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

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

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

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

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

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

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

This whole day policy seminar on An early review of the new SEN / disability policy and legislation: where are we now? took place on 30 June 2016 at St Alban’s Centre, London.

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

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

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

The aim of the Forum is to contribute intelligent analysis, knowledge and experience to promote the development of policy and practice for children and young people with special educational needs and disabilities. The Forum will be concerned with children and young people with special educational needs and disabilities from preschool to post 16. It will cover the whole of the UK and aim to:
1. provide timely policy review and critique,
2. promote intelligent policy debate,
3. help set longer term agendas – acting like a think-tank,
4. deliberate over and examine policy options in the field.
5. inform research and development work in the field.
6. contribute to development of more informed media coverage of SEND policy issues.

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

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

**Lead group and coordination of the Forum:**
Dr Peter Gray - Policy Consultant (co-coordinator)
Professor Brahm Norwich - University of Exeter (co-coordinator)
Yolande Burgess, Young People's Education and Skills, London Councils
Professor Julie Dockrell - Institute of Education, University of London
Niki Elliott - Sheffield Hallam University / Special Education Consortium
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Professor Geoff Lindsay - University of Warwick
Debbie Orton, Hertfordshire County Council
Nick Peacey, First Director, SENJIT. Institute of Education
Professor Liz Pellicano, Institute of Education
Linda Redford - Policy Consultant
Penny Richardson - Policy Consultant
Chris Robertson, University of Birmingham
Professor Klaus Wedell - Institute of Education, University of London

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

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

**Past Policy Options Papers (see website for downloadable copies)**
1. Bucking the market: Peter Housden, Chief Education Officer, Nottinghamshire LEA
2. Towards effective schools for all: Mel Ainscow, Cambridge University Institute of Education
3. Teacher education for special educational needs: Professor Peter Mittler, Manchester University
5. Special schools and their alternatives: Max Hunt, Director of Education, Stockport LEA
6. Meeting SEN: options for partnership between health, education and social services: Tony Dessent, Senior Assistant Director, Nottinghamshire LEA
7. SEN in the 1990s: users’ perspectives: Micheline Mason, Robina Mallet, Colin Low and Philippa Russell
8. Independence and dependence? Responsibilities for SEN in the Unitary and County Authorities: Roy Atkinson, Michael Peters, Derek Jones, Simon Gardner and Phillipa Russell
9. Inclusion or exclusion: educational policy and practice for children and young people with emotional and behavioural difficulties: John Bangs, Peter Gray and Greg Richardson
9. Baseline assessment and SEN: Geoff Lindsay, Max Hunt, Sheila Wolfendale,
Peter Tymms
11. Rethinking support for more inclusive education: Peter Gray, Clive Danks, Rik Boxer, Barbara Burke, Geoff Frank, Ruth Newbury and Joan Baxter
12. Developments in additional resource allocation to promote greater inclusion: John Moore, Cor Meijer, Klaus Wedell, Paul Croll and Diane Moses.
13. Early years and SEN: Professor Sheila Wolfendale and Philippa Russell
14. Specialist teaching for SEN and inclusion: Annie Grant, Ann Lewis and Brahm Norwich
15. The equity dilemma: allocating resources for special educational needs: Richard Humphries, Sonia Sharpe, David Ruebain, Philippa Russell and Mike Ellis
16. Standards and effectiveness in special educational needs: questioning conceptual orthodoxy: Richard Byers, Seamus Hegarty and Carol Fitz Gibbon
17. Disability, disadvantage, inclusion and social inclusion: Alan Dyson and Sandra Morrison
18. Rethinking the 14-19 curriculum: SEN perspectives and implications: Lesley Dee, Christopher Robertson, Geoff Lindsay, Ann Gross, and Keith Bovair
19. Examining key issues underlying the Audit Commission Reports on SEN: Chris Beek, Penny Richardson and Peter Gray
20. Future schooling that includes children with SEN / disability: Klaus Wedell, Ingrid Lunt and Brahm Norwich
21. Taking stock: integrated Children’s Services, Improvement and Inclusion: Margaret Doran, Tony Dessent and Professor Chris Husbands
22. Special schools in the new era: how do we go beyond generalities? Chris Wells, Philippa Russell, Peter Gray and Brahm Norwich
23. Individual budgets and direct payments: issues, challenges and future implications for the strategic management of SEN: Christine Lenehan, Glenys Jones Elaine Hack and Sheila Riddell
25. Choice-equity dilemma in special educational provision: John Clarke, Ann Lewis, Peter Gray
26. SEN Green Paper 2011: progress and prospects: Brian Lamb, Kate Frood and Debbie Orton
27. A school for the future - 2025: Practical Futures Thinking: Alison Black
29. How will accountability work in the new SEND legislative system?: Parents from Camden local authority, Penny Richardson, Jean Gross and Brian Lamb
30. Research in special needs and inclusive education: the interface with policy and practice, Brahm Norwich, Peter Blatchford, Rob Webster, Simon Ellis, Janet Tod, Geoff Lindsay and Julie Dockrell.
32. Governance in a changing education system: ensuring equity and entitlement for disabled children and young people and those with special educational needs. Peter Gray, Niki Elliot and Brahm Norwich.

