



House of Commons
Education Committee

**Special Educational
Needs**

Oral Evidence

Wednesday 20 June 2012

Philippa Stobbs, Vice Chair, Special Educational Consortium, Jane McConnell, Chief Executive, IPSEA, Professor Brahm Norwich, Professor of Education Psychology and SEN, University of Exeter, Martin Bacon, Principal, Swavesey Village College and Debbie Jones, Director of Children's Services, Lambeth and President, ADCS and Sarah Teather MP, Minister of State for Children and Families

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Oral evidence

Taken before the Education Committee on Wednesday 20 June 2012

Members present:

Mr Graham Stuart (Chair)

Neil Carmichael
Alex Cunningham
Damian Hinds
Charlotte Leslie

Ian Mearns
Mr David Ward
Craig Whittaker

Examination of Witnesses

Witnesses: **Philippa Stobbs**, Vice Chair (Policy), Special Educational Consortium, **Jane McConnell**, Chief Executive, IPSEA, **Professor Brahm Norwich**, Professor of Education Psychology and SEN, University of Exeter, **Martin Bacon**, Principal, Swavesey Village College, and **Debbie Jones**, Director of Children's Services, Lambeth, and President, ADCS, gave evidence.

Q1 Chair: Good morning, and welcome to this session of the Education Committee, which is looking at special educational needs and progress since the publication of the Government's Green Paper. I am delighted to have such a well-informed and expert panel to give evidence to us this morning. Can I plead most of all to my colleagues, but also to witnesses to keep their answers short, because we have a large panel? If we can keep questions short and sharp, and have short and sharp answers, we can get through what is quite a wide-ranging area to cover.

We have had the progress report. Does it live up to its name? Have we seen much progress in the last year in developing Government policy in this area?

Debbie Jones: I am Debbie Jones, President of ADCS. As an association, we very much welcomed the Green Paper, and indeed we welcomed the Next Steps document. There is a lot of progress to be made, and if one is realistic, we are very supportive of the principles. We are very supportive of the fact that there are 20 pathfinders who are working on some of the main elements in the Green Paper. In reality it will take time. The progress that has been made, of course, is a great deal of momentum in terms of generating a huge amount of interest, commitment, and much more focused working together with parents' groups, which we very much welcome.

There is also a greater understanding of some of the complexities that underline the proposals in the Green Paper, and indeed the Government's Next Steps. Most particularly I would highlight the devil in the detail as far as the funding arrangements are concerned. That is what I would say at the outset. In principle, this is the opportunity for an integrated plan; we greatly welcome personal budgets, and it is basically the road along which many local authorities have already embarked.

Philippa Stobbs: I welcome both the original Green Paper and the Next Steps document. In response to your question about progress since the Green Paper, the real achievement is the proposal to put legislation in place to secure joint planning and commissioning between local authorities and health partners. That is going to be absolutely crucial to making any of the

proposals work, and work well, whether you are looking at the individual or local level. That is a real point of progress since the Green Paper.

Martin Bacon: Clearly, the modelling of the funding is very interesting. As a school with a partner school in a different local authority—one in Cambridgeshire and one in Peterborough—we are struggling to look at what some of the implications are, and recognising the differences between local authorities and how they have distributed AEN money and so on in the past. There is concern among head teachers about the funding of it, while there is a broad welcome in terms of a lot of the key principles.

Certainly, while we are not a pathfinder school or area, the concept of the team around the child—in terms of getting health and social care and so on, working with staff within schools around individual children—is something that we are wholly committed to and have experience of. We also recognise some of the challenges that lie ahead. Ultimately it is about where accountability for the individual youngster lies, and that being a key driver for both funding and also in terms of the responsibility for people to work wherever that responsibility lies. That is the key thing. For the most vulnerable students, it is always about accountability.

Q2 Chair: Who should be taking the lead, and do you think we have clarity over that in the emerging situation?

Martin Bacon: I think there is. As a school, we have a philosophy—100%—that every child is our responsibility. It is our responsibility of care to look at engaging with agencies in order to achieve that. Certainly schools have a statutory responsibility, as do local authorities, but it is about making sure that there is appropriate collaborative working and support for that. It is also a carrot and stick in terms of social care and health, and making sure that it works—which I am sure we will come back to.

Q3 Chair: We will indeed. Jane.

