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SEND Review: Right support, right place, right time Government consultation on the SEND and alternative provision system in England

Bromley Mencap's Response

Bromley Mencap welcomes the opportunity to respond to this consultation. Bromley Mencap is an independent, award winning charity providing services and support for disabled people of all ages, their families and carers in the London Borough of Bromley. We are a campaigning organisation and represent the views of our 1,500 members.

We deliver a wide range of services to disabled children, disabled young people and their families including:

- Short Breaks Respite Scheme - childminding, buddying and community support
- Autism Family Support
- Information, Advice and Guidance for Young People (16+) with Autism
- Information, Advice and Guidance for Young People (16+) with Physical Disabilities
- Young Carers Service
- A Supported Internship Programme
- Training and Employment NEET Programmes
- Family Fun Days
- Young Person's Disabled Forum
- User Involvement Programme

We are represented on the Bromley SEND Governance Board and various forums and networks relating to disability and SEND. Our consultation response has been informed by the views of members, trustees, staff, families using our SEND services and other stakeholders including Royal Mencap.

What we support

We support many of the aims of the review, in particular improving support in mainstream schools and ensuring greater consistency of support across local authorities. We welcome the commitment to change the culture and practice in mainstream education to be more inclusive and better at identifying and supporting needs. We also welcome the drive to bring education and health partners to the table where everyone is accountable for SEND provision. Having a collective responsibility will be crucial in delivering a system that works for children and their families.

We broadly agree with the description of the problems in services for disabled children and young people outlined in the Green Paper. We welcome the focus on earlier intervention, increasing accountability and reducing local variations.

We also agree with the following Department's proposals:

- **Consultation question 4:** We support the move to a standardised and digitised EHCP which will greatly improve the process for families. We recommend that the DfE works closely with a range of stakeholders, including children, young people and providers, to draft the new template. It needs to be recognised that improved quality of content, not just format, must be a priority and that alternatives formats will need to be available for families unable to access digital versions.
- **Consultation question 12:** We agree that more needs to be done to ensure young people with SEND can access and achieve apprenticeships. To do this, the government needs to expand eligibility for the apprenticeship flexibilities set out in the Maynard review, to make them accessible for people with learning disabilities and learning difficulties beyond those with an EHCP. Currently, eligibility is effectively limited to people with an EHCP, this bars a considerable number of people who would benefit from this type of learning. This is a significant local issue in Bromley which we have direct experience of through our new accredited OCN London Training Centre and the barriers faced by people without an EHCP. We also have evidence of the restrictions on apprenticeship flexibilities preventing people with a learning disability from accessing traineeships. People should be able to evidence a learning disability or learning difficulty through an educational psychologist report or digital cognitive assessment demonstrating learning support needs.

Finally, we are encouraged to see it recognised that work needs to be done to understand the level of need that exists for support from the therapy workforce. Speech and language therapy is a profession in short supply, and action must be taken to address this if support for children and young people with SEND is to be improved.

Our concerns

It has been a long time coming and at 104 pages long it's a hefty read for many families and we do hope that does not discourage some parents from responding.

We are concerned that the Green Paper does not answer the biggest issue for many people with a disability and their families – how are councils, schools, the health service and others going to be held to account if they don't meet their legal duties.

We are also concerned that some of the proposals in the Green Paper will restrict children and young people with a disability from getting access to services, and will impose additional barriers in an already burdensome system.

Another concern is the late publication of the accessible versions of the Paper. This is typical and very disappointing leading to the extended deadline. We hope Government will finally address this discriminatory practice and respectfully produce accessible formats, at the same time, for everyone in future.

In particular, we are opposed to:

- **Consultation question 1**: The Code of Practice already describes a national system that should result in consistency across local authorities. The negative experiences of the current system mainly result from lack of compliance with the Code of Practice rather than a problem with its content. The new national standards would do nothing to improve outcomes, only dilute the existing legal rights and entitlements. There is an urgent need to

clarify who would be eligible for the EHC Plan. The effort to develop and implement national standards would be better served by measures to fully implement the Equality Act 2010, Children and Families Act 2014, and the Code of Practice consistently.

- **Consultation question 5:** We are opposed to the concept of a tailored list. Only letting families pick a school from a pre-defined list would limit choice and prevent a young person from accessing the school that is best for them. There is a considerable risk that local authorities may omit some providers for financial reasons rather than based on meeting need. This is clearly a cost cutting measure that will restrict parental choice. This policy would reduce options and erode some of the rights prioritized in previous reforms. We agree that children and young people, and families need better information, advice and guidance about possible provision, but this will not be served by a tailored list.
- **Consultation question 6**: We strongly disagree with the overall approach, including making mediation mandatory before allowing families to go to Tribunal. The proposal for mandatory mediation appears to be a solution for reducing the number of tribunals and this will make it harder for parents to get the support they need. Given the high percentage of tribunals that find in favour of families, we think a reduction in tribunals would be more likely achieved by introducing more means/resources to ensure that local authorities are acting lawfully - rather than by adding an extra hoop for families to jump through before they can hold a local authority to account.
- **Consultation question 13:** We support the increased regulation of alternative provision although we are disappointed in the lack of analysis in these proposals about the causes for increasing demand for the alternative provision and the reasons why such a large proportion of those learners have an SEN.
- **Consultation question 18:** We do not support the proposal for national funding bands and tariffs for all provision types. A 'one size fits all' approach will not work for disabled children. Deciding the levels of support children and young people get from a national banding system will restrict access to support. It should be based on individual need, as was laid out in the Children and Families Act 2014.
- **Consultation question 19:** We are supportive of a new National SEND Delivery Board. However, we are disappointed not to see children and young people being considered as representatives on the Board. It is fundamental that the voices of disabled children and young people are heard and not overlooked at this level – Nothing About Us Without Us!
- **Consultation question 22:** While new national standards, mandatory mediation and tailored lists might cut costs, there is no evidence to show how they will improve the experience or outcomes for children and young people. The government needs to focus on improving accountability, and ensuring compliance with existing legislation and the Code of Practice, e.g. strict conditions for local authorities to use of ESFA funding and sanctions for non-compliance.

What we want to see

We want to see a fairer system of support for disabled children and young people, and their families. We recognise the Children and Families Act as a sound framework and want to see it fully implemented and parties held fully accountable where it is not.

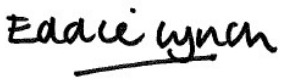
We want to see a system which is easy to navigate: where different services, local government departments and agencies prioritise the needs of families, and work together to present a joined-up landscape of support and are held accountable where they fail to do so.

We want to see services fully and fairly funded taking into account new operating and delivery models and competition in the marketplace. This is crucial for the expansion of Direct Payments and for disabled children, young people and families being able to have the choice and control over services to meet their needs. The right support, the right place, the right time at the RIGHT COST.

Finally, we hope and expect that the current changes in government, and the fact that the Secretaries of State for both Education and Health and Social Care who provided the Ministerial Foreward for the Green Paper are no longer in post, do not delay in delivering on the promises made to disabled children, young people and families.

This is an opportunity for real change to the support children and families receive.

Yours sincerely,



Eddie Lynch MBE
Chief Executive