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

Copies of most of these papers can now be downloaded from the website of the SEN Policy Research Forum [http://blogs.exeter.ac.uk/sen-policyforum/](http://blogs.exeter.ac.uk/sen-policyforum/)
Section 2:

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

Brian Lamb

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

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

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

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

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<th>Level of Parental Engagement</th>
<th>Legislative and Statutory Requirements/Good Practice Requirements</th>
<th>Types of Engagement</th>
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<tr>
<td>Strategic LA- Local Offer, Health and Commissioning requirements</td>
<td>Duty to consult on the shape and content of the Local Offer. Duty to keep Local Offer under review and report on comments about the Offer. Duty to consult on the joint commissioning of services. Duty to consult on changes to SEND services. General duty to consult with parents in the delivery of services and produce better outcomes. (Sections 19, 23, 25, 28,29, 30, and 31 of the Children and Families Act 2014; The Care Act 2014; Health and Social Care Act 2012; Chapters 3 and 4 Code of Practice)</td>
<td>Health and Wellbeing boards. Consultation on the JSNA. Parent Carer Forums, consultation with impairment specific groups. Individual comments from parents and carers. Feedback on the Local Offer. Specific service consultations and engagement on strategic working groups and boards.</td>
</tr>
<tr>
<td>Education and Service Settings</td>
<td>Consultation on the development and content of the Schools Information Report. Ofsted schools level inspection / Ofsted / CQC area reviews. Requirement to feedback once a year, good practice to meet once a term as part of the graduated response. (Sections 29, 35,66,67,68,69, of the Children and Families Act 2014. Chapter 6 Code of Practice, Equality Act 2010, OFTSED Schools and OFSTED and CQC area reviews.)</td>
<td>SEND Governors, parent meetings, individual meetings at school, contributing to the SEND Information Report, Ofsted/CQC area reviews.</td>
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<tr>
<td>Assessment process and parental relationships with services</td>
<td>Duty to consult with parents/carers in the production of an EHC Plan. Duty to discuss and potentially offer personal budgets. (Sections 36 – 50 of the Children and Families Act 2014; Chapter 9 Code of Practice (2015a))</td>
<td>Formal assessments for EHC plans, ongoing meetings and reviews with parents, personal budgets, care assessments, other health assessments.</td>
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The continued right to go to Tribunal and enhanced mediation requirements were intended to create confidence that disputes could be resolved and, where not, parental rights protected through the legal system. While the Equality Act measures pre-date the SEND reforms, the extension of the requirement for schools to provide auxiliary aids was enacted in 2012 following a recommendation from the Lamb Inquiry (2009). There was also a clear attempt to bring the SEN and rights frameworks together in Chapter 1 of the Code of Practice.

It has been questioned how enforceable the consultation and planning duties are for parents, especially around areas such as joint commissioning and the Local Offer. However the early judgement against Warwickshire’s Local Offer showed that the adequacy of the Offer could be legally challenged and improvement required if necessary (L&P,R 2015). Nevertheless, much of the change being sought in the system is cultural (Lamb 2013). The legislation is trying to frame expectations and change behaviour. Many of the engagement mechanisms are more likely to succeed to the extent that they are embraced by those working for statutory authorities and because parents’ heightened expectations about being engaged in decisions about their families have become the norm.

How are these different levels of involvement and coproduction being implemented?

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

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

Early work in the DfE funded Local Authority pathfinder areas in respect of the Local Offer produced poor results and the DfE final evaluation concluded that “only a minority of parents had heard of the Local Offer; only 12% of Pathfinder families had looked at it; and only half of those who had looked at it found it useful” (DfE 2015b p63). Further that “planning processes could have been significantly improved through better information on local provision was commonly expressed.” However, the research was more focused on the Local Offer’s usefulness to individual parents than its relevance in the strategic planning of services and it was also early in the implementation process.
Evidence since implementation has been more positive with the National Parent Carer Forums, which LAs have a statutory duty to consult with, suggesting that the process is beginning to have some traction at the strategic level. The Forum surveys it members quarterly and the latest survey (Carers Forum 2016) showed that 62% of forums feel that parents are largely or fully engaged in strategic planning with their local authority. Although this is a slight drop from 64% in the previous survey, confidence has been growing steadily since implementation of the reforms.

