The State of the Nation in SEND Education: England

Disability Policy Centre

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About The Disability Policy Centre

The Disability Policy Centre is an independent not-for-profit think tank, the first of its kind in the United Kingdom. We are dedicated to the development and advancement of policy, ensuring that accessibility is at the heart of legislation. The Disability Policy Centre firmly believes that through collaboration we can make an impact.

Our vision is simple. By developing practical solutions that deliver real-world results, we will change the lives of disabled people for good. We are committed to the improvement of public services and policy reform, working hard to find practical solutions to secure these changes.

The Disability Policy Centre's mission is to develop policy solutions that break down barriers for disabled people in every aspect of our society. We collaborate with others and lead the thinking to ensure that nobody is held back from achieving their potential. We are proactive in the drive for improved accessibility and representation for the 1 in 5 disabled people, or people living with a long term health condition, in the United Kingdom.

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Thanks

The Disability Policy Centre is an independent, not-for-profit organisation that relies on our donors, partners and collaborators to execute our work. We would like to thank those individuals for their generosity and support.

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Thank you to the whole team at The Disability Policy Centre - whose numbers have grown since the publication of our first report - for their ongoing enthusiasm, commitment and dedication to our shared vision. It has been a privilege to work with such an outstanding team.

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Chloe has had a lifelong interest in both SEND Education and social mobility. Chloe has worked in Higher Education, where she successfully campaigned for significant increases in support for students on low incomes, as well as improved sports facilities for disabled students who were participating at all levels.

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Kirstie is a disabled researcher who is carrying out PhD research into the labour and livelihoods of disabled people in Britain. Previously, Kirstie researched histories of Deaf-led activism as well as disability activism in twentieth-century Britain.

Outside of academia, Kirstie is an experienced campaigner on disability, equality and discrimination issues, having worked in various spheres including the legal, policy, public and private sectors. She has also worked as a parliamentary researcher, policy advisor, non-partisan campaign organiser and research assistant on academic projects. For the past couple of years, Kirstie has been selected as a UN Delegate for the Commission on the Status of Women, and worked closely with NGOs to investigate the intersection between gender and disability. Kirstie is also a Co-Founder of the UK Disability History and Heritage Hub.

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Executive Summary

There are currently **1.5 million[1] children in England** who are recorded as SEND pupils - **16%[2]** of the total number of pupils.

According to the government's official definition[3], special educational needs and disabilities (SEND) is commonly referring to a child or young person's **ability to learn**. According to the official guidance, this may include their:

a) Behaviour concerning socialisation;
b) Reading and writing;
c) Ability to understand information;
d) Concentration levels;
e) Physical ability.

In 2021, **36% of all year 11 pupils** had been identified as being a SEND pupil at some point in their educational journey[4]. This number has continued to rise.

This term of 'special educational needs' has its origins in the Warnock Report of 1978, where a committee led by Mary Warnock argued that huge changes needed to be made to the educational system, to create a more inclusive environment for students. Some of these recommendations went unnoticed, and others formed the basis of the Education Act of 1981. Since then, legislation including the Children and Families Act of 2014, which introduced the Education, Health and Care Plans, and now the Government's SEND Review of March 2022, have sought to push change forward to drive results.

The statistics show otherwise, however, and disabled students are still performing worse than their peers at several levels[4], leaving school with fewer doors opened in life, fewer opportunities and a poorer experience than their non-disabled peers. On top of this, there are several people who go through their school years with an undiagnosed invisible disability, which can have a knock-on on their confidence, mental health and self-esteem. The feeling of that is invoked from being told by teachers that they were 'stupid' or 'incapable' can stay throughout one's life.

The Disability Policy Centre follows the Social Model of Disability. We believe that if the statistics are poorly reflected on disabled people, and those with special educational needs, it is not a reflection of their 'ability to learn', as quoted above from the government guidance. Instead, it is a reflection on the education system itself that is holding disabled people back from reaching their full potential.

As part of this research, The Disability Policy Centre spoke to 58 disabled people, of various ages, about their experiences of the education system. We interviewed a range of people, who had different levels and types of educational journeys, about their experiences in different establishments, from primary school through to college and university. Some that we interviewed were still studying, and some others had left school thirty or fourty years ago.

We also spoke to 50 parents, carers and guardians about their experiences of going through the system with their child. Through interviews, surveys and roundtables, we asked parents about school selection, their ability to have freedom of choice as to whether they sent their children to special schools or mainstream schools, the support they received from both schools and Local Authorities, and the process that they went through in acquiring an Education, Health and Care Plan (EHCP) for their child.

Finally, The Disability Policy Centre conducted Freedom of Information (FOI) requests with Local Authorities across England. The contents of which can be found in the Appendices of this report. Overall, we sought to find out details about how many parents, carers and guardians were fighting the system through tribunals, how many SEND students had been placed in Pupil Referral Units, how many pupils had been removed from one school but not yet received a place, and how many pupils were accessing online learning only, which in doing so further isolated the pupils from their peers.

Through this research, The Disability Policy Centre found as follows:

- **46%** of disabled people had their disability **undiagnosed** throughout school.
- **65%** of parents, carers and guardians ‘**had to fight’** for their child’s EHCP.
- In some Local Authorities, **up to 100%** of the pupils in the **Pupil Referral Units** were registered as being disabled or having special educational needs.

These numbers, we found, were shocking, and a reflection that we still have an education system that does not work for all. For example, the Disability Employment Gap in the United Kingdom was 28.4% in 2021[5]. To give every child and young person the education that they deserve, our education system must nurture their talents and abilities. This will allow them to enter into the world around them confident, capable and equipped with the skills that they need to all value the society around them, in whichever way that may be.

In this paper, The Disability Policy Centre will lay out our ideas and recommendations for what we believe these changes should be, and we will lay the foundation for our future work in Education. This issue is difficult and multifaceted, with decades worth of complexities woven into the system that will take many years to undo and restitch. Our recommendations to begin the journey to creating a truly inclusive education system are as follows:

Recommendation 1: Each region in the country, led by the respective Local Authorities, should set up hubs of best practice. This will encourage co-creation as well as the sharing of ideas between both specialist teachers and mainstream teachers, ensuring that no child is in an institution where the teaching staff lack the skills, expertise and understanding required.

Recommendation 2: Each Local Authority should take responsibility for, and be accountable to the fact that there needs to be better data sharing, knowledge exchange and working across services - not just in social care and education, but including children's services, disability services, mental health support, as well as those in the voluntary sector providing support for children and families in locality.

Recommendation 3: Acknowledge that the world around us has changed, with the past few decades bringing great technological, scientific and societal advances. However, the education system often adopts a 'one-size for all' approach and has room for reform. Academic attainment is not always reflective of ability. The national curriculum can be better shaped to allow all of our children and young people to flourish.

Recommendation 4: Gather evidence of what works in teaching and learning for disabled students, in both Further Education and Higher Education, as well as using international examples. Collate and share this best practice, and highlight this nationally, to be replicated in schools and establishments across the United Kingdom.

Recommendation 5: The Department for Education should continue to strive for smaller class sizes as a means of ensuring that each child is given the right support. Smaller class sizes mean that the likelihood of children with invisible disabilities being diagnosed will hopefully increase, as greater attention from teachers means an increased likelihood of detection and support at a younger age.

Recommendation 6: The Children and Families Act 2014 should be changed so that it is no longer the sole responsibility of the Special Educational Needs Coordinator in a school to coordinate the learning, planning, assessment and monitoring of the progress of SEND pupils. The legislation should be changed to reflect the shared responsibility amongst teaching staff.

Recommendation 7: The Government should continue to monitor Alternative Provisions, including Pupil Referral Units, and the number and percentage of pupils in these provisions who are disabled or have special educational needs, just as it monitors the statistics for other characteristics in PRUs, such as the percentage of pupils on Free School Meals. Alternative Provisions should be subject to scrutiny and accountability, with Ofsted style rating for these provisions to ensure high standards and fewer pupils ‘falling through the net’.

Recommendation 8: There should be a clear route for accountability for parents, carers and guardians who are not satisfied with the education system and the options that they are being given with their child. This includes an avenue for delivering guidance, support and advice, including legal support for those that need it. Modelled on the Citizens Advice Bureau, the Government should work with partners to establish an independent organisation that can support parents, carers and guardians with advice, advocacy and legal support.

Conclusion

These recommendations are a start, however, they are the first rung on the ladder for breaking down barriers, and creating an education system that is truly accessible for all.

With growing numbers of pupils who are classed as being disabled or having special educational needs, and so many people still being left undiagnosed, our ‘one-size fits all’ approach to education needs to change. From improved joined up working in Local Authorities, to sharing best practice across both SEN and mainstream institutions, these proposals will ensure that we take practical steps to ensuring that the staff in our schools, colleges and universities are best supporting in their teaching and learning for every student, and that best practice and evidence based research is shared across our nation, so no child goes without.

Our research shows that not unfortunately not much appears to have changed over time - that our disabled young people are still facing the same barriers that they were forty years ago. They require bold thinking and collaborative action now more than ever.

Introduction

The Picture So Far

There are currently 1.5 million[1] children in England with Special Educational Needs, 16% of all pupils[2]. Of all pupils today, 12.6% were identified in 2021/22 as requiring SEN support[6], and a further 4% of all pupils had an Education, Health and Care Plan.

According to the government's official definition[1], to date, special educational needs and disabilities (SEND) is commonly referring to a child or young person's ability to learn. For example, this may include their:

a) Behaviour concerning socialisation (including making friends);
b) Reading and writing (such as dyslexia);
c) Ability to understand information;
d) Concentration levels (for instance they may have ADHD or other conditions);
e) Physical ability.

In 2021, 36% of all year 11 pupils had been identified as those with SEND at some point in their educational journey[4].

According to the Government data[2] between 2021 and 2022:

- The number and percentage of pupils with SEN has continued to rise.
- The number of pupils with an EHC plan has increased 50% since 2016.
- Pupils with an EHC plan made up almost one quarter (24%) of all pupils with SEN in January 2022."

Types of Need

Of those 16% of pupils today that are classed as being disabled or having special educational needs, the most common type of need for students with SEN Support are Speech, Language and Communications Needs[2], and the most common type of need for those with a 'Statement of SEN' or an EHCP are those with Autistic Spectrum Disorder (ASD). These stats are highlighted on the Graph, published by the Department for Education, on the next page.

Although the numbers are steadily increasing over time, the most common type of need for both SEN Support and Statement/EHC Plan has remained the same for the past three years[7].

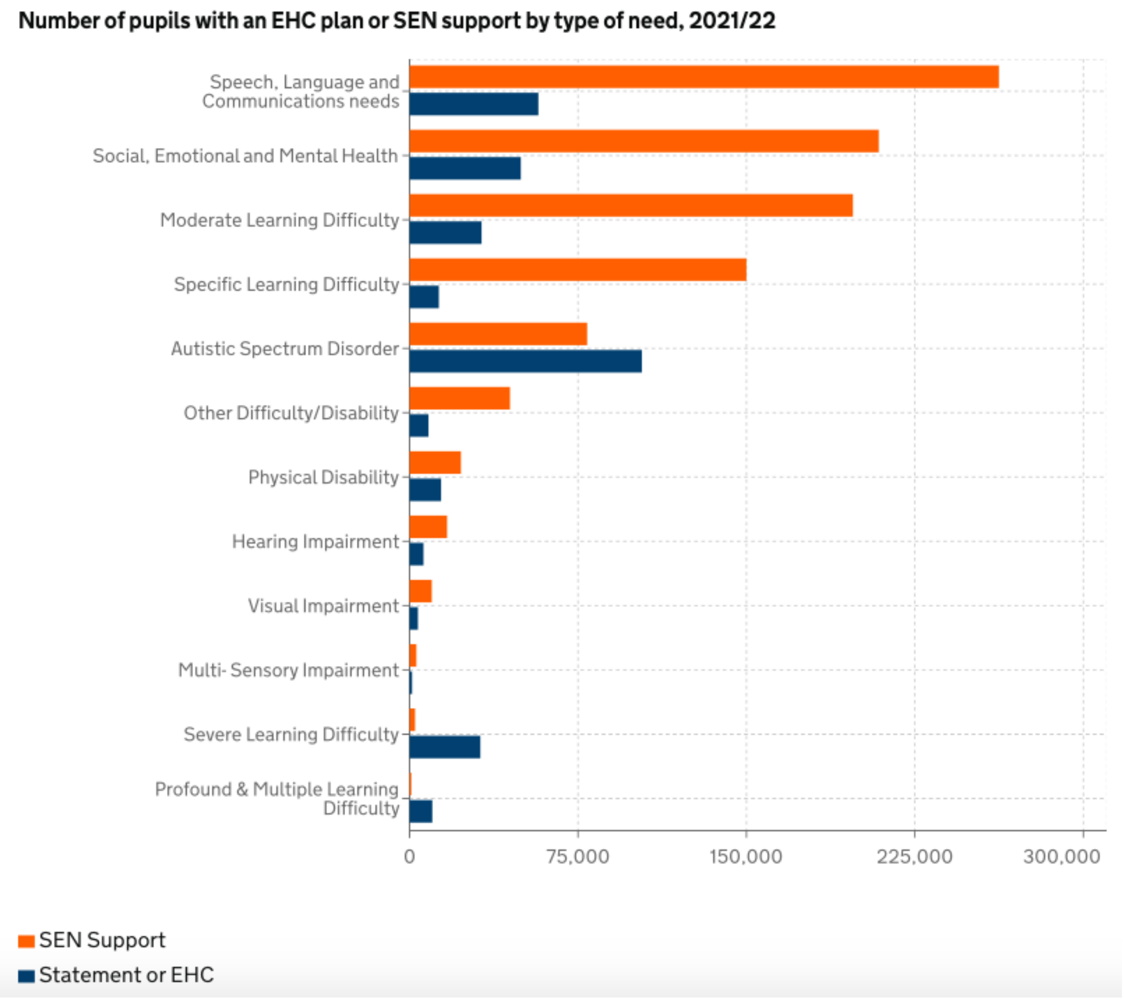


Figure 1: Number of pupils with an EHC Plan or SEN support by type of need, 2021/2022

