

## INVESTIGATION:

HOW EHCPs FAIL  
OUR MOST  
VULNERABLE  
KIDS

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England now spends nearly £11 billion providing education for children with additional needs. But the outcomes for these children are not improving. Parents are forced to fight in court for support, and it's bankrupting councils.

What is this money being spent on? Schools Week investigates ...

JOHN DICKENS

@JOHNDICKENSSW

EXCLUSIVE

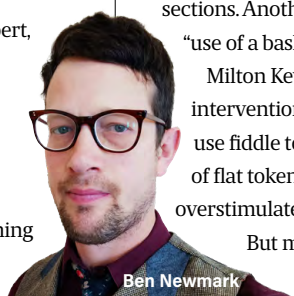
A special Schools Week investigation today exposes how education, health and care plans (EHCPs) fail the most vulnerable children.

We found:

- Schools are legally bound to deliver interventions that evidence shows are ineffective, such as fidget toys and learning styles
- The quality of education, health and care plans is consistently slammed by Ofsted. One trust said they had EHCPs “copied and pasted over from other children”, and some even “had the wrong name” on them.
- Analysis by experts suggests most plans break the law over providing specific and quantifiable support – helping councils shirk their legal duty to fully fund provision.\* Absent health and social care providers are pushing more responsibilities on to schools. One trust has warned an NHS board of a ‘significant risk to the health and life’ of vulnerable children over cuts

Ben Newmark, a teacher and SEND expert, said: “We would not accept any of this for the most able pupils.

“If we were exposing them to this level of inconsistency and unevidenced practice, we just wouldn’t accept it. So why are we allowing it for the children who find learning the hardest and the most vulnerable?”



Ben Newmark

FIDGET SPINNERS AND LEARNING  
STYLES: EHCPs’ QUESTIONABLE  
INTERVENTIONS

Schools Week asked 25 councils for a copy of section F of their 10 most recent EHCPs. This sets out the education provision that must be delivered. While this duty sits with the council, it falls to schools to carry out the provision.

Most councils refused to release plans, citing privacy concerns (Schools Week asked for personal details to be redacted).

Of the four councils that provided plans, many include interventions that studies suggest have no evidence to back their impact – or could do more harm than good.

Fidget toys, or a variation of this such as “fiddle”, were mandated as interventions in 10 plans across all four areas.

Sunderland had four EHCPs containing the intervention. For one, “sensory breaks and sensory tools or fidget toys” was included in four separate sections. Another plan said the child needed “use of a basket of fidget toys”.

Milton Keynes had three EHCPs with the intervention. One plan stated: “Allow him to use fiddle toys (such as Blu Tack or a bowl of flat tokens) if he is feeling anxious, or overstimulated, or needs help to concentrate.”

But many studies say they are

ineffective. A 2022 US paper even suggested “the negative effects of fidget toys on attention and learning outweigh [any] potential sensory benefits”.

Applying interventions that are not validated “sometimes can do more harm than good”, it added.

Sunderland council refused to comment.

## Debunked ‘learning styles’ feature in EHCPs

The long-debunked “learning styles” intervention appeared in three EHCPs.

One Sunderland plan said that “teaching style and tasks should be adapted to suit [redacted’s] developmental level and learning style”.

Another mandated a “broad and balanced differentiated curriculum which is underpinned with specific strategies, including consideration of her preferred learning style”.

But there is “very limited” evidence of “any consistent set of learning ‘styles’ that can be used reliably to identify genuine differences in the learning needs of young people”, the Education Endowment Foundation (EEF) states.

Any “impacts recorded [in studies] are generally low or negative”.

David Thomas, a former Department of Education adviser, said parents often “fight, fight, fight for this thing that should make a difference”.

“But if what they get at the end is a plan that doesn’t make things better – then what is the system delivering?

“We talk a lot about the challenges of getting an EHCP ... we don’t talk enough about whether the plans are any good and whether the interventions they mandate work.”

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Ben Newmark added such examples also showed the “leap between identifying a child as having a SEND need, and helping them, could often be a yawning chasm”.

“We cannot assume identification does any good, and must be open to the plausibility it might do harm.”

### Where is the evidence?

The findings point to a wider issue – the lack of robust evidence for what interventions work in SEND.

Children taking physically active breaks, or “brain” or “movement breaks”, featured in plans across all four areas.

One Milton Keynes plan stated: “Movement breaks and sensory aids should be explained to in simple terms, ie, that these can help him to stay focused and be a better learner.”

A plan issued in Manchester mandated “short brain breaks of up to five minutes throughout his lessons to prevent cognitive overload”.

Few were recommended in the “physical/sensory” part of EHCPs. Most were in the “cognition and learning” section.

But studies show mixed results in relation to the latter.

