

Research Briefing

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The Special Educational Needs and Disabilities and Alternative Provision Green Paper



Summary

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Summary

SEND Review

In September 2019, the Government announced a [review of the system of support for children and young people with Special Educational Needs and Disabilities](#) (SEND) in England. The system supports children and young people aged 0-25, and aims to unify support across education, healthcare, and social services.

The current system was introduced in 2014, and five years after its inception the review aimed to take a wholesale look at how the system was functioning, with particular focus on issues such as:

- How the system could provide the highest quality support
- The balance of funding between mainstream and specialist education settings
- Incentives and accountability for schools, colleges, and local authorities
- Understanding rising numbers of children and young people receiving formal Education, Health, and Care Plans (EHCPs) for support

A separate call for evidence on the operation of the [SEND funding system](#) ran between May-July 2019.

The Green Paper

The review was published in March 2022, as part of a green paper consultation: [SEND review: right support, right place, right time](#). The Government has said the Covid-19 pandemic affected both the timing of the review and its content, with the pandemic seen to exacerbate existing difficulties in the system.

The review proposes a single system to cover SEND and also alternative provision, which supports pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education.

The green paper envisages, among other proposals:

- A new integrated national SEND and alternative provision system setting statutory, nationally consistent standards.

- Establishing new local SEND partnerships, bringing together education (including alternative provision), health and care partners with local government and other partners to produce a local inclusion plan, setting out how each local area will meet the national standards
- Introducing a standardised and digitised EHCP process and template
- Local authorities providing a tailored list of settings to support parents and carers to express their preference for a suitable placement
- Introducing a streamlined process for redress, including mandatory mediation. [The SEND Tribunal](#), responsible for handling appeals against local authority decisions regarding special educational needs, would remain in place
- A planned consultation on a new Special Educational Needs Coordinator (SENCo) National Professional Qualification (NPQ) for school SENCos, and to increase the number of staff with an accredited Level 3 SENCo qualification in early years settings
- Revised and clarified accountability for responsible bodies, such as schools and local authorities
- A new national framework of banding and price tariffs for high needs funding, which covers SEND and alternative provision

A consultation has been opened on the green paper proposals, with submissions up to 1 July 2022.

This briefing includes background on the existing SEND and alternative provision systems, and includes an overview of the green paper proposals.

Further background

The following Library briefings may help for further background:

- [Special Educational Needs: support in England](#), March 2022
- [Alternative Provision Education in England](#), March 2019

1 Special Educational Needs and Disability: Support in England

1.1 Special Educational Needs and Disability: legislation and Code of Practice

The [Children and Families Act 2014](#) provided for a major reform of the system for identifying children and young people in England with special educational needs (SEN), assessing their needs and making provision for them.

The statutory Special Educational Needs and Disability (SEND): Code of practice, first published in 2014, sets out detailed information on the support available for children and young people aged 0-25 under the 2014 Act.

The Library briefing [Special Educational Needs: support in England](#) (March 2022) sets out wider information on the support in place for children with SEN, including relevant statistics, information on funding, and how the system has performed to date.

1.2 Types of support for children with SEN

The type of support that children and young people with SEN receive may vary widely, as their needs may be very different. However, two broad levels of support are in place: SEN support, and Education, Health and Care Plans.

SEN support

This is support given to a child or young person in their pre-school, school, or college.

The [gov.uk website](#) sets out that SEN support for children under five includes:

- a written progress check when a child is two-years-old
- a child health visitor carrying out a health check for a child if they're aged two to three
- a written assessment in the summer term of a child's first year of primary school

- making reasonable adjustments for disabled children, eg providing aids like tactile signs

For children of compulsory school age, the following indicative list explains [the type of help a child might receive](#) in school:

- a special learning programme
- extra help from a teacher or assistant
- to work in a smaller group
- observation in class or at break
- help taking part in class activities
- extra encouragement in their learning, eg to ask questions or to try something they find difficult
- help communicating with other children
- support with physical or personal care difficulties, such as eating, getting around school safely or using the toilet¹

For young people aged 16-25 in further education, their school or college should work with them to decide how their needs can be met.

Education, Health and Care Plans

Education, Health and Care Plans (EHCPs) are for children and young people aged up to 25 who need more support than is available through the SEN support route.

They are the replacement for the pre-2014 system of SEN statements and Learning Difficulty Assessments (LDAs). They aim to provide more substantial help for children and young people through a unified approach that reaches across education, health care, and social care needs.

Parents (and all those with parental responsibility) can ask their local authority to carry out an assessment if they think their child needs an EHC Plan.

A request can also be made by:

- anyone at the child's school
- a doctor
- a health visitor

¹ Gov.uk, [Children with special educational needs and disabilities](#)

- a nursery worker

Requests should be made with the knowledge and, where possible, agreement of the child's parent or the young person.

A local authority has six weeks to decide whether or not to carry out an EHC needs assessment.

1.3

Protections for disabled children

Although there is significant overlap, not all children with SEN have disabilities, and vice versa.

All schools in England, irrespective of how they are funded or managed have obligations under the Equality Act 2010. The 2010 Act protects pupils from discrimination and harassment based on protected characteristics, including disability.

[Technical guidance for schools \(PDF\)](#) published by the Equality and Human Rights Commission (EHRC) sets out schools' obligations under the Act.² Chapter 6 of the EHRC guidance discusses reasonable adjustments for disabled pupils.

The Department for Education (DfE) has also published [Equality Act guidance for schools](#).³ Chapter 4 discusses disability discrimination.

² Equality and Human Rights Commission, [Technical Guidance for Schools in England](#), July 2014

³ Department for Education, [The Equality Act 2010 and schools](#), May 2014

2 The SEND Review and call for evidence on funding

2.1 Review announcement

In September 2019, five years after the current system of support for children and young people with SEND was introduced, [the Government announced a review of its effectiveness](#).

