

# A Guide to The Special Educational Needs and Disabilities and Alternative Provision Improvement Plan

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On 2 March 2023, the Government published its long-awaited Special Educational Needs and Disabilities and Alternative Provision Improvement Plan. This followed a consultation process during which approximately 6,000 responses were received.

The Plan aims to “*create a sustainable SEND and alternative provision system that is easier for families to navigate*”. The Secretary of State for Education and the Secretary of State for Health and Social Care refer to a desire for parents to have confidence that their children’s needs will be met consistently and effectively “*as a result of earlier identification and evidence-based support*”. Current arrangements are described as being “*financially unsustainable*” so plainly a desire to control spending is a central feature to the Improvement Plan. There also appears to be an emphasis on improving mainstream provision, with the Improvement Plan stating that “*the needs of most children can be met through high-quality teaching*”. In addition, the Plan speaks of the need to address the “postcode lottery”, but of course Local Authorities and parents alike will know that the law is the same for each and every local authority across England.

So what are some of the key proposals that are actually being advanced? Here were my top 10 takeaways:

1. There will be an introduction of new “*evidence-based National Standards*”, which will “*improve early identification of needs and intervention and set out clear expectations for the types of support that should be ordinarily available in mainstream settings*”. This appears to be with a view to reducing the number of EHCP’s in circulation as the report goes on to state “*with these expectations,*

*and improved mainstream provision, more children and young people will receive the support they need through ordinarily available provision in their local setting. Fewer will therefore need to access support through an EHCP*". Whilst this may ease a burden for some local authorities, understandably, this approach is likely to come as concerning news to parents of children with SEND. It may also concern mainstream maintained settings, whose SEN budgets are already stretched to breaking point.

2. There will be a period of "designing and testing proposals". This is likely to last 2 years, commencing at the end of 2023. £70 million has been allocated for the "Change Programme". As part of the Change Programme, 9 Regional Expert Partnerships will be created. These will consist of a cluster of 3-4 Local Authorities in each region, including at least one lead Local Authority. The Regional Expert Partnerships will test and refine the reforms over the next two years, with oversight from a National SEND and Alternative Provision Implementation Board.
3. In an effort to *"reduce bureaucracy"* and the *"adversarial system"*, standardised EHCPs will be introduced. Precisely what these will look like is presently unknown.
4. There will be a new SEND and AP Practice Guide and an amended SEND Code of Practice. These will be consulted on. It is not envisaged that practice guides will come into circulation before the end of 2025. Three practice guides will be published for frontline professionals, building on existing best practice.
5. Local Authorities will be required to provide a "tailored list of suitable settings" to families. The rationale behind this is that it would *"provide parents and carers with clearer information, supporting them to express an informed preference for a placement...A tailored list would allow local authorities to give clear choices to families and better meet the needs of children and young people, while supporting them to manage placements in a way that ensures financial sustainability for the future"*. This will come as a real concern to parents of children and young people with SEND, who may feel that Local Authorities will offer a limited range of options designed to suit budgets rather than the needs of their child. It will also no doubt come as a concern to the independent school sector. I can foresee potential legal challenges to this policy if it is pursued given

- it appears on the face of it to be restricting choice for the families of disabled children in a way that families of a non-disabled children would not experience.
6. A new leadership level SENCo National Professional Qualification will be introduced and funding will be provided for up to 5000 early years staff to gain an accredited Level 3 early years SENCo qualification.
  7. £21 million will be invested to train two more cohorts of educational psychologists in the academic years of 2024 and 2025.
  8. Local Authorities will be encouraged to appoint Designated Social Care Officers (“DSCO”). The intention is that this will help to improve links and contributions from care services into the SEND process (which, as practitioners will know, can often prove challenging, even with the 2014 Act seeking to promote integration between education, health and social care).
  9. Data on complaints and appeals will be made transparent through national and local inclusion dashboards.
  10. The position in respect of mandatory mediation is unclear. It appears the Government is still committed to this notion, but the issue appears to have been put on the back burner for now, the Plan stating: *“We will continue to explore options for strengthening mediation and will test and evaluate approaches further before deciding whether to bring forward legislation to make these strengthened processes statutory and make mediation mandatory. We... will take action where local areas are not participating in mediation as required.”* The Plan suggests that mediation will enable the Tribunal to hear cases more quickly and will enable more Local Authority resource to be focussed on providing direct support to families rather than on the administrative burden of preparing for Tribunals. In this author’s view, whilst it is right to suggest that many Local Authorities are under considerable pressure in terms of handling the volumes of appeals they are currently being required to manage, mediation will only lead to successful outcomes where the mediators are appropriately trained and experienced, and parents are properly informed as to the applicable law.

Importantly for all those practising in this area, it must be remembered that no legislative changes have been enacted yet: the current SEND legal framework as set out in the Children and Families Act 2014 and the SEND Regulations continues to apply in its entirety. Whilst the changes set out in the Improvement Plan are wide-

ranging and could have a significant impact on schools, Local Authorities and children and young people with SEND, these changes will not happen overnight. The Improvement Plan points to a two year period of designing and testing proposal, in which time there will be a General Election. A lot could happen so watch this space!

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