Source: Special educational needs in England, Gov.uk (2022).

[Alt-Text: An orange and blue chart, titled ‘Number of pupils with an EHC plan or SEN support by type of need, 2021/22. The chart shows the highest number of pupils with SEN support being Speech, Language and Communications needs. With Statement or EHC, the greatest number of pupils fall under ‘Autistic Spectrum Disorder’. The lowest number for SEN support (highlighted in orange) is ‘Profound & Multiple Learning Difficulty’, and for Statement or EHC (highlighted in blue) is ‘Multi-Sensory Impairment’. In descending order of number of pupils with SEN support, the other categories on the chart are ‘Social, Emotional and Mental Health’, ‘Moderate Learning Difficulty’, ‘Specific Learning Difficulty’, ‘Other Difficulty/Disability’, ‘Physical Disability’, ‘Hearing Impairment’, ‘Visual Impairment’, ‘Multi-Sensory Impairment’, ‘Severe Learning Difficulty’, ‘Profound & Multiple Learning Difficulty’.]

Types of Provision

As explored later in this paper, under ‘A history’, specialist provisions have their roots in charitable institutions that date back to the mid-eighteenth century. Throughout history, educational policy and legislation showcase different priorities, concerns and views of different groups in society, all of which should be thoroughly considered.

The Disability Policy Centre believes that educational provision is about choice. Students, parents, carers and guardians should be able to decide what the best route to take is, choosing the environment that is right for each individual. No matter what the type of provision, each family should feel secure in the knowledge that the education provided will give their child the greatest education possible, with a high standard of support, and they should be safe in the knowledge that their child will have equality of opportunity with their peers.

At present, the types of provision in England that children with special educational needs and disabilities attend are as follows:

	EHCP	**SEN Support**	**Total**
State-funded nursery	535	5,513	**6,048**
State-funded primary	105,756	606,086	**711,842**
State-funded secondary	76,838	425,070	**501,908**
State-funded special school	140,230	1,566	**141,796**
Non-maintained special school	3,890	64	**3,954**
Pupil Referral Unit	3,295	6,309	**9,604**
Independent School	25,022	85,235	**110,257**
Total Headcount	**355,566**	**1,129,843**	**1,485,409**

Figure 2: Pupils in all schools, by type of SEN provision
Source: Special educational needs in England, Gov.uk (2022).

To note, there are a large number of EHCP pupils in state-funded special schools, and it would warrant further investigation as to whether those pupils are there by parental choice, or whether they were told that a mainstream school would not accommodate them. As part of this research, The Disability Policy Centre was also told by one teacher that it is becoming increasingly common for Local Authorities to start to pay for pupils to attend independent schools as a last resort. This appears to be reflected in these numbers.

Glossary of Terms

Education, Health and Care Plans (EHCPs)

Following the Children and Families Act in 2014, Education, Health and Care Plans were introduced as legal documents which describe a child or young person up to the age of 25.[8] This includes their special educational need or disability, their individual needs, details of the support that they require and the outcomes that they would like to achieve. These can only be issued once a child has gone through an Education, Health and Care Needs Assessment - which can be requested by the young person themselves, if they are between the ages of 16 and 25, or by their parents, carers and guardians if they are younger than 16.

SEN Support

SEN support means the support in place for the young person in educational settings. According to the Department for Education[1], for a child aged 2-3 years, this includes a child health visitor carrying out a health check, a written assessment and progress checks, and any reasonable adjustments made.

For children between five and fifteen years old, support may include smaller groups in the classroom, and classroom observations. In addition, further arrangements may include ‘special learning programmes’, additional encouragement and help, as well as assistance and support with physical or personal care tasks.

For young people sixteen and over, the Government has stated that colleges should provide SEN support ‘to meet the individual’s needs’.

Special Educational Needs Coordinators (SENCo)s

According to the Children and Families Act 2014,[9] SENCos are designated members of staff at the school that have “responsibility for coordinating the provision for pupils with special educational needs.” They are a designated school teacher who is responsible for coordinating the learning, planning, as well as assessing and monitoring the progress of children experiencing social, emotional and behavioural difficulties.[10]

They are responsible for keeping the lines of communication open with parents, teachers and guardians, as well as being the designated source of advice for all teachers at each school about the best learning and teaching strategies to use[11].

Pupil Referral Units (PRUs)

Pupil Referral Units are officially designated as those that 'teach children who are not able to attend school, and may not otherwise receive suitable education'. This could be due to 'short of long-term illness, exclusion from school or being a new starter waiting for a mainstream place'.[12]

Alternative Provision was introduced in 1994[13], in response to concerns over the outcomes for children who were being permanently excluded from school, and the term Pupil Referral Unit was formally introduced by the Department for Education in this same year.

The benefits of Pupil Referral Units include the fact that they have smaller class sizes, allowing for more one-to-one attention[14], and that teachers are usually highly experienced at dealing with children with social, emotional and behavioural difficulties.

They are, however, seen as a last resort, and are not supposed to be a long-term solution for students who are disabled or having special educational needs. In the past they have received a poor reputation, with previous Children's Commissioners suggesting that these children are more at-risk of being targeted by gangs for recruitment[15]. In her 2017 report, 'Making The Difference', Kiran Gill highlighted that in the same year, Government destinations data showed that 45% of young people leaving PRUs were not in 'sustained' education, employment or training destination six months after their GCSEs, compared to 6% of pupils leaving mainstream schools.[16]

How is SEND Education Funded?

The funding for SEND Education is different to the National Funding Formula. First, schools first get an Age-Weighted Pupil Unit (AWPU), which is the amount of money that every maintained school receives for each pupil, regardless of whether or not they have SEND.[17.]

The next element is specific SEN support, which is funded through Local Authorities, as well as through the Education Funding Agency for academies and free schools.[18] Government guidance suggests that schools should provide the first £6000, on top of the Age-Weighted Pupil Unit, for pupils who need it. A Local Offer, published by each Local Authority, is where each Local Authority will disclose what this money is spent on in each local community.

Additionally, schools can apply for any further funding that may be needed for more expensive provision, and all pupils with an EHCP have a ‘personal budget’. It is a choice for parents, carers and guardians as to whether they have a personal budget, but this is funding to provide for any support that is required and specified in a child’s Education Health and Care Plan[9].

In the SEND Review[4], published in March 2022, the Government has committed to ‘reforming funding’, through a series of measures. These include standardising funding through the context of the calculation of the National Funding Formula, which is determined by the Department of Education rather than Local Authorities. This is to progress towards the aim of ensuring that all schools are equipped to provide a high quality education and appropriate support. The Disability Policy Centre welcomes this move.

Nations of the United Kingdom

Each nation in the United Kingdom has a different system in regard to SEND Education. This report is focused on England, as most of the data used in this report that is sourced from the Government is in relation to England only, and the SEND Review is focused only on England's legislature. As we continue our Education research, The Disability Policy Centre has the opportunity to further explore the different nations and regions of the United Kingdom. This section of the report lays out the various approaches that are taken across the different nations of the Union.

Northern Ireland

For children with Special Educational Needs in Northern Ireland, a whole school educational provision is the first step[19], with reasonable adjustments, a focus on high quality teaching and successful differentiation. It is only if this does not work for a child that the school considers special educational provision, where a child is placed on a special educational register and has an Individual Education Plan.

Northern Ireland is currently undergoing a change in its legislation, and is devising a new SEN Framework, aiming to improve educational outcomes and help children to fulfil their full potential. This builds on the Special Educational Needs and Disability Act 2016, with new SEN Regulations and a SEN Code of Practice currently being finalised. New measures include the requirement for every school to have a Learning Support Coordinator, replacing SEN Coordinators, and a Personal Learning Plan for each child[20].

Scotland

The Scottish Government has a 'presumption of mainstreaming' policy[21], placing the responsibility on mainstream schools to provide education 'unless exemptions apply'. This approach is said to support children in being 'part of a community, boosting emotional wellbeing and aiding social development'. John Swinney MSP, who was Deputy First Minister for Education and Skills until 2021, has said that a child with SEN being in a mainstream school is a 'clear mark of successful inclusion'.[22]

There are, however, special schools in Scotland to address the needs of children who are not able to attend mainstream classroom settings.[23] Similar to Northern Ireland reviewing its' 2016 legislation, a number of amendments have been made to the Education Scotland Act 2016, including an extended support system and dispute resolution.

Wales

Prior to September 2021, children and young people in Wales received help through School Action, School Action Plus and Statements of SEN.

School Action was intensive help, such as special equipment or small group support, that was given to a child if they were not making progress in a mainstream setting.[24] School Action Plus was an increased level, such as a speech and language therapist, educational psychologist or a behavioural management programme, that was given to children who needed it. Progress was recorded in individual education plans to be reviewed every six months.

Statements of SEN were designed for children and young people with 'more complex needs', and are legal documents outlining a description of the child's special educational needs, the type of support given, such as changes to the curriculum, the type of educational placement the child is in, and then any non-educational information such as health related information.[25]

The Government in Wales recognised that the outcomes for the 23% of SEN learners in Wales are lower than what they should be, and therefore has put into place the new Additional Learning Needs (ALN) Transformation programme as an attempt to change this.[26] The focus on improving "expectations, experiences and outcomes" is targeted at both those children and young people who have SEN in schools, as well as those with learning difficulties and/or disabilities (LDD) in Further Education. The aim is to lead a unified approach to support learners from the age of 0 to 25 with Additional Learning Needs in Wales.

The Additional Learning Needs (ALN) Transformation Programme calls for a 'less adversarial system', and greater collaboration between various agencies. Funding has been ring-fenced for innovative partnership projects, workforce development and awareness-raising amongst stakeholders. The strategy highlights the importance of early intervention, as well as improving on the 'planning and delivery of support', to ensure that barriers are overcome and students can fulfil their unique potential.

Past and Present Legislation

A History

Specialist schools have their roots dating back to the charitable institutions for the blind, deaf and children with learning disabilities in the mid-eighteenth century.[27] The mid-nineteenth century saw the introduction of compulsory schooling and pupil assessment - which often removed children who were disabled, who either 'mixed together in school or remained at home'. The initial response was an increase in voluntary provision. However, following a Royal Commission in 1989, Local Authorities gradually took on more responsibility. By 1918, Local Authorities were required to grant-aid charitable schools, or commence the start of their own specialist schools for disabled children and those with special educational needs.

The first school for 'feeble-minded' pupils opened in 1892 in Leicester, and by 1916 there were 179 of these schools across the country, educating over 14,000 children. The first school for 'crippled' children opened in 1905 in Manchester, and by 1918 there were 60 day and 35 residential schools for 'physically defective' pupils.