The review aimed “to improve the services available to families who need support, equip staff in schools and colleges to respond effectively to their needs as well as ending the ‘postcode lottery’ they often face.”⁴ It intended to look at how the system has evolved since its introduction, links with health and social care, and would “conclude with action to boost outcomes and improve value for money.”⁵

The Government said it would consider and propose action on:

- the evidence on how the system can provide the highest quality support that enables children and young people with SEND to thrive and prepare for adulthood, including employment;
- better helping parents to make decisions about what kind of support will be best for their child;
- making sure support in different local areas is consistent, joined up across health, care and education services, and that high-quality health and education support is available across the country;
- how to strike the right balance of state-funded provision across inclusive mainstream and specialist places;
- aligning incentives and accountability for schools, colleges and local authorities to make sure they provide the best possible support for children and young people with SEND;

⁴ The Education Policy Institute identified a “postcode lottery” in the provision of SEND support in its study, [Identifying pupils with special educational needs and disabilities](#), 19 March 2021

⁵ Department for Education, [Major review into support for children with Special Educational Needs](#), 6 September 2019

- understanding what is behind rising numbers of education, health and care (EHC) plans and the role of specific health conditions in driving demand [see the Annex to this briefing for statistics]; and
- ensuring that public money is spent in an efficient, effective and sustainable manner, placing a premium on securing high quality outcomes for those children and young people who need additional support the most.

The Government said the Covid-19 pandemic has affected the timing of the review, and that the content of the review would be reconsidered in light of the Covid crisis.⁶

In March 2021, the Permanent Secretary at the Department for Education, Susan Acland-Hood, told the Public Account Committee that a SEND green paper would be published towards the end of June 2021.⁷ This deadline passed, however, and the Government later stated the review would be published in the first quarter of 2022.

2.2 Funding call for evidence

Funding for SEN in England is not allocated as a separate amount per pupil. SEN funding is part of the overall Dedicated Schools Grant allocated to each local authority to fund their schools budget. It is for local authorities, in consultation with their schools forums, to determine the allocation to schools.

Responding to a parliamentary question in 2014, Edward Timpson, the then Parliamentary Under-Secretary of State for Children and Families, described SEN funding for local authority maintained schools. The question, from Steve McCabe MP (Labour) then Shadow Minister for Children and Families, asked whether SEN coordinators were able to request funding from the DfE for extra assistance with SEN students in maintained schools.

Edward Timpson said extra funding should come from local authorities:

The Department for Education does not give funds directly to local authority maintained schools. Funds for extra assistance with students with special educational needs (SEN) come from schools' budgets and, if the extra cost is more than £6,000 per year for an individual student, from local authorities in the form of top-up funding for the school. Local authorities can also give extra funding to schools with a disproportionate number of pupils with SEN. Special educational needs coordinators should therefore seek any additional funds required from the relevant local authority.⁸

Mainstream academies are in a similar position. When planning their budgets, academies should account for meeting the costs of additional

⁶ See, for example, [PQ 38401, 6 September 2021](#)

⁷ Public Accounts Committee, [Oral evidence: COVID-19: Education](#), HC 944, 25 March 2021, Q80

⁸ [HC Deb 23 Jun 2014 c83W](#)

support for pupils with SEN up to £6,000 from their school budget share (including the notional SEN funding).⁹ Additional, ‘top-up funding’, may be provided by local authorities when required.

For special schools, maintained or academies, a similar system is in place, but they are funded at the higher level of £10,000 per SEN pupil, with any extra ‘top-up’ funding then provided by the local authority.¹⁰ (This level of funding may also be provided for some pupils in specialist SEN units and resourced provision in mainstream schools, including academies and free schools.)

Call for evidence on funding

In May 2019 the [Department for Education opened a call for evidence on the High Needs funding system](#).¹¹

The call for evidence asked for views on a range of issues relating to SEN, including:

- SEN factors in the school funding formula, including the possibility of tiering funding for pupils with lower attainment in mainstream assessments and, by proxy, pupils with more complex SEN
- Targeted funding for pupils with SEN
- The notional SEN budgets provided to schools to support their spending decisions
- The expectation that mainstream schools pay for the costs of SEN support up to £6,000 before accessing extra funding
- The information available locally about the SEN support in particular schools
- Whether existing funding arrangements provide perverse incentives against early intervention to support children with SEN

The call for evidence also included questions about SEN support in post-16 education, and funding for alternative provision.¹²

The call for evidence ran until 31 July 2019. The March 2022 green paper included proposals on SEND funding, and future consultations on wider

⁹ Department for Education, [Academy general annual grant allocation guide: 2020 to 2021 academic year](#), February 2020, p11

¹⁰ See separate DfE guidance on the [funding of special schools in 2020-21](#)

¹¹ Department for Education, [Education Secretary confirms plans to simplify school accountability](#), 3 May 2019

¹² Department for Education, [Provision for children and young people with special educational needs and disabilities, and for those who need alternative provision: how the financial arrangements work: Call for Evidence](#), May 2019

school funding reform are expected to include further proposals on how local authorities manage their SEN budgets.¹³

¹³ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p74

3 Alternative Provision

The March 2022 green paper [SEND Review: right support, right place, right time](#), set out plans for a single national system for SEND and alternative provision. This chapter provides background on the existing system for alternative provision. Further information is available in the Library briefing [Alternative Provision Education in England](#) (2019).

3.1 Types of AP

Alternative provision (AP) is defined by the Department for Education (DfE) as:

Education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour.¹⁴

In this briefing, AP refers to education provided in: AP academies, AP free schools, pupil referral units (PRUs), independent providers, further education colleges, and voluntary sector providers. Information on hospital education (another type of AP provider) is summarised separately in the final section of this briefing paper. Independent or unregistered voluntary providers tend not to be captured by DfE statistics and have therefore been excluded from this paper; the size of this part of the sector, its pupils' characteristics, and the quality of provision is largely unknown.