More specifically in relation to the Local Offer, 86 forums (out of 107) report that they had been involved in the further development of their local area’s offer, 84 forums said that their Local Offer has a feedback page, and 43 areas have held focus groups with parent carers. Some of the most common means of engagement have been consultations with parent carer forums (86), online feedback forms on the Local Offer (84) and specific consultation forums with parents (43). Only 5% of forums report that their local authority has fully implemented processes to evaluate their use of feedback, data and intelligence for improving delivering and measuring progress and success. This compares with 40% of LA’s who have used feedback to a ‘limited extent’ (Carers Forum 2016). This suggests that the Local Offer is providing a conduit to strategic engagement with formal parent carer groups but that more needs to be done in evaluating the information gathered and how it is used in strategic decision making.

Local Authority perceptions of how they are doing, gathered through the DFE survey, (DfE 2016a) have remained consistently more positive than parents’ evaluations, with 84% saying that parents were fully or largely engaged in strategic planning and co-production of SEND services and that 83% of parents were fully or largely engaged with making decisions about their own SEND provision. Further, 89% reported having an online feedback page on their Local Offer page (lower than the 91% figure from the autumn survey) and 93% are developing their Local Offer through the Parent Carer Forum (also lower than the 96% figure from the autumn survey).

In relation to non-educational support, 48% confirmed that families have been consulted on plans around short breaks provision. In respect of joint commissioning the Code of Practice requires that “joint commissioning is an ongoing improvement cycle...Partners should agree how they will work together to monitor how outcomes in education, health and care are being improved as a result of the provision they make.” (DfE 2015a) However, only 2% of forums reported that joint commissioning is fully in place, whilst 44% say that this is in place to some extent and 44% to a limited extent. This suggests that in over half of forums which replied that the process was at an early stage and that in the 10% of forums did not know that this had not taken place (Parent Carer Forum 2016) This supports the perception that wider working with health and social care has clearly lagged behind the other parts of the reforms generally as well as in respect of parental involvement. However this contrasts with 89% of LAs who report that joint commissioning in place. (DfE 2016a).

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

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

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

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

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

“Inspectors found that parents and frontline professionals are committed strongly to the co-production (a way of working where children and young people, families and those that provide the services work together to create a decision or a service that works for them all) of provision for children and young people who have special educational needs”

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

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

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

Also the outcomes from such engagement;

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

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

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

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

- 74% of parents have not found it easy to get the educational support their child needs
- 69% of parents said that their child had waited more than a year for support after concerns were first raised – and 16% had waited more than three years
- While 50% of parents say they are satisfied with their child’s SEND provision, just 33% are satisfied with health care and 30% with social care (Moore 2016).

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

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

**Schools Information Report and the Local Offer**
The Schools Information Report is a key tool for parents to know what is available at school level and potentially to influence the development of schools’ policy. While most local authorities monitor that schools have a completed Information Report on their website and many LAs provided templates or guidance for schools on how to develop the report it is not clear what the quality of the reports are or that parents are much more aware of these than they are of the Local Offer. More generally there has been much less focus on the pupils in the SEND Support category in implementation so far.

The Parent Carers Forum survey (2016) found 83% of forums said that their local authority facilitates regular SENCO forums, but only 37% of forums are aware that their local authority monitors the availability and quality of School Information Reports. Only 79% of LAs report that some or all of their schools have an information report published and it is surprising that the number is not higher given schools have now had two years and the report is a statutory document required by Ofsted.

The legislation requires the LA to set out what special educational provision and special training provision it expects schools and early years and post-16 providers to make available in the Local Offer (DfE 2015a). 62% of parent carer forums thought that the Local Offer did have information about what the LA expected schools to make available through SEN Support suggesting that the link between schools’ provision and the Offer was being made in many areas. However, this is not yet being reflected publicly through the Offer. The Council for Disabled Children (2016) surveyed 20 Local Authority websites to see what had been put on the sites and found that much of the material and expectations predated the current legislation. They found that while some Local Authorities had specific assessments of what they expected to be ordinarily available, which of course links with the Schools Information Report, these were in the minority. They recommend that LAs review their published information with parents, schools, early years providers and colleges to ensure that there is an area-wide shared statement that meets the requirements. Importantly a number of authorities have taken this approach, with Barnet (2016) and Portsmouth (2016) having an ordinarily available document on their website which specifies what can be expected from schools.

