

# INVESTIGATION: THE BROKEN SPECIAL NEEDS SYSTEM



As the government launches a major consultation about the future of SEND provision, a joint investigation by Schools Week and the Bureau of Investigative Journalism reveals the scale of the challenge ahead to fix a broken system ...

**SCHOOLS  
WEEK**

**THE BUREAU  
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State-funded special schools are setting up classrooms in staffrooms and converting therapy spaces as a surge in pupils with additional needs creates a places crisis.

This in turn pushes cash-strapped councils into bigger deficits as they send more youngsters to costly private schools or to other schools sometimes hundreds of miles away.

We can reveal today that the special needs funding black hole has risen to £1.3bn, up by £465m in a single year.

It means three quarters of councils now have SEND funding deficits, some of which even doubled or tripled in 12 months.

The cash crisis means councils attempt to cut costs with new measures – such as support “thresholds” – that make it more difficult for children to receive support.

The pressures of rising demand and increasing complexity of need has left councils without enough state-funded provision to cope.

New figures suggest more than half of special schools are at or over capacity –

pushing leaders to give up staffrooms and other areas such as therapy spaces just to meet demand.

The places shortfall means 43,000 pupils with special needs are placed in schools outside their home area, with 3,300 in settings an estimated 20 miles or more away.

More than 100 children were placed in schools in excess of 200 miles from where they live.

Katie Ghose, chief executive of the disabilities charity Kids, said the findings were a “stark reminder of the gap between the support disabled children and their families need to thrive and the funds available to local authorities”.

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THE BROKEN SPECIAL NEEDS SYSTEM

# No place to go: special schools' capacity crisis

**SAMANTHA BOOTH**  
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Special school leaders are being forced to cram vulnerable pupils into converted therapy spaces and staffrooms as surging demand and scarce places elsewhere pushes them over capacity.

New figures shed light for the first time on the places crisis in state-funded special schools – some of which are breaching building safety guidelines because pupils have nowhere else to go.

As well as pushing special schools over capacity, councils are forced to place more youngsters in costly independent schools – pushing their high-needs funding black hole to £1.3 billion (see page 4 and 5).

Warren Carratt, chief executive of Nexus Multi Academy Trust, which has nine special schools, said: "It's a perfect storm for the quality of education to start to reduce in special schools. They are being forced into an impossible position where they are having to take more pupils – and no one has a grip on it."

### Heads get 'creative' to avoid saying no

The government does not collect capacity data for special schools, which instead falls to local authorities.

However, many councils said they were unable to provide figures. Councils said the physical capacity of a school will change based upon the needs of children.

Councils commission places for SEND pupils, which is done in consultation with the school. Experts said the commissioned places figure was a good proxy to use to show a school's capacity. However this could underplay the true figures - as our investigation found many commissioned numbers were actually already above official estimates on how many pupils schools can accommodate.

Freedom of Information data obtained by Schools Week shows that 54 per cent of special schools had more pupils on roll than the number commissioned by their council. This was a 15 per cent rise from 2017-18.

While not directly comparable, around 20 per cent of mainstream schools were at or over capacity, based on government data



**“ Schools are being forced into an impossible position – and no one has a grip on it**

collected in May.

The failure to keep up with rising needs also comes despite more than £380 million being spent on expansions, new buildings or new schools in the 51 councils that responded to our request.

Abbey School, part of the Nexus trust, has been oversubscribed by between 30 to 50 pupils each year, despite the commissioned places by Rotherham Council increasing from 86 to 171 since 2017.

Over the trust's nine schools, there are 1,126 children on roll against a commissioned places figure of 939.

To cope, seven Nexus schools have expanded into satellite provision. This includes a disused pupil referral unit in Doncaster. But the £120,000 a year to fund it is coming out of the trust's own pocket.

Schools must admit a pupil if named on their EHCP. Leaders also said they were reluctant to turn vulnerable children away.

While councils can refuse requests, this is often challenged by parents who normally

win in costly tribunals.