The most common type of AP provider are PRUs. As of January 2021, there were 197 PRUs, 102 AP academies, and 49 AP free schools in England.¹⁵ The DfE does not record the number of other types of AP providers.¹⁶

There are different types of providers with full and/or part-time places which tend to offer both short and longer-term placements. A [research study of 200 AP providers by the DfE](#) (PDF), found that the average placement was around six months.¹⁷

¹⁴ [Alternative Provision Statutory Guidance for Local Authorities, DfE, 2013 p3](#)

¹⁵ Department for Education, [Schools, pupils and their characteristics: 2021, June 2021, underlying data](#)

¹⁶ [PQ HL13031](#), 22 January 2019

¹⁷ [Investigative research into AP: Oct 2018, DfE p96](#)

3.2 Duties of local authorities and schools

Depending on the reason a child requires AP, placements will be commissioned by local authorities or schools. It is up to whoever is commissioning the support to determine the most appropriate AP provider, but they are expected to consider the views of the child, their parents and other professionals.¹⁸

Local authorities have a statutory responsibility for arranging “suitable” full-time education for permanently excluded pupils, and for other pupils who “would not receive suitable education without such provision”.¹⁹ This applies to all children of compulsory school age living in the local authority area, regardless of whether they are on a school roll, and what type of school they attend. The provision of full-time education for excluded pupils must begin no later than the sixth day of the exclusion.²⁰

There is no statutory requirement for how soon full-time education should begin for pupils placed in AP for reasons other than exclusion. However, the guidance states that local authorities should ensure that such pupils are placed “as quickly as possible”.²¹

In addition, although good AP will differ depending on the circumstances of the pupil, “there are common elements that AP should aim to achieve”²² according to the DfE, including:

- Good academic attainment on par with mainstream schools, particularly in English, mathematics and science (including IT), and with appropriate accreditation and qualifications;
- That the specific personal, social and academic needs of pupils are properly identified and met in order to help them to overcome any barriers to attainment;
- Improved pupil motivation and self-confidence, attendance and engagement with education; and
- Clearly defined objectives, including the next steps following the placement such as reintegration into mainstream education, or successful transition to further education, training or employment.

¹⁸ Department for Education [AP: creating opportunity for all, March 2018, p5-7](#)

¹⁹ [Alternative Provision Statutory Guidance for Local Authorities, DfE, 2013 p3](#)

²⁰ [As above](#)

²¹ [As above](#)

²² [As above, p97](#)

3.3

What is taught to pupils in alternative provision?

In 2018, [the DfE published investigative research into AP](#) (PDF) with interviews with 200 AP head teachers. One question asked APs what qualifications they offered and why. Most respondents offered GCSE mathematics and English (four out of five respondents) as well as other qualifications such as functional skills, arts-based provision, vocational subjects and a “narrow range of additional GCSE subjects”. Most APs offered work-based learning or work placements.²³

Respondents said it was a challenge to balance core academic subjects with vocational ones to accommodate such a wide range of pupil abilities and needs. In addition, AP providers offering short term or part time placements supported shorter, unit-based qualifications, which could be completed quickly and increase pupils’ confidence that they can achieve qualifications.

Statutory guidance does not state that APs must adhere to the national curriculum. However, [the DfE’s investigative research into AP found that it was “common” for APs to do so as closely as possible](#) (PDF), in order to aid the reintegration of pupils back into mainstream education.²⁴

²³ Department for Education, [Investigative research into AP: Oct 2018, p11-12](#)

²⁴ Department for Education, [Investigative Research into Alternative Provision](#), October 2018, p98

4 The SEND Review Green Paper

4.1 Publication and consultation

The Government published [SEND Review: right support, right place, right time](#), setting out plans for a single national system for SEND and alternative provision on 29 March 2022.

The Government said the green paper (a discussion paper) aimed to “improve an inconsistent, process-heavy and increasingly adversarial system that too often leaves parents facing difficulties and delays accessing the right support for their child.”²⁵

A consultation on the proposals opened alongside publication, running for 13 weeks until 1 July 2022.

4.2 The Green Paper proposals

This section provides an overview of the Review’s findings and the green paper’s proposals. The Department for Education has also published a [summary of the document](#).²⁶

Problems facing the SEND system

The green paper identified three ‘key challenges’ affecting the SEND system:

- Poor outcomes for children with SEN or in alternative provision, both in education and in later life
- Difficulties for children, young people, and their families in navigating the SEND and alternative provision systems, which they found “bureaucratic and adversarial”
- Value for money not being delivered in the system, with spending outstripping funding despite Government investment. Recent increases

²⁵ Department for Education, [Ambitious reform for children and young people with SEND](#), 29 March 2022.

²⁶ Department for Education, [Summary of the SEND review: right support, right place, right time](#), 11 April 2022

were driven predominantly by an increase in the proportion of children and young people with an EHCP.²⁷

The green paper also stated that the existing SEND and alternative provision system is financially unsustainable.²⁸

The Government raised concerns about the way in which support is currently administered, with the emphasis on local authorities to develop local provision, in conjunction with education, health, and care providers in their area. It said: “there are now, in effect, 152 local SEND and alternative provision systems operating across the country” and raised concerns about the inconsistency in provision that arose from this setup.²⁹

The green paper also stated children’s needs were found late or mistaken, causing capacity problems within the system and were part of a “vicious cycle” of low confidence and inefficient resource allocation within the system. It said low confidence in the ability of mainstream settings to support children’s needs could, in particular, have knock-on effects, pulling resources to the more specialist end of the system:

- **children and young people face delays in accessing support** as they need to go through a time-intensive and bureaucratic process to access provision, even when what might be required is high-quality teaching to catch-up or time-bound access to a particular service.
- **children and young people are not always placed in the most appropriate setting.** Not every child or young person with SEND requires a specialist placement, but a lack of clarity on when specialist provision is appropriate means that some children and young people end up in these settings even when their needs could be met effectively in mainstream, with some high-quality targeted support.
- **increased requests for placements in specialist provision means that capacity is restricted.** Some children and young people, including those with more complex needs, face long journeys to school or have to attend out of area placements, resulting in increased costs for school transport. In some areas, alternative provision appears to be increasingly used to supplement special school places. Pressures on the capacity of specialist provision also mean that more children are placed in independent specialist provision, even when this may not be the most effective setting for them, resulting in poor value for money.

As more children and young people receive EHCPs and attend specialist settings, more resource and capacity is pulled to the specialist end of the system, meaning that there is less resource available to deliver early intervention and effective, timely support in mainstream settings. As a result, the vicious cycle continues with outcomes and experiences continuing to suffer, and costs pressures increasing³⁰

²⁷ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p10-11

²⁸ As above, p22

²⁹ As above, p27

³⁰ As above, p24

A single national SEND and alternative provision system

The review's response to the problems with the existing SEND and alternative provision system focused on providing more consistency in support at a national level and improving workforce expertise at all levels of education. It included proposals for clear roles and responsibilities within the system, as well as funding reform.