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

**Individual Engagement**

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

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

The failure of a significant number of LAs to meet the timescales for the new EHCP process suggests they are still struggling with the new system’s additional demands, but it is also worth noting that the completion rate for statements reduced significantly before the new system was implemented. Only 79% of statements were completed within the 26 week period required under the old system with a less complex set of requirements for a statement than an EHCP (DfE 2016b). It is, perhaps, therefore not surprising that even with the additional resources LA’s have been given that the figures are low and part of the delay is the new system flushing out bad practice in the old.

One of the main blockages in completing the new transfers has been the absence of up to date information to complete assessment and continuing difficulty in implementing joint assessments (OFTSED/CQC 2016, Parent Carers Survey 2016). Further, 76% of LAs stated there were issues with their capacity – compared with 69% in autumn 2015. LAs identify problems in gathering information, with 74% having stated there were issues gathering information from health professionals – compared to 64% in autumn 2015. While 60% stated there were issues gathering information from care professionals – compared to 53% in autumn 2015 (DfE 2016a). This suggests that the barriers were getting worse, not better in respect of securing the right input to EHCPs. With this background it is not surprising that only 9% of parent carer forums where extremely confident and 16% confident that the system would meet the 2018 deadline to have all the transfers complete.

The parent carer survey does suggest growing confidence of parents at the individual level, with 49% of parents feeling largely or fully involved in decision making around their child or young person’s provision. This is up from the 6th survey where it was at 40% (Parent Carer Survey 2016). Failure to meet the timescales for competing EHCPs has a significant impact on parental confidence. For even where the assessment process has been done in a more co-produced way, if there are
significant delays in accessing services this will undermine the confidence created by the new more personalised approach.

There is also a major problem in assessing the success of the new process as the experience of those coming into the system for the first time may be markedly different to those who are part of transfer process and much of the anecdotal feedback from parents’ groups suggests this is the case.

Early pilot studies and qualitative work has been done to assess individual parental perception of the EHCP process. A non-representative pilot survey from DfE funded research (DfE 2016c) based on 317 families with plans in 2014, found overall satisfaction with the EHCP process with most respondents (63%) satisfied or very satisfied; and 13% were dissatisfied or very dissatisfied, with the remainder being unsure or preferring not to answer. 77% thought their wishes had been included in the plan indicting that a major aim of the measures has been achieved for those families.

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

- 67% agreed that their EHC plan led to the child or young person getting the help and support they need
- 62% agreed their plan improved the child or young person’s experience of education
- 50% agreed their plan improved the child or young person’s health or wellbeing
- 42% agreed their plan enabled the family to live the life they want to lead

Only 16% of parents and young people said they were offered the option of taking up a personal budget suggesting that this area of extending choice and control is not yet integrated into the offer from statutory authorities. This is also confirmed in the DfE figures nationally with only 140 education related personal budgets having been issued out of the 2205 provided (DfE 2016b).

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

The OFSTED/CQC inspections were also very positive about practice in a number of LAs and this comment was typical where good practice was found:

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

However, a number of reviews pointed towards EHCPs not working as intended especially in respect of a coordinated approach:
“EHC plans have a disproportionate emphasis on education. Health and social care contributions are not yet consistently reflected in many EHC plans.” (OFSTED/CQC 2016)

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

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

Dispute resolution services are not a new element of the system, though the requirement for formal mediation to be offered before proceeding to Tribunal is. The operation of dispute resolution services was examined by Tennant et al., (2008) and they were adopted as part of Scottish SEN legislation before the reforms in the rest of the UK. There is evidence that they have been extensively used before the reforms by LAs with varying degrees of success (Harris et al., 2009; Riddell et al., 2009, 2010). The formal separation of dispute resolution and mediation in the current legislation makes comparing current rates of mediation and its impact on parental confidence with the previous situation difficult.

Just looking at the current figures there were 1,400 mediation cases held in 2015, of which 24.9% went on to an appeal to the tribunal during 2015. Mediation does therefore seem to have been successful in deflecting three quarters of cases away from Tribunal. While there was a drop in Tribunal cases following implementation we are now beginning to see a rise with the number of appeals registered in the latest quarter (April-June 2016); this was 1,146, an increase of 29% compared to the same period 12 months earlier, when there were 890 recorded between April-June 2015 (DfE 2016b; MOJ 2016).