Under the 1944 Education Act, during the post-war consensus, children were promised an education that suited their 'age, aptitude and ability'[27], and all those who were 'able to benefit' from education were brought under the Local Authority's responsibility. Many children, however, were seen as 'uneducable' and were kept within the National Health Service for "special educational treatment".[28] It was also concluded that students should be taught in mainstream schools where possible, and these children were entitled to special equipment, aids and furniture, as well as tuition in lip-reading if they were partially deaf.

On the one hand, teaching expertise was said to have improved as a result of these changes. This was because specialist schools were seen as a 'treatment' for disabled children in line with the 'Medical Model of Disability'. On the other hand, budgets for education were cut and educational standards as well as aspirations were low. However, strong arguments in support of segregated schools were put forward by the Deaf community.[27] For example, criticisms against 'mainstreaming' came to the fore for a number of reasons such as the well-being of Deaf pupils, the erasure of Deaf culture, and the protection of sign language[28]. Educational policy and legislation in twentieth-century Britain therefore raised different priorities, concerns and views of different groups in society.

The gaps between outcomes and employability were apparent, with twice as many 'handicapped' children being found to be unemployed, as their 'non-handicapped' peers, in a study of children born during one week in 1958. These were all children who had been 'ascertained' to be 'handicapped' after the 1944 Education Act.[27] Social isolation was also a problem, with many children attending 'special' schools being forced to leave their families to attend schools sometimes in opposite parts of the country. By the 1950s, The Chief Medical Officer declared that 'A child should never be removed from home unless it is quite certain that there is no practical alternative'.

Despite a desire for children to be educated in mainstream school where possible, between 1945 and 1972, the numbers of children in 'special' schools in England rose from 38,499 to 106,367.[27]

Warnock Report 1978 and Education Act 1981

In 1973, Margaret Thatcher, when she was Education Secretary, announced that in conjunction with the then Secretaries of State for Wales and Scotland, that she appointed a committee of enquiry into the "Education of Handicapped Children and Young People", with Mary Warnock as Chair.[29] The purpose was
"To review educational provision in England, Scotland and Wales for children and young people handicapped by disabilities of body or mind, taking account of the medical aspects of their needs, together with arrangements to prepare them for entry into employment; to consider the most effective use of resources for these purposes; and to make recommendations".[30]

Mary Warnock had already held posts at universities, on Oxfordshire's Local Education Authority, and had served as the Head of Oxford High School for Girls.[29] She would later go on to chair the Human Fertilisation Committee, which led to the Human Fertility and Embryology Act 1990.[31]

The Warnock Report was published in 1978, when James Callaghan was then Prime Minister and Shirley Williams the Secretary of State for Education, and would lay the foundations for the subsequent legislation that has been formed to this day.

The Warnock Committee produced a wide-ranging examination of the whole SEN system of the time, and produced a report that formed the basis for substantial changes. Warnock's recommendations included no lower age limit on education for children with special educational needs[3], with nursery encouraged to start as early as possible, a designated specialist teacher in each school (which are now the SEN Coordinators), firm links established between special schools and ordinary schools, and for all courses of teacher training to include a module on special educational needs. The report highlighted the need for all parents to have a designated contact, as well as Higher Education establishments to formalise and publish their policy on admissions for disabled students and those with special educational needs.

Further recommendations include opening up opportunities for disabled people to train as teachers, and for all pupils' needs to be reassessed two years before they leave education, with education extended beyond the compulsory age if necessary. Headteachers should be responsible for monitoring and reviewing the progress of their students with special educational needs and disabilities.

Many of these recommendations were put into the Education Act of 1981.[33] Primarily, these were the idea of an "integrative" (later 'inclusive') approach, based on common educational goals for all children,[29] the introduction of Statements of SEN,[34] as well as the term "special educational needs" - replacing "educationally subnormal" with "children with learning difficulties".[30] The Education Act passed through Parliament in 1981, eight years from the original announcement of Warnock's Committee Appointment in 1973.

Children and Families Act 2014

Aiming to be a 'landmark' bill, the Children and Families Act of 2014 was the first major shakeup of the SEND Education System since the Warnock Report and Education Act, over three decades previously.

Commissioned under the Coalition Government,[35] following on from a series of reports, such as the 2006 report by the Education and Skills Committee, and the 2009 Lamb Inquiry, the Government aimed to be bold and transformative for disabled children and children with special educational needs.

The Bill sought to give families "better control over the welfare of their children" and the major policy reform of the Act for Special Educational Needs was the replacement of SEN Statements with the introduction of Education, Health and Care Plans for children and young people up until the age of 25.[36]

Other major policy changes for SEND included extending the rights to a personal budget for all children and young people, commissioning and planning to be jointly run by both health services and Local Authorities, and improved legislation such as impartial advice, support and mediation services to be provided.[37] For other topics relating to children and young people, the Bill established Childminder Agencies, extended the role of the Children's Commissioner and it introduced the idea of shared parental leave.

The Children and Families Act - Did it work?

The Children and Families Act 2014 sought to reform legislation[38] in the following areas:

- Adoption and children in care
- Aspects of the family justice system
- Children and young people with special educational needs
- The Office of the Children's Commissioner for England
- Statutory rights to leave and pay for parents and adopters
- Time off work for ante-natal care
- The right to request flexible working

As part of our research, we undertook roundtables with disabled students, parents, carers and guardians, as well as one-to-one interviews with teaching staff. We have compared some of the quotes that we collated with relevant parts of the legislation.

Example One: *"19: Local authority functions: supporting and involving children and young people*

d) The need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person to help him or her achieve the best possible educational and other outcomes"

Part 19 of the Act speaks about 'Achieving the best possible educational and other outcomes'. Yet, from The Disability Policy Centre's discussions with past and present disabled students, from 'under 18' to the age of 55-64 year olds, there is no quantifiable difference in how people feel about their education, and how "supported" they felt as a disabled student going through the school system.

In the roundtables and interviews with parents, carers and guardians, frequent comments noted that too many schools were ill-equipped. There were two opposing but parallel threads - one was of parents who had children with non-visible disabilities, where the parents had to fight, sometimes for many years, for their child to receive a diagnosis. Often these children were 'written off' as disruptive children, who were a threat to their fellow pupils and needed to be removed. This was particularly true, one mother said, as her child was of Jamaican heritage:

“I felt like they were stereotyping us. There was an extra barrier because of our race - it was easy to be put in the box of being an ‘angry black child’. I knew that if my child was to end up in a PRU, he would be a target for gang recruitment and his chances in life would be slim. I couldn’t allow that to happen. When the school wouldn’t apply for an EHCP, or look into giving him a diagnosis, I had to fight. The school wouldn’t give me answers as to why they weren’t looking into diagnosing him, so in the end I needed to use a specialist lawyer. There are so many parents out there doing the same thing. School should be supporting and encouraging children to thrive - no parent should have to be doing this.”

- *Parent One*

The statistics have backed up what this parent was saying - that race and ethnicity play a factor in a child’s chances of being excluded, particularly in relation to SEN. A Department for Education report evaluating the 2009/10 statistics found that pupils with Special Educational Needs were almost seven times more likely to receive a permanent exclusion than those without special educational needs or disabilities, and Black Caribbean pupils were nearly four times more likely to receive a permanent exclusion than the school population as a whole.[39]

The parallel thread was of parents who had a child with a visible disability, that they wished to send to a mainstream school. However, many schools, including nurseries, refused admission and turned the children away on the grounds that the schools did not have the ‘appropriate resources or training’. They pushed parents to seek specialist education, even when that was not what was wanted. One parent told us that in the end she would not disclose her child’s disability on the phone - she would simply turn up for an interview and wait for the response.

“As soon as they found out our daughter had Down Syndrome, some settings tried to put us off and suggested we looked elsewhere or that they could not meet her needs, without even asking what support she might need. We were committed to ensuring that she could have the experience and integration that comes with a mainstream school. We had to be persistent. One school said that they said that their standard provision would not be suitable and that their teachers could not differentiate work to the level she was working at. We firmly but politely suggested that they could recruit teachers who could support her learning, or could train existing staff to be able to offer all students a meaningful education.”

- *Parent Two*

These two threads both show the same theme - that the matter of choice appears to have been removed for many parents, carers and guardians of disabled children. Parents who are seeking specialist support through an Education Health and Care Plan are made to wade through mountains of bureaucracy, often needing legal support to fight for what they see as the best education possible for their child. Parents who would rather choose a mainstream school than a specialist are told that the schools do not have the facilities to accommodate.

Example Two:

"22. Identifying children and young people with special educational needs and disabilities. A local authority in England must exercise its functions with a view to securing that it identifies all the children and young people in its area who have or may have special educational needs, and all of the children and young people in its area who have a disability."

Part 22 of the Children and Families Act clearly states that local authorities must ensure that they are doing all that they can to identify the children with special educational needs and disabilities. However, as explored further below in the 'Research Results: Parents, Carers and Guardians' section of this report, 65% of parents, carers and guardians felt that they were not supported in their bid to acquire an EHCP for their child, and they 'had to fight'. 25% of these had to wait three or more years for this.

One parent that we spoke to during our roundtables said the following:

"The crisis in our Local Authority got so bad that the Council held an emergency meeting with all of the parents who were struggling. All we want is what all parents want for their child - the best education possible, and if that means a diagnosis and EHCP, then that is what we should expect. The Council Leader just kept pacing around, shaking his head. He said 'I would love to help you all if I could, but we just don't have the resources. It wouldn't be fair to promise it. I wish there was more I could do, but I can't."

- *Parent Three*

Example Three:

"32. Advice and information. A local authority in England must arrange for children and young people for whom it is responsible, and the parents of children for whom it is responsible, to be provided with advice and information about matters relating to the special educational needs of the children or young people concerned."

Part 32 states that a local authority must arrange advice and information for children and parents alike. However, many parents, carers and guardians that The Disability Policy Centre spoke to stressed that their experience had been in fact the opposite, and they had been left in the dark with little support. In the words of one parent:

"We had never been through this before with a child with special educational needs, but the schools and the Local Authorities see this every year. We need their support and a bit of direction to turn to, but we never got it. We had to fight for our child every step of the way."

- *Parent Four*

The report from the House of Commons Education Committee, published in 2019,[34] acknowledges this, quoting from their evidence:

"Parents and carers have had to wade through a treacle of bureaucracy, full of conflict, missed appointments and despair."

The Committee proceeds to advocate for a neutral role "*to arrange meetings, coordinate papers and be a source of impartial advice to parents.*"

The Committee's report also reads as follows:

"We heard repeatedly from parents who were forced to take a case to Tribunal in order to get appropriate support, navigate and exhaust a local authority complaints system before being able to take their complaint to the Local Government and Social Care Ombudsman, and in some cases judicially review the local authority, and in one case the Government."

This matches the findings of The Disability Policy Centre's research. In the Freedom of Information requests that we sent to Local Authorities asking about their services, over 95% of Local Authorities had parents and carers fighting going through the Tribunal Process in relation to their child's EHCP.

It is clear that there is a significant number of parents, carers and guardians who are trudging through the bureaucracy of the SEND system, feeling unsupported by the authorities, and even resorting to hiring lawyers or fighting tribunals. From the evidence gathered by several sources over the years, this does not feel like a system that is working, or one that supports those parents, carers and guardians that may already be under significant pressure as they care for their disabled children and young people.

Example Four: "35. Children with SEN in maintained nurseries and mainstream schools. This section applies where a child with special educational needs is being educated in a maintained nursery school or a mainstream school.

Those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have special educational needs."

Part 35 of the Act emphasises in particular the need to integrate and for students in mainstream provisions to be able to 'engage with the activities of the school together with children who do not have special educational needs'.

During the course of our research, The Disability Policy Centre facilitated a roundtable with young people who were all under the age of 25 - the majority of whom were still in school. Many of these made statements which directly contradicted the legislation above, and gave extremely worrying accounts of their experience of being a disabled student in a mainstream school:

"I was given extra support, and I had an assistant support me on a day-to-day basis. However, they were almost overprotective, and they wouldn't allow me to mix with the other children in the school that often. It's like they were so afraid that something would happen to me that they stifled my ability to socialise. I felt very lonely throughout my time at school."

- *Young Person One*

"I am a wheelchair user. When I arrived at the school in Year 7, I had to use a different entrance to all of the other students, because the main entrance wasn't wheelchair accessible. They didn't fix this until I was in Year 11 - just in time for when I left."

