

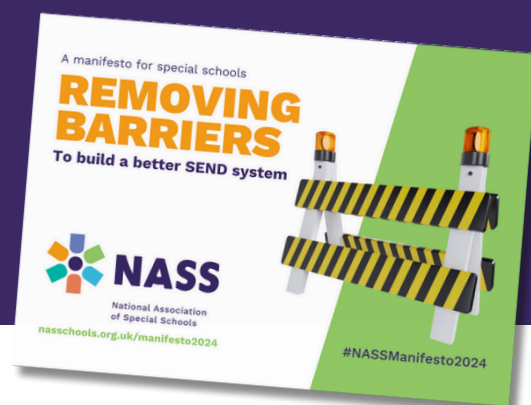


A NASS Parliamentary briefing

INTRODUCTION

In April 2024, NASS launched its manifesto **‘Removing Barriers to build a better SEND system’**. Our manifesto prepared for the 2024 General Election and outlined our six key actions for the next government within their first 100 days of government.

As part of our manifesto follow-up programme, we have published a series of six parliamentary briefings, with each one reflecting one of our six key actions.



Contents

	Page
BRIEFING ONE	
Why we need a cabinet level Minister for Children, Young People and SEND.	2 - 5
BRIEFING TWO	
Why Government must commit to uphold the Children and Families Act 2014 that stipulates that choice of placement should enable the ‘best possible’ outcome for children and young people with SEND.	6 - 9
BRIEFING THREE	
Why we need to commission a government review of special schools.	10 - 13
BRIEFING FOUR	
Why we need a SEND workforce strategy that values people and skills and provides opportunities to share knowledge and expertise across the education sector.	14 - 17
BRIEFING FIVE	
Why we need to conduct research into the mental health and wellbeing of children and young people with SEND and to establish a strong evidence base identifying best practice and interventions that have the greatest impact.	18 - 21
BRIEFING SIX	
Why Government needs to pause financial interventions with local authorities that risk them breaking SEND law.	22 - 25

Why we need a cabinet level Minister for Children, Young People and SEND

Get in touch with NASS

If you have any questions or are interested in working with us, please get in touch.

Mari Davis

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Background

Why we are calling on the new Labour government to establish a cabinet level Minister for Children, Young People and SEND.

In previous governments, the responsibility for SEND was that of the Parliamentary Under Secretary of State - Minister for Children, Families and Wellbeing. The role was first established in 2003 and has traditionally been a junior ministerial position in the Department for Education. However, it is not an insignificant role holding responsibility for key areas such as early years, children's social care and SEND for the UK's 14 million children.

The new Labour government has recently announced a new home for SEND, with the responsibility moving to the remit of the **Schools Standards Minister**. This is a welcome move in terms of placing children with SEND firmly within policy for all schools, but the role continues to be a non-cabinet post and encompasses a significant list of policy priorities as part of its remit.

It is important to recognise that the needs of Children and Young People (CYP), including those with SEND are not confined to a single issue or policy. The Minister's role involves ensuring that policy represents all children, but this can sometimes mean a reactive approach to wider education policy and a disconnect from other government departments,

whose policies impact on CYP, e.g. Department of Health and Social Care. We believe that a non-cabinet level ministerial post does not have the required authority or scope to provide the integrated cross-departmental response and challenge to key policy decisions that impact CYP and SEND.

A Cabinet level Minister would have clear responsibility, accountability, and power across departments, making sure that the right support from health, social care, education, and other services are in place. They would have the authority to challenge different government departments and their Ministers on how they are meeting the needs and considering the impact of their policies and decisions on the lives of CYP. They would provide a strong voice at the table for children, young people and SEND in order that the government of the day considers the impact its decisions will have on the younger members of our society.

NASS is a supporter of the **Children at the table campaign**, which is also calling for better representation of children and young people within British decision making.



A Cabinet level Minister for Children, Young People and SEND would ensure coordinated support across health, social care and education. They would hold departments accountable, challenge policies and be a strong voice, making sure the government considers the impact of its decisions on the younger members of our society.

Why this is needed now

The **National Disability Strategy** committed to placing disabled people at the heart of government policy making and service delivery. In December 2022, a **House of Lords Select Committee report** concluded that children needed a strong voice at the highest level of government that could advocate for children's views and needs. The committee advised the government that it should consider how the voice of children is best represented at senior levels of government. Unfortunately, there has been limited discussions around the importance of representing the interests of children and young people with SEND at the most senior level of government.

