

The Procurement Green Paper

Response from Natspec: the membership body for specialist further education providers



Introduction

1. Natspec is the membership association for organisations which offer specialist further education (FE) for students with learning difficulties and disabilities. We represent 101 colleges which provide for 6,000 students with special educational needs and disabilities (SEND) and offer training for the wider further education sector to help improve provision for 16 to 25-year-olds with Education, Health and Care (EHC) Plans.
2. This response provides an outline of the issues specifically for specialist further education colleges. It is informed by wider work undertaken by NASS, the membership association for special schools outside of local authority control, and Leonie Cowen Associates. We are submitting this response in conjunction with NASS, the Independent Children's Homes Association, and the Nationwide Association of Fostering Providers.

Q. 12. In light of the new competitive, flexible procedure do you agree that the Light Touch Regime for social, health, education and other services be removed?

3. The Light Touch Regime is for people services rather than commercial services, supplies, goods or works. However, procurement activity for children and young people's services as a whole has been damaging, bureaucratic, and not fit for purpose. For Special Educational Needs and Disabilities (SEND), it has conflicted with local authority statutory duties under the Children and Families Act of 2014.
4. We therefore reject the proposal that services previously under the Light Touch Regime should simply be consolidated under the proposed new framework. The LTR should be removed, but the procurement of services for children and young people should be re-visited entirely, to ensure consistency with other government reviews of SEND and residential education for young people with learning difficulties and disabilities.
5. Since 2015, when the Public Contracts Regulations became law, young people, their families and provider organisations have not only had an extremely poor experience as a result of procurement activity, but it has also been damaging for their educational outcomes.
6. The current model is not fit for purpose: colleges have had to provide excessive amounts of paperwork regarding information that is also collected by DfE and Ofsted, and the process creates a conflict with the concept of placing the young person at the centre of the decision-making process, a concept enshrined in the Children and Families Act.
7. In 2017, an [independent study on LA procurement practices](#) commissioned by Natspec, listed multiple concerns and issues relating to post-16 High Needs provision in further education. Specialist colleges are being asked to bid to provider services on the basis of documentation rather than a detailed assessment of the young person's needs; there is a conflict between procurement arrangements and a young person expressing a preference for a particular provider; different practices are being introduced for General FE colleges than for specialist colleges. Local authorities are often resorting to running separate, parallel processes for a) specialist colleges who are not on the framework and b) General FE colleges who are generally exempt from being part of the procurement system altogether. This makes no sense to the young people or their families; to them, a college is a college, and the system should be consistent for all.

8. Moreover, specialist colleges are not “a market” and the vast majority are not commercial organisations. They are 100% publicly funded through the ESFA and local authority high needs budgets, and almost 100% of the 6,000 students have Education, Health and Care Plans. ESFA contracts for specialist colleges are the same as those for General FE colleges, which are not expected to be part of the market exercise. Specialist colleges are also regulated by Ofsted and the Care Quality Commission.
9. We support the calls made by NASS, and in the submission by Leonie Cowen Associates, for the procurement model for services for children, young people, adults and older people to be considered as part of a number of current wide ranging Government reviews. Rolling the LTR services into a generic procurement framework will result in inconsistencies and clashes with the other reviews and legislation. In 2018, the Department for Education High needs funding operational guidance stated that all High Needs Placements fall outside the Public Contracts regulations as they are simply a movement of grant funding from one body to another. This statement has been retained in the guidance annually since then.
10. The most relevant review for our sector is the current SEND review, commissioned in 2019 and due to report later in 2021. Its recommendations are likely to require legislative change, and spending on SEND / high needs provision is likely to be a key focus of the review. It is illogical for the Procurement Green Paper to cover these services when the SEND review might also result in a Green Paper with conflicting proposals.
11. We therefore believe that services for children and young people, in particular SEND services as that is our area of interest, should be outside the scope of the Procurement Green paper.

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