

## Labour Party SEND review

### Introduction

ATL is pleased to respond to this review of provision for children and young people with SEND. Two academic years have now passed since the introduction of the 2014 SEND Code of Practice (CoP) in England, rising to three years for local areas involved in the Pathfinder implementation programme. At 2016 ATL Conference the motion “Are SEND students being let down?” was passed by an overwhelming majority. This review response forms part of ATL’s project “Are SEND students being let down?” which will report in the Autumn term. To complete this project a series of policy focus groups were held with ATL members who identified themselves as SEND specialists; in depth interviews were held with a small number of SEND specialist and non-specialist members; the Support Staff Member Advisory Group and AMiE council were consulted on research questions and themes; and a survey was completed by 585 respondents from the wider ATL membership.

### Executive Summary

The key points are:

- Many educational professionals do not believe that the current arrangements for identifying and supporting learners with SEND in England work well enough: only 9% of respondents agreed with the statement *I believe that the current system in England enables all children with special educational needs to be supported appropriately.*
- Identification of SEND works far better for children and young people with EHCPs than it does for learners classified at SEN Support level.
- Completing EHCP applications and related paperwork is very time consuming, and at times SENCOs do not have the capacity to apply on behalf of all children that they believe to be eligible.
- There is a lot of inconsistent practice in supporting and identifying learners with SEND at SEN Support level. ATL believe that education professionals should be able to access high quality training on SEND throughout their career and be given the time to do so.
- There is a significant cohort of learners who appear to have SEND but are not recognised as such by the system - these learners are being let down.
- Identification and support of learners with Social, Emotional and Mental health needs is not yet good enough, CAMHS is not able to meet demand.
- Leadership of SEND is undermined by accumulating pressures of funding restraint, staff shortages, accountability measures and rapid policy change.

### Identification of learners with SEN eligible for an Education, Health and Care Plan (EHCP) or Statement

The identification of learners who have an entitlement to an EHCP or Statement appears to be broadly stable with 2.8% of pupils in schools in England identified. Whilst a significant number of EHCPs are not being issued within the 26-week limit, with only 46.5% issued within this timeframe in 2015, many respondents described the process as positive and highlighted the increased involvement of families and young people. A frequent observation from SENCOs was that the time taken to complete the EHCP process had a sig-

nificant impact on other areas of their work, which acted as a disincentive to instigate the process for learners at the borderline between SEN Support and EHCP.

## SEN Support

The positive picture displayed for the identification of children and young people entitled to an EHCP was not replicated for children and young people with SEN at SEN Support level. The definition of SEN Support as presented in the SEND CoP could be the root of the inconsistency and reported ineffectiveness of identification procedures.<sup>1</sup>

Assessing whether a child is considered to have SEN at SEN Support level is therefore dependent on the subjective judgment of the individual professionals working with a child and also on the relative attainment and needs of their school's overall intake, the profile of which can vary significantly within local authorities or multi academy trusts. Considering these issues of subjectivity and relativity separately, a number of factors emerge which construct opportunities for inconsistent practice.

The process by which a learner's SEN is identified, as outlined above, assumes a number of things:

- The class or subject teacher has the relevant expertise to make judgments about SEND
- The class or subject teacher has the time to reflect on the performance of their pupils and their individual learning characteristics
- The SENCo has the time to coordinate the experiences of different subject teachers and ensure that they are trained sufficiently to make appropriate recommendations and judgments

Given the reliance on teacher judgment on identifying learners at SEN Support level, ATL is concerned that sufficient, focused high-quality CPD is not in place to ensure that all teachers are fully equipped to undertake this task with confidence. The relative weighting of learners' performance against that of their peers is also a concern, as this means that correct identification of their SEN could be determined by the characteristics of their immediate cohort to which they are compared. A learner in a school with a "low attaining" cohort may not have their needs identified, when in a "high attaining" cohort a learner with the same need profile would. Given the established relationship between SEN and children from low-income or unstable backgrounds, the current definition is perversely lowering the relative likelihood of an accurate SEN diagnosis in areas with high indices of economic deprivation.

