

May 2026

SEND reform consultation: putting children and young people first

Question 39: Is there anything further you would like to contribute to help inform the remaining proposals that are still under consideration?

About Just Fair

Just Fair is a UK civil society organisation that works to achieve lasting, positive change through the promotion and protection of economic, social and cultural rights. The aims of Just Fair are to increase awareness and understanding of these rights; encourage UK governments and public authorities to respect, protect and fulfil these rights; and support individuals and groups to advocate for their rights.

Key message

We welcome aspects of the proposed SEND reforms, particularly the emphasis on inclusion, early intervention and joined up working across education and health. However, these reforms must not result in children having reduced access to their legally protected rights. Any reform of the SEND system must strengthen, not weaken, the UK's compliance with its domestic and international human rights obligations, including the right to the highest attainable standard of physical and mental health.

The right to health

Our answer to question 39 focuses on the potential implications of the proposed SEND reforms for the right to health of children and young people with SEND. This right is protected by a range of international human rights treaties ratified by the UK, including the UN [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#), the UN [Convention on the Rights of Persons with Disabilities \(CRPD\)](#) and the UN [Convention on the Rights of the Child \(CRC\)](#).

States are required to ensure that health provision is Available, Accessible, Acceptable and of good Quality (the AAAQ framework set out in the UN Committee on Economic, Social and Cultural Rights [General Comment No.14: The Right to the Highest Attainable Standard of Health](#)), and to use the maximum available resources to progressively realise this right. The right to health is not limited to healthcare services and includes the underlying determinants of health.

Key concerns

There are many positive elements within the proposed SEND reforms, including the focus on inclusion, early intervention and partnership working. Taken together, these reforms could offer the potential for meaningful, long-term improvement for children and young people with SEND. The language of inclusion and participation also reflects important human rights principles, including equality and non-discrimination.

However, alongside these positive aspects, there are a number of concerning proposals which risk undermining children's rights, including the right to health. These risks are set out below.

A missed opportunity to embed a rights-based approach

The Schools White Paper aims to promote inclusion and to address inequality of opportunity created by years of systemic failure. This represented a clear opportunity to place human rights at the centre of SEND reform.

In its [2025 report on the SEND system](#), the Education Committee noted:

“The UK is a signatory member of the UNCRPD since 2008. It would be helpful in developing any definition of inclusive education for the Department for Education to draw on the principles and substantive materials in relevant articles of this Convention. This should include Article 24 on education, Article 25 on health and others.”

The Government’s proposed reforms to the SEND system state that “this consultation is about the realisation of children’s rights” and makes reference to consideration of the UNCRPD. However, despite this reference, it is unclear how human rights have been meaningfully embedded in the proposals. While human rights principles are reflected to some extent through the language of inclusion and participation, and the Government has undertaken a rights impact assessment, there is no real detail on how rights would be realised through the reforms in practice. Rights are referred to as a general concept, with no specific practical focus on the rights in question such as the right to health, the right to education, and key rights under the [Human Rights Act 1998](#) relating to dignity, autonomy, wellbeing and freedom from discrimination.

Given that the proposed reforms could significantly alter how health needs for children and young people with SEND are assessed and supported, it is disappointing that there is no clear articulation of how state obligations under the right to health will be met. As the proposed reforms rely on better collaboration with health bodies, a focus on the right to health, as well as a wider focus on rights, would have provided a useful framework for schools, local authorities and Integrated Care Boards (ICB’s) to work together.

Just Fair recommends that in the next stages of policy development, the Government explicitly draw on national and international human rights law and practice, including the right to health and the AAAQ framework, to inform the next stage of SEND reform.

Accessibility, availability, acceptability and quality of health provision:

The Government rightly recognises the importance of children and young people with SEND having access to trained health professionals such as speech and language therapists, occupational therapists, physiotherapists and educational psychologists. These professionals can provide vital health related support to children so that they can successfully access and engage with education.

We welcome the Experts at Hand proposals to improve schools’ and therefore children and young people with SEND’s access to these professionals. However, there are serious questions about workforce availability and sustainability. [A recent report](#) from the Education Policy Institute

on Educational Psychologists (Eps) in England found that there were only an estimated 3,400 EPs (full-time equivalent) working in England, including those not in LA services. The report explains that “this is equivalent to 2.3 EPs per 1,000 children with SEND, nationally, with extreme levels of variation across authorities that cannot plausibly be explained by differences in need.” Similarly, the speech and language therapy workforce is under huge strain. [NHS England Community health service waiting lists](#) showed that in January 2026, 65,540 children in England were waiting for speech and language therapy, with nearly 5,000 waiting over a year for support.