Some of the main proposals outlined were:

- A **new national SEND and alternative provision system** setting nationally consistent standards. The Government plans to legislate to put these standards on a statutory footing. A revised statutory SEND Code of Practice would be published to take account of the changes
- Establishing **new local SEND partnerships**, bringing together education (including alternative provision), health and care partners with local government and other partners to produce a local inclusion plan, setting out how each local area will meet the national standards
- Introducing a standardised and digitised EHCP process and template
- Providing a tailored list of settings to support parents and carers to express their preference for a suitable placement
- Introducing a streamlined process for redress, including mandatory mediation. [The SEND Tribunal](#), responsible for handling appeals against local authority decisions regarding special educational needs, would remain in place.³¹

Improved quality of provision

The review found that parents and carers often had low confidence in the ability of mainstream education provision to support their child's needs. In addition to the new national standards, the Government aims to provide "improved mainstream provision, through a highly skilled and confident workforce across early years, schools and further education."³²

The review highlighted transitions between phases of education, wraparound childcare, and access to health and social care when required, as areas needing particular attention, as well as investment in specialist places for children and young people with complex needs.

The review set out plans for:

³¹ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p26-27

³² As above, p37

- Increased investment in schools' budgets
- Investment of £2.6 billion, over the next three years, to deliver new places and improve existing provision for children and young people with SEND or who require alternative provision
- A planned consultation on a new Special Educational Needs Coordinator (SENCo) National Professional Qualification (NPQ) for school SENCos and to increase the number of staff with an accredited Level 3 SENCo qualification in early years settings
- Analysis to better understand the support that children and young people with SEND need from the health workforce
- More generally improved provision in mainstream education, through improved teacher training and development, linking with plans in the [schools white paper](#)³³ also published in March 2022
- Funding over 10,000 additional respite placements, to alleviate pressure on families, through an investment of £30 million, and £82 million to create a network of family hubs to improve access to wraparound support
- Moving all schools into Multi-Academy Trusts (MATs) by 2030 to share expertise, as set out in the schools white paper. A consultation question asked whether both specialist and mixed MATs should coexist in future³⁴
- Investing £18 million over the next three years to build capacity in the Supported Internships Programme, and improve transitions at further education by introducing Common Transfer Files, and piloting the roll out of adjustment passports, to smooth entry into different stages of education and into employment

Reformed and integrated alternative provision

The review found that, despite some strong examples of good practice, alternative provision was often patchy, and its role unclear or poorly focused on young people's needs. It proposed that, to clarify and improve the system, AP should be integrated with SEND in a reformed national system, with the proposed new standards in legislation.

The green paper proposed that:

- Alternative provision would be integrated into local SEND systems by requiring the new local SEND partnerships to plan and deliver an alternative provision service focused on early intervention

³³ Department for Education, [Opportunity for all: strong schools with great teachers for your child](#), March 2022; House of Commons Library, [March 2022 schools White Paper \(England\)](#), 5 April 2022

³⁴ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p49

- Local authorities would be required to create and distribute an alternative provision-specific budget, to provide stable funding
- In line with other schools, to move all AP schools into multi-academy trusts, to build system capacity. The schools white paper proposes that all schools should be at least in the process of moving into MATs by 2030
- A bespoke performance framework for alternative provision would be developed
- There would be greater oversight and transparency of how pupils move around in education including placements into and out of alternative provision
- The DfE intends to launch a call for evidence, before the summer, on the use of unregistered provision in AP, to investigate existing practice³⁵

The paper sets out the Government’s intention that support in alternative provision would be provided on a “continuum of support, rather than focusing exclusively on expensive long-term placements.”³⁶

A three-tier model of support was proposed:

- Targeted support for mainstream schools, for example, through ‘on call’ advice for mainstream schools, coaching, delivering self-regulation classes for small groups, or one-to-one support
- Time-limited placements in alternative provision for those in need of more intensive support, with a plan to return to their original school as soon as is appropriate
- Transitional placements for children and young people who will not return to their previous school, but instead will be supported to be best prepared for another school into suitable post-16 education.³⁷

Funding proposals for alternative provision

Like SEND, AP funding comes from the High Needs block of the Dedicated Support Grant that is provided to local authorities by central government to fund schooling in their area. Around 10% of the High Needs block is used to support AP.³⁸

The review identified problems with the way AP funding is provided, which led to some children being in AP longer than necessary:

Unlike mainstream or specialist SEND schools, where the numbers of children and young people are relatively stable, a large proportion of alternative

³⁵ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p56-57

³⁶ As above, p59

³⁷ As above, p59-60

³⁸ [HC Deb 22 Jan 2019 c222](#)

provision funding is linked to unpredictable pupil movements, attached to every child or young person who has been permanently excluded or who requires a long-term placement. This creates an incentive to support children and young people only once needs have escalated, rather than providing early intervention. This leads to children and young people being in alternative provision for longer than may be necessary, which is the exact opposite of what we want alternative provision to achieve. The unpredictable funding also makes it difficult to attract and retain high-quality staff, with many schools only able to offer short-term contracts.³⁹

The green paper proposed to “break the link” between individual pupil movements and funding, with local partnerships being required to agree multi-year (ideally minimum of three years) budgets for AP.⁴⁰

System roles and accountability

The green paper aimed to resolve problems with accountability identified within the SEND system during the review.

The DfE set out several related actions in the green paper:

- Clarify the roles that different bodies in local government, education, health, and social care have to play in supporting children and young people
- The DfE’s new Regions Group, to be established by summer 2022, would take responsibility for holding local authorities and MATs to account for supporting children and young people with SEND, through new funding agreements between local government and the DfE,⁴¹ in line with new national SEND standards
- Provide statutory guidance to Integrated Care Boards (ICBs) to set out clearly how statutory responsibilities for SEND should be discharged within the NHS, including that ICBs must identify an executive lead for SEND who sits on the board⁴²
- Introduce new inclusion dashboards for 0-25 provision, to provide information on how the SEND system is performing at a local and national level
- Work with Ofsted and the Care Quality Commission (CQC) on their planned update to the Local Area SEND Inspection Framework, expected in 2023
- To update performance tables to support parents, young people and wider stakeholders to consider contextual information about a school or

³⁹ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p61

⁴⁰ As above.

