



The Michael Sieff Foundation

Working together for children's welfare

Special Educational Needs & Disabilities (SEND) in the UK

Action Plan 2019

The Michael Sieff Foundation

The Michael Sieff Foundation has been considering some of the problems of the Special Educational Needs and Disabilities (SEND) field for nearly two years in accordance with terms of reference agreed by its Trustees in February 2017. These were to investigate the impact of the reforms in the Children and Families Act 2014, with particular reference to the introduction of Education, Health and Care Plans (EHCP) to replace Statements of Special Educational Needs, and the detailed evidencing of educational, health and care needs required to get all three systems to provide effective educational, and where relevant health, social care and parenting support for children and young people with hidden disabilities.

We have been working with a range of professionals and interest groups, including the Inclusive Education Unit at University College, the Centre for Interdisciplinary Research on Special and Inclusive Education at the University of Roehampton, the Association of Directors of Children's Services, the Council for Disabled Children, I CAN and Action Attainment.

In January 2018 we held a seminar, the outcome of which is posted on the Foundation website at (<http://www.michaelsieff-foundation.org.uk/scoping-education-health-and-care-plans/>). The Foundation established a group which has had further discussions. Members of the group have had discussions with other interested parties, as well as senior civil servants in the Department for Education (DfE).

The Foundation's Trustees believe that the time has come for an update of current concerns and thinking. The objective is, in line with The Michael Sieff Foundation's usual methods of working, to maintain policy-makers' and leaders' attention on SEND matters

causing concern across the system but proving to be intractable and to make proposals for improving that system. The Foundation is conscious that at the time of writing the Education Select Committee has been conducting an inquiry into the SEND system. The objectives of that inquiry are wider than the Foundation's Terms of Reference and accordingly are taking rather longer to come to fruition.

It is not the Foundation's policy to lobby on financial and resource issues but in the current climate it is impossible to ignore the fact that local authorities have been functioning within an austerity policy. Some contend that SEND services have experienced particular difficulties as a result. The Foundation's objectives are, however, focused on considering what steps might be taken to improve services within existing budgets.

This brief report is published on the Foundation's website, and has been sent directly to Ministers at the DfE, DH and DWP, to Peers and others with whom The Michael Sieff Foundation has already engaged for their continuing work. In addition it has been made available to all DCSs for their use and that of their SEND teams, to interest groups, campaigners and others with which The Michael Sieff Foundation has engaged in this work so far, and to ADCS as the DCSs' representative leadership organisation. The aim of doing this is to contribute to the ongoing SEND debate, strongly informed by the work of the academic researchers who have been working with The Michael Sieff Foundation through this themed working group.

At the January 2018 seminar a number of central problems were identified. Those which relate specifically to the Terms of Reference can be summarised as:

- the need for quality advice on each element of the assessment necessary to deciding what support a child requires and whether an EHC Plan is necessary;
- in the absence of that, a resulting failure to provide essential specialist support in the classroom;
- the need for better coordination between education, health and social care;
- a lack of awareness of the specifics relating to SEND and the legal responsibilities relating to them;
- the lack of early discussion with families (and where appropriate children and young people) about decisions relating to assessment and the need for EHC Plans.

These problems have led to regrettable consequences, amongst which are:

- a significant number of parents feeling that their children are not receiving the service to which they are entitled and which meets their needs, which in the worst examples, DfE acknowledges, leads to an embattled atmosphere;
- a significant increase in the number of appeals to the Special Educational Needs and Disability Tribunal (SENDIST) and a high rate of findings in favour of families;
- a number of applications for judicial review of local authority decisions relating to local SEND budgets, early signs being that courts are sympathetic to the complainants concerned;
- an increase in the number of school exclusions linked to special needs / disabilities, including those where parents have been persuaded that their child's interests are better served by a move to a different school;
- a matching increase in supposedly elective home education of children who for whatever reason do not fit into the schools or other settings concerned.

We should explore what the commissioning framework should look like, given the 42% of localities which to date have had poor SEN/D Ofsted inspections, and given different bodies and Departments of Government continue to speak different languages about children, young people, families and the work they do on SEN/D. There are often wide gaps between professional bodies, which argue with each other not only about what a child or young person needs in order to achieve what their potential suggests they should, but also who should commission, provide and fund that provision. In this regard something as simple as a glossary of terms (similar to that on the Special Needs Jungle website at <https://specialneedsjungle.com/glossary-of-send-terms/> but more extensive) and agreed between professionals might assist in communication. It should follow that such shared understanding will deliberately set out to create shared professional practice, the deployment of a multi-disciplinary workforce whose primary focus is the children concerned, and an equally shared commitment of finance and other resources. This was what the [2012 SEN Green Paper](#) envisaged, and the resulting [2014 Children and Families Act](#) requires, regardless of which Government Department is involved.

There is a common set of issues concerning the preparedness of the workforce to support, and differentiate their practice and approaches to meet the needs of, children with SEN/D.