However, the rise in numbers going to Tribunal has not yet reached the record 4,000 plus of 2014-15. It is nevertheless the sharpest increase on record from a lull in the previous year which probably reflected the slow start in issuing new EHCPs and only 18 per cent of statements having transferred to EHCPs a third of the way through the process. Therefore, if judged on the number of tribunals cases, there would have to be caution about the level of confidence in the new EHCP process, at least for a significant group of parents.

An ongoing issue which saps at the viability of the new framework is the unequal statutory footing of Education, Health and Social Care services in respect of services specified in an EHCP. Feedback from parents as well as from some professionals is that the inability to enforce provision in respect of health and social care weakens the impact of EHCP as a co-ordinated plan. Further, there continue to be disputes as to what is health as opposed to educational provision and in getting health and social care input. The Tribunal has been running a pilot in 13 local authority areas (extended to 16 in July 2016) allowing the Tribunal to make non-binding
recommendations on health and social care needs and provision specified in EHC plans. It will be important to see if that can address some of the concerns around the weaker statutory rights to services in those areas and that this could potentially be rolled out nationally.

Summary
Implementation of the reforms has to be put in the context of the squeeze on LA and Health budgets which has reduced support around some of the key elements of provision both at SEN support and for EHCPs. There is also a perception by schools that they do not have the resources to deliver the reforms especially given local authority cut backs (The Key Survey 2016). Greater transparency and involvement, without the ability to deliver a reasonable level of provision, could be at risk of undermining some of the clear gains the reforms have made. Notwithstanding these concerns the reforms are not just about resources but also, if not pre-eminently, about changing the culture of parental and young people’s involvement in the system (Lamb 2013). The early evidence reviewed here suggests that while there is much further to go in making a decisive shift in culture across the system, at the level of strategic planning formal parent carer forums are having a significant impact on planning services through the Local Offer and some impact through mechanisms such as the Schools Information Report. Also for new recipients the EHCP process is working for a majority of families, if not all, in improving confidence and co-production with parents. However, if wider parent carer surveys and the recent acceleration in tribunal cases are included then there are still serious questions about how far the system has secured the confidence of a significant number of families.

What Next?
The introduction of the OFSTED/CQC area reviews has clearly refocused LAs and CCGs on their statutory responsibilities and overall the assessments have been positive. However, there is a danger in relying on compliance mechanisms for driving cultural change in the system. The continued focus from the DfE through its advisor teams and partner organisations on the reform process will also help in supporting culture change. However, with the new Academy and funding proposals, outlined in Educational Excellence Everywhere (DfE 2016d), there is a danger of LAs and schools becoming further decoupled unless new accountability for SEND and parental engagement is put in place. Further the focus of the reforms so far has been on the implementation of EHCPs and the Local Offer, there now needs to be much greater focus on what happens at SEND Support and the engagement of parents within school settings.

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

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Section 3:

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

Kate Browning

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

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

The Code of Practice states that the role of the SENCo is ‘most effective if part of the leadership team’. My experience of working with over 200 SENCols since 2009
through the National Award for SEN Coordination is that there is now an increased likelihood that SENCOs, particularly in primary, having a place on the school’s leadership team. However, this leadership role has often come with added responsibilities such as leading more widely on ‘vulnerable groups’. More schools, particularly the larger primaries, seem to be recognising the significance of the workload SENCOs undertake and I am beginning to see more (but not most) SENCOs with reduced class-based responsibility. The context in secondary schools seemed to be different, where there may be a member of the SLT who may hold the SENCO Award, but the day-to-day operational role, as outlined in the Code of Practice, is predominantly carried out by a member of support staff (often HLTA). It would certainly be a valuable area to research more comprehensively.