Carratt added: "If we don't find creative ways, we find ourselves with overcrowded classrooms or inadequate provision

which puts us at risk of getting a 'requires improvement' or 'inadequate' Ofsted."



Warren Carratt

### Staff move kitchens to cupboards

Cedars School in Gateshead has turned an on-site garage, a large cupboard storing physiotherapy equipment and the staffroom into classrooms, as well as a satellite site costing £40,000 a year. The school is 33 places oversubscribed this year.

Headteacher Michelle O'Rielly said they try to make "sensible" changes, but "have reached a point now where we are at capacity".

"It wasn't so bad with Covid, but at the moment we haven't got a staffroom. We've created little kitchen areas in little cupboards, and nooks and crannies. Staff were supportive, but it is something we need to look at to make sure we've got the space for

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## “ School stock is physically unable to meet the needs of the pupils

them too.”

Kris Williams, headteacher at James Rennie School, in Cumbria, said increasing complexity of need, as well as rising demand, means “school stock is physically unable to meet the needs of the pupils”.

Nationwide, the number of pupils with EHCPs has risen from 237,000 in 2015-16 (2.8 per cent of all pupils) to 326,000 last year (3.7 per cent).

The number of children with autism listed as their primary need as soared from 66,723 in 2017 to 92,567. Children with severe learning difficulties has risen from 29,532 to 31,300.

The academy, in Cumbria, has sacrificed specialist therapy rooms for teaching spaces. Children now get physiotherapy in class. Funded by the local authority, a disused church will also be converted into a sixth form block.

All five special schools in Oldham are oversubscribed, with the gap between commissioned numbers and pupils actually on roll rising from 60 to 152 over the past five years.

The council said it attracts high numbers of pupils from other areas. It is now focusing on early identification so mainstream schools can better “meet the needs of pupils without the necessity of an EHCP”.

### Councils' special school capacity blindspot

Most authorities said they could not provide capacity data. Of those that did, some were years old, with one council saying their last assessment was in 2017.

In Coventry, most special schools are over capacity, based on a council assessment using non-statutory government guidelines for building sizes. The guidance recommends how much space is required per pupil, based on their needs.

For example, Sherbourne Fields School has a building capacity of 197 pupils, but its commissioned places for this year sat at 220 and it had 221 youngsters on roll.

The Department for Education’s own predictions show the state-funded special school population will continue to rise before peaking at 121,000 pupils in 2024, up from 113,000 in 2020.

North Yorkshire Council predicts a 21 per cent rise in demand. Gateshead, which needs ten per cent more places by 2024-

25, said there is “no capacity or ability to stretch” schools to accommodate this.

Annamarie Hassall, chief executive at the National Association for Special Educational Needs, said more “strategic planning” was needed from government and councils.

“School leaders work so hard to make sure this didn’t have a negative impact, but they might be making short-term choices and not long-term solutions.”

Some areas seem to be getting a handle on the issue, though.

In Devon, for instance, the number of schools with more pupils than commissioned places has dropped from eight to five. This is despite the number of children with EHCPs in Devon more than doubling since 2018.

But more than £17 million has been spent on expanding schools.

Graham Quinn, chief executive of the New Bridge Academy Trust, also said having more pupils allows them to “work a scale. We view that as a positive as there’s no doubt at all that some of the curriculum opportunities we have have been a direct consequence of having large numbers.”

Newbridge school, part of New Bridge Academy Trust in Oldham, is 104 places oversubscribed and has satellite buildings.

Ministers have pledged £2.6 billion to create 30,000 new places for children

with SEND over the next three years.

This includes capital funding worth £1.4 billion for councils to “improve existing provision” and help “stabilise local systems” before SEND review reforms are introduced.

On top of the £2.6 billion, government wants “up to” 40 new special and AP free schools in “regions where they most needed”. This is on top of 60 that are “in the pipeline”.

