

# Young people with SEND: a forgotten group?

## A response to the SEND and AP Green Paper from a specialist college perspective



### Introduction

Natspec is the membership association for organisations which offer specialist further education (FE) for students with learning difficulties and disabilities. We represent 117 colleges and approximately 8,000 students aged 16 to 25, all with high needs.

Unfortunately, there is little in the SEND and AP Green Paper that explicitly addresses the failings in the current system as experienced by the young people we serve. Nor does the consultation seek any views on how a new national SEND system could improve the experiences of 16 to 25-year-olds with SEND. Despite a brief reassurance that there is a continuing need for specialist provision, there is a lack of detail on the role of specialist providers and no invitation for suggestions on how they might be supported to contribute effectively to the proposed SEND landscape. In the absence of such questions, Natspec has prepared this paper to supplement its response to the online survey. We hope that it will provide ministers with a better understanding of the issues affecting this end of the 0 to 25 system and furnish them with some potential solutions, including through the positive contribution of specialist FE colleges.

Where relevant, we have offered advice on how some of the features of the system proposed in the Green Paper would need to be shaped to support improvements for 16 to 25-year-olds with SEND. Some of our proposed solutions may well result in savings for government but improving the experiences of young people rather than reducing costs is the key driver behind our recommendations. We suspect the government may have been more concerned to achieve the latter than the former in formulating its proposals.

We have organised the content of the paper around the young person's journey as they prepare for a move from school to college, while they are at college, and as they prepare to leave full-time education. As the membership body for specialist colleges, we have focused on the experiences of young people in or seeking specialist provision but many of our points apply to students in general FE colleges too.

### Moving from school to college

#### The young people's experience

- Too many young people find themselves nearing the end of school without any college place agreed. Decisions are then made in a rush, which does not allow for careful transition planning. Some decisions are made so late that young people start college in-year or even miss a year's education altogether.
- Obtaining specialist provision is often a battle for families already weary from 16+ years of struggling to access the right provision for their child, sometimes involving tribunal. Some families feel pushed by the local authority (LA) towards a local GFE college because it is a cheaper option. Families often feel ill-informed about their options.
- Increasingly families are finding that certain specialist colleges - specifically those able to meet more complex needs - are full, leaving young people with no suitable placement

#### Underlying causes – so why are young people having this experience?

- Failure to follow current CoP requirements designed to support a carefully managed transition including staged planning for post-school provision from Year 9; regular updating of EHCPs; the March 31 deadline for naming the post-school provider
- Lack of independent advice and guidance on post-16 options
- LAs being responsible for both commissioning and funding provision can lead to cost- rather than needs-driven decisions
- Lack of strategic planning for post-16 provision locally and regionally (particularly for lower incidence need); insufficient use of data and information about those aged up to 15 who will require specialist provision when they reach post-school age; lack of supply/demand analysis; unwillingness on part of some LAs to engage/place with specialist providers for reasons of cost/philosophy which can lead to unlawful decision-making about placements
- Lack of capital investment nationally in FE generally and the specialist FE sector in particular to enable existing providers to grow provision to meet need
- The recruitment and retention crisis in the specialist college sector limiting capacity to offer places/meet need, combined with increasing numbers of young people with more complex needs surviving into adolescence and young adulthood
- The binary system that places young people in either a GFE or a specialist college and requires one organisation to be able to meet all need, with complex funding arrangements and sub-contracting rules that discourage collaboration
- Disputes about who pays for what, especially between education and social care and a lack of joint commissioning including with health.

## Solutions – what needs to change to improve young people’s experience?

### National planning and policy

- In setting out what provision will be ordinarily available locally, the proposed national standards could help indicate where LAs/families might reasonably expect a young person to be offered a specialist college place.
- National oversight by DfE of planning to meet low-incidence need to ensure that sufficient, appropriate provision is available at national level.
- Introduction of a ‘legality test’ to reduce the uncertainty/delays caused by decision-making by tribunal, the associated expense, and anxiety for young people and families. The aim would be to prevent cases where a local authority is clearly acting unlawfully from ever reaching tribunal.
- DfE should strengthen the duties placed on local authorities to integrate educational and training provision with health and social care provision, so that active collaboration becomes a requirement and joint commissioning the norm for young people with more complex needs.