Mainstream schools, themselves faced with serious funding difficulties and pressures, have reported their difficult choices in recent financial years which have included terminating the contracts of Teaching Assistants, counselling staff and others, including those who were employed to support children with difficulties including a range of SEN/Ds, and their families who need to build and maintain a relationship with the school(s) their children attend.

The requirement for better support for all levels of the workforce, across education, care and health bodies, remains an urgent issue, in both initial training and in career-long CPD, as well as in shared and multi-agency approaches to such training and development. An ill-prepared workforce will inevitably find it hard to accommodate the needs of every child or to work across disciplinary boundaries with others whose specialisms differ from their own but can make vital contributions to a child's chances of success. A lack of such preparation is now leading to the increased likelihood that the most vulnerable and in-need will be segregated from their peer group, not least because mainstream provision – in education or elsewhere – cannot meet their needs. Inevitably the result is a continued growth in specialist settings, whether the mainstream should have been able to meet a child's needs, or not.

The SEND landscape is as complex as it has ever been, if not more so. Funding of the High Needs area, particularly the year on year reductions in that strand of Local Authorities' (LA) funding, is now negatively affecting the financial viability of many authorities. High Needs Block resources have been drastically reduced and there are few if any areas for adjustment or for replacing that lost resource with alternative finances, given LAs have lost such a high percentage of revenue across the piece in the past 8-9 years. The 2014 Act's requirements on local authorities and their partners to continue to fund and assure support and EHCP provision for those aged 18 to 25 on the basis of no funding with which to achieve that ambition has added to the sense of localities being unable to meet needs. Difficult decisions are being made in local areas, that in the end can impact negatively on children and families, and set services against parents, carers and children in unhelpful ways. That such drastic changes are not always discussed with stakeholders before they are made, or that they are discussed but the changes are made whatever the consultation reveals, compounds the sense of parents and families being embattled with rather than allies of the local authority and its partners.

Some Academies have recognised that, given they are their own admissions and exclusions authorities, they have the option to exclude a child in ways which had a local authority maintained oversight of their behaviours might not have occurred; or to recommend that parents sign school-generated correspondence as if they were opting for elective home education as an alternative to a formal exclusion on their child's records. This behaviour includes their work in actively leading families' decision making on this matter, in ways that lead to them off-rolling vulnerable students, including those with SEND, as an alternative to undertaking formal exclusion which requires the support of Governors. The concern on this issue – including that expressed by two successive Children's Commissioners for England since 2010 - has led to the current government inquiry into school exclusions, led by Ed Timpson - see Terms of Reference at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691005/A_Review_of_School_Exclusion-terms_of_reference.pdf

There is concern that in the current climate there is something of a vacuum, given the Education Select Committee is making slow progress and Brexit is creating a political vacuum in which, given a lack of Parliamentary time and energy, there is a consequent lack of attention to the needs of the SEND system. The [SEND Code of Practice](#) is becoming out of date but the Parliamentary time is not available to bring about the necessary changes to make it fit for purpose.

After consideration, the Group decided that this was a vacuum in which it should be possible for the Group, and The Michael Sieff Foundation, to promote new thinking, specifically in relation to our original Terms of Reference based on the assessment and foregrounding of hidden disabilities. This could include the [International Classification of Functioning \(ICF, WHO 2007\)](#), internationally recognised and widely used, which could serve as a framework and classification system to support the development of higher quality Education Health and Care plans and has the potential to overcome some of the quality issues identified in large numbers of the recently developed EHC plans. (See Roehampton University colleagues' work at: <https://www.roehampton.ac.uk/Research-Centres/Centre-for-Interdisciplinary-Research-on-Special-and-Inclusive-Education/Research-Projects/>). This system is not widely used in English education, health or care settings or plans as things currently stand.

A further focus should be on any support we can offer, through the work we do, on issues of Work Force Capabilities. We ought to be able to identify good practice, particularly in relation to hidden disabilities, and find ways to disseminate it. The CDC has started to analyse and publish what a good quality EHCP looks like and will help services to deliver what a child needs, but the CDC and The Michael Sieff Foundation both recognise that there is more to do. One way to consider this in greater detail could be to identify a school or group of schools with which we could work to develop an Assessment Toolkit that could be widely shared and potentially replicated, based on what “good” looks like. Urging on meaningful and productive parental engagement would be an important element of a development such as this.

We wish to ensure that policy makers and decision makers are better informed in terms of both the evidence they ought to use as the bases for their policies and decisions, and the course their decisions and policies then take, with direct effects on the lives of children and young people with SEND.

In conclusion the Foundation wishes to emphasise, based on the work undertaken:

- the evidence which should be used for evaluation of services;
- what research tells us children and young people with SEND need;
- what a good assessment process looks like;
- what changes in mindsets are needed, by professionals, leaders, commissioners, providers, parents and carers given how different EHCPs are from Statements;
- what a “good” EHCP looks like in practice, and in the delivery of what the Plan contains;
- where good practice lies in EHCPs and in particular approaches to, and meeting the needs of, children and young people with hidden disabilities;
- where the gaps are, why they exist, and what could and should be done to address them and move practice, and outcomes, in a better direction.

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