But Carratt said the funding addresses “historical underfunding” of high needs budgets. “It does little to meet further growth needs and there is no immediacy that can help rebalance the system now, so that it is fit for purpose in future years”.

He said historical deficits should be wiped - like NHS trusts - “and a clear long term plan agreed that recognised expected increases in demand”.

### SPECIAL SCHOOL PLACES CRISIS: THE STATS

**37% MORE PUPILS WITH AN EHCP SINCE 2015**

**JUST 21 MORE SPECIAL SCHOOLS SINCE 2017**

**54% SPECIAL SCHOOLS NOW TAKE MORE PUPILS THAN COMMISSIONED**

**15% RISE IN ‘OVERSUBSCRIBED’ SPECIAL SCHOOLS**



Annamarie Hassall

## THE BROKEN SPECIAL NEEDS SYSTEM

# Revealed: The (spiralling) cost of a system in crisis

**GARETH DAVIES AND SAMANTHA BOOTH**  
@SCHOOLSWEEK

A financial black hole at the heart of the SEND system has ballooned to £1.3 billion this year, an increase of more than £450 million in just 12 months as the places crisis bites.

The spiralling local authority deficits reveal the costly toll of a broken system. The dual pressures of rising demand and increasing complexity of need have left councils without enough state-funded provision to cope and hugely reliant on costly independent schools.

For instance, spending on private school places by cash-strapped councils handed government bailouts to keep afloat has risen by two thirds.

The recent SEND review attempts to solve the cost problem at the start – by keeping more children in mainstream schooling to dampen rising demand.

But reforms could be years away. In the meantime, our investigation has found 21 councils already now reject one in every three requests for education health and care plan (EHCP) assessments.

More councils also plan cost-cutting measures that threaten to prevent children from receiving support, or to reduce or remove the help they now receive.

## 75% of councils amass deficits

Three in every four councils, who are legally obliged to organise and fund EHCP arrangements, have amassed deficits in their high-needs budgets, analysis by the Bureau of Investigative Journalism (TBIJ) reveals.

Kent, Surrey, Devon, Hampshire and Norfolk are particularly badly affected.

Deficits across these five councils were together expected to grow by almost £190 million in the past 12 months.

Bournemouth, Christchurch and Poole Council's deficit more than doubled to £18.6 million in 2021-22. Independent school placements are the most significant pressure on its budget. The council had hoped to reduce these but admitted "there is no



“ Councils lack the levers to bring this spending under control

indication yet this can be achieved”.

Hillingdon Council in west London recently required emergency government intervention to reduce its £34 million special needs debt. A lack of capacity in-borough means there is “an expectation” that independent schools “will become the only route the council will be able to take until more provision is created locally”.

Kent's deficit has reached £103 million – in cash terms, the largest in the country. In a candid interview, the council's special educational needs and disabilities director, Mark Walker, said parents had lost faith in the ability of Kent's mainstream schools to meet their children's needs.

As a result, he explained, the council receives a higher proportion of EHCP applications from parents than schools.

What parents want, Walker said, is places at expensive independent schools and he

blames the SEND Tribunal, which hears appeals against local authority decisions, for helping them to get their way. The national independent tribunal ruled in favour of parents in 96 per cent of cases last year.

Walker gave dyslexia as an example, explaining that the council has a well-qualified speech and language service and an educational psychology department specialising in the condition. “Why then are we losing a tribunal for parents who want to go to Frewen College, which is an independent college in East Sussex?” Frewen is one of a small number of dyslexia schools in the UK. Its fees start at £6,500 a term.

He added: “It's a beautiful building, fantastic facilities – they've got a swimming pool there and everything. As a parent, if I see that, I want that sort of education for my child. I know why people go for it. But that's different from, I think, what was expected within the

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[SEND] Code of Practice.”