There are many examples of other nations having a dedicated department or senior level children's minister. For example, Ireland has had a dedicated **Department for Children, Equality, Disability, Integration and Youth** since 1997. The department is separate from the Department of Education and provides the opportunity to give an overview across the work of the whole government.

The issues affecting children and young people are even more pronounced for those with SEND, including child poverty, poor mental health and limited access to vital health services and assessments.

DWP's 2022/23 **Households Below Average Income (HBAI)**, statistics showed that 3.2 million children (22%) were living in relative low income before housing costs and 4.3 million (30%) were in relative low income after housing costs – marking the highest level of child poverty after housing

costs since HBAI records began in 1994/95. Families with a child who has a disability or health needs face greater challenges in maintaining employment, especially full time, due to both the increased difficulties of organising childcare for disabled children and the additional time demands of managing their needs, therapies and attending appointments. The HBAI figures also show that children in families with a disabled member are more than three times as likely to experience low income and material deprivation (22%) compared to those in families without a disabled member (8%).

In 2023, NASS commissioned the **'Reaching my Potential'** report from Sonnet Impact, which explored the social value of effectively meeting SEND needs. The report highlighted that good mental health is a strong driver of positive outcomes for children in special schools. However, in policy terms, mental health straddles the Department for Education and the Department for Health and Social Care, leading to significant gaps, especially for children with SEND. For example, while children with SEND are up to six times more likely than their peers to develop a mental health problem, services for them are limited. There is a disconnect in how mental health needs, as well as language and comprehension between mental health needs, are understood and addressed by education professionals and health professionals, a disparity reflected in policy too. Appointing a senior minister with cross-departmental oversight of an issue, rather than relying on individual departments, would be a more effective way of addressing these challenges.

What needs to be done

We welcome the new Labour government's recognition of the need for more cross-departmental policies on key issues and **the introduction of their five missions**. We welcome the commitment that each mission board will be chaired by the Prime Minister. We are looking forward to further detail on the mission to improve opportunity for all citizens, which rightly has a focus on childcare and schools and which we hope will keep children with SEND actively in mind.

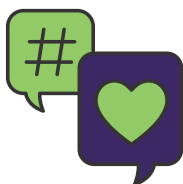
However, with the move of SEND to the schools directorate within DfE, we need to be careful that the wider policy areas which impact on CYP with SEND, such as children's social care are aligned to prevent the gaps which always appear when CYP with SEND are not considered holistically in policy terms. We believe that the most effective way to remedy this is to appoint a senior Minister for Children, Young People and SEND who can hold and enforce that government-wide view.

We need to see a cultural change in children's policy development - a shift from focusing on processes and bureaucracy to focusing on the whole child, recognising the intersectionality of each individual and their needs.

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Why Government must commit to uphold the Children and Families Act 2014 that stipulates that choice of placement should enable the ‘best possible’ outcome for children and young people with SEND

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Mari Davis
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Background

Why we are calling on the new Labour government to commit to upholding the **Children and Families Act 2014**, that stipulates choice of placements should enable the ‘best possible’ outcome for children and young people with SEND.

Children and young people’s rights and entitlements are clearly enshrined in the existing SEND legal framework, set out in the **Children and Families Act 2014**.

Unfortunately, for many years, policy decisions and actions have resulted in too many children and young people with SEND not receiving the special educational provision and wider support they need and are entitled to by law. It is essential that children and young people’s existing rights to an education that meets their needs are upheld. However, we have increasingly witnessed a range of policy decisions that are focused on ‘good’, rather than what is still required by law, to enable the ‘best possible’ outcomes, supported by the choice of placement.

Numerous stakeholders and educational commentators have confirmed that before 2014 reforms were right legally but not implemented/enforced successfully. Furthermore, the **House of Lords Select Committee on the Children and Families Act 2014** reported in December 2022 that the 2014 reforms in terms of SEND were fundamentally the right ones, but little thought was given to their implementation. The report advised that a clear implementation plan for the proposed next set of reforms was needed.

Since publication of the **Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Improvement Plan** (SENDIP) in March 2023, we have witnessed a concerning shift in priorities, with the focus now being on improving systems and processes from the perspective of local government (local authorities), through the **Change Programme Partnerships pilots**. This focus on how the system works best to reduce costs, reduce administrative burden, and reduce demand has unfortunately come at the expense of enabling the best possible

outcomes for CYP with SEND. This downplay of ambition for this cohort of students is reflected through a change of wording from seeking best possible outcomes (Children and Families Act) to good outcomes (SENDIP).