Jane McConnell: It is a tentative, feeling-the-way document. The devil is in the detail, and we do not

have any detail yet. We do not even have detail as to what pathfinder pilots are actually doing, and what they are trialling. Until we get the detail, we cannot see if it is a plus or a minus for parents and children. We welcome the document but we thought there would be more detail in it as to what the Government were actually proposing in order to move this forward.

Q4 Chair: We will have the Minister here immediately following this session, so what should we be asking her on that?

Jane McConnell: Regarding the existing statutory rights, there has been a commitment to ensure that a child with a statement of educational need or a child with SEN with that level of statement will have the same rights. We want to know things such as will we still have a trigger for the SEN plan—the new single assessment plan—that is based on the probability of having SEN? We are really pleased that they are saying they are committed to looking at a process of assessment based around the child's needs and not around resources. However, until we get the detail of how they are going to put this into practice, and whether local authorities or schools will be responsible for making sure that the provision is provided, we do not know. We do not know if they are actually doing what they have committed to do, so we are still interested in the detail.

Professor Norwich: I would go along with what Jane said; in fact I would go further than that. Once the pathfinders have learnt something, there is the question of at what stage that will be learnt. It seems to me that the question of when legislation is formulated depends partly—very much so, in this Green Paper—on the lessons to be learnt. A lot of it was left to be played out in the pathfinders, rather than frontloaded, so I would add to that point—it is a critical point.

Q5 Chair: While I am on this theme, do you have a question for the Minister?

Professor Norwich: Well, it is not just what is going on in the pathfinders. What will the outcomes be, how will the lessons be learnt and how will those lessons then be translated? That was very much the message of the Green Paper, wasn't it?

Jane McConnell: Yes. The real concern we have is that very few parents are actually in pathfinders at the moment. Most pathfinders will be getting parents into their pilot schemes as of September; however, we understand that there is still a push to draft legislation over the summer, with legislation going into Parliament early next year. To be honest, even for those most ignorant of the governmental or legislative process, it will seem that it is cart before horse. If it is truly to be an evidence-based change to the system, they have to stop, listen and make sure the evidence supports what they want to do.

Q6 Chair: The Government said that they would set up pathfinders in order to inform how to deliver the aspirations for which there is broad support, and that they will then legislate before they get the evidence that they said they needed in order to legislate. Is that the danger?

Jane McConnell: That is the bottom line.

Debbie Jones: There is a great risk, or perhaps opportunity, that the Committee might want to ask the Minister about, of using 2013–14 as a transition year to enable the evidence of the pathfinders to truly play out. As colleagues have said, a lot of the pathfinders are only in relatively early set-up phase now.

Philippa Stobbs: One of the crucial issues is going to be to give parents confidence that these new arrangements are going to work better than what is in place at the moment. Given the evidence of that, who would not want to make the system work better? But at a time when what parents observe locally is—very significantly—cuts, that creates a concern that changes may remove something, so at this particular period of time, it is all the more important to have good strong evidence that these new arrangements will work better than what you have at the moment, and that they do not compromise any of the entitlement that you currently have for your child.

Q7 Chair: I suppose that having produced the Green Paper—we are already a year on—with a progress report, the Government may feel that they are under pressure to deliver in a reasonable time frame for the children who they themselves say are being let down. Is the message of this panel unanimously that it is better to get it right and take more time than to push ahead because you feel the need to be seen to act?

Philippa Stobbs: Yes.

Martin Bacon: Yes.

Debbie Jones: Yes, very definitely.

Professor Norwich: Absolutely.

Chair: That is five yeses, I think.

Jane McConnell: Yes. This has got to be a cross-party issue. If we meddle with the system now and we do not get it right, you are changing children's lives for the worse—potentially, for the rest of their life. We owe it to those children to get the system right and make sure that we develop it based on good, strong evidence.

Chair: Okay. Thank you for those opening remarks.

Q8 Craig Whittaker: Can I just ask very clearly, as a follow-on: are you calling for a halt to legislation until we have more firm evidence from the pathfinders?

Jane McConnell: I do not know if we are calling for a halt to legislation. Perhaps we could have some temporary legislation that sets out a scheme that will be piloted in some local authorities. If we need halfway legislation, that is what it will be. Otherwise, yes, it would be a halt.