Frewen’s principal, Nick Goodman, said these notions of luxury were misguided. “It is a not-for-profit charitable trust. It does indeed have a swimming pool – outdoor, unheated – and many of our classes are taught in temporary classrooms dating back to the 1980s. A look at our accounts will confirm that margins are tight. It is not the buildings or the swimming pool that make Frewen College attractive to the parents of students with specific learning difficulties. It is the provision and outcomes.”

Walker believes the answer to reducing the deficit is to increase inclusion at mainstream schools – a key promise in the government’s SEND green paper.

“We need to make sure parents in Kent don’t think they have to get an EHC plan in order to get the type of support their son or daughter needs,” he said.

The deficit, he said, would take years to reverse.

### Support ‘thresholds’ considered

Councils with deficits must submit plans to the Department for Education on how they intend to balance their books. Some include proposals to amend thresholds for which children are eligible for the education, health and care needs assessment that marks the first step towards securing an EHC plan – thresholds that have no legal standing.

Bury and Derby councils both included language about clarifying or reviewing assessments in their plans as part of their cost-cutting measures.

Bury said while it was not looking to raise thresholds “across the board”, some schools in the area had incorrectly put children forward for assessment and that for these schools, the thresholds needed to be “clarified”.

Derby City Council said it was “working with all partners” to become a “more inclusive city, to find ways of strengthening the system and balancing the budget”.

Some councils already turn down a high proportion of assessment requests. In 2020, nine local authorities (Warwickshire, Liverpool, Medway, West Sussex, East Sussex, Southend-on-Sea, Staffordshire, Southwark



Frewen College

and Peterborough) turned down 40 per cent or more – about twice the national average.

In 2020, Peterborough City Council turned down half of all the assessment requests it received – the highest rejection rate in the country.

A spokesperson for the Local Government Association said: “Meeting the year-on-year increase in demand for SEND support is one of the biggest challenges that councils are dealing with. Councils lack the levers to bring this spending under control, and this is a key issue that needs to be addressed.”

### Bailed-out councils see spend soar

But the reforms are backed by just £70 million of new money – which will be used to implement the changes across three years.

Instead, the government’s new “safety valve” intervention programme awards bailouts on the strict condition that councils save money by reforming SEND support.

Deals totalling £400 million with 14 councils have been reached so far, with more in the pipeline.

Merton Council will get nearly £29 million in government bailouts over the next five years. But new figures obtained by Schools Week show that its costs for educating pupils outside of mainstream special schools have soared by 96 per cent since 2017-18.

The council spent £9.9 million five years ago on 223 places in independent or non-

mainstream special schools. This year it spent £19.5 million on 398 places.

TBIJ figures show Merton had to place 40.7 per cent of its EHCP pupils in schools outside the borough last year – the second highest of any council.

Just over 1,000 of its 1,500 pupils with EHCPs were placed out of borough. But the council also had 433 pupils placed in its schools by other boroughs (taking 23 per cent of its provision).

In return for the bailout, Merton must “strengthen” SEND support in mainstream schools to “reduce escalation” of students’ needs and “manage demand” for EHCPs.

Across six “safety valve” councils that responded to our freedom of information request, spend on non-mainstream places had soared from £82 million to £131 million in five years. The number of places rose from 1,989 to 2,862.

Surrey, which will receive £100 million in bailouts, has seen these costs nearly double – from £47.6 million to £80 million.

The councils were contacted for comment. A Schools Week investigation revealed that 51 councils spent £368 million on private SEND providers in 2019, up from £290 million three years earlier.

If extrapolated across the country, it means around £1.1 billion was spent on placing SEND pupils in private schools that year.

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# The domino effect: Kids travel hundreds of miles to school

**GARETH DAVIES**  
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Thousands of children with special needs are being placed in schools 20 miles or more away from their home.

Figures obtained by the Bureau of Investigative Journalism (TBIJ) show at least 43,000 children with education, health and care plans (EHCPs) are in schools or other education establishments outside their home council area.

Of those, more than 3,300 have to travel an estimated 20 miles or more away – the maximum distance MPs on the education select committee suggested that children in the care system (a similarly vulnerable group) be moved away from where they live.