By operating within narrow silos, the findings of the Change Programme pilot programme will not identify the true impact of the proposed changes at this crucial testing stage on children and young people. More worrying however, is the increasing evidence highlighting the apparent disregard of the key principles of the Children and Families Act in an attempt to meet arbitrary targets.

The **Safety Valve (SV) intervention programme** was launched in 2021 and is intended to ‘write-off’ the High Needs Budget deficits of the most over-spent local authorities (LAs). It consists of a series of agreements between the Department for Education and individual LAs. LAs receive tranches of funding depending on their progress against agreed Key Performance Indicators.

The programme was introduced under the Conservative government and was expanded in 2023. By May 2024, 38 authorities were participating in it. The main aim is to reduce the High Needs deficits before the removal of the statutory override for the Dedicated Schools Grant (DSG) in 2025-26. LAs with the smaller, but still significant, High Needs deficits were invited to participate in the government’s **Delivering Better Value** (DBV) programme. This offers grant funding to focus on new ways of working to better manage High Needs budgets. Participation in the SV and DBV programmes is voluntary. By May 2024, four authorities that started in the DBV programme had moved across to the SV programme.

Evidence

The House of Lords Select Committee on the Children and Families Act 2014

reported in December 2022 that their evidence has shown an absence of accountability across the system, forcing parents to dedicate their time to advocating for their children. Accountability in the system is primarily enforced through the SEND Tribunal but this is an expensive process which places the burden on parents to fight for their child's rights.

Over 98% of SEND Tribunals are found in favour of children and families. Authors such as the Local Government Association have framed this as being as a result of 'excessive' parental demand, but we believe it is evidence of systemic failure. However, there is no evidence that families are abusing the system of redress against LAs – simply enforcing their legal rights under the current SEND statutory framework.

Unfortunately, as the impact of **Safety Valve** and **Delivering Better Value** programmes becomes apparent, we are hearing more and more of LAs making questionable policy decisions, such as

setting targets to reduce the percentage of Education, Health and Care Plans (EHCPs) granted, in order to meet the threshold to gain access to the extra funding promised. These policy decisions may be a contributing factor to the increase in successful tribunal cases against LAs

Over the last year, we have heard evidence of LAs removing names of existing placements from the EHCP of children and young people without the knowledge of parents or schools. We have heard about EHCPs being ceased without sufficient consultation with parents and schools and we have heard about how cuts in transport are having an impact on access to suitable provision for SEND CYP.

We are also hearing about the large number of CYP with SEND missing from education. A recent **Freedom of Information** (FOI) request to one LA earlier this year noted that they had 141 CYP with EHCPs without a school placement, out of a total of just over 200 for the whole cohort of school age children and young people.

What needs to be done

The SEND framework from the 2014 reforms had been developed in partnership with a wide number of stakeholders and still has the potential to be a strong vehicle for driving the SEND system.

We don't need another wholesale reform programme that will throw the SEND system into turmoil once again. The principles and foundations, as many in the SEND system agree, were the right ones but never properly implemented, financially supported and lacked clarity in terms of where accountability lay. The SENDIP will not achieve the key principles within its headline title if its implementation is driven exclusively by a focus on cutting costs, cutting access and cutting suitable provision.

What is required is more robust accountability mechanisms. This was strongly evidenced across the board in the responses to the SEND Review.

There needs to be a clear implementation plan, that is developed in partnership with all key stakeholders and a piloting programme for any changes that considers impact from all perspectives, especially the impact on children and families.

Each policy in place, or suggested, needs to be considered in terms of enabling the best possible outcomes for our children and young people and be aspirational in focus. We

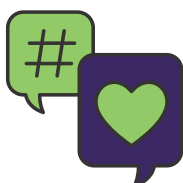
should not be comfortable in starting from the position of compromise and accepting that good is good enough for children and young people with SEND, especially as we continue to strive for excellence for non-SEND pupils.

What is needed within the first 100 days of the new Labour government is clarity of the commitment of the new Labour government to uphold the principles of the Children and Families Act 2014.

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BRIEFING THREE

Why we need to commission a government review of special schools

Get in touch with NASS

If you have any questions or are interested in working with us, please get in touch.

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Background

Why we are calling on the new Labour government to commission a government review of special schools.