Without the recruitment and retention of enough qualified professionals, the proposed reforms risk falling short of meeting the health needs of children and young people with SEND. It is vital that the Department of Health and Social Care’s upcoming 10 Year Workforce Plan takes into account the specialist health professionals these reforms require. The interdependent nature of rights means that successful provision and rights protections require coordination and integration between policy and departments. In this context the Department of Education and the Department of Health and Social Care must work together to safeguard children and young people with SEND’s rights to education and health.

Accountability

The reforms propose a move to a focus on inclusion throughout mainstream schooling alongside tiers of support for children and young people with SEND. It introduces Targeted Support and Specialist Support, both of which would be organised by an Individual Support Plan (ISP) created by the educational setting. Under this system, Education Health and Care Plans (EHCPs) would only be for children and young people with “critical needs”.

Whilst it is positive to see the Government championing inclusion within mainstream provision, Just Fair has some concerns about the impact that the proposed changes to the delivery of support will have on rights.

Under the reforms, schools would have a statutory duty to provide an ISP, but it is unclear how this duty would be legally enforced. Children and young people with ISPs would not have access to the SEND Tribunal and would instead be expected to rely on school complaints processes and mediation. This risks placing parents and children in adversarial relationships with schools and does not provide an effective, independent remedy when health and educational needs are not met.

The reforms state that SEND changes will work “hand-in-hand” with those set out in the NHS 10 Year Health Plan, with a focus on early intervention through integrated health, care and family services. While integration is welcome in principle, it remains unclear how Integrated Care Boards (ICBs), already subject to restructure through NHS reform, will be held accountable for meeting health related elements of SEND support, particularly where children do not have EHCPs. Although proposed changes to Ofsted and CQC inspection regimes are welcome, inspection alone is not a sufficient accountability mechanism, especially given the group of



people in question. Delays in support can have a huge long-term impact both on the physical and mental health and educational experience of children and young people with SEND. A delay of a

year for example is twenty percent of a young person's secondary school education, during which they are not receiving vital support to help them fully engage and thrive in education.

As part of the proposed changes, if EHCPs are reserved for those with “critical needs” it is likely that over time there will be fewer children and young people with EHCPs. This will mean that in practice fewer families will have access to a SEND tribunal. Whilst Just Fair understands that the reforms aim to deliver more support at an earlier stage across the board and therefore reduce the need for EHCPs, this is still a huge concern. It represents a significant reduction in access to legal protections for children and young people with SEND and removes a vital safety net that families need in case things do go wrong. This reform is in complete contrast to the recommendation of the [Education Committee’s Report 2025](#) which said that:

“The Department’s SEND reforms must not be based on any withdrawal of statutory entitlements for children and young people with SEND”

The [National Teachers Union](#) have also spoken on the importance of accountability, saying that:

“Legal rights, underpinned by clear accountability, are essential to ensure children and young people with SEND receive the support to which they are entitled”.

The reforms also represent a missed opportunity to strengthen accountability of ICBs and NHS trusts and strengthen partnership working (a key aim of the proposals). Currently, while tribunals make legally binding decisions for local authorities, health recommendations are not binding. Stronger levers are needed to ensure that health bodies meet their obligations and treat SEND as a priority.

We recommend that the Government preserves access to existing legal protections and ensures that any new system includes robust, independent and accessible routes to challenge failures in provision, especially for ISPs. This could include extending the remit of the Local Government Ombudsman as recommended by the [Education Committee in 2025](#) as well as strengthening the power of the SEND tribunal.

Mental health provision:

The commitment to rolling out mental health support teams to schools between 2025 and 2030 is welcome. However, the White Paper proposes a shift from the current four broad areas of need (which include mental health) to five areas of development that do not include mental health needs. There is a risk here that mental health needs become disconnected from assessments and support for children and young people with SEND. This is concerning given the increase in mental health issues amongst this age group and that mental health issues are often more likely to be experienced by children and young people with SEND. [A study by Kings College](#) found that neurodiverse children and young people are three to six times more likely than their peers to have mental health issues such as anxiety and depression. It is also not clear in the proposals how the

mental health support teams will be organised and how accessible they will be to children and young people with SEND.