### Regional and local planning

- Improved strategic planning of post-16 provision at local and regional level to ensure sufficient appropriate provision is available to meet needs of the full range of 16-25-year-olds with SEND, based on detailed analysis of supply and demand data and anticipated needs of cohorts of children moving through school. Existing legislation regarding joint planning and the Local Offer should be monitored and enforced more robustly.
- DfE should include specialist FE recruitment in its planned advertising and campaigning to help ensure that staff shortages do not threaten the capacity of the sector to meet demand
- DfE should require the proposed SEND partnerships and local inclusion plans to:
  - include all FE providers in the partnerships, including specialist colleges, which serve young people from the local area, regardless of where the provision is located

- have a post-16 sub-group which is specifically tasked with planning post-16 provision to ensure it is not an after-thought
- work together within regions or sub-regions to plan for and commission low-incidence need
- be subject to rigorous quality assurance checks, including a check for comprehensive planning of post-16 provision which refers to local and in-region specialist colleges and for evidence of regional planning and commissioning.

## **Funding**

- Separate allocation of a small proportion of the high needs budget (around 4%), for highly specialised provision to be nationally managed to reduce the budgetary pressure on individual local authorities caused by the necessarily high costs of meeting the needs of a handful of young people with the most complex needs.
- To allow for growth to meet increased demand for FE places, for future capital funding rounds, local authorities should be obliged to consult with all sectors: schools, colleges and early years, with proportionate allocations. In addition, specialist colleges should be included in future rounds of the general FE Capital Funding bidding rounds.
- DfE should ensure that funding arrangements and sub-contracting rules relating to SEND provision in GFE and specialist colleges are consistent and support rather than hinder joint placements, joint working, mutual support and partnership working.

## **Delivery and implementation**

- Introduce dedicated local, independent transition workers to help young people explore their post-16 options and guide them through the process. This requirement could form part of the proposed transition standards which otherwise should simply enforce compliance with the existing Code of Practice requirements.
- In the proposed standardised EHC Plan template, include a requirement for a specific section from Year 9 onwards for transition outcomes which convert into a fully revised EHC Plan fit-for-purpose for FE.

## **At college**

### **The young people's experience**

- Young people often have no certainty as to whether their place will be funded beyond a year; this even applies to some A level students on two-year courses.
- Some young people face a battle to have their EHC Plan maintained beyond the age of 19 despite having the potential to benefit from further learning likely to result in better adult life outcomes. This is particularly true for young people with more complex needs where paid employment is not their goal; this results in reduced time in college for some (and lack of any access to FE for others who have remained in school to age 19).
- Young people do not always have access to an appropriate range of facilities, expertise or stretching curriculum options in college. They do not always receive the therapies to enable them to access their education more easily, make accelerated progress or manage their conditions more effectively.
- Young people may find themselves in unregulated 19+ provision.

### **Underlying causes – so why are young people having this experience?**

- One year funding agreements

- Inconsistent interpretation by LAs of current CoP requirements on maintaining and ceasing plans. Cost-driven decisions, with LAs seeing it 19+ provision as an area of growth that needs stemming and families misunderstanding 0-25 as a *guarantee* of full-time education until 25.
- EHC Plans are often out of date and not fit-for-purpose for FE; where outcomes are unambitious, their achievement can sometimes still be cited as reason for ceasing a plan even where the young person has the potential to achieve much more
- The binary system requiring a single organisation to meet all needs
- Lack of investment in building expertise or for ensuring the supply of specialists such as SLTs/VI specialists or teachers of the deaf
- Inconsistent decision-making by LAs about which/when therapies can be funded by education and limited joint commissioning with health
- Lack of capital investment into FE
- The current staffing crisis in recruitment and retention; the pay gap between colleges and schools; funding shortages that means that many specialist colleges cannot afford to pay teachers' pension and hence fill positions.

## Solutions - what needs to change to improve young people's experience?

### National planning and policy

- Use the learning from AoC and Natspec's GFE and specialist college partnership project to identify the systemic changes needed to allow more young people to access multiple providers in order to have their needs more fully met or to enjoy a wider curriculum.
- DfE to work more actively with DoHSC to determine if/where shortages of health professionals and other specialist staff are contributing to difficulties in recruiting to these roles within the specialist sector, and if so, how to address this
- Greater enforcement of requirements in Chapter 3 of the Code of Practice on joint planning and joint commissioning. To support paragraphs 8.39 to 8.42 on five day packages, the DfE should issue guidance to address the key barrier of the three day-week in college which causes some families to opt for continuing five-days-per-week school-based education. Guidance should include examples of proactive collaboration between education and social services which reduces the likelihood of families having to take a coordinating, or even mediating, role between the two.
- Restrict the use of the high needs budget by LAs to placements in provision that is regulated and subject to Ofsted inspection.