In December 2023, Newton Europe reported on interim findings of phase one of the **Delivering Better Value in SEND**. They concluded that over 50% of students placed in special schools 'didn't need to be there'. Whilst there may be some students for whom other options may have been possible, special schools are a positive placement for the majority of young people who attend them. Despite the narrative within the **SEND and AP Improvement Plan** (SENDIP) and subsequent **Change Programme Partnerships** suggesting that "too many" young people are placed in special schools, and a policy intent to reduce these numbers, there has been a clear public commitment to the continued use of special schools. It is now time to clearly define the strategic role that special schools should play within the SEND system.

There has been no government review of special schools since 2003. The **Special Schools Working Group** produced report remains available and is well worth revisiting. The report mapped out a future programme of change for the special schools sector. It advised that they should be outward-looking centres of expertise and work more collaboratively with mainstream schools. We believe these are still the right aspirations for special schools but that further support is needed to make this a reality.

NASS recognises that special schools are an integral part of a spectrum of provision for children with SEND, and that they cannot evolve in isolation from the wider education system. As mainstream schools take on an increasingly larger role in educating children with SEND, it is important for them to foster closer partnerships and collaborations with special schools, including those in the non-maintained and independent special school sectors.

We believe that the time is now for government to commission a strategic review of special schools to identify the barriers that restrict opportunities for different parts of the sector to work together.



It has been over 20 years since the last government review of special schools and it is time to define the strategic role that special schools should play within the SEND system to enable the best possible outcomes for children and young people with SEND.

Evidence

Special schools in the maintained, non-maintained and independent sectors form an important part of our education system. However, there are few national structures that support closer collaboration between these special schools and mainstream schools.

There are many excellent examples of special schools and mainstream schools working well together. However, in general, these are the result of determined people, working together in spite of the system, rather than with its support and facilitation. The evidence is also often anecdotal, and not routinely recorded. Furthermore, due to the short-term, project-based funding that schools and local authorities generally receive, there is little opportunity to fund these types of medium to longer term partnership projects.

One example of where this is working well is where grant funding has helped the **Special Partnership Trust**, a group of 16 schools and resource bases working in the South-West, to provide SEND advice and support across Cornwall. The trust can release staff to provide hands-on

support to their mainstream colleagues. In West Sussex, **Muntham House School** has developed an innovative programme to support local schools to meet the mental health needs of its students. This has been shown to be effective at diverting young people away from pressurised CAMHS services but has only come about as a result of the charitable activities of the school, not as a strategically planned and funded local resource.

NASS is also concerned that there is a miss-match in the policies of the previous government that both sought to reduce the 'reliance' on specialist schools but also sought to build special schools to meet the demand for placements. **Working Stronger Together**, a NASS thought piece on the relationship between the state and the Independent Special Schools sector provided some initial thoughts in response to the statement in the SEND and AP Improvement Plan that said that the DfE wished to "*re-examine the state's relationship with independent special schools to ensure we set comparable expectations for all state-funded specialist providers*".

What needs to be done

In 2023, NASS commissioned Sonnet Advisory & Impact CIC to carry out a study to explore the value of SEND Provision. Their **Reaching My Potential report** indicated that meeting a child's special educational needs returns social and financial value to individuals, families and the public purse. Moreover, it highlighted the elements of provision which make the biggest difference - good relationships between children, families and schools and consistent professional support for mental health and wellbeing.

The MAT model has given us the possibility of 'hub and spoke' approaches where the special school within a mainstream MAT acts as a satellite for good practice across all the schools. Similarly, MATs made up of special schools bring considerable potential expertise to a region – as the Special Partnership Trust highlights.

What we need to do is work together to recreate such models with different types of schools and remove barriers to independent schools forming partnerships with state-funded schools. When this has been done previously, as through the SEN Regional Partnerships which ran between 1998 and 2006, there have been great successes. However, such projects have relied on dedicated funding and were not always effective at creating sustainable change. We would like to see new programmes which focus on sustainability and which focus on interventions which can be replicated and scaled.

In 2021, NASS worked with the Young Foundation to run the first **SEND-focussed Incubator Programme**. We supported nine special schools to develop ‘good ideas’ into proposals that could be replicated in other schools and widely scaled-up. One of the projects, Swalcliffe Park School's ‘**Quality of Life Network**’ is thriving today, supporting over 40 special and mainstream schools to deliver curriculum and support that generates a whole school culture of wellbeing.