The loss of a person-centred approach

The proposals shift EHCPs away from a person-centred approach that looks at what support an individual child or young person with SEND needs to be able to access and engage in education. Instead EHCP provision will be based on whether a child or young person with SEND fits into one or some of seven Specialist Provision Packages (SPPs). From a right to health perspective, there is a risk that individual health needs might not be properly identified and that children do not get the support they need because they do not fit into specific predetermined categories. Children and young people with SEND often have a fluctuating and unique needs and which may not always be immediately visible. It is unclear how support will be defined and who might qualify for it as the SPPs have not been designed yet but there is a real risk that children and young people with atypical presentations may not get the support they need.

The right to health requires a personalised, holistic approach that recognises the unique needs of each person and understands that individuals and families themselves are the experts in their own lives. Public bodies such as ICB's and schools also have a duty under article 8 of the Human Rights Act to protect children's wellbeing and autonomy. Any move away from genuine person-centred planning risks undermining children's ability not only to remain in school, but to flourish.

Just Fair recommends that Government further explores how to best to provide support that meets the individual and unique health and education needs of children and young people with SEND. Key to this will be involving children and young people with SEND and their loved ones in the development of the Specialist Provision Packages.

Provision for children and young people aged 16+

Just Fair is also concerned about a lack of detail regarding support for young people with SEND aged 16 and over. Whilst the proposals aim to support young people with SEND to continue in education, training or towards employment, it is unclear how this will work in practice given that the reforms focus on schools taking a lead role, but many young people will no longer be in a school-based setting.

This is a critical transitional period for health, education and independence, yet there is a real possibility that the proposed reforms will mean that some young people will slip through the net. Given the Government's focus on NEET: young people not in education, employment or training, SEND provision for children and young people aged 16 and over must be strengthened.

Just Fair recommends that the Government develop more concrete proposals around how health and educational needs of young people aged 16 and over will be met.

The consultation process

The consultation process itself raises concerns. A rights-based approach to policy development requires meaningful participation by children and young people with SEND and their families and carers. The consultation only applies to certain elements of the proposed SEND reforms and it appears that some of the most important aspects of the reforms such as the shift to

predetermined Specialist Provision Packages and Individual Support Plans have already been decided on.

The SEND reforms should have regard to Article 12 of the [UN Convention on the Rights of the Child](#) (ratified by the UK in 1991) which protects children's right to express their views and for these to be taken into account. It is important that people with lived experience of SEND and health and education provision play a key role in shaping reforms going forward. This is particularly crucial in terms of informing the determination of critical needs, the definitions of the seven Specialist Provision Packages (SPPs), the national inclusion standards and the universal offer.

Just Fair recommends that the Government genuinely uses the feedback from this consultation to inform the next stages of policy development and that children and young people's rights are given explicit consideration

The importance of commencing Section 1 of the Equality Act – the socio-economic duty - and establishing schools as duty bearers

A key aim of the [Schools White Paper](#) is to improve outcomes for disadvantaged children. The proposed SEND reforms, alongside the wider aims of the Schools White Paper present a crucial reminder of the importance of delivering on the Labour manifesto promise to commence the socio-economic duty (SED) under Section 1 of the Equality Act 2010 and to include schools as listed duty bearers in the Act.

The SED requires public authorities, when making strategic decisions to pay due regard to the way in which their strategic decisions increase or decrease inequalities that result from socio-economic disadvantage. As evidenced by a recent report from the [Sutton Trust](#), children and young people with SEND are disproportionately affected by poverty, deprivation and structural inequality, all of which can have significant impacts on health.

Given that under the proposed reforms, schools will play a central role in the delivery of support for children and young people with SEND, it is essential that schools be included as duty bearers under the SED. It would provide an additional tool for schools to support those children most affected by socio economic disadvantage as it would require them to proactively consider how their policies and practices impact on disadvantaged children and young people with SEND. The SED could also help to deliver a greater consistency of support across the educational system given the different types of state school provision. It would also provide an additional lever to encourage schools to focus on the White Paper's aims of inclusion and equality of opportunity for all children.

Just Fair urges the Government to commence Section 1 of the Equality Act – the socio-economic duty and include schools as duty bearers.

Conclusion

The proposed reforms present a significant opportunity to improve outcomes for children and young people with SEND, but they also carry clear risks if rights are not meaningfully embedded in their design and delivery.

Just Fair urges the Government to place rights at the centre of the next stages of the reforms, ensuring that the rights of children and young people with SEND, particularly the right to health, are explicitly reflected in policy and practice. This must include strong accountability, clear legal protections, adequate resourcing and genuine engagement with, and listening to, the children, families and communities most affected by these changes.

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