Q9 Craig Whittaker: With all due respect, legislation takes for ever to get through the system. The Government have made it very clear that they want to bring legislation forward in the summer. We have heard concerns that actually the pathfinder evidence will not be there—that there is not enough evidence there—so do we postpone, halt, or wait? What is the message that you want us to give to Government?

Chair: You had better make it clear.

Jane McConnell: We had better make it clear?

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Craig Whittaker: Absolutely. This is your one opportunity to make it very clear.

Chair: If there is a chance, this is the last chance to persuade the Government not to do it.

Jane McConnell: It would be to wait. My vote would be that legislation should be waiting until we know what does and does not work for kids. Otherwise there is a very real possibility that we will end up legislating for a system that is worse for them as opposed to what we have now.

Q10 Damian Hinds: How long do you have to wait?

Jane McConnell: In all honesty, you have to wait for a pathfinder system to have been working at least for a year. At the moment children are entitled to have their statement of educational needs reviewed once a year. Until they have gone through that whole process once, you will not have seen the cycle. Unless there is an opportunity to have early reviews, or something along those lines, I would say that a year is the right period of time.

Debbie Jones: Our advice would be that 2013–14 should be treated as a transitional year, with enough capacity in there to learn those lessons and tweak whatever needs to be tweaked. I completely agree with my colleagues: there is too much at stake here. There is a lot of expectation out there; there are a lot of wicked issues that need to be sorted. The point around resources is of course one of those. Getting it right is more important than getting it right fast.

Philippa Stobbs: I would want to link the stages of legislation to the evidence available—to progress this in a staged way, based on the evidence for a particular approach. We understand very clearly that the Government intend to have a plan, not a statement, and there are things in terms of frameworks that you could do quite early, but you need to be absolutely confident that you are doing it on the basis of the evidence that you are getting back from the pathfinders—a staged way. That reflects a little bit what Debbie was saying; if you have a staged approach through a more rigorous pilot, for which there may need to be legislation, that is one way of ensuring that you are only ever changing something on the basis of good, solid evidence.

Professor Norwich: I want to look at it from the other point of view, which is, what kind of legislation are we talking about? To answer that question on timing, unless you know the specifics of how the current architecture and systems that are in place—the 2001 legislation and so on—are going to be modified, you cannot even begin to answer the question. In a sense, it is not just a question of what lessons have been learnt from pathfinders but what that means at the statutory level. Could some of the changes not be done at a regulation level, or in some other informal way? Many of the beneficial initiatives have not required legislation. There are issues about legislation being the initiative that is required.

Martin Bacon: Given the complexity of the integrated cross-departmental nature of this in terms of education and health and social care, and so on, there was a move under the last Government to bring this together, and a lot of good work was done. However, we have to recognise that in a time of complex funding issues,

as we say, we just have to get it right. Most people would say that a lot of it is common sense, and what people have been saying for a long time, which is that young people and young adults with complex needs need wide-ranging elements in the solution. Our experience is that cross-phase working is not easy, so the legislation to support and drive it is absolutely critical in making sure that it delivers. That is both in terms of what pathfinders are doing, as well as what others are doing very effectively as well.

Q11 Mr Ward: As we all seem to be agreeing, perhaps we should get the Minister in and cut to the quick.

As this obviously will influence everything else that we do in the rest of the session, when you say, “Well, we don’t know yet,” can I just ask you, as devil’s advocate, to say what, if anything, we are in danger of losing if we do not proceed at the pace that has been dictated or suggested by the Government? Are there any downsides in not moving ahead?

Jane McConnell: For me, a downside is that there are lots of good intentions around, but there is not a clear statutory framework to ensure that rights that parents already have in education, for instance, are reflected in the new system. Unfortunately, whereas good intentions and common sense work for the majority of children in the majority of schools, our experience—obviously people do not ring IPSEA because things are going well; they only ring us because they are not going well, as I think I have said to you as a Committee before—is that you need that legislation, that protection, in place to protect some of the most vulnerable children out there. I pick out looked-after children as one of those groups: children whose corporate parent is the local authority as well as the local authority being the person who is responsible for providing the right level of education for them.