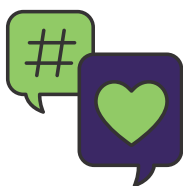
We’d love to see the Government commit to a national SEND Innovation Fund – a fund that develops, shares and replicates what is ‘special’ about special schools. We believe that expertise developed for the sector within the sector is likely to be more effective – in cost and outcomes terms – than consultant-led approaches. Alongside a dedicated policy review of our aspirations for special schools, this would give us a real chance of properly valuing special schools in their own right and unleashing some of that ‘special’ to make a real difference to all children with SEND, not just those enrolled in special schools.

We believe that there needs to be further consideration about the impact and true cost of the Free Schools programme in terms of SEND provision. We are concerned that the focus on building new free special schools may not be the best vehicle to secure suitable provision that provides the right support, in the right place, at the right time.

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BRIEFING FOUR

Why we need a SEND workforce strategy that values people and skills and provides opportunities to share knowledge and expertise across the education sector

Get in touch with NASS

If you have any questions or are interested in working with us, please get in touch.

Mari Davis
NASS Senior Policy and Public Affairs Officer
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Background

Why we are calling on the new Labour government to develop a SEND workforce strategy that values people and skills and provides opportunities to share knowledge and expertise across the education sector.

High quality children's education sets the foundations for lifelong learning, wellbeing and development for the citizens of the future. In special schools, specialist and expert staffing is key to positive outcomes for children and young people. Currently, the UK lacks a dedicated education workforce strategy, including a strategic plan to develop a workforce equipped to meet Special Educational Needs and Disabilities.

We are pleased to see that the new Labour government is committed to fund 6,500 new teachers, but we believe that there is a need to go further than this to think about the wider range of staff that play a key role in positive educational outcomes. This is particularly the case for special schools and other SEND settings, where multi-agency, multi-professional approaches are most effective.

Special schools are currently struggling to recruit and retain sufficient skilled staff to

ensure that their specialism is delivered to a high quality. Whilst the SEND Change Programme has workforce as a dedicated strand, the focus of this does not extend beyond educational psychologists and the SENCO role. Alongside struggles recruiting teachers, most special schools also report chronic shortages of teaching assistants, specialist teachers and therapists, particularly Speech and Language therapists.

The **Annual Report from the Local Government and Social Care Ombudsman** published in July 2024 concluded that in terms of SEND *"the required staff, including highly specialist roles like Educational Psychologists, cannot be trained overnight, and so this situation will not be resolved without significant input on a national scale"*.

Evidence

Difficulties in recruiting and retaining staff are not new to special schools. Back in 2008, NASS ran a project on Succession Management in special schools in response to struggles recruiting head teachers to special school roles. At that point, 50% of vacancies for special school head teacher roles could not be filled at the first attempt. In recent years, we have seen those difficulties extend to a much wider range of roles in special schools in schools – particularly maths teachers – and social care provision.

NASS member schools have reported that, due to the current recruitment crisis across the education sector, they have seen a significant increase in the percentage of their annual staff costs having to be spent on temporary agency staff. **The School workforce in England survey report** published in June 2024 also noted that temporarily filled teaching posts have increased; from 2,100 to 3,700 over three years. Government figures are not available in terms of non-teaching staff.

The government's June 2024 figures reported that teacher vacancies had increased by 20% to 2,800 in November 2023 from 2,300 in November 2022, and more than doubled in the last three years from 1,100 in November 2020. The data also showed 39,930 teachers (8.8% of the sector) left state schools for reasons other than retirement last year, up 7,800 on the previous year (6.9%).

The number of head teachers leaving the profession is also worrying. The June 2024 report noted that 7.8% of head teachers left the profession for other reasons other than retirement or death during 2022/23. If you include the number who have retired it jumps to 10.4%. **A National Association of Head Teachers (NAHT) FOI request** to the DfE in 2022 noted that of head teachers appointed in 2015, a total of 25% had quit by 2020. For middle leaders, the picture is worse with 45% leaving their position within five years.

The loss of experienced head teachers is not just a problem for the schools they leave but for the whole education system. Head teachers improve with experience and a newly promoted head is not always a substitute for one with a decade's experience. New and emerging leaders can also benefit from mentoring and support from experienced leaders.

The **Working Lives of Teachers and Leaders (WLTL) survey** suggested that the number of teachers who considered leaving increased by 44% in 2022/23 compared to the previous year. With the WLTL survey also showing that teachers' working hours significantly increased in 2022/23 compared to the previous year.

In terms of the wider workforce for SEND, there is a distinct lack of published figures around the recruitment and retention of teaching assistants, therapists and wider school support staff such as business managers and bursars for example, our members report that there is an acute shortage of suitable candidates for these positions.

