



THE NATIONAL SEND FORUM
MINUTES 21st March 2018, 10.30am

Present: David Bateson OBE (DB) *Chair*, Mark Dale-Emberton (MDE) *FLSE*, Dr Rona Tutt OBE (RT) *NAHT*, Ian Hartwright (IH) *NAHT*, Lucy Hayes (LH) *IPSEA*, Michelle Haywood (MH) *WMRSEND*, Dr Penny Barratt (PB) *SSV*, Neil Dawson (ND) *FLSE*, Barry Payne (BP) *FLSE*, Lorraine Petersen OBE (LP) *FLSE*, Emily Hopkin-Hayes (EHH) *NAS*, Paul Simpson (PS) *BATOD/NatSIP*, Claire Keetch (CK) *NGA*.

Guests: Andre Imich (AI) *DfE*, Daljit Kaur (DK) *BrowneJacobson*

Minutes: Natalie Bambridge (NB)

1. Welcome and Introductions

DB welcomed everyone and introduced new representatives.

2. Changes in representation, guests and links

ND and EHH introduced themselves.

DB welcomed AI who attends alternative meetings. DK would be joining later in the meeting for Item 7.

3. Apologies

Apologies were received from *Browne Jacobson*, *PrusAP*, *SWALSS*, *FLSE NE*, *Firmament Education*, *NASEN*, *ASCL*, *SEN.SE*, *Shaw Trust*, *engage*, *NAS*, *Whole School SEND*, *NNPCF*.

CK would be delayed.

4. Minutes of Last Meeting

Page 2 – The deadline for the Green Paper is 2nd March 2018.

Page 2 – punctuation correction.

Pages 4 and 6 - spelling correction.

Page 5 – The SEN Law conference was held in London.

Page 5 – Correct NDCS to CRIDE.

Page 6 – LP to review KCSIE.

DB has sent perspective NSENDF meeting dates for 2018/19 to MB and is awaiting a response.

The minutes were agreed and would be signed following the above amendments.

CK joined the meeting.

5. Policy and DfE Update (AI)

AI announced the *Bercow: 10 years On* report had been published on 20th March 2018. The report summarises that a lot of good came from the Bercow Report but promises had not been fulfilled. There are a lot of recommendations, suggesting more needs to be done including a curriculum for all. AI confirmed the DfE will reply to the report and consider how to move forward.

AI announced a review of school exclusions has been commissioned, led by Edward Timpson. The review will look at various factors including a focus on children most likely to be excluded. NSEND members raised concern of a lack of accountability for schools illegally or covertly excluding pupils. AI agreed stating there is a need to create a message that schools who exclude pupils with SEND do not necessarily get better results. The review calls for evidence and its direction would be shaped from this. Various concerns were raised and AI responded where appropriate:

- Wide range of drivers leading to exclusion such as the accountability measures, funding, services, behavioural issues, non-inclusive curriculum, increased pressure on school leaders and exclusion being sold as an opportunity to parents for their child to be better served elsewhere.
- It was questioned how SEND funding to schools is monitored and reviewed: AI said that funding was given to schools and support services instead of LAs in 2011 but there is no evidence of support services within schools.
- There is evidence that the schools with high levels of exclusion are often seen to have outstanding leadership: AI said more DfE leaders are making public speeches to address this issue and change the message. There is a need to ensure schools understand that Ofsted recognise inclusivity in schools.

PB joined the meeting

- IH gave the opinion that we need to move away from blaming school leaders, there are a range of driving factors that pressure leaders in to excluding pupils: AI responded that the leadership make the decision on exclusions.
- In order to support 21st century pupils, schools can't increasingly rely on teaching assistants and tight budgets are putting these roles at risk.
- Need to consider the future costs of the children on society when there is inadequate support in early years. Data is available, provisions need to come together to problem solve this issue.
- There is still an idea that children should reach certain levels at certain ages. There would be a better outlook if these standards were spread and a personalised approach not only recognised the progress made from respective starting points but also recognised different timings for end points.
- Sometimes exclusion is necessary to highlight a problem.
- Support is needed for and would be welcomed by headteachers.
- The process of exclusion often means a child is spending a period of time outside of schools not receiving education. Legal awareness in this case needs to be raised.
- Exclusion suggests an 'end', it should be a managed move.