Q12 Chair: Specifically the question is this—I am simply trying to tease it out and get an absolutely clear answer out of you, which is challenging—the feeling is to proceed on the basis of the evidence, but that might mean a delay of a year; it might mean we do not see draft legislation, with all the process that follows, for over a year, so if that is the conclusion, experts from the area—namely you guys—and this Committee come to, what is going to be lost? The Government will be concerned about being told that they have betrayed people by not acting early enough to enact things that everyone has agreed are good. If they are not going to proceed with that, and if there is a loss of momentum—they are not going to like it if they get bad headlines that suggest they are abandoning the priority of the most vulnerable children—you need to be pretty clear what the pluses and minuses are if you are going to change their mind.

Jane McConnell: There is also a real danger of the emperor’s new clothes—that we are reinventing a system that is not fundamentally different from the system we have already. If that is all we are going to achieve by this whole exercise, especially in a time of austerity, why are we putting everybody through this trauma if what we are getting is no different from what we already have within the current system?

Q13 Chair: That is a subtly different thing.

Jane McConnell: Subtly different.

Q14 Chair: I am not clear whether collectively or individually you are asking for a delay. I know that it is hard, because your world is not the drafting of legislation. You have to follow it professionally, but close understanding of the way we make law is not what you do particularly; it is what we do. Insofar as you are able to, I am trying to get a take from you as to whether we should be delaying legislation, because once it gets going it is like a train. You can make some amendments, but fundamentally, what you start out with tends to be what you get at the end.

Philippa Stobbs: There is a risk in asking for a blanket delay, which is very different from saying, "Please proceed in a staged way, on the basis of the evidence."

Q15 Chair: You cannot stage it; legislation is legislation. It goes through this place on a process, and does not get deviated. It is on rails.

Philippa Stobbs: I absolutely agree, but legislation will be framework, won't it, and the detail that will follow will be in regulations, and ultimately in a redrafted code of practice.

Q16 Chair: Duties tend to be in primary legislation. If you want to impose a certain duty that is fundamental and you want an integrated system, you will put statutory duties, the existence of which are important and the precise phrasing of which is critical, and they will be placed among a hierarchy of other statutory duties. You get that right or you do not, and that will determine behaviour. That is not something that you can too easily fiddle about with on the margins.

Philippa Stobbs: No, but there is the potential, if you are proceeding on the basis of the evidence, to have a staged approach. That might be, for example, a statutory pilot. At the moment, the pathfinders are testing out ideas while the current framework stays in place. You could then, on the basis of the evidence from the pathfinders, design a pilot for which you would need statutory powers, because you would want to waive the current framework to test out this new idea. My point is that a staged approach on the basis of the evidence could give you the best possible result, without a blanket delay, which I agree does risk losing the moment, the will and the desire to make the system work better. If you lose that good will, you will also lose the potential for changing the other things that sit around this. It is not just about legislation; it is fundamentally about some deep-seated cultural issues that relate to our attitudes towards children's progress and outcomes.

Martin Bacon: If we look at the principles that are involved, some of the key principles, as has just been said, are clear, in terms of looking at a more integrated approach to support and training for those involved in the delivery, and so on. There are then principles we could discuss about control or the role of parents and so on. The principles are being agreed, and on the basis of that, one could argue that this is the direction of travel. However, we recognise the complexity of getting this right. At least in terms of planning, from

an education or health perspective, we know the direction of travel, even if it is not to say that it should start in 2013–14. That can be informed subsequently through the pathfinder, but there are some key principles that will not change.

Q17 Craig Whittaker: I thought it was quite clear, but I am now not sure from the things you have just said. Legislation is being proposed to start the process in summer, so it is being brought forward. I thought you all said that the evidence was not there yet.

Philippa Stobbs: That is right.

Q18 Craig Whittaker: Are we advocating a wait, or are we not?

Jane McConnell: I would say that you do not want to repeal the Education Act 1996, part 4—the part around special educational needs—or the 2001 regulations around SEN, or the current SEN code of practice, until you know quite firmly what you are going to replace them with.

Q19 Craig Whittaker: So no, then.

Jane McConnell: Mine is a very clear no. Once you know, you have the evidence, and you know what you are replacing it with, yes, you can have additional evidence to statutorily legislate for a pilot—that is absolutely acceptable—but that is in addition to the current legislative framework. You would be in real danger if you repealed all of that, which gives a framework of protection for children, without knowing exactly what you are going to replace it with. If this is going to be based on evidence, the message has to be that you do not repeal anything until you have the evidence from which to formulate legislation to replace it.