⁴¹ Department for Education, [Opportunity for all: strong schools with great teachers for your child](#), March 2022, p52

⁴² Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p68-69

college alongside their results data, with the aim of making it easier to recognise schools and colleges that are doing well for children with SEND.⁴³

Funding reform: A framework of banding and price tariffs

Funding for SEND in England is not allocated as a separate amount per pupil. SEND funding is part of the overall Dedicated Schools Grant (DSG) allocated to each local authority to fund their schools budget. It is for local authorities, in consultation with their schools forums, to determine the allocation to individual schools. Both SEND and alternative provision are funded out of the High Needs block of the DSG.

The green paper did not propose to change this basic setup but proposed a new national framework of banding and price tariffs for high needs funding, which would be matched based on need and type of education set out in the new national SEND standards. It continued:

Bandings would cluster specific types of education provision (aligned to need) as set out by national standards. Tariffs would set the rules and prices that commissioners use to pay providers – for example, pricing attributed to specific elements of provision such as staffing. This tariff system would draw upon similar examples that are seen in local authorities and other services that cover broad spectrums of support, such as the NHS.⁴⁴

The paper stated that most local authorities already use some form of banding, and that a national framework had the potential to create a more consistent basis for funding.⁴⁵

National School Funding Formula implications

Since the 2018/19 financial year, a reformed National Funding Formula (NFF) has been used in England to determine how much mainstream schools attract in core revenue funding. Currently, the NFF is only being used to work out notional allocations for individual schools. These are then aggregated, adjusted, and passed to local authorities, who then draw up local funding formulas for onward distribution. This is known as a ‘soft NFF’.

The Government has said it remains committed to introducing a hard NFF, ie, one with a reduced role for local authorities in deciding allocations. The Department for Education published its response to a [consultation on school funding](#) in March 2022, which stated the Government would bring forward legislation to implement this change “at the earliest opportunity.”⁴⁶

⁴³ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p71

⁴⁴ As above, p72

⁴⁵ As above, p72-73

⁴⁶ Department for Education, [Completing the reforms to the National Funding Formula: Government consultation response](#), March 2022, p3

The DfE said it will publish a second stage consultation with more detailed proposals on implementation in spring 2022.⁴⁷

The green paper stated the Government will standardise the calculation of schools' notional SEN budgets in implementing the hard NFF for mainstream schools. In the short term, it will issue guidance to local authorities on how they should calculate their notional SEN budgets within their local funding formula and consider more long-term options as part of wider consultations on the NFF.⁴⁸

Delivery plan and National SEND Delivery Board

The Government's plans to publish a national SEND and alternative provision delivery plan setting out Government's response to the green paper consultation, with how the planned changes will be implemented and by whom.

The SEND and Alternative Provision Directorate within the DfE would work with system leaders from across education, health and care and the Department of Health and Social Care to develop the national SEND standards. This directorate would be responsible for overseeing the development of new national SEND standards.

A new National SEND Delivery Board would be formed to deliver this plan, with the aim of bringing together relevant government departments with national delivery partners including parents, carers and representatives of local government, education, health and care.⁴⁹

Other measures

The green paper stated the Government would be investing £300 million through the [Safety Valve Programme](#), and £85 million in the Delivering Better Value programme, over the next three years, to support local authorities with the biggest deficits. It would also support a £70 million SEND and alternative provision change programme "to both test and refine key proposals and support local SEND systems across the country to manage local improvement."⁵⁰

The consultation highlighted several other areas of Government interest or activity, including:

- What steps could be taken to strengthen early years practice, with regard to conducting the two-year-old progress check and integration with the [Healthy Child Programme](#) review⁵¹

⁴⁷ [HC Deb 28 Mar 2022 c27WS](#)

⁴⁸ Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p73-74

⁴⁹ As above, p75-77

⁵⁰ As above, p75

⁵¹ As above, p39

- How to strengthen the health and care workforce and improve access for children and young people⁵²
- The £15 million Alternative Provision Specialist Taskforces pilot, which began in November 2021, currently working in 22 serious violence hotspots across England, to test the value of embedding multi-disciplinary teams of specialists in alternative provision, over two years.⁵³

⁵² Department for Education, [SEND Review: right support, right place, right time](#), March 2022, p46-47

⁵³ As above, p47; Department for Education, [Targeted support for vulnerable young people in serious violence hotspots](#), 3 September 2021

5 Reaction to the Green Paper

5.1 Debate in Parliament

The Education Secretary, [Nadhim Zahawi, made a statement to the House on 29 March 2022](#), the day of the green paper’s publication. He said:

Wherever possible, I want our children to be educated close to home, near to friends and within local communities. Frustratingly for families, that is not happening consistently enough. Today, building on the schools White Paper published yesterday, we are committing to improve mainstream education through early and accurate identification of need, through high-quality teaching of a knowledge-rich curriculum, and through timely access to specialist support, where needed.⁵⁴

Responding for Labour, the Shadow Secretary of State for Education, Bridget Phillipson, was critical of the Government’s record and said that while reform was needed, it had to be delivered:

Against that backdrop, it is hard not to be optimistic about any changes to the system. Early intervention, support in mainstream settings, changing culture, supporting families and making the system financially sustainable—who could object to those ambitions? However, just as we saw yesterday, those ambitions remain sadly hollow: hollow because there is no plan to deliver; hollow because other Government policies are working against those aims; and hollow because children and families are still waiting on a pandemic recovery plan.⁵⁵

The Chair of the Education Committee, Robert Halfon, reemphasised [two recommendations made by the Education Committee in its 2019 report](#)⁵⁶ on the SEND system:

Our Education Committee report made two key recommendations: that there should be a neutral advocate for parents to help them to wade through the bureaucracy—an idea that I urge the Secretary of State to look at again, so that everyone has a fair chance—and that the powers of the social care ombudsman should be extended beyond the school gates, to make sure that children are properly looked after.⁵⁷

In an [article in Schools Week](#), Mr Halfon identified the proposed new national SEND standards as a key part of the reforms, and said that “done right, this

⁵⁴ [HC Deb 29 Mar 2022 c706](#)

⁵⁵ As above, c707-708

⁵⁶ Education Committee, [Special educational needs and disabilities](#), First Report of Session 2019, HC 20, October 2019