- *Young Person Two*

"My school received a pupil premium for me, and they actually openly admitted that they spent the money on a new playground - that wasn't even accessible for me to use!"

- *Young Person Three*

Summary

The Children and Families Act of 2014 had good intentions, as well as the right identification of the issues and ideas for addressing these in practice. There was an understanding of the need for increased involvement with parents, carers and guardians, including better support, advice and mediation, as well as the need for an individual Education, Health and Care Plan for each child.

However, it is clear from The Disability Policy Centre’s research that Local Authorities do not appear to be coping with the demand. As explored in our data further in this paper, too many parents are fighting the system, too many children are waiting for an EHCP, and too many children are not benefiting from an inclusive and integrative education.

From this roundtable feedback alone, it is clear that parents are given a lack of choice in their child’s education, with some being discouraged from sending their children to a mainstream school, and others resorting to hiring specialist lawyers to get their child a diagnosis. The environment feels like a battlefield at times, with students clearly let down and feeling like they are missing out on the education and opportunities that their peers are receiving.

The Children and Families Act 2014 was a good start - but serious questions need to be raised about the sustainability of the funding in Local Government, the integration of disabled children and those with special educational needs into mainstream schools, and the support that parents, carers and guardians receive. The directives of the legislation do not match the reality on the ground, and serious questions need to be addressed to ensure that each and every child has the equality of opportunity that they deserve.

The SEND Review

Delayed throughout the COVID-19 pandemic, the long-awaited SEND Review continued, with a Green Paper released in March 2022, followed by a consultation being undertaken between March and July of the same year.[39] At the time of the writing of this report, the response to the consultation has not been published by the Government.

In the Green Paper, published by both the Secretary of State for Education, then Nadhim Zahawi, and the Secretary of State for Health, then Sajid Javid, the Government outlines its' plans to set new national standards, reform funding for a 'strong and sustainable system', and to hold both Local Authorities and Multi-Academy Trusts to account for local delivery.

It proposes to hold this accountability through the Department for Education's new Regions Group, as well as improving systematic accountability at a Government level, whilst delivering clarity on the roles and responsibilities of 'partners across education, health, care and local government'.

Further proposals include introducing a new inclusion dashboard, statutory guidance to Integrated Care Boards, and to work with Ofsted and the Care Quality Commission on their plan to deliver an updated Local Area SEND Inspection Framework.

Referring to The Children and Families Act of 2014, the Government's own website quotes that the reforms 'had the right aspirations', delivered by a 'hardworking and dedicated workforce', with 'much to celebrate'.[40]

"However, despite examples of good practice, too often the experiences and outcomes of children and young people are poor. Parents and carers are frustrated at having to navigate an increasingly complex and adversarial system.

Growing tension across the system is causing delays in accessing support and increasing financial challenges for local government."

The Government then goes on to say that:

“The SEND Review has identified three key challenges facing the system:

1. Navigating the SEND system and alternative provision is not a positive experience for too many children, young people and their families.
2. Outcomes for children and young people with SEND or in alternative provision are consistently worse than their peers across every measure.
3. Despite the continuing and unprecedented investment, the system is not financially sustainable.”

For this report, and the continuation of The Disability Policy Centre’s work on Education, our aim is to deliver on three things:

1. To continue to listen to disabled people, parents and carers about their experiences within the SEND system, to amplify their voices and bring together relevant community groups, Disability Organisations and Carer’s Groups to shape the debate.
2. To begin to highlight and gather evidence of what works and demonstrate best practice. We will do this through various means - looking at regional, national and international examples, bringing together academics, charities and institutions, as well as learning from other areas of education - such as Further and Higher Education. Our research consistently found that many students who had poor experiences of primary and secondary school, tended to have improved outcomes in Further and Higher Education. We will seek to gather evidence of best practice. We will also work with specialist SEND provisions, fostering collaboration between mainstream and specialist teachers at a regional level, to improve the standard of teaching and learning across the board.
3. We will look into and propose new funding models, new partnership approaches and new mechanisms for accountability. We will always keep in the forefront the disability employment rates and the disability employment gap, and keep in our ambitions our desire to close this gap for good. We will seek to work with partners from across the academic, political and third sectors over the coming years to achieve this.

What does our research show? (Methodology)

In producing this research, The Disability Policy Centre spoke to 58 disabled people of various ages and with different experiences of education, 50 parents, carers and guardians, as well as nine current or former teachers of specialist SEN provisions. This was done through a series of roundtables, a research questionnaire and one-on-one interviews.

The purpose of this research was to discover how people feel about their experiences of the current system of SEND Education in the United Kingdom. The Disability Policy Centre wanted to have the data to compare whether people's experiences have improved over time or whether they vary from region to region. We sought to compare the experiences of our interviewees with what is expected of Local Authorities, as set out in the Children and Families Act 2014. The purpose of this research was to get an overview of the landscape in order to set the scene for further exploration.

The last piece of research that The Disability Policy Centre undertook was an analysis of what was currently going on in Local Authorities, through a series of questions under the Freedom of Information Act, which can be viewed in the Appendices. The purpose of these questions was to gain an understanding as to what was going on in Local Authorities, and whether some of the statistics appeared to mirror what was being said in our research. Questions included finding out how many parents were currently fighting tribunals in relation to their child, the number of disabled children and young people in Pupil Referral Units, as well as the numbers of children and young people accessing Online Learning as their full-time provision of education.

It must be noted that the limitations in this method are that different Local Authorities hold different sets of data - for example some hold the data on all SEN children in their region, but others only hold data relating to children with EHCPs. This means that many statistics cannot be directly compared, because councils hold different levels of data. Some Local Authorities have also refused their right not to provide the data asked for, and others did not need to say if an exemption applied.

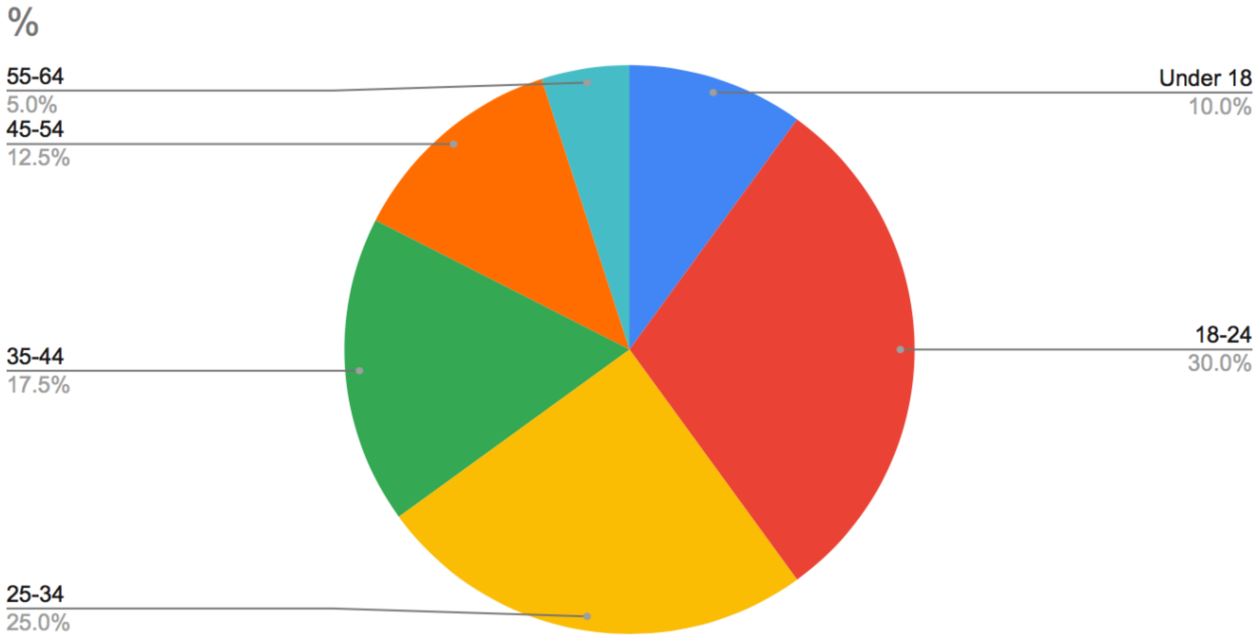
Research Results: Past and Present Disabled Students

As part of our research for this paper, The Disability Policy Centre conducted a survey of disabled people and people with long-term health conditions about their experiences in the Education system, either past or present. The respondents were from a range of ages, attending a variety of different types of schools, and whilst some were still studying, others finished secondary school several years ago. The respondents also had varying levels of education and obtained different types of qualifications.

In total, 58 people responded to our research questions.

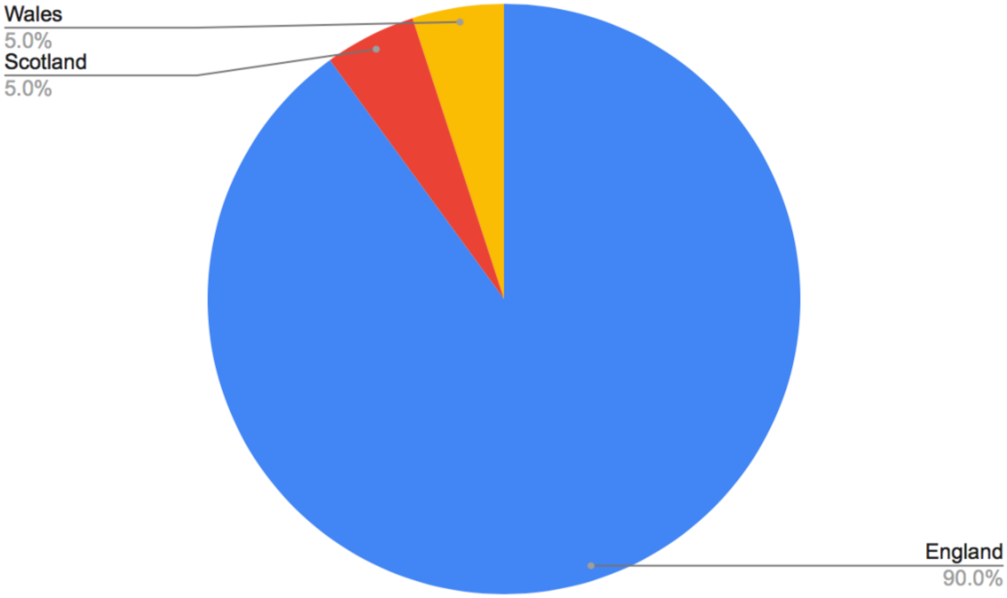
The key results, as identified by our team, are as follows:

Q: What is your age?



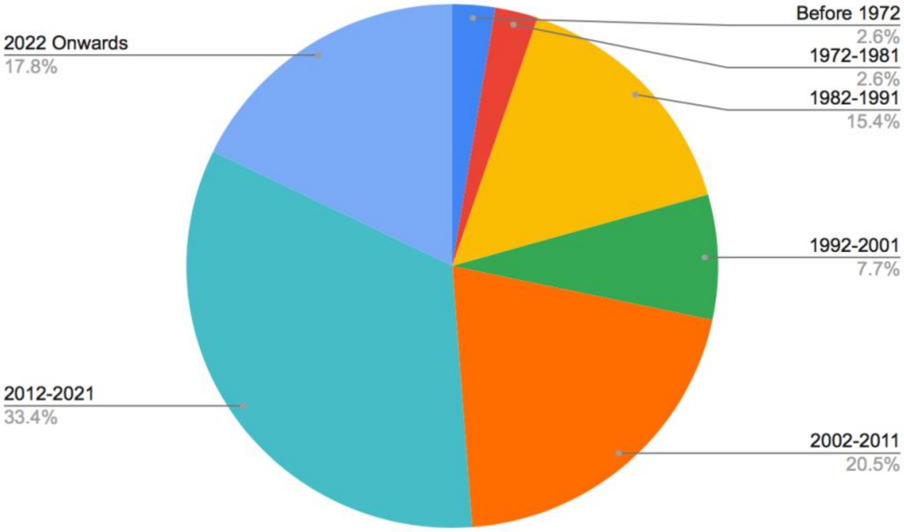
[Alt-Text: The data shows a pie chart. In blue, 10% of respondents are under 18. In red, 30% of the respondents are 18-24, 25% are 24-34, marked in yellow. 17.5% are 35-44, coloured in green, and 12.5% are 45-54, coloured in orange. In turquoise, 5% are aged 55-64.]