What needs to be done

Teacher supply is in a critical state that risks the quality of education that children and young people receive. We therefore are asking the new Labour government to develop a long-term SEND workforce strategy.

The new government needs to work together with key stakeholders across the education sector to restore trust and a sense of value within the workforce. While driving the pursuit of excellence, it is equally important to respect the knowledge and skills of the workforce as educational experts.

We ask that policy makers consider the importance of health roles within education. The current situation disadvantages health professionals who choose to work in education settings and has resulted in many health professionals opting for consultancy work rather than an employed post. We welcome the importance that all political parties have placed on improving access to mental health professionals in schools, but this can't be achieved until a clear workforce strategy is in place.

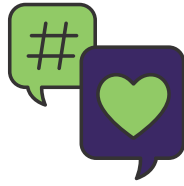
We also welcome the increased understanding by all parties of the importance of apprenticeships in building a stronger and better UK workforce. However, there needs to be more thought on how the apprenticeship scheme can be utilised within the education workforce. We are concerned that Labour recently announced a pause in certain apprenticeship programmes and hope that the new government works in partnership with the sector to develop and deliver new programmes that work for the sector.

We also wish government to consider the impact of Brexit on the shortage of staff, especially within the children's social care sector. A Health and Care Worker visa allows medical professionals to come to or stay in the UK to do an eligible job with the NHS, an NHS supplier or in adult social care. Unfortunately, this has not been extended to the children's social care sector which continues to face an acute shortage. We ask that policy makers consider a similar clear pathway for this sector.

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BRIEFING FIVE

Why we need to conduct research into the mental health and wellbeing of children and young people with SEND and to establish a strong evidence base identifying best practice and interventions that have the greatest impact.

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**Mari Davis
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Background

We are calling on the new Labour government to conduct research into the mental health and wellbeing of children and young people with SEND, to establish a strong evidence base identifying best practice and interventions that have the greatest impact.

In Britain today, children and young people face significant challenges in accessing the mental health support they need. Long waiting times, high thresholds and fragmented services are the norm across the country. In February 2023, the National Audit Office published a report on **Progress in improving mental health services in England**. It said that, even if the NHS achieved its 2023/24 access target for Children and Young People's Mental Health Services (CYPMHS) (as set out in the Long Term Plan), this would equate to only around two-fifths of 0 to 17 year olds with a diagnosable mental health need accessing services.

According to a **Children's Commissioner report in 2024**, of the 1.4 million children estimated to have a probable mental health problem, less than half (49%) received at least one contact with CYPMHS during 2022-23 and the average waiting time between a child being referred and starting treatment (receiving their second contact) was on average 35 days. Children and young people with SEND are up to six times more likely than their peers to develop a mental health problem. Child and Adolescent Mental Health Services (CAMHS) are generally ill-equipped to support children with additional needs, with symptoms of mental health problems sometimes being wrongly framed as functions of a child's SEND. There is a poor understanding of 'intersectionality' – how multiple disadvantages combine to impact upon individuals.

Special schools, especially in the independent sector, have sought to bridge the gap by commissioning and providing their own in-house mental health services. Whilst this is beneficial for those children and young people attending those schools it does result in expertise being locked into individual settings. Furthermore, schools deliver interventions that 'feel' right for their learners without the benefit of a clear evidence base for which interventions are most effective for which children.

Without a national framework setting out the most effective interventions for different children, or standards of delivery, we are faced with a patchwork of approaches and services constantly under threat of budget cuts. The limited accountability across health and education both locally and nationally also hinders any real opportunity for impactful collaboration and service planning. Since 2014, mental health needs have been classified as a type of Special Educational Need. However, there is not a common understanding of what we mean by 'mental health need' and how this is similar or different in education and health contexts.

Labour has promised positive mental health growth for children and young people that will 'create the healthiest generation of children ever.' They have indicated that they will look to prioritise preventative measures rather than only dealing with issues when children are at crisis point. They propose to create 'Young Future Hubs' in every community and the 8,500 staff they plan to recruit in the NHS will also go towards specially trained staff for CAMHS and NHS talk therapies. They have also promised to cut waiting times for children to access better mental health care, whilst also providing mental health support in schools.

NASS welcomes all these actions, but we remain concerned that there is little understanding of children and young people with SEND, and how they may access these new programmes of support. We strongly believe that the additional challenges presented by having both SEND and mental health difficulties are rarely sufficiently addressed in terms of either policy or provision.

This is why NASS is advocating for urgent action to invest in evidence-based and experience-informed interventions that effectively support the mental health and wellbeing of children and young people with SEND.