Some of the distances are much higher. One child who lives in Tameside, Greater Manchester, has been placed in education 650 miles away in the Shetland Islands, with another from Cornwall at school 500 miles away in Fife.

In total, more than 100 children were placed in excess of 200 miles from where they live.

Seven children from North Tyneside are placed in Harrow, north-west London, around 270 miles away. Two young people from Islington are being educated in Cumbria - 280 miles in the opposite direction.

Katie Ghose, chief executive of the disabilities charity KIDS, said an out-of-borough placement "can cut [a child] off from the same opportunities to live, learn and thrive at home and in their local community, as enjoyed by their non-disabled peers."

"Yet with early intervention and the right support, many children and young people could be educated in their local school."

### 'Children have two-hour school runs – to what benefit?'

At times the situation appears self-defeating. Windsor and Maidenhead places one-fifth of all its EHCP pupils in more costly independent or non-maintained schools, because its own state capacity is used up by other local authorities.

In Rutland, in the East Midlands, 38 per cent of children with an EHCP have been placed there by other local authorities – the highest



“ It can cut children off from opportunities to live, learn and thrive at home and in their local community

proportion in England. In turn, Rutland has the highest proportion of children educated outside its borders.

The council said it was aware of both issues and had published an inclusion strategy that will address "the need for Rutland children to remain in local provision".

Christine McInnes, director for education at Kent County Council, said: "There are children spending two hours being transported to a special school. To what benefit?"

"I'm not saying that should never happen, but it should only happen in extreme cases because actually you're taking ten hours a week out of that child's life when they should be doing after-school activities, meeting with friends, and having a life. Instead, they're spending it being transported around."

For many parents it has become a case of weighing up a place that meets their child's needs against the stresses and strains of getting them there. Jayne Evans knows this balancing act well. Her son Dominic is unable to cope in mainstream education as a result

of pathological demand avoidance (PDA), a profile on the autism spectrum.

Jayne looked for a school in Wolverhampton, their local area, that could meet her son's complex needs, but the nearest one she found was in Worcestershire, 20 miles away.

Dominic now makes a three-hour round trip there and back every day. To make matters more complicated, he does so in a taxi with another child who also has complex needs.

### Councils shell out for private taxis

TBIJ found that, due to lack of transport provision, more than 13,000 special needs and disabled children in England travel to and from school in private taxis as the sole child in the car. Not only do these journeys generate a huge expense for the councils in question but, for a child with ADHD or autism, they can be enormously stressful.

"We've had a lot of problems," said Jayne, who would have to give up work in order to drive Dominic to school herself. "It's two very complex children who set each other off. The driver doesn't understand SEND. If one of them gets upset or goes into crisis, he starts shouting."

More than once Dominic has fled the vehicle and run away along a busy road. Even on less dramatic days, the children are often late. It affects their education.

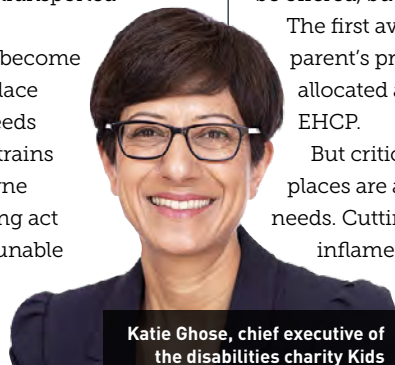
Proposals in the government's SEND review aim to resolve such issues.

Parents or young people have a legal right to request that a particular school or college is named in an EHCP.

But ministers want parents to instead choose a school from a "tailored list" of settings, based on provision available within the local area. Out-of-borough places could be offered, but would likely become rarer.

The first available place based on the parent's preferred schools would be allocated and named on the child's EHCP.

But critics fear this may focus on what places are available, rather than a child's needs. Cutting down choice could further inflame already-strained relationships between councils and parents.



Katie Ghose, chief executive of the disabilities charity Kids