Q20 Chair: Can I just nail this down? Draft legislation this year: yes or no? Philippa?

Philippa Stobbs: It depends on what you are going to put into legislation.

Q21 Chair: So, not clear. Jane?

Jane McConnell: No.

Q22 Chair: No. Debbie?

Debbie Jones: I would really be sorry to lose the momentum in this Green Paper.

Q23 Chair: Agreed. Is that a yes or a no?

Debbie Jones: It is moderated. Introduce transition and keep the protections.

Q24 Chair: That is not how legislation works. We get draft legislation and we get the Government committed to it—Ministers, from the Prime Minister down, committing themselves to it and its principles, and defending it to the last, because that is what they do, generally—or not. Do you want it this year, or do you think that we have not got the evidence and therefore we should wait? Yes or no?

Debbie Jones: Wait.

Professor Norwich: Wait.

Martin Bacon: Wait, and discuss some of those issues in the document that are of concern.

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Q25 Chair: Four out of the five of you, say that we should not have draft legislation brought forward this year, effectively.

Martin Bacon: Then we have to get it right, yes.

Q26 Craig Whittaker: Thank you. If we move to the consultation, we know from the summary of the consultation that there were 2,378 returns. Only six came from children. Is it what you expected, and do you think that it is sufficient?

Philippa Stobbs: We have been very clear that the voice of children and young people in the Green Paper proposals and in the Next Steps document needs to be sharpened up very significantly. There needs to be a much greater focus on their views, so the response is, perhaps, a reflection of the fact that the voice of children and young people is not strong in the Green Paper itself, nor is it strengthened in the Next Steps document. The low level of response is perhaps a consequence of the fact that the views of children and young people are not adequately promoted through what is in the Green Paper and the Next Steps document.

Q27 Craig Whittaker: Does anybody have a different view?

Jane McConnell: No. We, as IPSEA, found that parents were saying that 59 questions, for a parent of a child with special needs, was completely unmanageable. We took 17 of those questions and ran our own survey, and we had over a thousand responses of which 76% were from parents, so 796 parents responded to our shortened survey. The real issue and the real barrier for parents is that 59 questions, when you are balancing a household, a child with special needs and a life, take a long time to respond to, especially as some of those questions were very complex. The way the consultation was set up meant that you were never going to get a lot of parents—certainly not a lot of children—responding to it.

Q28 Craig Whittaker: Can I ask you about our evidence session a year ago? It was mentioned, and you mentioned it again this morning. Can we tease out a little bit more about funding and capacity? We are a year on. Are any of those fears satisfied at all?

Jane McConnell: No.

Philippa Stobbs: The Government have been quite clear that there is no new money for the new arrangements. It is also quite clear that, from next April, when the funding arrangements change, the tectonic plates of the school funding system will be changing quite significantly. If we are clear that there is no increase in funding to specifically do this, there are two things. Are we clear about how the provision that needs to be made for children with special needs is going to be made in that new system, and are we clear about the respective responsibilities of the different agencies? That is the bit that we need to sharpen up.

There are some ways of doing that with what is proposed, particularly around the local offer, using the local offer to be absolutely clear what the contributions of the different agencies are: schools, academies, colleges, plus the local authority, plus

health agencies. What are the contributions that come from those different agencies, and what is then going to be available locally? The critical thing is how the accountability works if there is a failure on the part of any one of those agencies. That needs to be clear for parents. We cannot have parents having to go to different places to find out who is responsible for this.

Jane McConnell: We have a commitment from the Government to keep a system where the legislation looks at a child's needs, provision to meet those needs, and then where the child will be educated—need-driven legislation. However, until a needs-led element is reflected in a funding arrangement for a local authority or a school, you will always have this fundamental conflict. Local authorities have a fixed budget for SEN; however, if ultimately they are challenged through the tribunal or the courts, if that is where we are going, if it can be proved that the child has a particular need, and the provision to meet that need is identified—

Q29 Chair: Thank you Jane, but I will cut you off, because we have so much to cover. There will be a fundamental conflict unless funding necessarily follows need. Is that going to be changed by current... ? "No," says Professor Norwich. Martin?