Evidence

There is strong evidence linking good mental health with increased education engagement and academic achievement. Preventing mental health issues, supporting mental wellbeing and intervening early when challenges arise can significantly benefit all children and young people, but particularly those with SEND. The Department for Education's **'Mental health and behaviour in schools: Departmental advice for school staff'** 2018 report noted that it may result in improved attainment, attendance, reductions in behavioural problems, as well as happier, more confident and resilient children and young people.

In 2023, our commissioned report, **Reaching My Potential**, explored the value of SEND provision. It concluded that there was a strong correlation between effectively meeting mental health needs and better outcomes in special schools. For many children, mental health support makes the difference between being able to access education and being out of school.

The **Children's Commissioners Children's mental health services 2022-23** report into the experiences of children with SEND noted that the distribution of wellbeing was markedly different between SEND and non-SEND children. 37% of children with SEND had scale scores indicating possible depression (lowest or low wellbeing) whilst only 7% of their non-SEND counterparts had scale scores indicating possible depression.

In their report **Children and young people's mental health: An independent review into policy success and challenges over the last decade**, the Local Government Association (LGA) noted that in 2021 -2022 specialist services were turning away one in three of the children referred to them for treatment. It also noted that around 75% of young people experiencing a mental health problem were forced to wait so long that their condition got worse or were unable to access any treatment at all.

In 2001, the **Foundation for People with Learning Disabilities** undertook an inquiry to find out how services, families and carers can meet the mental health needs of people with learning disabilities aged 13 to 25. Although the study focused on only a small sample, it did conclude that for CYP with SEND, getting professionals to recognise mental health problems was not always easy, often young people or their carers were told it was related to their learning disability and no further referrals were made to specialists. It also concluded that GP's are often the first port of call yet mild conditions are not always recognised and treated and GPs are not always referring those with more serious conditions for medical help. The Inquiry heard from many sources that services were often not available, inappropriate, there were long time delays before receiving assessment and often young people were shunted between mainstream and specialist services.



For children and young people, the additional challenges presented by having both SEND and mental health difficulties are rarely sufficiently addressed in terms of either policy or provision. It is why NASS is advocating for urgent action to invest in evidence-based and experience-informed interventions that effectively support the mental health and wellbeing of children and young people with SEND.

What needs to be done

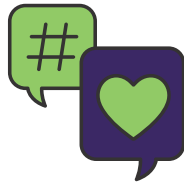
We are asking the government to conduct further research into the mental health and wellbeing of children and young people with SEND. This is in order to establish a strong evidence base that will identify best practice and interventions that have the greatest impact. At present, we cannot have confidence that mental health interventions are the most effective for children, nor that they are a good use of funding. We would like to see a national framework for mental health interventions in schools to help guide schools towards the most impactful interventions.

Researchers at the University of Warwick, in their work **Mainstream and special schools' use of wellbeing programmes: A regional survey** concluded that there is a need for targeted assessments of the wellbeing support provided to pupils with Additional Learning Needs (ALN) and SEND. This is especially important given that these students are at a higher risk of experiencing mental health challenges. The research noted that currently there is limited research in this area and cites a further systematic review by Daley and McCarthy (2020) which found that only one in five studies of whole-school wellbeing programmes included students with SEND.

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BRIEFING SIX

Why Government needs to pause financial interventions with local authorities that risk them breaking SEND law.

Get in touch with NASS

If you have any questions or are interested in working with us, please get in touch.

Mari Davis
NASS Senior Policy and Public Affairs Officer
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Background

Why we are calling on the new Labour government to pause financial interventions with local authorities that risk them breaking SEND law.

The **Safety Valve (SV) intervention programme** was launched in 2021 and is intended to 'write off' the High Needs Budget deficits of the most over-spent local authorities (LAs). It consists of a series of agreements between the Department for Education and individual LAs. LAs receive tranches of funding depending on their progress against agreed Key Performance Indicators.

The programme was introduced under the Conservative government and expanded in 2023. By May 2024, 38 authorities were participating in it. The main aim is to reduce the High Needs deficits before the removal of the statutory override for the Dedicated Schools Grant (DSG) in 2025-26. LAs with the smaller, yet still significant, High Needs deficits were invited to participate in the government's **Delivering Better Value (DBV) programme**. This offers grant funding to focus on new ways of working to better manage High Needs budgets. Participation in the SV and DBV programmes is voluntary. By May 2024, four authorities that initially joined the DBV programme had moved across to the SV programme.