A University of Edinburgh paper last year found “existing research evidence is inconsistent in finding support” for claims the intervention improves academic achievement and cognitive function.

The plans featured other schemes that leave SEND experts sceptical, including Lego therapy, wobble cushions,

chew buddies, zones of regulation, dough disco and squiggle while you wiggle.

Cassie Young, an inclusion executive officer for a Kent academy trust, said the “limited” research into specific SEND interventions left schools “relying on anecdotal evidence or practice-based wisdom rather than robust, large-scale studies”.

“It does seem surprising given the number of interventions in circulation, but this is largely because SEND is not a homogeneous group, making it difficult to conduct universal, conclusive research that applies to all children with additional needs.”

## ‘We don’t talk enough about whether the plans are any good’

Newmark added it was difficult to learn from best practice “because we don’t have a shared understanding” of “what SEND means”.

“We can’t study something if no one can agree what that thing is...we’re all just talking past each other.”

### ‘We should be using reasonable adjustments’

A solution is needed, quickly. The high-needs budget now sits at £11 billion – a 60 per cent rise in real-

terms since 2015.

But despite spiralling funding, outcomes have not improved.

“If identifications and associated interventions aren’t useful, then spending more on them will just waste money,” Newmark said.

“Without reform in the way it is spent, more funding will not have a proportionate impact.”

Some are now calling for SEND to have a National Institute for Health and Care Excellence (NICE), which evaluates health interventions (see box out).

Thomas said that while it was legitimate for schools to try different things – especially when things were not working for a pupil – “we should not be creating legal requirements to do a particular intervention unless we are certain it works.”

Experts were also surprised some EHCPs included interventions such as ear defenders, a “structured learning environment” or “additional time to complete activities”.

One trust said it had an EHCP that mandated a “structured programme” to “help develop [a child’s] ability to be toileting independently” by the end of key stage 3.

But the plan added provision needed to include him “really enjoying using his personalised handwash that is available in the classroom” – legally binding the school to provide this.

Anne Heavey, who sits on the government’s school inclusion reforms panel, said to achieve ministers’ aim of more inclusive mainstream schools, “we need to support more to make reasonable adjustments as part of their everyday universal offer.

“Some of the content in these

Cassie Young

Anne Heavey

## Calls grow for send evidence ‘custodian’

The National Institute for Health and Care Excellence has a pivotal role in ensuring new treatments and medicines used in the NHS are effective, but also value for money.

Given the spiralling cost but stagnant outcomes for pupils with additional needs, calls are now growing for an equivalent body for SEND.

Iain Mansfield, a former DfE special adviser, said there had been “minimal efforts to match costs to efficacy – or even to measure efficacy at all” in high-needs spending.

“A NICE for education would allow hard, but necessary, decisions to be made fairly – and for the money we are spending to be used in the way that benefits all children the most.

“Given the scale of the cost, and the impact

on the system as a whole, it is not just necessary, but long overdue.”

### How would it work?

NICE sets out what good healthcare looks like. This includes quality standards, guidance for frontline health staff and how to assess and treat common conditions.

Mansfield said evaluation of SEND interventions could look at basic academic metrics, alongside wider life outcomes such as employability or enabling independent learning.

The Local Government Association said in a report last year a NICE-type body should produce “standards for mainstream inclusion” and act as a “custodian” for best practice.

David Thomas said an “independent evidence-based arbiter of what support a child should be getting would both raise quality and improve experience.

“Rather than determining support by pitching parents and local authorities against each other, the appropriate support would already be set out,” he said. “NICE creates an external reference point for what good care should look like.”

Guidance could be separated into two tiers: common issues such as struggling to read, and advice for more specific conditions.

For the first tier, guidance could set out “best bets”, and suggest an order to try different treatments.

Mansfield added such as body

Iain Mansfield

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EHCPs should just be in place for pupils without jumping through the hurdles of a statutory assessment.”

A spokesperson for Milton Keynes council said its plans were “structured in a uniform way to ensure consistent support”. Specifics of plans were “co-produced between parents, schools, youngsters and local partnership professionals”.

However, it faced increased demand for EHCPs and a shortage of professionals in critical areas.

David Collingwood, president of the Association of Educational Psychologists, added that “evidence-based interventions don’t work for everyone” and “some of the evidence can be around what works for that particular child”.

“For me, fidget spinners would be OK if there’s evidence on the ground that actually it does help this particular child – the child is reporting that, and the classroom teachers are reporting that.”

## POOR QUALITY EHCPs LEAVE SCHOOLS SHORTCHANGED

The SEND code of practice states provision “must be detailed and specific and should normally be quantified, for example, in terms of the type, hours and frequency of support and level of expertise”.

But analysis by Schools Week of SEND area inspection reports show Ofsted repeatedly flags poor quality of plans, even in the few areas judged to be “positive”.