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

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

Identification of SEND
In the move away from School Action and School Action Plus to SEN Support, one of the first ‘actions’ schools undertook within the academic year 2014/15 was to review the children and young people they had on their school’s SEN register. Despite the fact that the legal definition of SEND has not changed, there appeared to be somewhat of a national confusion around which children and young people should remain on schools’ SEN registers at SEN Support and who should ‘come off’. This seems to have been exacerbated by a lack of clarity and subsequent varied interpretation around the revised School Census coding. Some schools followed guidance from organisations such as NASEN which recommended schools take each child on a case by case basis to review current understanding of need and appropriateness and effectiveness of current provision. Many schools, however, simply transferred all children and young people from School Action / School Action Plus to SEN Support whilst some others, predominantly secondary schools, removed many students who were at School Action from the register altogether, citing their reason for doing so that these pupils were not (and possibly never had) been receiving any additional / different provision and therefore did not need to remain on the register. This appears to be borne out in the January 2016 National SEN Statistics which shows the largest recorded year on year reduction of children identified with SEN without EHCP / Statement in all schools from 15.1% in Jan 2014 to 12.6% in Jan 2015; this reduction being more marked in Secondary from 15.9% Jan 2014 to 12.4% in Jan 2015.
There has always been a variation from school to school, let alone region to region, in the practice of identification of SEN. Following the implementation of the new SEND Code of Practice came the removal of National Curriculum levels, which many schools were drawing upon to aid decisions around placement on the register i.e. placement on the SEN register being directed by the point in time where a pupil became a specified number of NC levels ‘behind’ what was the expected for the age. The combination of these two reforms are beginning to lead schools to engage in a more thorough and personalised process of undertaking the identification of SEN by engaging teachers in providing a wider evidence of need and response to differentiated support over time, rather than over reliance upon a numerical criterion, to determine whether SEN Support is needed. The question now is whether, through undertaking this process, we have moved toward a more consistent national profile of Special Educational Need at SEN Support.

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

**High Quality Teaching**

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

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

The Code’s assertion that teachers of children with SEND should give an equal amount of their teaching time to children with SEND as non-SEND, is also beginning to change practice in the classroom. There is no doubt that the highly influential findings of the DISS and MaST report and subsequent well received ‘Making Best Use of Teaching Assistants Guidance Report’ by Jonathan Sharples, Rob Webster and Peter Blatchford (2015) has added both impetus and a much needed strategic framework changing practice in this area.

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

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

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

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

Two years down the line, there is huge variation from one school to another as to how they are recording and evidencing their application of the Graduated Approach to SEN Support and it still feels like the driver is one of accountability and less so on supporting a personalised approach to SEN Support.

**Person Centred Approaches**

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

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

**SEN Information Report**

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

**Education, Health and Care Plans**
The process of transferring Statements to EHCPs has been and continues to be, a rocky road for schools, LA and parents alike. In the most part, the transfer process has been almost entirely undertaken by school SENCos, with little preparation or understanding of how to undertake the process, how to go about producing a One Page Profile with the child and parents (Section A) let alone how to write an ‘Outcome’ (Section E). Greater collaboration between education, health and social care in drawing up a plan is still in the most part an aspiration with head teachers reporting that health and medical needs are too often allocated to education responsibilities. With some LAs revising their thresholds around statutory assessment and special school placement, schools fear they will not have the capacity to meet the increasing complexity of need they are seeing from their existing resources. Since the reforms, some LAs are moving toward allowing schools to request Top Up Funding without needing to request an initial Statutory Assessment. More schools are now working with ‘non-statutory EHCPs’ which have no place within the statutory framework. Careful monitoring of the impact of this way of working on the intended outcomes of the reforms surely needs to be in place.

**CPD and collaboration between schools**

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

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

**Leadership of SEND**

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

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

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

References:
Section 4:

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

André Imich

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

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

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

Figure 1: Successful implementation of reforms

What does successful implementation of the reforms look like?

1. Co-production with children, young people and parents
2. All parties meet their statutory duties
3. Increased satisfaction with access to local services
4. Accurate and timely identification of SEN and disability
5. Improved attainment and narrowing of gap for CYP with SEND
6. Strong focus on those at SEN Support
7. More YP go on to post-16 education, training & employment
8. Improved parental confidence

A second important measure of successful implementation is that local authorities and their many partners fulfil statutory duties. It is critical that everyone knows what the law is, that they are applying and implementing it well. This covers a wide workforce, including those who work with children and young people in social care
and health services, and requires ongoing training. As champions of vulnerable children and young people, we do need to get the statutory framework right on their behalf if we are to promote their interests effectively.

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

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

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

**Progress with key elements of the reforms**

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

In relation to co-production, good progress has been made with parents and carers. Parent Carer Forums in most local areas are making a significant contribution to strategy development - 84% of local authorities say that that this is going well - and it is important that this is maintained if we are to embed the new culture, and raise the confidence of parents. However, LAs report significantly less progress in relation to the engagement of young people and children. Where LAs have worked with representative groups, they have found this to be enriching and illuminating. One example is the Isle of Wight who worked with young people in developing their local offer and their EHC plan template. We do need to do more to put these types of approaches in place as a matter of routine.
The second element is that all the duties in the Children and Families Act apply equally to all types of educational settings. Academies, free schools, studio schools, maintained schools, alternative provision – all state-funded schools and colleges are equally required to follow the Code of Practice. Parents and children opting for one school over another should notice no difference in their experience or what they can expect to find. So, fully qualified SENCOs in every school, a focus on quality first teaching, quality school information reports, adherence to the Equalities Act 2010. are key features that all school must have in place. This is a particularly important element of the reforms as we move towards the vision of a much more academised educational system.

