in effect, a real-terms cut). There appears to be a postcode lottery in terms of changes to budgets, with the South East being the worst affected.

The SEND review identifies a vicious cycle in which funding is directed away from early intervention. In relation to local authority specialist education services, we are concerned that the absence of any formal statutory basis for these services or any ring-fencing of funding both create an additional vulnerability for these relatively small services for low incidence needs. We believe the Department can address this by creating a statutory duty for local authorities to ensure that specialist education services for deaf children are sufficient to meet the needs of deaf children in each area.

We also believe that the proposed new funding agreements between the Department for Education and local authorities should include an explicit requirement around funding of specialist education services for deaf children.

2) Accountability

We remain concerned that the accountability framework around the SEND system is insufficiently weak and that it relies too much on parents to hold others to account. Along with issues around the specialist SEND workforce, we think this is one of the most significant issues undermining parental confidence in the SEND system.

Whilst the SEND review includes a section around accountability and on the role of different bodies, we believe it would be helpful to set out in more detail what the different bodies involved will actually do in practice to ensure that SEND laws and guidance are followed. We are concerned that a failure to do so will undermine parental confidence in the SEND system. It is striking that the SEND review seems to talk more about how the Department will intervene to ensure financial sustainability and value for money and less about how it will intervene to ensure statutory compliance on, for example, Education, Health and Care plans.

We think there are three aspects that it would be helpful for the Department to consider further:

- i) Mechanisms for parents to raise concerns

The SEND review proposes the creation of new national standards. Whilst the SEND review suggests that the Department for Education will quality assure local inclusion plans against the national standards, it would be helpful to provide more detail on what this will look like in practice. In particular, it is unclear what parents could do if they have any concerns about these standards not being met and how any concerns will be dealt with. We believe the Department should consider the development of a simple and straightforward mechanism for parents to feedback any concerns they may have about this directly with

the Department. The Department should also ensure there is transparency over how such concerns are acted upon.

ii) The overarching monitoring in place

Whilst it's important that parents are able to raise concerns, we think it's important that it is not left to parents to monitor and 'police' the system. The SEND review makes clear that the new Region Boards will 'regulate' the new system and that they will use "reports from the ground" to judge how local areas are doing. However, it is unclear what those reports will include and if they will cover the whole spectrum of need in children with SEND. For example, parents of deaf children have told us they would like to see more checks around Education, Health and Care plans and whether schools and local authorities are fulfilling their statutory responsibilities once the plan is in place. Separately, our casework indicates there are specific challenges in holding academies to account for how they support deaf children. It is also unclear if there will be an ongoing review of the fit between local inclusion plans and national standards over time.

In relation to deaf children, we believe it would be useful for Region Boards to draw on insight collected from Children's Hearing Services Working Groups (CHSWG's). These are multi-disciplinary groups that bring together local services for deaf children in each area and which also normally include representation from parents of deaf children.

We think it would also be useful to reflect on learning from how Regional Schools Commissioners dealt with issues around SEND. Our experience is that they were often reluctant to challenge schools on issues around SEND. It will be helpful to provide reassurance and explain how Region Boards will take a different approach and what specialist knowledge of SEND the Region Boards will be expected to hold.

iii) How streamlined the existing accountability framework is

As set out in our response to Q7, it is an anomaly that the Local Government and Social Care Ombudsman is able to consider cases around SEND and unlawful behaviour in local authorities, but not in schools, even where there is clearly fault in both parties and in how they have worked together. As mentioned before, parents are often surprised that the Ombudsman does not have the power to consider cases against the school. This creates a perception that the current accountability framework is not joined up, leaving parents feeling forced to spend more time undergoing a disjointed, bureaucratic process, and less time supporting their child.

21: What support do local systems and delivery partners need to successfully transition and deliver the new national system?

As set out in our response to Q20, we think that it will be important to:

- 1) develop a clear workforce strategy for specialist SEND professionals, including Teachers of the Deaf. It remains difficult to see how the new national SEND system can work effectively if there are insufficient numbers of Teachers of the Deaf
- 2) review and clarify the accountability framework so that families are clear what they should expect and are confident that any failings will be spotted and dealt with effectively and quickly.

22: Is there anything else you would like to say about the proposals in the green paper?

We are disappointed that the SEND review does not go further to address failings in initial teacher training in terms of how it incorporates content on deaf awareness.

The SEND review acknowledges that teachers lack confidence in teaching children with SEND and goes on to state that they “have already begun to deliver a transformed professional development pathway for teachers, with high-quality training at every step of their career.” However, no steps have been taken to incorporate deaf awareness into this, with this not being included in the core framework for training providers nor the mandatory minimum entitlement for all trainee teachers. As such, the initial teaching framework continues to fail deaf children.

Deaf young people repeatedly tell us that they face a lack of deaf awareness in education and that this has a significant impact on their learning and their wellbeing. This has been particularly clear during the pandemic where face masks and a lack of captions for remote teaching or online learning presented serious challenges to their learning and socialisation.

In a Teacher Tapp poll in 2021 of over 5,300 teachers, we found that only 3% felt that their initial teacher training provided them with sufficient information on how to meet the needs of deaf children. 68% of teachers reported they didn’t feel confident they knew how to differentiate the curriculum and provide effective teaching to a deaf child.

Our Young People’s Advisory Board have also collected evidence from over 150 deaf young people across the UK on deaf awareness in the classroom. They found that only 20% of deaf young people surveyed reported that all their teachers showed good deaf awareness. They provided numerous examples of poor deaf awareness in the classroom:

- *“Teachers don’t face me when talking so I can’t read their lips.”*
- *“If I could change one thing about my school, it would be that teachers remember to put captions on videos/films”*
- *“Some lessons the teachers walk around the class whilst talking so it’s quite hard to lip read and I get very tired”*
- *“The facemasks in school made me feel pretty excluded, I had no idea what was going on, I wasn’t getting anywhere near as much information as I would have been without them. I had to focus so, so hard to try and understand anything that teachers and classmates were saying which resulted in constant headaches and fatigue.”*

In our response to Q20, we explained the importance of mainstream teachers being able to access support from Teachers of the Deaf when needed. We also believe that deaf awareness should be a mandatory part of initial and ongoing teacher training. All teachers should have a basic understanding of deaf children’s needs, and understand how and when, to seek specialist support to teach a deaf child. As part of this, it will be important to listen to evidence from deaf young people on what they need from their teachers when developing any new training.

We also believe the Department has an important role to play in sharing and promoting resources on deaf awareness to schools and colleges through all appropriate channels and contracts.

Separately, the SEND review refers to ongoing work to develop an apprenticeship for further education teachers and states that “any new qualification is likely to include a specialist option in SEND for FE

teachers to support learners with additional needs.” The direction of travel is positive, but we believe that the Department should go further. Information about SEND should be required, rather than optional and the Department should commit to it being included, rather than it just be ‘likely’.