AI added there are areas of best practice with zero permanent exclusions recognised by Ofsted and CQC. When questioned if NSEND could contribute to the review AI said evidence would be welcomed.

AI informed the group a review of Alternative Provision (AP) had been announced on 16th March 2018. There will be a £4,000,000 AP fund to test and develop projects to get children back into mainstream school and encourage parent/carer involvement. There has been a call for evidence to improve education outcomes for children in need. The AP review will account for select committee

involvement. There will be an opportunity to bid for some of these projects, the bidding round will close 22nd April 2018. The funding is intended for 2 academic years.

An announcement is due regarding a new round of applications for special free schools and how this will be approached next time. When asked if there will also be a drive for AP pre-schools AI responded that this is likely to be announced also.

AI informed the group that LAs published their capital plans recently and the DfE is currently looking through these, inspecting quality and ensuring they meet criteria. If plans are poor or do not meet criteria they are returned for amendment. This was discussed with various issues raised:

- There is a lack of strategic capital investment, particularly if an LA is charged with providing places but able to influence how places are allocated: AI said some areas feel their LA does not provide support for special schools. There are lots of challenges and we can expect to see evidence at consultation.
- Suggestions of satellite provisions being developed and an expansion of children sitting on dual roll with mainstream and special schools: AI suggested schools should take responsibility for children on their roll. The AP review should detect any issues.
- The national picture shows there is increased pressure on admissions to special schools putting high needs under strain.
- Funding needed for early intervention.
- Need for SEND training both at ITT and throughout career. Teachers need an awareness of the different levels of SEND in schools.

AI reminded members the transfer of statements to EHCPs is nearing its deadline of 31st March 2018. AI confirmed that any statements not transferred by this date would remain legally binding. Most transfers should be complete by the deadline, with a small amount outstanding. Concerns were raised to the quality of rushed EHCPs. AI said that some areas started later than others and have hurried to complete the plans. The DfE's priority from April 2018 will be to set an annual review in place. When questioned, AI agreed that the health and social care part of EHCPs is the largest problem and suggested this will be highlighted in the one-year on report by CQC. AI said the Redress Trial would begin 3rd April 2018, allowing parents to appeal their EHCPs at tribunal. This is a two-year pilot. Any tribunal recommendations are non-binding though the DfE would expect them to be followed. Any reasons not to follow recommendations need to be put in writing to CCG. DfE and IPSEA have been delivering training to health and social care sectors with a range of tools and webinars available. LH stated this is a catalyst for greater engagement and joint working with these sectors. A small pilot was run and showed social care teams did not have enough awareness of what they need to be doing in EHCPs. At tribunal stage, there will be a judge, specialist member for education and a specialist member for health and social care. The Redress Trial will be followed up by a review. Various concerns were raised and addressed:

- EHCPs make it difficult to establish which section to put each aspect if they overlap: LH confirmed in terms of law, anything education/training based goes into the education sector of the plan but there is no law on who provides the funding, this is a local arrangement.
- Issues of parents settling early in tribunals and being paid by other stakeholders to settle with partial access to services: AI said some tribunals may get resolved before going to hearing which is considered a healthy outcome. An independent research team will be working with 12 LAs and a selection of parents to gather a wide range of evidence of all issues and reporting at the end of the Redress Trial.

AI was asked for an update on the Restriction and Restraint Consultation. AI responded there is currently no timeframe as this is a sensitive area to get right. AI will relay to the DfE that NSENDF were inquiring and that there are concerns how specialist provision focussed it is and still lacks clarity.

AI was asked who was responsible for the monitoring of mandatory qualifications for the teaching of the deaf. AI stated responsibility lies with the employer. Academies have been told by DfE that SENCOs must be qualified.

DB thanked AI.

AI left the meeting.

6. Update of January agenda consultations and responses.

Following consultation with various NSENDF members, Claire Dorer (CD) responded to the Green Paper on behalf of the group. EHH relayed a message from CD asking that other members also offer to help with group responses on behalf of NSENDF.

LP has responded to KCSIE on behalf of NSENDF. LP did not receive a lot of feedback from NSENDF members so the response was kept generic and non-controversial. LP will send NB a copy of the response to be circulated with the minutes.

ACTION: LP/NB

7. Data protection briefing (DK)

DK joined the meeting and DB welcomed her.