Q: What part of the United Kingdom are you in?



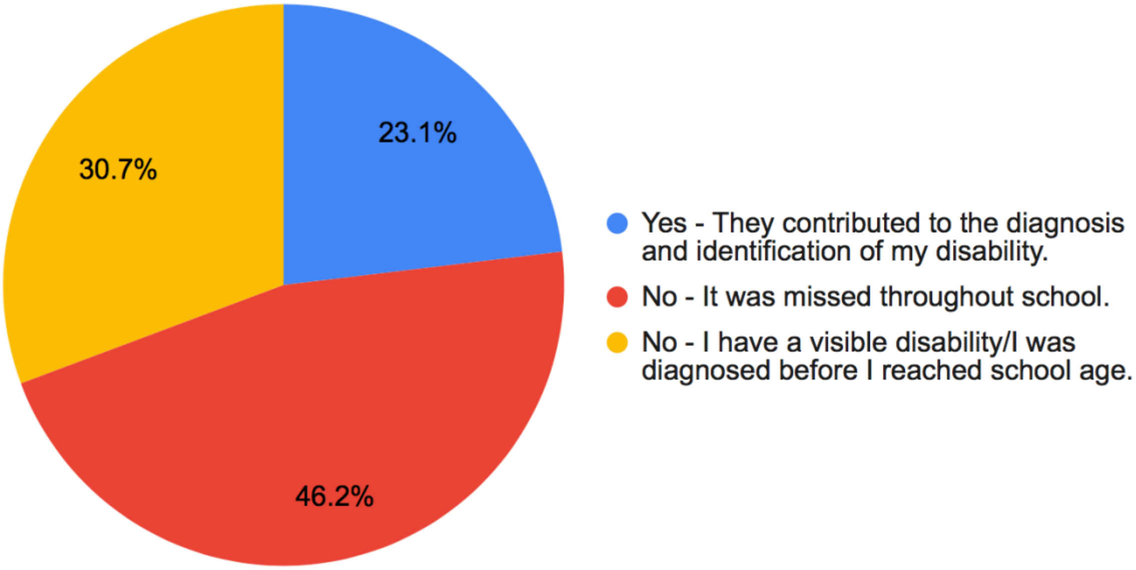
[Alt-Text: The data shows a pie chart. In blue, 90% of respondents are from England. In red, 5% are from Scotland, and in yellow, 5% are from Wales. None are from Northern Ireland.]

Q: In what year did you finish/will you finish secondary school?



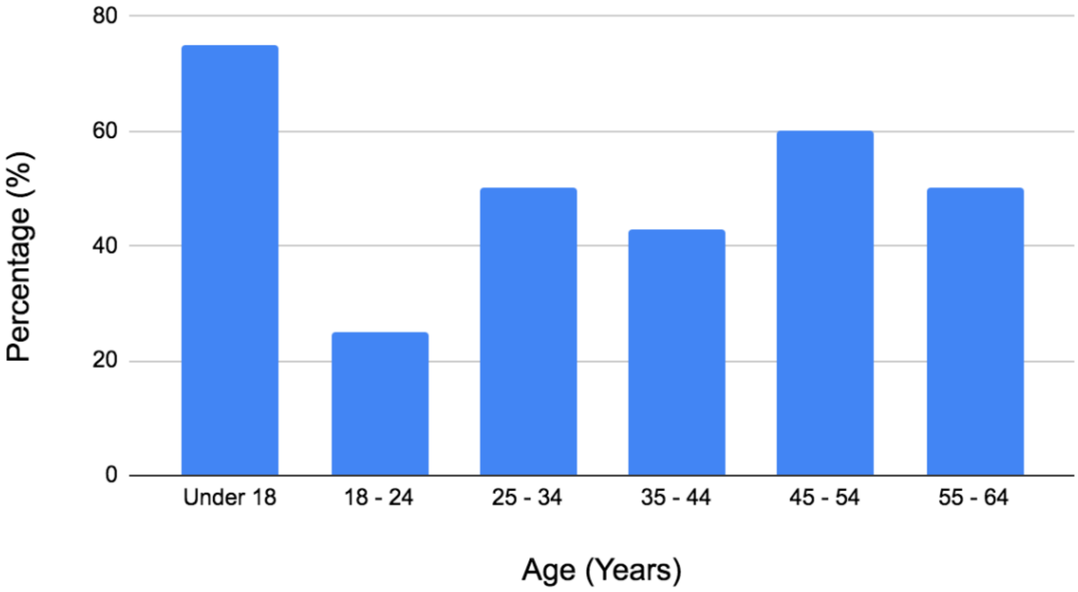
[Alt-Text: The data shows a pie chart. In blue, 2.6% of respondents finished secondary school before 1972, with 2.6% also finishing between 1972 - 1981. 15.4% of respondents finished secondary school between 1982 and 1991, with 7.7% between 1992 and 2001. Coloured in orange 20.5% of respondents finished secondary school between 2002 and 2011, with 33.4% finishing between 2012 and 2021. Finally, in light blue, 17.8% of respondents will finish from 2022 onwards].

Q: Did your school recognise and diagnose your disability?



[Alt-Text: The data shows a pie chart. In blue, 23.1% of respondents said 'Yes - They contributed to the diagnosis and identification of my disability. 46.2% in red said 'No - It was missed throughout school', and 30.7%, in yellow, said 'No - I have a visible disability/I was diagnosed before I reached school age'.]

Percentage of Pupils, by age, who had their disability missed throughout school



[Alt-Text: The data shows a bar chart, with all bars in blue. 75% of the respondents under 18 had their disability missed throughout school. 25% for those aged 18-24. 50% for those aged 25-34. Ages 35-44 was 43% and 45-54 was 60%. For respondents aged 55-64, 50% had their disability missed throughout school.]

These numbers show an alarming number of pupils who have not had their disability diagnosed during their school years. This could be due to lack of resources, class sizes that are too large, or a lack of understanding from teaching staff about the signs and signals to look out for, suggesting inadequate training in this area. Inevitably, this means each child that goes undiagnosed likely did not have the appropriate support and guidance put into place to allow them to reach their potential.

This lack of support can have a knock on impact not just on someone's academic potential, but also on a child's confidence and self-esteem, which can stay with someone much later in life. Of those who we spoke to who were over 45, many said that they had left school feeling 'inadequate', which had affected both their personal and professional lives. It was only upon receiving a diagnosis that they understood, but often too much time by then had been missed.

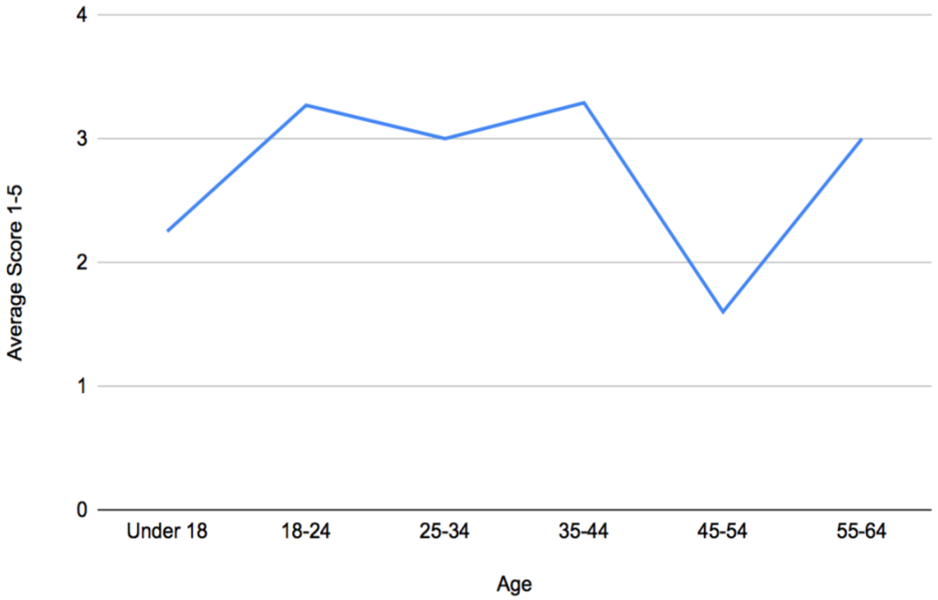
The chart on the previous page 'Percentage of pupils, by age, who had their disability missed throughout school', shows that despite interventions and legislation, not much has improved over time in diagnosis rates. In fact, the lowest scores were in fact for those under 18, something which was unexpected. This could be due to COVID-19 impacting on the education system, which would explain the improvement at 18-24, followed by a sharp decline.

However, it could also be the huge numbers of children waiting for a diagnosis for an EHCP, as explored in the next part of this research. It echoes the statements made in the earlier roundtables, with parents needing to hire specialist lawyers, or waiting many years to obtain the necessary support. There seems to be an overwhelming stretch on resources, which could be leading to a delay in diagnosis for children and young people. It is not known the impact that missing interventions in these crucial years is having on each child's development.

The two graphs upcoming on page 34 show that of those The Disability Policy Centre spoke to, little has improved over time in terms of attitudes of how people feel about the education that they received. Because most (94.8%) of these students all graduated from school after the Education Act 1981, it is not clear from these results the impact that this legislation had on how students felt about their education, and how this has changed over time.

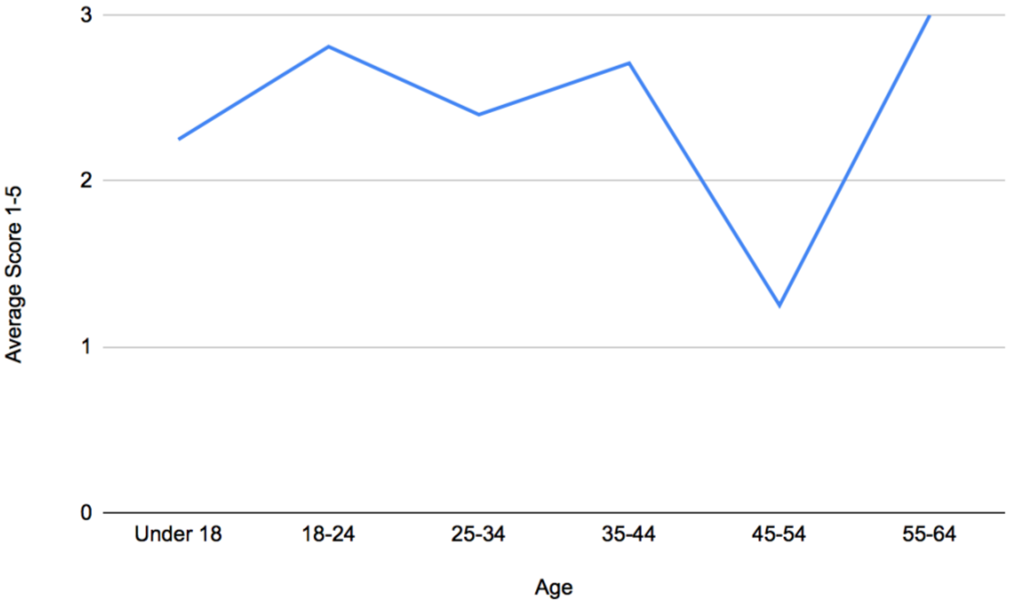
If the research was to be extended, The Disability Policy Centre could speak to an older age range to gather a reliable evidence base of people who attended school before 1981, and how the Education Act 1981 impacted their attitudes.

"On a scale of 1 to 5, how would you rate your teachers at being able to teach you as a disabled student?"



[Alt-Text: Blue line chart marking the average answers. Under 18 scores 2.25. 18-24 scores 3.27. 25-34 scores 3. 35-44 scores 3.29, on average, with 45-54 1.6. Age 55-64 scores an average of 3.]

"On a scale of 1-5, how supported did you feel by your secondary school as a disabled student?"