The issues of relative and subjective judgments are compounded by the role of the families in identification of SEN at SEN Support level. A frequent theme from the survey respondents was that parents with certain characteristics were more likely to secure a diagnosis for their child, including in cases where an identification of SEN may not be accurate or appropriate; these parents were described using terms such as "sharp elbowed", "pushy", "difficult", "overprotective" and "gaming". The use of such language raises concerns around whether the current system for SEN identification does indeed reduce confrontation, and also indicates that there is a perceived social divide between those that can

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<sup>1</sup> See SEND Code of Practice (2014), section 6.45:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SEND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)

access identification and those that cannot. It is possible that the inconsistency or inefficiency of the arrangements in some school settings means that in many cases parents are driving the identification process. This is problematic both for those identified as SEN Support at the end of the process, as the essential relationship between school and family may well have been negatively impacted by the experience, and also those whose needs are missed with significant adverse impacts on their development as a consequence.

## **SEND but no identification**

Between January 2014 and January 2015, two hundred thousand learners previously identified as having SEN at either School Action or School Action Plus levels were not transferred onto EHCPs or SEN Support. These children and young people lost their official recognition of their SEN, and with it their right to support. The DfE has frequently made claims that the reduction of the numbers and proportion of learners identified as having SEN is down to both “more accurate identification” of need and also the replacement of “behaviour” as an SEN category with “social, emotion and mental health need”.<sup>2</sup> In other words, a child or young person who required this identification to access the support necessary to attain and achieve at their full potential in December 2014 was not deemed to need this support from January 2015. This position is difficult to accept. When asked the question: *Are there learners within your setting, with additional needs, who are not eligible for official SEND recognition?* 43% of respondents answered yes. This suggests that there is a significant group of learners with additional needs who are not currently served adequately by the system outlined in the CoP. These learners are being let down and they are invisible in official statistics. Many respondents suggested that identification procedures were not yet workable for children who could potentially fall into the new “social, emotional and mental health needs” category. Further, the known challenges with accessing CAMHS services was often mentioned.

## **Supporting learners with SEND**

83% of survey respondents disagreed with the statement *I believe that the current system in England enables all children with special educational needs to be supported appropriately*. This suggests that arrangements currently in place to support learners with SEND are inadequate.

Here is a sample of the comments from this survey question:

*Due to funding cuts in education and the rate that local authorities pay for SEND hours, TAs who leave are not being replaced (at best). At worst TAs jobs are being lost or they are being re-employed as cover supervisors and being asked to teach groups/mark/plan! The cuts in TA jobs has a massive impact on the support SEND students receive both in and out of the classroom.*

*Training in special educational needs for teachers is not good enough particularly in light of the requirements of the new SEND code of practice. Moreover, budgets have been cut and resources are increasingly stretched within SEND departments.*

*If I base that on the School I work in, the LSA Dept was restructured last year, staff made redundant etc, thus now we are not able to fully support all the students in the School.*

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<sup>2</sup> DfE statistical release, Special educational needs in England: January 2015, published 23/07/2015, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/447917/SFR25-2015\\_Text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447917/SFR25-2015_Text.pdf)

*Huge funding cuts in reality - LA can award funding but it comes from the schools 'nominal SEN budget'. If we place a child on the SEN register we are obliged to spend an additional £6,000 on them which means that children are not placed on the register.*

*The push towards person centered approaches is fantastic, however the people that NEED to understand this are not the SENCOs and support staff, as many had this approach, it is senior leadership in schools and the teaching staff who need more training and to develop an understanding of how support should be implemented.*

Concerns about support staff reductions, inadequate funding levels, the attitudes of Senior Leaders, expertise of teachers, and LA capacity were often raised by respondents.

A core part of the graduated approach required by the SEND CoP is the use of “quality first teaching” to meet the individual needs of learners in the class. Teachers were asked to respond to the following statement in the survey: *I am confident that I understand the definition of “quality first teaching.”* 63% answered yes to this question, and those that selected yes were asked to explain their understanding of the term. The fact that 37% of respondents did not understand this term is a concern, as teachers have clear statutory duties relating to “quality first teaching” within the CoP. The definitions given by those who selected yes indicated that not all truly understood the term “quality first teaching”, though most did.