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

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

The new system was also intended to reduce conflict; one measurement of this is the number of appeals to the tribunal. There is some evidence of a downward turn, but it is early days and we need to see data over the coming three years or so to begin to get a feel for the longer-term impact of the changes. In fact, with the position created by the transfer process, there are many more individual cases which can be subject to appeal, a situation that will pertain until transition is completed in April 2018.
The challenge of transferring statements to EHC plans by April 2018 has placed significant demands on local authorities, and on some of their partners, especially schools and colleges. SEN data published in January 2016 showed that 29% of all statutory SEN documents, either EHC plans or statements, were already education health and care plans. Since that data was collected, a significant number of further transfers have occurred, including Y6, Y9 and school leaver transfers. In a recent survey, almost half of LAs reported that they are now extremely or very confident about being able to achieve this. LAs are gaining in confidence and experience at managing the transfer process. However, with less than two years until the deadline for completion of all transfers, it is a situation that DfE will continue to monitor carefully.

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

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

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

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

The area that provides the greatest opportunity for improvement to the system, but also which has offered the greatest challenge to implementation is the reforms on behalf of the 16-25 population. For colleges, having regard to a SEND Code of Practice in this area is a new demand, and it will take time for all those with leadership and delivery responsibility to fully understand and implement their duties this is on ongoing training and development priority. The majority of local authorities
report that their key providers are fully or to some extent de-designing their SEN provision. Some, such as Oxford College, are delivering innovative supported internship scheme with local employers. Another college I met was celebrating the fact that they are now admitting more young people with more complex needs – although they also felt it was presenting them with new challenges.

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

**Conclusion**

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

**References:**


Section 5:
Two years on: The impact of the SEN Reforms on Local Authorities
Chris Harrison

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

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

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

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

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

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

<table>
<thead>
<tr>
<th>Before</th>
<th>After</th>
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<tbody>
<tr>
<td>“Done to”</td>
<td>Co-produced, person-centred</td>
</tr>
<tr>
<td>3 to 19 (years)</td>
<td>0 to 25 (years)</td>
</tr>
<tr>
<td>Education</td>
<td>Education, Health and Care</td>
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<tr>
<td>Timelines 26 weeks</td>
<td>Timelines 20 weeks</td>
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<tr>
<td>Paper process</td>
<td>Personal and multimedia</td>
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<tr>
<td>LA resources</td>
<td>Personal budget</td>
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<tr>
<td>Various sources of information</td>
<td>The Local Offer</td>
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<td>Separate commissioning</td>
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The duty for the LA to facilitate an SEN assessment process remains, but the way in which the EHC plan is co-produced and constructed in an integrated way with Health partners is radically different. It requires different relationships with families and with partner agencies. The content needs to be focussed on outcomes and should support young people towards their ambitions into adult life. In some areas much of this was new to the traditional SEN teams prior to the reforms, and required a significant cultural shift in working practice and behaviour.

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

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

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

Local SEN officer feedback on implementing the reforms

We asked SEN officers about their aspirations at the start of the reform process. They said they welcomed the:

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

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

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

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

- They now had a more transparent process
- In the majority of cases parents liked the process
The process was more engaging
They enjoyed the aspects of co-production
They had better relationships with key partners
The reforms gave licence to innovate

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

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

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

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

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

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

All these things have an impact on the capacity and resilience of staff in delivering change. In areas where there have been multiple layers of simultaneous change, the impact on teams has been high and potentially negative. In areas where implementation of the reforms has been relatively successful the impact on all areas affected by the changes has been well-managed and controlled.
In areas experiencing difficulty the level of change and the level of challenge has impacted on the ability of the team to operate effectively. High levels of challenge, results in high levels of staff illness and high staff turnover. In one authority it appeared that all members of the EHC team were either off sick, intended to leave or had already left and been replaced by either temporary or agency staff. This particular team was experiencing significant difficulties in managing timelines, delivering high quality EHC plans and managing expectations of families.