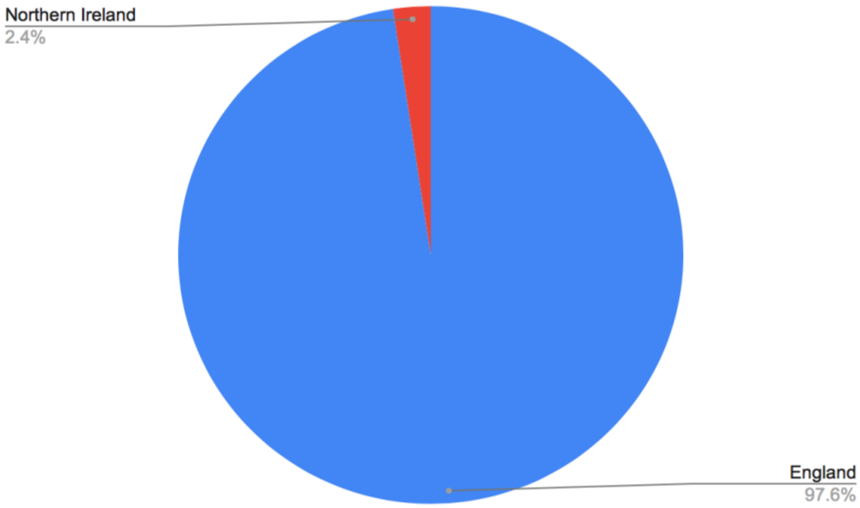


[Alt-Text: Blue line chart marking the average answers. Under 18 scores 2.25. 18-24: 2.81. 25-34 scores 2.4. 35-44: 2.71. 45-54 scores 1.25. Age 55-64 scores 3.]

Research Results: Parents, Carers and Guardians

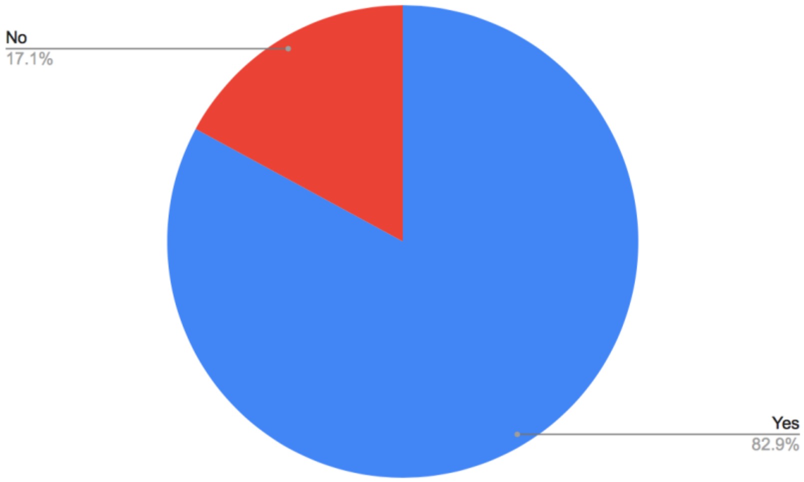
The Disability Policy spoke to 50 Parents, Carers and Guardians, through research surveys and private roundtables, about their experiences going through the SEND Education system with their children. The results were as follows:

Q: What part of the United Kingdom are you in?



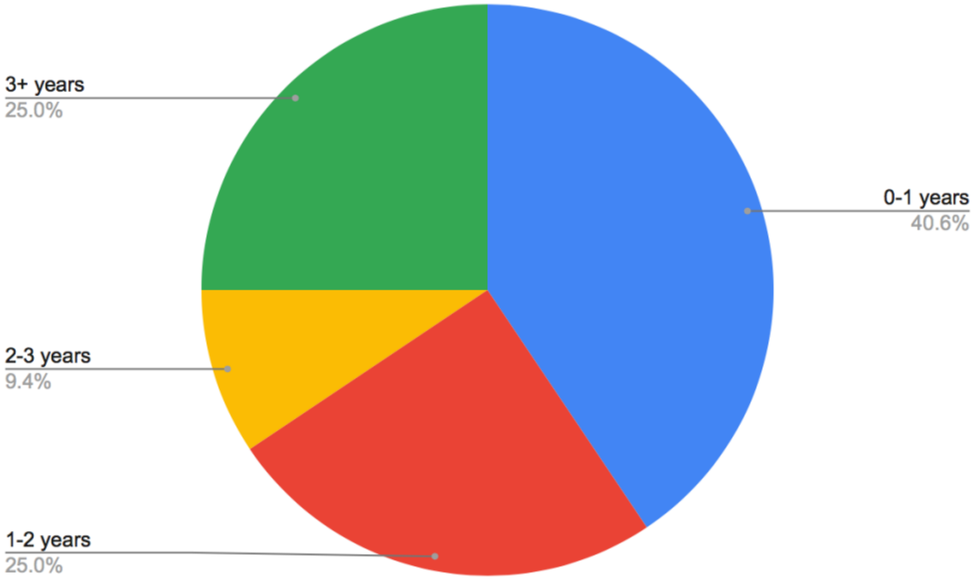
[Alt-Text: Blue and red pie chart. In red, 2.4% of respondents are from Northern Ireland and 97.6% are from England. This is marked in blue. There were no respondents from Scotland or Wales.]

Q: Did you go through the process of applying for an EHCP whilst your child was at school?



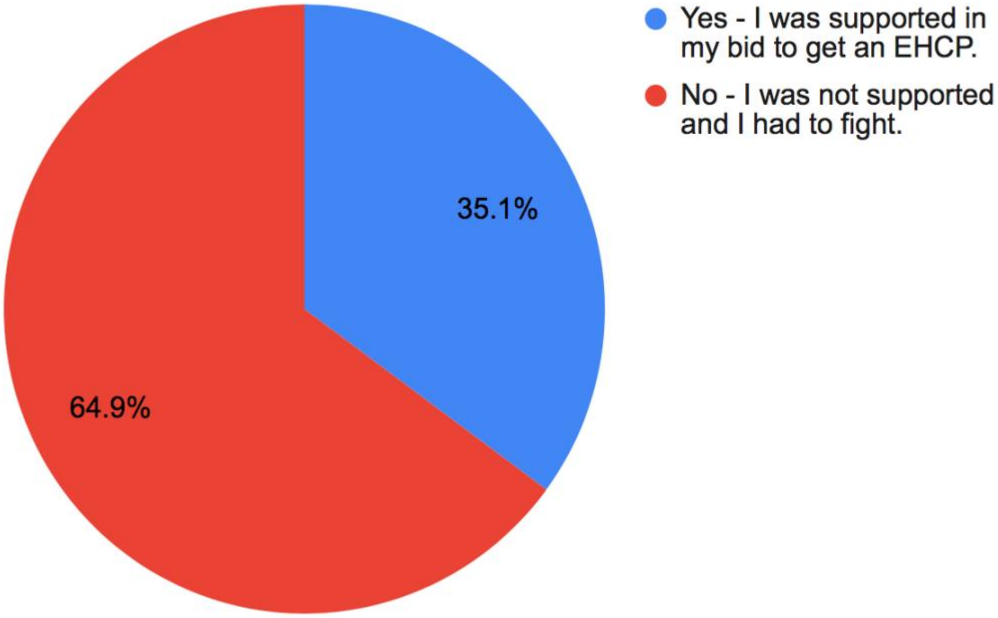
[Alt-Text: Blue and red pie chart. In red, 17.1% of respondents said 'No' and in blue, 82.9% said 'Yes'.]

Q: If yes, how long did you have to wait for this?



[Alt-Text: Pie chart. In blue, 40.6% of respondents waited 0-1 years. In red, 25% of respondents waited 1-2 years, and in yellow, 9.4% of respondents waited 2-3 years. Finally, in green, 25% waited 3+ years.]

Q: Do you feel that you were listened to and properly supported in your bid to acquire an EHCP?

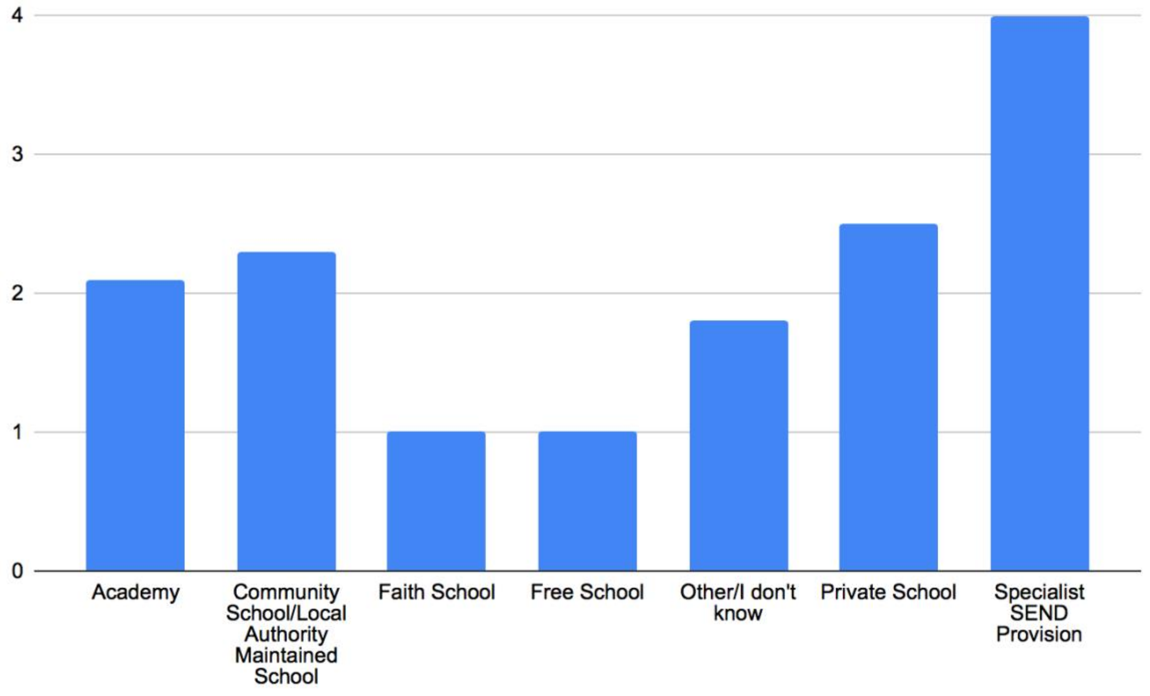


[Alt-Text: Pie chart. In blue, 35.1% of respondents said 'Yes - I was supported in my bid to get an EHCP. In red, 64.9% of respondents said 'No - I was not supported and I had to fight.']

Although 40.6% of parents, carers and guardians are receiving an Education, Health and Care Plan for their child in the expected time frame of less than a year, these results show a worrying amount who are waiting too long for the child to receive the EHCP that they have requested, with 25% waiting at least three years. It is not clear as to the reasons why this is - whether the Local Authority judged that the child did not need an EHCP and the parents subsequently went to tribunal, whether waiting lists are too long because resources are stretched, or if this 'wait' starts at a different time for each parent, carer and guardian.

Having 64.9% of parents, carers and guardians saying that they were 'not supported and had to fight', shows a worrying state of play. Parents should be able to trust the education system, that it is going to secure the best outcomes for their child and that each child's individual needs and aspirations are going to be catered for. This data suggests otherwise - that parents, carers and guardians are feeling let down, and feel the need to step in in their child's best interests. Not only is this draining on the energy and resources of those who are already stretched, but it shows a clear breakdown in trust, in an area of Government which is supposed to do all that it can to support children and young people to thrive.

Q: On a scale of 1 to 5, how would you rate the support that your child has received as a SEND student from their school?