⁵⁷ [HC Deb 29 Mar 2022 c709](#)

should take a Stanley knife to the red tape tangling up the system.” However, he also stated the Paper could do “much more” on clarifying roles and responsibilities, and in supporting parents, through an extension of the Local Government and Social Care Ombudsman’s remit to investigate how well schools provide SEND support, to “nip SEND deficiencies in the bud.”⁵⁸

In the debate, Clive Efford (Labour) also raised the question of accountability, and “the need for independent advocacy from the very beginning for parents of children with special educational needs.” The Education Secretary responded:

Essentially, the Green Paper will make sure that we hold local authorities to account through the new funding agreements, through the local inclusion dashboard, which will provide transparency so that people can see how areas are performing locally, and through the new area inspection.⁵⁹

In a debate in the House of Lords on 30 March, [Lord Watson \(Labour\) raised concerns about overcentralisation](#):

So who is responsible for the £1 billion shortfall? The answer is central government, which I suspect is why the DfE appears to want to introduce a funding agreement, or contract system, with local authorities to secure provision. Where else have we heard about funding agreements with the DfE? With academies, of course—so this would be more of the inflexible rod of central government. Will any new system be successful if local endeavour, creativity and innovation are ironed out of it?⁶⁰

Speaking for the Government, Baroness Barran said the Government hoped the reformed system would strengthen parent voices:

We really believe that our plans will lead to much greater transparency about what is available for their child in their local area, and much great clarity about how it can be provided. We very much hope that, combined with our offer around mediation, parents will feel that their voices are heard—and heard early—and that their child’s needs can be met, ideally, as close to home as possible.⁶¹

5.2

Other responses

Local Government Association

The Local Government Association said it was “positive that the Green paper acknowledges that councils are ideally placed to act as convenors of local SEND systems” but that [the DfE “must go further and develop a plan that](#)

⁵⁸ Schools Week, [What the SEND review got right, could do better and the next steps](#), 5 April 2022

⁵⁹ [HC Deb 29 Mar 2022 c715-716](#)

⁶⁰ [HL 30 Mar 2022 c1642](#)

⁶¹ As above c1645

eliminates every council's Dedicated Schools Grant deficits" in the period before the reforms came into place.⁶²

Union comment

Dr Mary Bousted, [Joint General Secretary of the National Education Union](#), welcomed aspects of the green paper, while raising concerns about funding levels:

National standards for SEND have the potential to act as a catalyst to better support, but they must come with sufficient funding. Collaboration across agencies, and the personnel and financial resource this requires, is vital if the new National Standards are to work on the ground. Good outcomes for children with SEND are particularly dependent on retaining experienced teachers and experienced support staff. This Green Paper must ensure that school budgets enable leaders to deploy enough staff across the timetable. 'Catch up' for children with SEND will need more than the National Tutoring Programme, so staffing levels and expertise in the school will be the 'make or break' factor.

NEU analysis indicates that the High Needs Block should be £2.5bn a year higher, assuming the 2021/22 number of EHCPs were funded at the 2015/16 rate.⁶³

The [General Secretary of the NASUWT](#), Dr Patrick Roach, said: "the green paper's ambitions need to be matched by substantial and sustained additional investment."⁶⁴

Geoff Barton, the General Secretary of the [Association of School and College Leaders](#) trade union, said a "system built on early and accurate identification of needs, with common standards on what support should be provided and when, and local partnerships to deliver that on the ground, seem right and sensible," but that was frustrated that "it has taken nearly three years to reach this point, and full implementation of the green paper is some way off."⁶⁵

Helen Osgood, a National Officer from the [Community Union](#), said the green paper was "welcome, but long overdue," and was worried that the proposals were not sufficient to address need in the system.⁶⁶

Charities' comment

Ali Fiddy, the CEO of the SEND charity and advice service IPSEA, raised concerns about what IPSEA saw as a reduction of choice and support for parents:

⁶² Local Government Association, [SEND Green Paper](#), 29 March 2022

⁶³ National Education Union, [SEND Green Paper](#), 29 March 2022

⁶⁴ Politics.co.uk, [NASUWT comments on send green paper](#), 29 March 2022

⁶⁵ ASCL, [ASCL comment on the SEND Green Paper](#), 29 March 2022

⁶⁶ Community Union, [SEND Green Paper welcome but long overdue](#), 29 March 2022

It's very clear that the proposals are motivated by a desire to reduce the number of EHC plans, reduce the number of children in special schools, reduce the number of appeals to the SEND Tribunal and most significantly reduce cost.

We are concerned that the Government is proposing to restrict parental choice in relation to the school or setting that can be named in an EHC plan. Parents and carers will only be able to express a preference from a pre-determined list of schools that the local authority considers appropriate, with the focus being on what's available in the local area rather than on individual children's needs.

The proposal to reform the redress process by introducing mandatory mediation is a particular concern... Making mediation compulsory will create a significant barrier to parents, carers and young people appealing to the SEND Tribunal and it is contrary to the spirit of mediation.⁶⁷

The [National Autistic Society](#) raised concerns that providing a list of settings or support that could meet a child's needs for an EHCP could falter if "there aren't enough of the right types of support in each area of the country at the moment." It said it was important that choices over support types were based on children's needs "not what's available."⁶⁸

Jolanta Lasota, chief executive of Ambitious about Autism, welcomed plans to strengthen accountability and help young people transition from education to employment, but [had concerns about funding reform](#):

... proposals to introduce a new framework for banding of higher-needs support will need to be closely examined. Autistic young people and their needs do not easily fit into a neat box or band.⁶⁹

The National Children's Bureau [described the drive for national standards as "bold"](#), with potential to "drive a far more consistent approach across the country." However, it was critical of the lack of changes in the green paper to address wider issues, including the curriculum or behaviour policies.⁷⁰

Other comments

Charlotte Ramsden, president of the Association of Directors of Children's Services (ADCS), welcomed "greater consistency in how children's needs are assessed and met by the SEND system," but raised concerns that "[the current system has a high level of cost baked into it](#) for the foreseeable future which is placing unsustainable pressure on local authorities."⁷¹

An article in the Law Gazette raised concerns about [the green paper's proposed reforms to dispute resolution and compulsory mediation](#):