The inefficiency of the “notional” budget for learners with SEN at SEND support level was raised by many survey respondents. The notional SEN support budget of £6,000 per pupil is not often made available to SENCOs: the lack of access to this budget not only reduces the provision for SEN Support learners, it also makes securing an EHCP for those that need it harder. To access an EHCP and top-up funding a school must demonstrate that they have given their best endeavors and spent the £6,000 well and yet still cannot meet need; if the SENCO is unable to demonstrate how this £6,000 has been used, an EHCP will be refused. Therefore, any lack of communication between Senior Leaders and SENCOs, and the availability of the notional budget, can become a barrier to attaining an EHCP, leaving learners unable to access the additional support that they require. These problems are exacerbated in settings with a high proportion of learners identified at SEN Support level.

## **Leadership on SEND**

Many comments left on the survey raised concerns about the quality of leadership on SEND within schools. These comments raised similar themes to the discussions held at ATL Conference by the members of the SEN Specialist Network. A summary of their discussion is included below:

- Too often leaders do not consider the implications of in-school policy change and developments on learners with SEND or the staff working with them.
- Leaders of special settings such as special schools, who are not themselves specialists, do not always take into account the unique and complex nature of the work when setting strategic vision and implementing change – for example one Early Years SEND teacher in a special school reported that her head (a non-SEND specialist) had cut the outreach and transition activities with families as a child started school.
- Many members reported actions and decisions on the part of leaders that amount to the illegal exclusion of children with SEND. The manifestations were varied, ranging from “encouraging” parents to home educate, suggesting at open evenings that “school X is far better at dealing with that need than us” or

failing to put SEND assessment arrangements in place so that learners with SEND were categorised as “naughty” and managed via the behaviour policy, rather than through SEN support.

- There was a real feeling that in the context of significant and wide-ranging education reform, training staff in the SEND Code of Practice has not been sufficient. There is also a feeling that the spirit of the reforms is not fully understood by all educational professionals.
- Classroom teachers especially felt very vulnerable regarding their responsibility to deliver “quality first teaching” as many feel ill-equipped to do so. The training need is twofold: knowledge of the reform, and also the training to understand how to cater for learners’ unique needs.
- Leaders are not always sufficiently transparent about how the £6000 budget is used, and spending decisions regarding this budget are not always delegated to the SENCo.
- Many staff reported that the process for identifying SEND within their setting was not clear and that when they tried to refer pupils for assessment their attempts fell on deaf ears.
- The process for sharing and finding necessary information about children with SEND is ineffective and a huge barrier to delivering “quality first teaching”. Up to date information is not always on information management systems, and paperwork is hard to find. Some SENCOs are better than others at pro-actively sharing information. Structured opportunities which enable teachers to get together and discuss how best to meet the needs of individual learners were particularly poor within the secondary sector.
- There was a very strong sense that leaders do not push back hard enough against accountability measures, such as the EBacc, that prove to be a disincentive for inclusive activity.
- Progress and attainment targets set in annual appraisals are often crude, and do not take into account the SEND learners. Teachers feel that this sets them up to fail.

Blaming school leaders for shortcomings in SEND provision is unhelpful, but it does seem that the combination of reduced budgets in real terms, high stakes accountability, staff shortages and rapid policy education change across a range of areas has seriously undermined the capacity of many leaders to implement genuinely inclusive practice and meet their duties as set out under the SEND CoP.

## **Recommendations**

1. *The Department for Education must carry out a full and open-minded evaluation of how to support learners at the SEN Support level and ensure all those with additional need are recognised by the system*
2. *The notional SEN budget must be protected in schools and guidance should be issued by the DfE on the allocation of financial resources to support children with SEN*
3. *High quality SEND training should be an entitlement for all education professionals throughout their careers and form a core part of initial teacher education*
4. *SENCOs need more protected time to complete their responsibilities; teachers and support staff need sufficient allocated time to plan for the individual needs of learners and access training*
5. *Accountability should be reformed so that it does not serve as a disincentive to inclusive practice, and the current over-emphasis on test and exam results should be reformed to ensure a greater focus on meeting individual learners’ needs*