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

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

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

**Systems and processes**

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

**Financial pressures**

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

**Implementation of Reforms**

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

In LAs where these pressures are well managed a positive scenario emerges. Families are highly engaged with the process, agencies give quality advice, systems are understood, budgets are managed, EHC plans are issued on time and families like the plans that they receive.
In LAs where it has been more difficult to manage these pressures, a less positive scenario can emerge. Families are not fully engaged, partner agencies do not contribute effectively to the process, EHC plans are late and families are not happy with the ‘product’ they receive.

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

What LAs can do to avoid such negative cycles

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

In Summary

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

As a result, the progress of change has been variable. In some areas a very positive outcome has been achieved, while in others there has been only a partially positive outcome. In some areas it has been altogether much more problematic with real difficulties delivering the much-desired reforms. As a result, parents are receiving very different experiences across the country.
There are some simple activities that will help prevent LAs slipping into a negative cycle. Ensure that there is a robust SEN Support Offer. Develop a strong planning continuum which includes thresholds that are clear and understood so that progression to an EHC plan is for the children with the most complex needs. Engage with families. Quality assure your products and services. Invest in the wellbeing of your teams. Overall, it is a matter of sustaining effort, an LA officer said:

“This is a challenging time and frustrating but also exhilarating. Have to keep reminding myself to hold onto the aspiration – we will get there but it will take time”
Section 6:

Summary of discussion groups’ conclusions

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

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

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

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

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

PARENTS
Continuing issues for parents
One group discussed how parents do understand their children’s particular needs. But there should be a more ‘real grown up’ conversation with professionals about how their children can be supported so parents can become more actively involved.

Another group discussed how, from a parent’s point of view, not much had changed. There were the same sorts of problems, e.g. health and social care not working together and parents feeling that things were being done to them.

**Had the new system improved parent confidence and helped resolve problems?**

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

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

Another group gave an example of innovative practice in another service. EPs had a role in training parents both around the various processes, about their entitlements, how parents could work with schools and do things for children at home to meet their needs. This was aimed at helping to enhance parental understanding.

One group wanted to make a distinction between an increase in parental engagement and an improvement in their experience. The former might not lead to the latter.

**What practices are needed to improve parent confidence?**

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

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

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

**Parent choice**

One group thought that parental choice needed to be considered further in terms of an informed parental choice and two other less preferable versions of choice. One was an uninformed choice which was based on anecdotal evidence, and the other,
manipulated choice, where, for example, a school might say that another school
would be better to suit that child’s needs.

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

But, another group suggested that, anecdotally, similar problems are in evidence
now as they were before. But, they recognized that one of the difficulties was
gauging how much real change there has been in the system. There was a need to
gather much better evidence to be able to know what that change is.

How schools respond to change
One group considered the possibility that there was a process of polarisation
between schools. Some may be accepting that in the future they will have to get on
with their responsibilities for SEN without much outside support, while for other
schools they were showing reluctance. Some schools in more disadvantaged areas
are experiencing a forced choice, between meeting nationally expected attainment
targets and responding effectively to individual needs.

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

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

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

For one group it was important to restate what children were entitled to: having in
inclusive education in an inclusive school. This involved a multi-professional team in
the school so that early intervention could be practised. In this way EPs or speech
and language therapists would not spend their time doing statutory assessments but rather use their expertise more appropriately.

**What was still needed**

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

**NATIONAL AND LOCAL GOVERNMENT**

*Why an increase in statements / plans in last four years*

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

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

*EHC plans*

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

*How to manage expectations if the High Needs budget is finite*

For one group concerns were expressed about the Government’s new school funding proposals. These involve the high needs block being ring-fenced and separate from general school budgets. Overspends will therefore have no consequence for schools and the education community and will have to be managed by local authorities that have increasing budget pressures. Spending more on high
needs should not mean spending less on other children with special needs. This sets up a line between the have and have not children. For this group this was hard to justify as the distinction between these two groups are fairly arbitrary. School communities, it was suggested, should be put to work out how they are going to manage this fixed amount of resource.

**EHC agencies collaboration**
For one group the collaboration between Education, Health and Social Care was more an ideal on paper than working in practice. For someone in this group it was social care particularly (of the three partners) that had increased thresholds and depleted budgets. This meant that they did not collaborate and practised what could be described as 'dirty games'.

**Factors affecting capacity to meet SEN**
One group in responding to the presentation about local authorities had concerns about the Secretary of State’s ambivalence to local authorities, and the continuing use of the term 'local area'. This was interpreted as saying that Government valued the expertise of local authority officer profession as long as it is not being done in a local authority.

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

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

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

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

**POST-16**

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

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