### Funding

- Give LAs greater certainty about their high needs budget allocation over several years and ensure they pass this certainty onto colleges, to reduce the short-term decision making that causes some to make one-year-only post-16 placements despite a young person's clear need for a two or three-year programme to achieve their outcomes.
- Clarify within the revised Code of Practice expectations around therapy provision, the circumstances in which LAs should fund it and how it should be joint commissioned with health as part of a holistic programme when this is the appropriate route.
- DfE to invest in specialist centres of expertise to share expertise across a local area or region, through provision of CPD/services and to enable specialists to maintain and develop their expertise in particular types of SEN through networking and undertaking collaborative research
- Clear expectation across the whole system for pay and conditions in FE to match that in schools

### Delivery and implementation

- Provide clearer guidance to LAs and to families on maintaining and ceasing plans. Guidance produced by the SE19 Preparing for Adulthood group would be a good starting point.
- Require a thorough update of the EHC Plan prior to transition to FE so that the content supports effective programme planning and clarification of the end goals for further education which can then be agreed by all parties.

## Leaving college and life afterwards

### The young people's experience

- Too many young people describe leaving college as 'falling off a cliff-edge'. As the EHC Plan is ceased, they experience a sudden withdrawal of support.
- Too many young people come to the end of their time at college with no clear plan for what will happen next in relation to their accommodation, continuing care or ongoing support. Decisions are sometimes made at the last minute, resulting in an unsatisfactory hand-over from one service to another or unsuitable provision being put in place (e.g. young people being offered places in homes for older people).
- Some families – and increasingly local authorities – push to keep an EHC Plan maintained in order to ensure there is *some* provision in place for the young person, even when continuing in education is not the most appropriate path for them.
- Young people are not always able to capitalise on the skills and confidence developed at college to reach their potential, in terms of gaining employment, contributing to their communities, or living as independently as possible.

### Underlying causes – so why are young people having this experience?

- Late engagement by social care as a young person prepares for a life after college; lack of join-up between social care and education and a funding system that makes it difficult for a young person to simultaneously benefit from input from both sources
- Insufficiently clear expectations of providers in relation to transition out of college, including timeliness and extent of input from receiving providers while a young person is still at college
- Lack of support services (social care and employment) available to ensure young people are supported to thrive after college; high thresholds for eligibility for services; lack of suitable accommodation
- Insufficient (AEB-funded) adult education opportunities for people with learning disabilities, resulting in a binary choice of all (full-time college place) or nothing in terms of access to learning.

### Solutions - what needs to change to improve young people's experience?

#### National planning and policy

- Government should re-examine the benefits system to identify and address disincentives to work for young people with a disability and/or improve messaging to families.
- National standards should include the circumstances in which it is appropriate to cease a EHC plan. Local authorities should be required to give notice in writing of their intention to cease a plan. This written communication should be brief but meaningful and specific to the individual; it should include a justification for the decision and information on how parents, carers and young people can challenge this decision, and reassurance that provision will continue, as stated in the Code of Practice, during any period of appeal.

#### Regional and local planning

- LAs should be required to co-ordinate multi-agency post-college planning at least a term ahead of the education leaving date of a young person with ongoing support needs. This might involve healthcare professionals, social services, accommodation providers and organisations providing employment support, for example, as well as the young person and their family. It should not be possible for a EHC plan to be ceased if this planning has not taken place.
- Local inclusion plans should include information about services/provision to support young people with SEND after they leave full-time education.

### **Funding**

- Funding and joint commissioning arrangements should make it possible for a tapering off of education and an increase in social services input during a young person's last term in college where this would support their transition.
- Government should require a proportion of the adult education budget to be spent on provision aimed at people with learning disabilities and local disability groups to be involved in planning that provision

### **Delivery and implementation**

- DfE should ensure through the inclusion dashboard that all college students with SEND have access to a trained specialist careers adviser with knowledge of disability employment issues and supported employment principles and practices. This will require DfE to invest in their training and to consider introducing a specialist qualification.
- DWP should increase the number of disability employment advisers and train them so that they have a detailed understanding of supported employment principles and practices.
- Government should invest in creating more suitable housing options for young disabled people needing ongoing care or support.