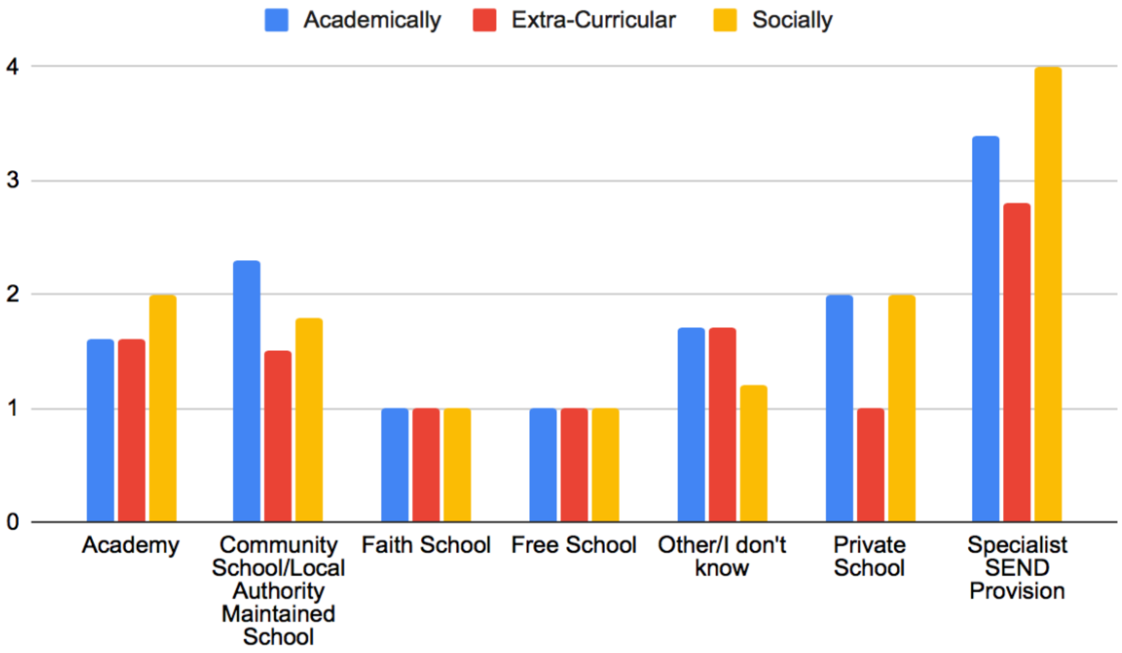


[Alt-Text: Blue bar chart showing the average response of parents, carers and guardians according to category of school. Parents with children in academies gave an average score of 2.1. For Community School/Local Authority Maintained School this is 2.3. For both Faith Schools and Free Schools, the average score of parents is 1. Other/i don't know scored an average of 1.8. Private schools were 2.5 and Specialist SEND Provisions scored an average of 4.]

For the following two graphs, for the question "On a scale of 1 to 5, how would you rate the support that your child has received as a SEND student from their school", it is clear that parents of children in specialist SEND provisions feel much more positively than others. In particular, the results from parents, carers and guardians of children in free and faith schools are notably low - with an average score of 1 out of 5.

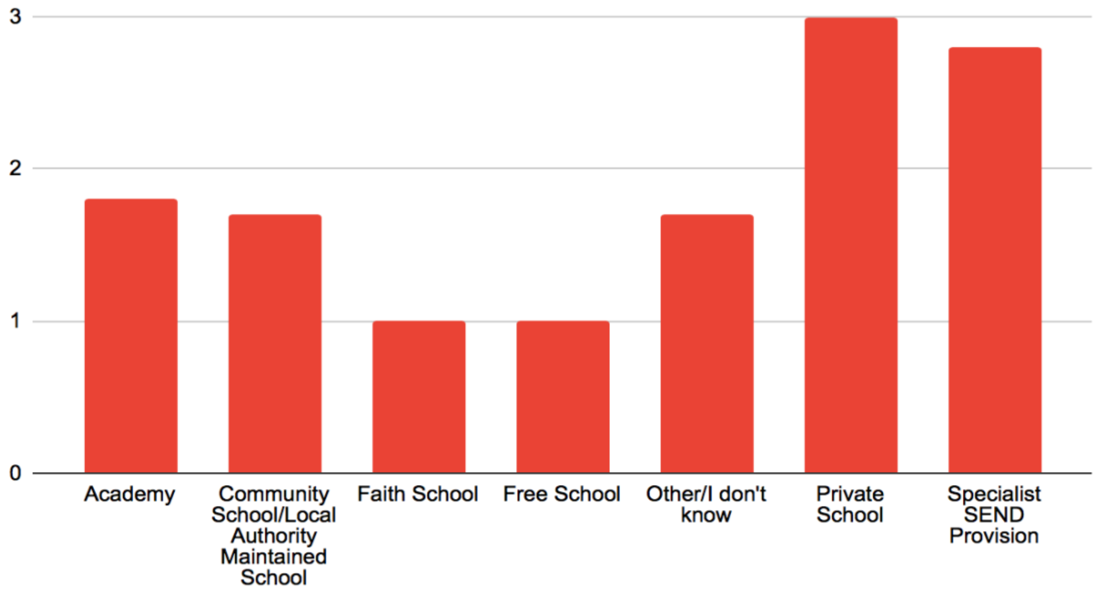
Specialist provisions appear to be good options that provide a high level of support to pupils, however the contrast between their results with Free, Faith, Local Authority Maintained and Community Schools sends a worrying message about the availability of choice. In our interviews and roundtables, parents sought a genuine choice in the type of provision that they choose to send their child to, and they expect the quality to be of a high standard regardless of where that is. However, worryingly, the stark contrast in support perceived to be received in specialist schools compared to state-funded schools, raises the question as to whether that choice really exists, if parents want their children to flourish.

"On a scale of 1 to 5, how would you rate the support that your child has received:"



[Alt-Text: Bar chart with red, blue and yellow bars. In blue, for academic support, Academies scored 1.6, Community School/Local Authority Maintained Schools scored 2.25. Faith and Free Schools both scored 1. Other/I don't know scored 1.7. Private schools scored 2 and Specialist SEND Provisions scored 3.6. In red, for extra-curricular support, Academies scored 1.6, Community School/Local Authority Maintained Schools scored 1.5. Faith and Free Schools both scored 1. Other/I don't know scored 1.7. Private schools scored 1 and Specialist SEND Provisions scored 2.8. In yellow, for support socially, Academies scored 2, Community Schools/Local Authority Maintained Schools scored 1.75. Free and Faith schools both scored 1. Other/I don't know scored 1.2 and Specialist SEND Provisions scored 4.]

“Do you feel that your child was given equality of opportunity as a SEND student, and were they given all that they needed to succeed regardless of ability?”



[Alt-Text: Red bar chart showing the average response of parents, carers and guardians according to category of school. Parents with children in academies gave an average score of 1.8. For Community School/Local Authority Maintained School this is 1.7. For both Faith Schools and Free Schools, the average score of parents is 1. Other/i don't know scored an average of 1.7. Private schools were 3 and Specialist SEND Provisions scored an average of 2.8.]

This graph shows that in terms of ‘Equality of Opportunity’, the perception amongst parents, carers and guardians surveyed and interviewed was that this is most likely to be provided in a private school. An initial analysis suggests that this could be related to factors such as the quality of teaching, the availability of resources and services, or even factors such as small class sizes, which would allow for better support for pupils with special educational needs, greater interaction with staff and possibly an increased chance of diagnosis and early intervention.

Research Results: Freedom of Information Requests to Local Authorities

For the final stage of our research, The Disability Policy Centre wrote to every Local Authority in England and Wales to ask about their SEND Education for Children and Young People.

One topic that was notable was the percentage of the total number of pupils in Pupil Referral Units. For many Local Authorities, the pupils in these units often were in great numbers registered as disabled or having special educational needs. For SEND students, Pupil Referral Units are only ever supposed to be temporary solutions, and as discussed previously in this report, the outcomes of pupils in PRUs can be significantly worse than their counterparts in mainstream education.

An unusually high number of Local Authorities responded to our Questions ‘How many children and young people in the borough are there who have disabilities or Special Educational Needs who are currently in Pupil Referral Units?’ and ‘How many pupils in total do you have in Pupil Referral Units’? with the same figures. When questioned on this, as to whether these numbers were correct and all pupils in PRUs were SEND students, some of the responses were as follows:

"All have been registered as SEND when put in PRU."

“In response, yes – all pupils at our PRUs would have been placed there based on their ALN (or SEND).”

"We consider that most children and young people who attend our PRUs to have SEN Support Needs. "

The Disability Policy Centre added up the data from the Freedom of Information Requests in each region for this answer, and these were then cross-referenced with the official Government data for the total number of pupils, and total number of pupils with SEN in PRUs.[42]

There may be anomalies in the data, such as some councils’ data not being entered properly on the system, or some councils not responding despite many attempts over several months. Some Local Authorities had data for both children with SEN support and children with EHCPs, but others just had one set of data and not the other. All of these meant that it was difficult to create a conclusive picture to be analysed.

Despite the anomalies, the overall percentage of SEN Pupils in Pupils Referral Units in the nine regions of England ranged between 42.8% and 80.8% of the total number of pupils.

This raises two important questions. Firstly, this interrogates the purposes of Pupil Referral Units, whether they are supposed to be specialist schools for children with special educational needs, and whether they have the teaching expertise and the facilities to do so. The answer may be yes, and this may be the case for PRUs that are converting to, or have ambitions to convert to Alternative Provision Academies. However, it is important to reiterate that the initial purpose of Pupil Referral Units was that they were not supposed to have permanent provisions for children and young people. If they are being used as such, the Government guidance should be updated accordingly.

Secondly, it raises the question as to the motivations of teaching staff for placing SEND students into Pupil Referral Units. If the reality matches what The Disability Policy Centre heard in our research, particularly when speaking to teachers, it may be the case that an increasing number of schools are expelling disabled students. Placing these pupils in a Pupil Referral Unit may be seen as a suitable option, particularly if a teacher is struggling with the behaviour of a student who may be disruptive, either directly or indirectly as a result of their additional learning needs. Lack of resources, uncontrollably large class sizes and inadequate accessibility training may mean that disabled students are not getting a fair chance.

This practice is not new, and was even reported to have taken place at the onset of special schools being set up. In Anne Borsay's 'Disabled Children and Special Education, 1944-1981' presentation[27], she remarked that special schools were 'enabling educational authorities to exclude children who might obstruct or inconvenience the smooth running of normal schools', adding that they 'supplied a mechanism for excluding 'disruptive' pupils from 'normal' classrooms.' It also matches up with the Department for Education report mentioned earlier, that showed that from the 2009/10 data, SEN pupils were nearly seven times[39] more likely to be permanently excluded than their peers.

If mainstream, state-funded schools are unable to cater to their disabled children and young people, and Local Authorities are struggling to meet their legal obligations as set out in the Children and Families Act, it must beg the question as to whether the system is really fit for purpose. The Disability Policy Centre believes that each and every child must have the opportunity to live the most fulfilling life possible, by being given the best possible start through their education.

Our proposals for achieving this are set out in the next chapter.

Our Recommendations

1. **Each region in the country, led by the respective Local Authorities, should set up hubs of best practice, to allow co-creation and the sharing of ideas between both specialist teachers and mainstream teachers, ensuring that no child is in an institution where the teaching staff lack the skills, expertise and understanding required.**

The Disability Policy Centre recommends that in clusters of Local Authorities, hubs are set up to share best practice between mainstream teachers and SEN teachers, with opportunities for all teaching staff and others in schools to better understand their disabled students and those with special educational needs. This allows teachers to not only upskill and share expertise, but to network, share evidence and collectively build an education system that works for all.

The Disability Policy Centre heard through our research that there appears to be a gap between the teachers who teach in SEN schools, and those that teach in mainstream schools, with little collaboration or co-creation between the two. We have explored, and will explore further in these recommendations, the lack of information shared with those in the voluntary sector too.

Localised hubs, set up around the country, would allow professionals - teachers, support workers and other school staff in various settings, to learn from each other to understand what makes excellent teaching and learning for our disabled students and those with special educational needs. Only through learning what works, and seeking to replicate it, can we truly achieve excellence and allow our children and young people to flourish.

Coincidentally, in the original Warnock report of 1978, the recommendation that ‘firm links should be established between special and ordinary schools in the same vicinity’[30] was written. However, despite forty four years passing, this never seems to have been acted upon. We have a perfect opportunity to begin this work now.

2. **Each Local Authority should take responsibility for, and be accountable to the fact that there needs to be better data sharing, knowledge exchange and working across services - not just in social care and education, but including children's services, disability services, mental health support, as well as those in the voluntary sector providing support for children and families in each locality.**

Throughout this research, including our private conversations with teaching staff, it was apparent that there were not enough joined-up working with those in the voluntary, care and education sectors. Schools said that they did not know which families were undergoing support and intervention with relevant services. Charities that we spoke to said that they did not have any formalised contact with the schools of disabled children that they looked after.

Working in silos means that vital communication is missed, and children with special educational needs are not benefitting from a holistic approach to their development. This needs to change for each child at a local level, through improved joined up working and communication between the public and voluntary sectors. One recommendation is that all relevant services, including disability services, mental health provisions and other third sector organisations are named in a child's Education, Health and Care Plan, and those organisations are involved in drawing up the support that is laid out for each child and young person upon receiving an EHCP. Therefore acknowledging the role that each service plays, and encouraging a level of communication to support the child's development.