DK gave a presentation on the on the General Data Protection Regulation (GDPR) which comes into effect across Europe from 25th May 2018 with a data protection bill to be issued in the UK. DK explained this is an update from the Data Protection Act 1998, the main concepts remain unchanged with some elements enhanced. Fines for not enforcing the GDPR rules can reach £20,000,000. Fines are not based on an organisation's income but more likely to be influenced by factors such as continued misconduct. DK stated that GDPR is not education specific, the UK bill will look into specific elements such as education.

DK gave a presentation highlighting the areas of preparation, definition, main principles, accountability and next steps. Schools and organisations would need to appoint a designated Data Protection Officer. Questions were raised and DK responded:

- Where do schools stand in terms of managing/sharing data and consent? DK said the law is specific on mental capacity and age of responsibility, though there is still some confusion on legalities of consent for a child. Although the GDPR comes into effect from 25th May 2018, the UK may not yet have agreed on regulation. The bill is currently at committee stage in the House of Commons.
- When questioned how long consent lasts DK stated this could be the lifetime of a child within school, though it needs to be considered that consent can be withdrawn at any time. Pupils/parents need to be given a full and clear picture of what they are consenting to. DK said consent should be the last area to rely on in processing individuals.
- DK was asked about organisations processing members data, particularly long-standing members. DK agreed to check on this area and forward on a response.
- When questioned about safeguarding DK was clear that safeguarding would take priority over all other areas. Where schools see a potential future safeguarding issue regarding a specific pupil, data should be kept.

DB thanked DK.

DK left the meeting**8. Whole School SEND bid (AB)**

AB was not present for this item – to be carried forward to next meeting.

9. Update from members: successes, issues and events

DB informed the group he had spoken at the NAHT Specialist conference and at the SWALSS conference. Kamini Gadhok (KG) of Royal College of Speech and Language Therapists (RCSLT) was at the NAHT conference and is keen to work with NSEND. KG provided information on a Communication Matters consultation and DB will forward the link to members.

ACTION: DB**NAS**

DB relayed a message from Melanie Foster (MF) in her absence.

The National Autism and Education Strategy report has been launched. The DfE are due to respond later in the year.

NAS have linked with Shaw Trust to improve the percentage of people with SEND getting into work.

NAS are developing a guide for schools highlighting SEND best practice.

NAS are responding to the Green Paper and contributing to the CQC revision on the same topic.

The NAS conference took place on 7th-8th March 2018 and was successful.

Shaw Trust

DB relayed a message from Nick Carey (NC) in his absence.

Shaw Trust is organising a team for the Global IT Challenge for disabled people, using the role of technology to break down barriers of inclusion. NC attended the previous two events and found them to be inspirational. Shaw Trust will be holding an UK competition in May 2018 in order to select a team – information is on the Shaw Trust website.

DB enquired and members agreed they would welcome a verbal presentation on this topic at the next meeting. DB to invite NC.

ACTION: DB**NGA (CK)**

No updates.

BATOD/NatSIP (PS)

The BATOD annual conference was held 17th March 2018.

A new BATOD website and logo has been launched.

There is concern over the supply of teachers for the deaf. The age profile of teachers for the deaf is not encouraging. There is a healthy input of younger teachers though they often already in a teaching role when training.

There is concern over the mandatory qualification. BATOD will pursue this with the DfE and Ofsted. Awareness needs to be raised among trustees and school governors. CK offered to look into this.

NatSIP is concerned that funding has reduced.

There are various standalone activities in 2018. NatSIP are developing online courses for a range of people in schools to access for pupils with sensory impairment.

NASS (EHH)

NASS are rolling out SEND review training which has been popular.

SSV (PB)

SSV met with AI and other DfE representatives. She confirmed the new Minister for Education is interested in vulnerable groups and understood the pressures on special schools. There is an opportunity for NSEND to keep pushing this agenda.

WM Research SEND (MH)

WMRSEND have had their second meeting.

A focus group on how to engage with LAs in West Midlands has been established. There is a possibility to set up research to collect information on speech and language in West Midlands, looking at areas of good practice.

WMRSEND is looking at an opportunity to work jointly with FLSE West Midlands.

MWRSEND are involved in a support project with a regional centre of excellence. University of Wolverhampton may be able to provide Masters or PhD students to support the project.

The WMRSEND conference has sold out. The next available event is due to be held at University of Wolverhampton on 23rd June 2018. MH is happy to circulate the link to interested members. A further event is looking to be held in November 2018, NSEND members would be welcome to contribute.