A December inspection in Lancashire found plans were “often of a poor quality”.

A July inspection in Hertfordshire added plans lacked “precision and clarity”. Errors pointed out by

parents during drafts also made it into final plans.

Across the 10 EHCPs obtained from Milton Keynes, the same phrase asking SENCos to “cascade the identified strategies and provision to all class teachers and support staff at the start of each half term” appeared 40 times.

In one EHCP from Sunderland, the same paragraphs were listed in the “provision required” section of the report for all four “desired outcomes”.

“Examples like this suggest there isn’t always thought about how provision will be enacted in reality by school staff or if it will have a meaningful impact for the pupil,” Anne Heavey said.

EHCPs are written by councils, but based on advice from professionals involved with the child, including educational psychologists who must assess pupils.

Phil Humphreys, director of education at Lift Schools, said their own analysis shows “in the most extreme cases, plans are just copied and pasted from other children, and even have name of the child wrong as a result”.

Collingwood added lack of EPs and backlogs are a “massive problem”, adding “time means” mean there is “always pressure to write advice quicker”.

But Humphreys added: “All of this amounts to a picture of a system that is badly broken and which all too frequently fails to deliver what it is intended to do.

“The whole system is crying out for a review and fresh start.”

### Vagueness lets councils evade financial accountability

Consultants from Premier Advisory Group (PAG) have reviewed nearly 400 EHCPs across 20 schools and trusts.

They found more than 90 per cent did not comply with the SEND code of practice, with many being too vague.

A PAG report for one trust, which looked at about 140 EHCPs, found just five where more than half of the support listed was “quantifiable”. Thirteen (9 per cent) had no quantifiable support listed at all.

For instance, one report said: “She will require 1:1 or small group support to enable her to access and complete learning activities.”

Matt Keer, a SEND expert who writes for specialist website Special Needs Jungle, said: “We give parents a list of weasel words and phrases to look out for (“access to”, “opportunities for”, “as required”).

“While vapid EHCP content suits the local authority, it often sets families up for conflict with schools.”

Gary Aubin, a SEND expert, said plans needed an “element of schools being able to make it work in their context”.

“But where trust has eroded within our SEND system, stakeholders start believing – sometimes correctly – that ‘if it isn’t written down in detail, it either won’t happen or won’t be funded’.”

The PAG report concluded the lack of detail in the 140 EHCPs it analysed meant it was not possible to “fully understand the cost of support needed”. Forty per cent of plans also had no funding stated.

Tom Legge, PAG’s managing director, said the poor quality of EHCPs “begs the question as to whether this is cock-up or conspiracy”, given they were “more often than not accompanied by funding that, even on the most cursory analysis, is insufficient to meet need”.



Matt Keer



Tom Legge

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should also “compare the improvement in outcomes to the cost” – with a value-for-money threshold set. Those falling short should “not be funded”.

While this would be “complex”, it was “no more difficult, and no more sensitive, than the work that NICE does in assessing how conditions such as pain, mobility, use of bodily functions and so on combine to constitute a ‘Quality Adjusted Life Year’.”

Gary Aubin said the EEF already had the expertise to take on such a role.

### What happens in the meantime?

While acknowledging “massive gaps” in provision around SEND interventions and

approaches, Aubin said it was “not true” that pupils with SEND always needed entirely different things to other pupils.

More work also needed to be done on “how we adapt approaches we know work for all pupils”.

Cassie Young, an inclusion executive officer for a Kent academy trust, agreed it made more sense to focus on adapting mainstream approaches with a strong research base, rather than investing heavily in interventions that lacked evidence.

“While SEND-specific research is lacking, that shouldn’t mean we abandon evidence-based decision-making. We need to be critical about what we adopt, ensuring that

whatever we do has a clear purpose and is evaluated for impact, rather than relying on interventions simply because they are popular or feel like ‘the done thing’.”

Chris Paterson, co-CEO of the EEF, said it is “crucial to support schools – and the wider sector – to reject approaches and interventions that have a weak evidence base”.

Evidence suggested support for pupils with special needs in mainstream schools “should start with high quality teaching that is inclusive by design... complemented with more targeted, effective interventions to help overcome the most significant barriers to learning”.



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**Schools left to pick up funding gaps**

When schools were consulted on the actual cost of EHCP provision, PAG found widespread underfunding from councils.

Analysis of one trust's EHCPs found its mainstream schools had a gap in funding of between £10,000 to £30,000 per school.

For the special schools in the trust, the funding gap across fewer than 50 EHCPs amounted to nearly £3 million.

One particular issue, according to the reports, is the quantity of 1:1 support mandated.

PAG analysis of EHCPs across mainstream schools at one trust found while few had quantifiable support, 80 per cent of it was 1:1.