The SEND Review of 2022 acknowledges the contributions of 'voluntary sector and private sector delivery partners'.[4] This recommendation could be a positive and proactive way to ensure that silos are drawn together, and gaps tied up for the good of all of our children and young people.

3. **Acknowledge that the world around us has changed, with the past few decades bringing great technological, scientific and societal advances. However the education system can still be a one-sized for all approach. Recognise that academic attainment is not always reflective of ability, and that the national curriculum can be better shaped to allow all of our children and young people to flourish.**

Nelson Mandela once said that 'Education is the most powerful weapon you can use to change the world', and for many, the dream that their children will go on to have a better life than them starts with encouraging their children to obtain the best education possible. A good education can never be lost, and it can offer many enriching opportunities and open several doors throughout someone's life.

The world, however, has changed greatly over the past twenty to thirty years, with scientific, technological and societal advances driving progress forward, but our education system has broadly stayed the same. This lack of reform has missed out on opportunities to ensure that each and every child can be given an enriching and vibrant education, building skills to take with them throughout their life.

Tony Blair's target of sending 50% of young people to university under his Government had mixed responses from across the political spectrum. At The Disability Policy Centre, we believe that the ambition was a noble one, but that the idea of what university (and hence education) *should be* is still too narrow in its view.

Attempts over the years have been made to drive the 'Skills agenda' and much emphasis has been made on apprenticeships. Organisations such as Multiverse, the start-up providing an 'Alternative to University' (and coincidentally set up by Euan Blair - Tony Blair's son) has trained over 5,000 apprenticeships with over 200 companies since 2016[43]. These show that there is a clear demand for skills-based learning, and for people to be able to think creatively and apply their knowledge 'outside of the box', away from the traditional parameters that today's traditional educational institutions provide.

But The Disability Policy Centre does not believe that 'Education' and 'Skills' need to be separate. We believe that from primary school up to university, the education system should be inclusive in such that it promotes skills-based learning, practices that improve employability and makes the most of technological advances to give all of our children today a stimulating and rigorous endeavour - whether or not that is academic excellence that they strive for, or whether their skills are suited elsewhere.

Community, volunteering and activity based examples of past and present, from The Duke of Edinburgh Award to the National Citizens Service, should also be commended for the results that they have produced in enriching the lives and outcomes of young people. Recent research[44] found that 75% of Duke of Edinburgh participants agreed that the programme gave them the opportunity to face new challenges. A 2009 study conducted by The University of Northampton[45] found that 71% of participants felt that the Duke of Edinburgh programme had developed their self belief. Instead of being a non-compulsory option, extra-curricular activities such as these should be at the forefront of the minds of teaching staff and students alike, that these life skills offered are just as important for a young person's development and employability as what is being offered within the classroom today.

The Disability Policy Centre believes that it is possible for every child to succeed, regardless of background, status or ability, but we have an education system that favours those who excel in examinations - which is not necessarily a reflection of what someone is able to accomplish later on in life. We should start from the ground-up, and create an enriching experience for each and every student, tailored to what they are able to offer the world - and through this we can build the foundations to close the Disability Employment Gap once and for all.

4. **Gather evidence of what works in teaching and learning for disabled students, in both Further Education and Higher Education, as well as using international examples. Collate and share this best practice, and highlight this nationally, to be replicated in schools and establishments across the United Kingdom.**

The Disability Policy Centre's research demonstrates that whilst there were stories of poor experiences in Further and Higher Education, many former pupils who had struggled with support and teaching during their school years, had more positive experiences in later years of education. There were a variety of factors for this, from better facilities, more understanding staff, to improved opportunities and experiences of meeting and exceeding reasonable adjustments.

The Disability Policy Centre recommends that alongside the local policy hubs for teaching and learning, examples of best practice in Further and Higher Education are gathered and investigated. From researching and sharing what works for disabled students and individuals with long-term health conditions, we can allow institutions to learn from one another and implement this learning into teaching at every level.

5. **The Department of Education, working across all departments, should continue to strive for smaller class sizes as a means of ensuring that each child is given the right support. Smaller class sizes mean that the likelihood of children with disabilities being diagnosed will hopefully increase, as greater attention from teachers means an increased likelihood of detection.**

It is no great surprise that the parents, carers and guardians who felt that their child had equality of opportunity as a SEND student were those whose children went to independent schools. As discussed earlier in the paper, there are likely a variety of factors that contribute to this, but keeping class sizes small was likely one of them, and has to be a continued target for the Government. The average infant class sizes have risen from 26.6 in 2021 to 26.7 in 2022[46], with the number of infant pupils in 'large class sizes' - those over the statutory limit of 30, rising from 54,200 to 55,900.

which not only has a knock-on effect for teaching staff, who are overworked and under pressure, but this impacts the quality of the education that pupils receive. For SEND students, this means that they likely are not receiving the close attention that they may often need. A potential reason as to why pupils may initially be placed in Pupil Referral Units for their learning. The Government should continue to strive for small class sizes, and begin to set targets both regionally and nationally, in order to ensure that the capacity is there so that all students, but in particular those who need SEN support, can expect an attentive and nurturing environment from the school of their choice.

6. **The Children and Families Act 2014 should be changed so that it is no longer the sole responsibility of the Special Educational Needs Coordinator in a school to coordinate the learning, planning, assessment and monitoring of the progress of SEND pupils. The legislation should be changed to reflect that the responsibility is shared with other teaching staff, ensuring that responsibility is shared and students are not separated.**

It should be the responsibility of every teacher to facilitate the learning for all children in the class, including those who are disabled and have special educational needs. Special Educational Needs Coordinators should be there as expert advisers, coaching the staff of schools on how to best teach and support their disabled pupils. It is not their job, however, to take responsibility away from the lead teacher of a class of students.

In the spirit of an inclusive educational approach, improved training should be given to all teachers, so that they can best understand their students who are disabled or have special educational needs. SENCos should be key advisers, with the ability to support workload or at other times, both on a school to school basis, but also regionally, as proposed in our Local Education Partnerships. The Disability Policy Centre heard frequently that, although incredibly valued, spending too much time with SENCos sometimes made students feel even more isolated from their peers, and at times meant that teachers neglected their responsibilities to better understand their disabled students.

This does not even take into account that 46% of students that we interviewed in our research were not diagnosed during their school years. Inevitably, each class is therefore going to have disabled children who have not yet received a diagnosis, and teaching staff need to be better supported to create a more inclusive environment for those children - who will not yet have a SENCo assigned.

7. **The Government should continue to monitor Alternative Provisions, including Pupil Referral Units, and the numbers of pupils in these provisions who are disabled or have special educational needs. Alternative Provisions should be subject to scrutiny and accountability, with Ofsted style rating for these provisions to ensure accountability and high standards.**

There is rightly a large focus on the role of Alternative Provisions, including Pupil Referral Units, and monitoring data from those from Widening Participation Backgrounds - with Free School Meals being a key indicator of the pupils from families on low incomes. The ratio of these pupils in Pupil Referral Units are correctly monitored, to see how income can impact on someone's education, and therefore life chances.

The Department of Education should now closely monitor the data of the number of SEND pupils in Pupil Referral Units, and whether the numbers indicate that disabled pupils are being excluded from school at an increasingly high rate compared to their peers. The education in Alternative Provisions itself should also be more closely scrutinised, with an Ofsted style inspection system implemented to ensure that the children in Pupil Referral Units, very often the most vulnerable, are receiving the standard of support and education that they deserve, or whether they are falling through the gaps.

The SEND Review of 2022 acknowledges this, highlighting that it has 'become clear that alternative provision is increasingly being used to supplement the SEN system'. The Government has promised to develop a 'bespoke performance framework for alternative provision' which sets 'robust standards, focused on progress, re-integration into mainstream education or sustainable post-16 destinations, developing greater oversight and transparency of pupil movements'.[4] The Disability Policy Centre welcomes this move, and looks forward to holding successive Governments to account on monitoring this progress.

8. **There should be a clear route for accountability for parents, carers and guardians who are not satisfied with the education system and the options that they are being given with their child. This includes an avenue for delivering guidance, support and advice, including legal support for those that need it. Modelled on the Citizens Advice Bureau, the Government should work with partners to establish an independent organisation that can support parents, carers and guardians with advice, advocacy and legal support.**

There were several pieces of feedback during our evidence gathering, of parents, carers and guardians who had poor experiences with the education system for their child. From being turned away from mainstream education, to hiring specialist lawyers to fight for an EHCP, there are clear signs that the system is not working and trust has weakened, with relationships often adversarial. In The Disability Policy Centre's research, there were ongoing tribunal cases in 95% of the Local Authorities that responded to our Freedom of Information Requests.

In the same manner of the Citizens Advice Bureau, parents, carers and guardians should have the ability to go to an organisation that is able to assist them with confidential guidance and advice, including legal support. This can be either charitable or state-funded. These organisations also allow for opportunities for networks to be set up; for parents, carers and guardians to be able to help one another if they have been through similar experiences with their children. The mechanisms for accountability, and routes that are able to be taken if a parent is unhappy with the experience that they are receiving from their child's school, should be laid out by the Government. This clear and present need should justify the founding of an organisation, that can be facilitated by the Government, in the same manner as the Citizens Advice Bureau, specialising in guidance and support for the parents, carers and guardians attempting to navigate an overwhelming and broken system.

Conclusion

This has been a fascinating report to write, and some of the results that we found were truly unexpected, even after our initial research in early 2022, which gave us an overview of the picture ahead.

The number of parents, carers and guardians fighting the system came as unsurprising - including the statistic that nearly 65% stated that they had to 'fight' to receive their child's EHCP. This theme we found throughout our primary research, and it too matches up with previous investigations into this issue, such as those conducted by the Education Select Committee.

What we did not expect to find, however, were the statistics directly from Local Authorities - where we have highlighted the overall picture of each region. One pattern that emerged throughout our research in this part of the report was the alarming number of pupils in Pupil Referral Units that were disabled or have special educational needs, with some Local Authorities admitting that this was 100% of the pupils registered on their system.

Despite the Department for Education highlighting from statistics that hail from back from 2009 and 2010, that SEN pupils were nearly seven times more likely to be permanently excluded than their peers, and despite the increasing reporting of the poorer life chances of pupils who end up in Pupil Referral Units, we at The Disability Policy Centre do not believe that this issue receives enough attention. There is a clear risk that due to a variety of factors, pupils who are disabled or have special educational needs are at risk of permanent exclusion, and are vulnerable to the impact that this will have on the rest of their lives.

The numbers that are also disconcerting are those found from interviewing past and present disabled students, with 46% of our interviewees not having their disability diagnosed throughout their time at school. This highlights a clear problem in our education system, whether that is due to class sizes that are too large, teachers that have inadequate disability training, or whether the issues lie elsewhere, further up in governance and management. Regardless of cause, the people who are missing out are our disabled pupils - many of whom are leaving education without a diagnosis, and therefore more often than not with missed opportunities.

We have a long way to go to fix the education system, and to create an environment in which each and every child can flourish. We hope that the recommendations laid out in this report are a start, and that the debate can now be had as to how we can transform the lives of our disabled children, and those with special educational needs, for generations to come.

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Appendices

- Figure 1: Gov.uk (2022) *Special education needs in England*. Available at: https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england#explore-data-and-files
- Figure 2: *Pupils in all schools, by type of SEN provision*. Available at: *https://explore-education-statistics.service.gov.uk/data-tables/fast-track/70d4fccf-7ebf-4eda-1660-08da47b0392d*

Questions Asked to Local Authorities in England

1. How many children and young people do you have in the borough who you class as being disabled or having Special Educational Needs?
2. How many parents, carers or guardians of SEND children/young people are there that are currently going through the tribunal process in relation to their child's EHCP?
3. How many children in the borough are currently waiting for an EHCP?
4. How many children in the borough have been waiting for an EHCP for over a year?
5. How many children and young people in the borough are there who are disabled or have Special Educational Needs who are currently in Pupil Referral Units?
6. How many children and young people are there in the borough who are disabled or have Special Educational Needs who have at present left one form of education (for example a mainstream school) but are still waiting for a school place and have not yet started their new provision?
7. How many children who are disabled or have SEND are there in the borough who are accessing online learning as their primary form of education provision at the moment?
8. *Follow Up Question:* How many children in total are currently in Pupil Referral Units in the borough?

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