⁶⁷ IPSEA, [Government publishes SEND Review and invites people's views](#), March 2022

⁶⁸ National Autistic Society, [SEND Review: first impressions](#), 30 March 2022

⁶⁹ Guardian, [Government sets out plans to overhaul special educational needs system](#), 29 March 2022

⁷⁰ National Children's Bureau, [SEND Green paper does not avoid worrying problems in the system](#), 1 April 2022

⁷¹ Children and Young People Now, [SEND Review: more funding key to delivery of reforms](#), says ADCS, 30 March 2022

The green paper was an opportunity to address the situation whereby a local authority repeatedly losing cases faces no adverse consequences. Instead, the green paper proposes additional stages as obstacles to children, young people and their families.⁷²

An article on the [Special Needs Jungle](#) website also highlighted potential issues with the green paper's proposed statutory local multi-agency panels to oversee various stages of the EHCP process. It said this had the potential for interested parties to have a negative impact on provision: "If it turns out a specific provision going to cost your particular (eg health, social care) department a lot of money, are you going to recommend it?"⁷³

Writing in the TES, the [education writer Sam Freedman noted fears that compulsory mediation before a SEND Tribunal could be a "cost-cutting measure by the backdoor."](#) He said the lists of settings and support to be provided to parents during the EHCP process was a potential point of friction:

One key way [the paper] seeks to reduce costs is by reducing choice for parents.... Depending on exactly how tailored these lists are and who is doing the tailoring, this could prove very controversial.

He also noted a longstanding difficulty surrounding the role of local authorities:

One thing the Green Paper doesn't do is break the conflict of interest that has dogged the SEND system for many years.

Local authorities will still be both the commissioner of provision and the funder, so will still have an incentive to reject applications.

The DfE will be hoping that national standards and national tariffs will make this harder to do in practice.⁷⁴

⁷² Law Gazette, [The SEND Green Paper: more obstacles to access to justice](#), 31 March 2022

⁷³ Special Needs Jungle, [#SENDReview: Defining Alternative Provision and... how about an apology?](#), 1 April 2022

⁷⁴ TES, [SEND Green Paper: Bold ideas aplenty - but will it covertly cut parent choice?](#), 30 March 2022

6 Annex: statistics

This annex provides some headline statistics on key areas of the SEND green paper. It covers outcomes in alternative provision, and teachers working in the sector. It also covers SEND funding overall, EHC plan statistics, and data on tribunals.

6.1 Special educational needs and disabilities (SEND) statistics

The number of EHC plans has increased over time

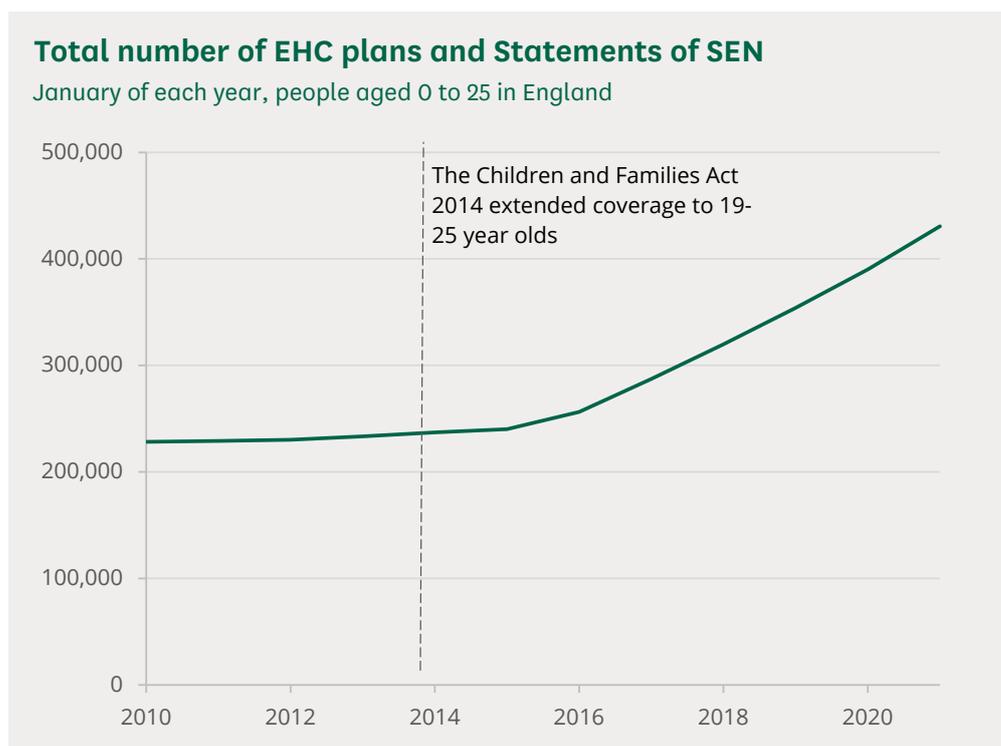
In January 2021, there were around **431,000** children and young people with an education, health, and care (EHC) plan in England. Most of these were compulsory school age children. In January 2021, around 68% of people with EHC plans were aged between 5 and 15 years old, 21% were aged 16-19, 7% were aged 20-25, and 4% were aged under 5.⁷⁵

The number of EHC plans (and earlier, statements of SEN) maintained by local authorities has increased in each year since 2010 (when there were around 228,000). This increase accelerated since 2014-15 (when there were around 240,000).⁷⁶

This increase occurred in a wider context of rising pupil numbers as well as reforms that extended the age group covered, to 25 years old. The chart overleaf shows the trend in the number of EHC plans and statements maintained by local authorities, since 2010.

⁷⁵ Department for Education, [EHC Plans: 2021](#), May 2021

⁷⁶ As above



Notes: Figures include Statements of SEN and EHC plans, 31 March 2018 was the deadline for transferring Statements to EHC plans. The Children and Families Act 2014 extended coverage to 19-25 year olds. A very small number within this age group were recorded with EHC plans for the first time in 2015, and large increases were recorded in each year since.