Martin Bacon: There is a concern about the funding that schools will be expected to contribute, and that will vary also in local areas. That is one of the things that we are modelling at the moment, and it will hit schools in a range of different ways. Those that have a high number of students with statements are very concerned about the possible contribution of £10,000 per student that they will be expected to make. We have 10 statemented students starting in Year 7 next year, as a school that—

Q30 Chair: So we will see a reversal. There used to be a perverse incentive to put as many children as possible on SEN so you got more cash. Now there will be an incentive to do the opposite, not for the local authority but for the schools.

Martin Bacon: It is a local issue as well, in terms of local authority funding. We are doing some modelling on that, which I am quite happy to share.

Chair: Thank you.

Q31 Mr Ward: You do not need to say, "Well, we don't know yet, because we don't have the evidence," to any of the subsequent questions; we will just take that as read. I will ask you for your reflections over the last period of time on some of the things that you commented on a year ago. The first one is the single statutory assessment. You have had time now to think about this, and to discuss it with professionals. Is it still a good idea? It was generally accepted as being a good idea when it was mooted to begin with. Do you see any problems with it now?

Debbie Jones: We believe that a single statutory assessment makes absolute sense. The issue is that while having a single education, health and care plan is logical, that of itself will not necessarily produce a single assessment. When you do not have the same levers on, for example, health, which is going through a period of rapid transformation, then you are creating

expectations that will not result in changed delivery and, more importantly, reducing the whole complexity of the assessment process. The intent is right, but the detail needs more work.

Q32 Mr Ward: Will it deal with the bureaucratic process? Most people accept that the statementing process is bureaucratic. Do you think that this will improve it or make it more difficult?

Philippa Stobbs: That is a matter of how you operate the system rather than the fundamental design of the system. The moves towards a more person-centred approach are good and positive, but obviously it needs to be underpinned by the statutory framework. It is how it is operated that really changes things for parents—whether the system is responsive, listening, and picking up problems early rather than leaving them unaddressed. It depends, crucially, on the clarity about the respective responsibilities of the different agencies. That is where the lack of clarity comes in, and where parents' confidence ebbs away.

Q33 Mr Ward: We have all been to case conferences and multi-agency meetings and felt, "I don't need to be here." Is there a danger in that? It is a fine theory, with everyone discussing things together in the same room, but it is going to be more than is required in most cases?

Jane McConnell: You said not to talk about detail, but you presume that if a child only has special educational needs and does not have health or social care needs, then the input from those other two agencies will be minimal, because there is no demand for them to be involved. As the system currently is, social services write back and say, "We've got no knowledge of this child," during statutory assessment, and that is the end of the story, and that is fine. For me, it is great to have a single assessment and fantastic to go to 25, but we still have not dealt with the issue of independence of assessments. If the local authority is responsible for carrying out the assessment and they are the ones putting the provision that is identified through the assessment into play, we still have the fundamental elephant in the room that we have had for the last 10 years or so. We still have not addressed that issue.

Q34 Mr Ward: To gather a bit of pace, and I am sorry to push a bit—these are the standard questions you will have come across many times. You will have heard that the most articulate, sharp-elbowed parents are the ones who get results. Is this going to make any difference to that situation? Will it be more supportive, or will it not make any difference or change things for them?

Philippa Stobbs: If you could have better clarity about the responsibilities of schools and colleges and what their job is before you get to the point of the statutory plan, you will have an opportunity to make it better, but that comes down to this real clarity about who is going to be doing what. The better your initial offer is—as proposed here, the local offer—the more likely you are to pick up children's needs early and respond to them quickly. Parents' confidence ebbs away as their child's needs are left unaddressed. Clarity about

what should be done before you get to the point of a plan is a really important foundation stone for enabling a plan to work better, if a child needs a plan.

Jane McConnell: For me, it is about developing a system that means that a child does not actually have to have a parent to ensure that it happens. Anybody who has a parent has somebody who can take up the flag for them, but what we really want is a replacement system that protects those children who either do not have parents who are able to engage in this system, or just do not have parents. We cannot rely on that.

Q35 Ian Mearns: We have strayed into the issue with parents and the issue about the potential for developing personal budgets. Obviously we have had some extremes of personal budgets in adult social care, and it works better for some than for others—some individuals and their families are better than others at coping with managing a personal budget. In fact, I have come across some people who I would advise not to touch a personal budget with a bargepole. Are you clear that suitable advice, guidance and advocacy will be available for those parents who are considering whether or not to choose personal budgets, and where should that advice, guidance and advocacy come from?