There has been **widespread criticism** about the lack of communication and information available about the process and success measurements of the SV programme, for example agreements between LAs and the government are not made public. Concerns have been raised about the negative impact of some of the measures taken by LAs in order to be awarded funding instalments. In March 2024, five LAs (Dorset, Hillingdon, Cambridgeshire, Norfolk and Bath and North-East Somerset) had some, or all, of their expected funding withheld for failing to make sufficient progress against their agreements.

In September 2023, then Children's Minister Claire Coutinho denied that SV and DV targets included explicit references to reducing demand by a specified percentage. However, where agreements have come to light, there is a clear focus on reducing overall demand for SEND and for specific areas, such as special school placement numbers.

Evidence

IPSEA, the Independent Provider of Special Education Advice, made a freedom of information (FOI) request to all Safety Valve Authorities in early 2024. **Their findings** are well worth a read.

A common thrust of the findings of the IPSEA FOI research was that LAs are under pressure to set targets to reduce support and provision even when greater levels of need and support are suspected, needed or identified. Whilst DfE has indicated that this relates to future demand, there are strong indications that LAs' behaviour in respect of current placements and willingness to carry out Education, Health and Care Plan (EHCP) assessments has been influenced.

The key findings from the IPSEA FOI request were that LAs had targets to:

- Reduce the number of EHC needs assessments by introducing systems of de-escalating requests, implementing alternatives to the EHC needs assessment pathway as well as finding ways of deterring requests by parents and education staff. In practice, LAs within SV refuse requests to carry out EHCP assessments at a significantly higher rate than non-SV LAs.

- Reduce the number of children and young people attending special schools and colleges - including reviewing existing placements and setting out explicit targets for the percentage of children with an EHCP who will be placed in mainstream schools.
- Reduce the number of children and young people attending a school or college outside their local area, particularly in the independent and non-maintained sector. LAs also reported to have explicit targets for reducing the number of young people who attend a specialist post-16 education setting both inside and outside their local area.
- Increasing the number of plans they cease to maintain each year, with dedicated staff employed for the purpose of ceasing plans once students reach the age of 16. This does not always appear to relate to whether or not it is in a young person's best interests to have their EHCP ceased.

We voiced our concerns widely, drawing attention to certain actions by LAs that we find questionable and potentially unlawful. These actions include introducing a blanket 0% fee uplift for schools, effectively expecting schools to continue to meet the needs of their students with reduced funding, despite rising costs. Additionally, some LAs have adopted new SEND transport policies that are not in the spirit of DfE guidance and have removed SEND transport to 16-19 SEND pupils. We also have schools reporting that EHCP reviews have been carried out without the parents' knowledge and a new school named without consultation.

There is also widespread concern at the lack of transparency and accountability in terms of the purpose, scope and process of these financial interventions and their success measures. There is no evidence to date that supports either programme as being effective in meeting its stated aims.

The National Audit Office (NAO) will be looking into the impact of the Change Programme as part of its **review into the support for children and young people with special educational needs**. We hope that this will help provide a clearer picture of how financially stable the programmes are, however, we are not sure how far the NAO report will go in considering the human impact of these policies and the impact of the questionable actions that is happening within LAs, under the banner of the Change Programme.



We urge the government to ensure that these financial initiatives are not encouraging local authorities to behave unlawfully. We believe that both the Safety Valve and Delivering Better Value programmes should be paused pending further investigation and there should be no further expansion of either programme.

What needs to be done

Non-compliance with SEND law should carry real consequences for local authorities and schools, as improved accountability is essential. This would lead to better provision for individual children and young people, while also reducing the number of appeals to the SEND Tribunal.

LAs need strong support from the government to ensure that they can effectively fulfil their statutory duties.

We urge the government to ensure that these financial interventions are not encouraging LAs to behave unlawfully. A comprehensive review is needed to assess the impact of these programmes on the rights of children and young people with SEND. We also need better evidence to show if these programmes are having any impact on the long-term levels of High Needs budget deficits. Consequently, we believe that both SV and DBV should be paused pending further investigation and there should be no further expansion of either programme.

We hope that the NAO report will be able to reflect somewhat on this, however, we believe that there needs to be a pause of the programmes until a transparent full impact review of the programmes is conducted and published in the public domain. This impact review must consider both financial implications but also the impact on children and young people with SEND, and their families.

It is also important to note that, as of July 2024, three separate legal challenges were being progressed against SV agreements (two in Devon and one in Bristol).

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