Another of its reports stated a trust, which ran classes of one qualified teacher and two teaching assistants per eight pupils, would need an extra TA per class to provide the level of 1:1 support mandated. This would cost £750,000 extra per year across just two schools.

One trust leader told *Schools Week* it got £19,000 top-up funding for a child with complex needs. However, the child required full-time 1:1 support, which cost £27,000.

This also did not include other mandated interventions, such as at least 40 hours a year of speech therapy.

Jon Coles, CEO of United Learning which has analysed its schools' EHCPs, said: "Sometimes, what is proposed seems designed to insulate a child from access to excellent teaching".

"In some examples, 6 or 7 hours of 1:1 activities are required per week, with no apparent assessment of the costs or benefits of a child being out of class for over a day each week."

"I am seriously concerned that many billions of pounds are being spent on a system which claims to be bespoke to individual children, but in reality is far from that, and is likely to be having limited benefit to a lot of children – and perhaps no or negative impact on considerable numbers."

Director and barrister Dean Hulse, from HY Education solicitors, which has an EHCP benchmarking tool, said the 2014 Children and Families Act created a "hard edged legal duty" for councils to ensure support in section F is provided.

"Yet day in, day out, schools are being asked to deliver this provision without adequate funding."

Keer added, that given a council's legal responsibility, a school or family "should be in a powerful position to rectify things".

Legge said schools' "desperation" at the funding situation was "driving an increased number to litigate against their home councils – often as a last resort to draw attention to their plight".

**PICKING UP THE PIECES OF ABSENT HEALTH AND SOCIAL CARE PROVIDERS**

EHCPs are supposed to be created in collaboration with health and social care professionals. But this is not happening.

A report by the children's commissioner in 2022 analysed about 650 EHCPs from two councils, one in London and the other the Midlands.

None of the EHCPs had a blank section F – which mandates education provision. But data was missing for 61 of the 152 (40 per cent) EHCPs for the "health" and "social care" provision sections.

In one of the councils, the average word count to describe all aspects listed under "general" provision was 150. For health and social care provision, the word counts were 16 and 38 respectively.

**'Many children are missing out on the support they deserve'**

Meanwhile, an Ofsted area SEND inspection at Derbyshire in September found that some plans were "finalised without contributions from health or social care professional".

In Milton Keynes, an inspection in March last year found "most EHC plans do not contain health and care outcomes, even when children and young people have demonstrable needs.

"This means that schools often lack the expert advice and support required to ensure the full ranges of a child's needs are met."

In Lancashire, contributions from health and social care in plans "can be scant and, in a number, not evident".

"General practitioners (GPs) are not routinely asked to inform the EHC plan process, even as primary

record holders. For some, they are not aware when there is an EHC plan in existence for a child or young person under their care," the report added.

In Hillingdon, west London, a report last year found "too often health and social care professionals were not invited, did not attend, or did not submit updated advice for annual reviews".

"Consequently, the plans focus too heavily on education."

The report concluded that: "Overall, many EHC plans are not useful.

**Reforms must look at health contribution**

Warren Carratt, the chief executive of the Nexus MAT of mostly special schools, warned of a "myriad" of interventions that were "clearly misplaced" in the education section.

His trust has an EHCP which includes hydrotherapy 'bundled' into section F, for instance. This means "schools have to provide it, and councils have to fund it".

"To compound this issue, universal health services have been reduced over time."

"There then isn't the availability of health professionals for schools to commission, leaving more public money flowing to private providers."

A *Schools Week* investigation in 2019 revealed how complex health needs of special schools pupils are delegated to school staff as the number of school nurses has dropped.

Leaders say the situation has worsened. One trust recently wrote to an NHS board about nursing service cuts at some of its schools, warning it creates "significant risk to the health and life of these children".

Councils have to "abide by changes" directed in SEND tribunals over section F issues. But tribunals can "only recommend changes, they have no power to direct" over health and social care provision, Keer added.

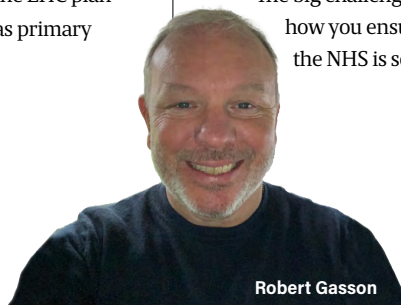
Robert Gasson, the chief executive of the Wave Trust, said: "Health advice is supposed to be a core part of these plans, yet delays, vague recommendations, and poor coordination mean many children miss out on the support they deserve."

Thomas added the often-missing health contribution was the "main catastrophe of EHCPs.

The big challenge for SEND reforms now is how you ensure health provision when the NHS is so stretched."



Warren Carratt



Robert Gasson