Jane McConnell: It has to come from somebody independent. As a parent, going through the process for direct payments for my own child as well as a personal budget for my child in social care, I find it completely overwhelming and very confusing, and I would hope that I am somebody who has some knowledge of systems and how these things work. Literally—it is in front of the panel today—I filled out the assessment and the social worker came back and said, "Oh no, you can't have that many points, because that means he's going to be in a child protection case." I filled out the form based on what I was told, and I had 60 questions to fill out. If that is reflective of personal budgets for families in education, then woe betide anybody that goes down that route.

We had one parent in a pathfinder call us on our telephone helpline yesterday for advice on a personal budget she had been offered in a pathfinder up in the north, and when she worked out the monetary sum, when they got down and dirty with the money, she was being offered half of what it would actually cost to purchase the services that this personal budget was supposed to cover. If we are going to have this, there needs to be independent support and advice. She was getting support and advice from her local authority pathfinder team, and it was only when she got the monetary sum that she thought, "Goodness, this isn't going to do the job."

Q36 Ian Mearns: There is an interesting nuance from the perspective of the parent, though, because the parent also becomes a contract manager for their children's care.

Jane McConnell: Yes. I am rubbish at managing my child's personal budget. I do not get the payslips in on time, and I would hope that I would be a person who could do it properly.

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Q37 Ian Mearns: Philippa is champing at the bit.

Philippa Stobbs: The evidence from the individual budgets, which have been extended to children's social care, is that in fact personal budgets work well in a particular context. There are two key things about the context in which they work well: firstly, there is a personalised approach and a plan for what needs to be in place for the child; and secondly, there is choice from among a range of services. If those two things are in place, that personal budget can work well. We need to focus much more on the broader context of personalisation, not solely on the personal budget. If we do not get the context right, it will not provide anything of any benefit for parents.

Where the IB pilots showed that it did not work so well was where an agency—in that case social care, but we can imagine that it could be education as well—can simply say to the parent, “You have the money; it's your responsibility—you go and sort it.” The evidence is quite clear: if that is the attitude of the agency providing that budget, it does not give the parents any greater say in what the child receives. We really need to put personal budgets into the context of a personalised approach.

Debbie Jones: Following on from that, the issue is that if you create unreasonable new parental expectations alongside fixed and immovable budgets, you immediately have a perfect storm. A number of authorities have run successful personal budget schemes; you need to have—to pick up some of the points that have already been made—good brokerage arrangements in place. That deals with the issue of the well informed, as well as the not so well informed. Those systems that have worked well so far, with good brokerage arrangements in place, have also demonstrated—it is still early days—that sometimes you can see a reduction of between 10% and 15% in actual costs. The assumption that if you create personal budgets you will increase costs is therefore a false one, and it is equally false to do it the other way round. Brokerage is important.

Q38 Ian Mearns: Given the finite nature of funding systems, isn't there a danger that the people with the sharpest elbows and the highest intellect will get the best share?

Debbie Jones: There is always that danger, and that is why, to pick up Jane's point, it is important to have some sort of proper comprehensive brokerage, and a range of brokerage—not just one organisation. There are a number of boroughs that have done some really good work around this. If you just leave them to fill in a 20 or 30-page report, then you are effectively undermining colleagues who find it incredibly difficult, and even those who do not.

Martin Bacon: Looking at the proposals about parental control, one statement says “confidence by giving them greater control”. This is really about parents feeling that the system works. They do not want the control; they just want to know what is happening and who is accountable. Again, if there is transference of this to parents, some parents will be able to deal with it brilliantly, and the most vulnerable will not. It is also about whether that is the most efficient way of doing it.

The bit about personal budgets that disturbs me is control. Ultimately it is about who is accountable for this child if the parents are or are not effective, and ultimately it is not the parents. If they are not effective, it will be somebody else. I struggle with it, because if the system is working and there is clear local accountability for parents, and they know who to go to, then they will understand, and should, through that, understand what the situation is.

Q39 Ian Mearns: Jane, apparently last year you were pleased that the Government had suggested that mediation should be facilitated by an independent body. Should there be a greater role for independent bodies in assessment of need as well?