Sources: [Department for Education, Statements of SEN and EHC Plans: England 2019, table 1.](#); [Department for Education, Statements of SEN and EHC Plans: England 2021](#)

Only a small proportion of EHC decisions are appealed, but success rates are high

Parents, and in some cases young people themselves, have a statutory right to appeal many EHC plan-related decisions to the First Tier Tribunal on Special Educational Needs and Disability.

- In 2020, across England as a whole, the proportion of appealable decisions which were appealed, was **1.7%**.⁷⁷
- For the 4,825 appeals that were decided by the tribunal in the 2020/21 academic year, **4,651 (or 96%) were decided in the appellant's favour**.⁷⁸ However, this doesn't necessarily mean that all aspects of the decision were in the appellant's favour.⁷⁹

⁷⁷ Ministry of Justice, [Tribunal statistics quarterly: January to March 2021](#), June 2021, SEND tribunal tables

⁷⁸ This excludes cases which were conceded or withdrawn.

⁷⁹ Ministry of Justice, [Tribunal statistics quarterly: July to September 2021](#), Table SEND1, December 2021

- Appeal rates varied considerably by area. The table below shows the areas with the highest appeal rates, in the 2020 calendar year.⁸⁰

Councils with highest SEND tribunal appeal rates			
England, 2020 calendar year			
	No. appeals registered	No. of appealable decisions	Tribunal appeal rate
Somerset	180	3,569	5.0%
East Sussex	200	3,978	5.0%
Rutland	14	283	4.9%
Derbyshire	184	4,199	4.4%
Sutton	80	2,059	3.9%
Windsor and Maidenhead	39	1,075	3.6%
Surrey	396	11,298	3.5%
Isle of Wight	47	1,349	3.5%
Medway	93	2,693	3.5%
Greenwich	70	2,065	3.4%

Notes:

Excludes Isles of Scilly and City of London

Source:

Ministry of Justice, [Tribunal Statistics Quarterly: January to March 2021](#), 10 June 2021, SEND tribunal tables

SEND funding

The table below provides total high needs funding allocations figures for each financial year since 2014-15. This is core funding for SEND and alternative provision. The DfE does not publish the relevant number of pupils covered by this funding. This means that only **total** allocations are available (not per pupil allocations). Total allocations do not take into account changes in relevant pupil numbers over time.

For the financial year 2022-23 around 8.7 billion has been allocated for the [high needs block](#).⁸¹ This is a 10% increase in cash terms and a 4% increase in real terms ([adjusted for inflation](#)) compared to 2021-22.

⁸⁰ Appeal rates are published on a calendar year basis, rather than academic year, as is the case for other SEND tribunal statistics.

⁸¹ Department for Education, [Dedicated schools grant \(DSG\): 2022 to 2023](#), 16 December 2021

This does not include the £325 million allocated for 2022-23 under the [schools supplementary grant](#) intended to cover the costs of the Health and Social Care Levy and other costs.

Total high needs block allocations		
£ Billions, England		
	Cash Terms	Real Terms (2021-22 prices)
2014-15	5,184	5,929
2015-16	5,246	5,964
2016-17	5,300	5,892
2017-18	5,827	6,369
2018-19	6,115	6,556
2019-20	6,277	6,576
2020-21	7,073	7,239
2021-22	7,904	7,904
2022-23	8,656	8,318

Notes: Figures for all years are for the high needs block prior to deductions. There have been some changes in high needs block funding methodology over this period. Figures exclude the supplementary grant.

GDP deflator growth for 2020/21 and 2021/22 have been averaged across the two years to smooth the distortions caused by pandemic-related factors.

OBR forecasts are used for 2021/22

Sources: Department for Education, [Dedicated Schools Grant \(DSG\) allocations](#), various years; [HM Treasury](#), March 2022

6.2

Alternative provision

Attainment

Academic attainment for pupils who finish key stage four in AP is much lower than for pupils finishing compulsory education in a mainstream setting, although AP providers [have argued](#) that standard attainment measures are not appropriate for these settings, and do not recognise the achievements of pupils.⁸² The table below compares outcomes in GCSE English and maths for pupils who are solely registered at an AP setting at the end of key stage four. The figures do not include those who have returned to mainstream settings,

⁸² Education Committee, [Forgotten children: alternative provision and the scandal of ever-increasing exclusions, Fifth Report of Session 2017-19](#), HC 342, 25 July 2018, p36 [link to PDF, 745KB]

or who are dual-registered with another provider such as a mainstream school.

Alternative provision: attainment in English and maths GCSE		
2020/21 academic year		
	% achieving 4 or above in both	% achieving 5 or above in both
Alternative provision	12.3	4.4
All state-funded providers	72.2	51.9

Notes: 2020/21 figures should not be compared with earlier years, Owing to differences in the way that grades were awarded (via teacher assessment, rather than exams)
Excludes dual-registered pupils

Sources:

Department for Education, [Academic Year 2020/21, Key stage 4 Performance](#), published 4 November 2021, underlying data ("LA AP Data" and "LA data" files)

Teachers in alternative provision

- At November 2020, there were just over **5,100 teachers** working in in academy or free school alternative provision and maintained pupil referral units, and around **4,100 teaching assistants** (excluding a small number of settings for which data is not available).⁸³
- Looking at full-time equivalent teacher numbers and characteristics, **90% of teachers** in these settings had qualified teacher status (QTS).⁸⁴

Spending on alternative provision

The Department for Education (DfE) collects and publishes annual information on spending by maintained pupil referral units, and their academy and free school alternatives (separately). These figures don't include any spending on alternative provision in other types of setting.

⁸³ Department for Education, [Reporting Year 2020, School workforce in England](#), published 17 June 2021, underlying school-level data, headcount figures, not full-time equivalent

⁸⁴ Department for Education, [Reporting Year 2020, School workforce in England](#), published 17 June 2021, underlying school-level data. Total teachers and proportion of teachers with QTS based on full-time equivalent figures, not headcount.

- In the financial year 2020-21, maintained pupil referral units reported spending around £366 million.⁸⁵
- In the academic year 2019/20 (the last year for which figures are available), academy and free school alternative provision settings reported a combined spend of around £235 million.⁸⁶

⁸⁵ Department for Education, [Consistent financial returns data 2020-21](#), undated. These figures may exclude other sources of spending on AP.

⁸⁶ Department for Education, Academies accounts returns 2019/20, undated. Includes a small number of hospital schools.

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