MH has written an article on WMRSEND for a NASEN journal.

IPSEA (LH)

The SEN Law conference took place and was successful. IPSEA are considering repeating the event in 2019.

The EHCP deadline is approaching. A transition briefing is available on the IPSEA website. There is concern for young people entering FE or turning 19 as they can't be supported on their old plans. LH advised if anyone is affected to contact IPSEA. IPSEA are supporting parents with poor EHCPs looking to appeal. IPSEA will be looking to support parents when the Redress Trial starts, looking for test cases to work on.

There has been increasing disputes regarding transport. LA budgets are tight and transport seems to be being cut despite it being a legal requirement. Some LAs are paying parents directly to transport their children to school, this is legal if parents agree.

NAHT (RT/IH)

NAHT are issuing guidance to members regarding EHCPs.

Recruitment and retention is a high priority issue. IH said NAHT are happy to support BATOD regarding the shortage of teachers for the deaf.

An assessment review group has been set up to look at whether there has been success in changing the primary assessments and accountability. The report is due to conclude in July 2018, publication due September 2018. NAHT want a long-term future for accountability, supplementing the Green Paper and KCSIE.

NAHT are working with the DfE regarding pre-key stage standards, this is working well.

NAHT will be responding to the exclusion review.

The joint NAHT and Royal College of Psychiatrists took place on 30th January 2018 and was successful.

The Special Schools and Specialist Provision Conference took place on 8th-9th March 2018 and was successful. Matthew Barnes of Ofsted and KG of RCSLT held workshops respectively and both were well received. Aaron Phipps, Paralympian gave an inspiring speech and RT highly recommends him as a speaker.

The NAHT annual conference is due to be held 3rd-5th May 2018 in Liverpool.

FLSE (MDE/BP/LP)

MDE attended a meeting with SSV. Ministers are listening to issues of funding for vulnerable people.

There are concerns over finance difficulties for special schools due to the increase in support staff pay.

Schools are voicing frustration that Ofsted are rating schools on the cusp of a higher grade and returning to inspect within one or two years. MDE stated, if schools disagree they can write to the commissioner. IH welcomed evidence of Ofsted issues.

BP congratulated IPSEA in their success in providing parents with legal advice, however, there is concern that tribunals are increasingly being used as an admission tool, putting unnecessary

pressure on school leaders when capacity is already beyond its limits causing safety issues. LH responded that IPSEA support parents in applying law, there is a wider issue relating to failures in relationships between parents and LAs and mainstream schools not helping.

11. NSEND website

BATOD to send LP their new logo for amending on the website.

ACTION: PS/LP

Only five organisations have information on the website. LP advised organisations to check this information and forward any updates.

ACTION: ALL

LP advised members that, once approved, minutes are put on the NSEND website.

12. Any focus for action

- LP to send copy of response to KCSIE to NB for circulating with minutes.
- DB to forward the link for the Communication Matters consultation to members.
- DB to invite NC, Lorraine Mulroney of the NHS and Kamini Gadhok (RCSLT) to speak at future meetings regarding the IT Global Challenge, children's health provision and communication issues.
- BATOD to send LP the new logo.
- Members to send LP updated information for the NSEND website.

13. AOB

DB expressed that with 20 different organisations, opinions are likely to differ but that is what the forum is about and why it works well. NSEND allows members to influence and support each other but cannot always speak with a single united voice because of how members need then to consult with their relative constituencies. DB suggested an agenda item at the next meeting to discuss the purpose of NSEND, moving forward and sustainability. FLSE carries the greatest risk with NSEND, having set up and funded the forum and it continues to underwrite nearly all the cost which it cannot do into the future. BP added that FLSE would be analysing the cost of NSEND and would bring figures the next meeting to discuss funding and allow organisations to make decisions about their continued membership when the costs are revised.

DB reminded members that BrowneJacobson would kindly continue to provide the free room and he would send dates out for 18-19 asap.

AGENDA ITEM: Purpose of NSEND and funding

DB gave a speech at the SWALSS conference on 25th January 2018.

LP suggested to dedicate some time at the next meeting to gather views on the school exclusion review in order to generate a collective response. However, the deadline of 6th May 2018 is ahead of the next meeting, so it was suggested for organisations to respond separately.

Any further suggestions for invitees or agenda items to be forwarded to DB.

Meeting closed 2.45pm