Jane McConnell: Yes. I honestly think that we have not explored that. I am not talking about the voluntary sector in that respect but an assessment system where perhaps you have regional assessment centres that are not run by local authorities, where children's needs are assessed, and then, once the assessment is produced, local authorities will have the duty to put the provision in place. You need to separate the person who assesses from the person who pays, otherwise you will always have a conflict, or a perceived conflict, even if there is not one.

On that last point, I would say that we have to be clear if a local authority's responsibility towards a child is discharged when the payment is made to a parent, or when the service is delivered to the child. Just paying the parent the money does not necessarily mean that the child will receive that provision. If we are to have some safeguards in the system, we need to be very clear that it is only once the service is delivered to the child that the local authority's responsibility to that child is fulfilled.

Martin Bacon: I feel very strongly that, again, it is about who is ultimately responsible for that child in the most vulnerable situation. That cannot be something that is delegated to somebody else.

Debbie Jones: We believe that local authorities should be signposting to mediation.

Martin Bacon: There is an interesting issue around the key worker. Is there somebody coming out of this process of integrated working? If there is a very robust model where there is a key worker, reflecting whichever sector, that could be the conduit for getting it right. If, at the assessment point, there is broader representation from health and social care than there is currently, we can then look at how it might be driven through.

Q40 Ian Mearns: Debbie, you talked about signposting. It seems to me that the skills, expertise and capacity to deliver on all of this are not necessarily universally available across the country at the moment. I would guess that there are certain parts of the country where those services are readily available, or could easily become readily available, while there are other areas where that sort of local market will take time to develop.

Debbie Jones: That is absolutely true. You have to develop the capacity to get it right, as I said earlier, rather than creating difficulties. We believe that there

are a number of very good ideas here, but they need time to develop.

Q41 Chair: To press Debbie on this, Jane is talking about separating the assessment from the provision, which sounds like a technical thing, but if you had one thing that was going to blow this whole thing open, that would be it. If somebody genuinely independent had the power to make the assessment, and everybody else was obliged to fulfil it, funding would follow need. You might also have an astonishing explosion in cost—I do not know. Wearing your hat, Debbie, what is your view of that?

Debbie Jones: We are absolutely clear; we retain commissioning responsibility. The Government are also clear that they are not going to put more resources into the pot, so it is a matter of better use of what is already available. To some extent, as I have said already, this creates perfect-storm material. However, it is vital, going back to the funding issue, that there is clarity of commissioning responsibilities, linked to the joint strategic needs assessment. The school funding and SEN funding proposals are pretty much an intractable problem and need to be worked through. I could not be clearer than that, and it is important that that is taken forward.

To give you an illustration, some of the issues that have arisen—this links to the question that Ian has just asked—have been in relation to the question of who is responsible for the child. Is it the home authority, or is it where the child is actually placed? It is vital that local authorities, in terms of ensuring that the best possible provision is available, retain that commissioning responsibility, and therefore the funding issues have to be resolved. Some of the proposals that are here now will create additional complexities. Moving lumps of £10,000 here and there will not necessarily help to clarify an already complicated process.

Q42 Ian Mearns: There is a tension within this system; I have dealt with parents over many years who have told me that the way the statement for their child has been constructed has been more a reflection of the services available than the needs of the child.

Debbie Jones: Yes.

Jane McConnell: To be honest, until somebody deals with this head on, we will always have that conflict—until somebody braves it out and says that legislation will not be about a child's needs but about resources, and changes legislation fundamentally. I understand that is not the proposal at the moment, because there is still a commitment that parents will have the same rights as they currently have, where it is needs-based as opposed to resources-based. But resources are not infinitely funded.

Q43 Chair: It is a theoretical right.

Jane McConnell: Well, in law it is the right, so if you go to tribunal, it will always look at the child's needs, as per the evidence, the provision to meet those needs, and then order it. Ultimately, therefore, if you take it through the process, and you take it out of the local authority's hands and into the pure law situation, then the child will always get what they need based on the

evidence. While it stays within the local authority, local authorities will always be operating their SEN policies, which do not necessarily reflect that but rather their finite resources.

Philippa Stobbs: There are some risks, however, attached to establishing a separate and resource-intensive assessment system. Assessment needs to be a continuing process—in the school, every day—which informs the wider assessment. If you actually separate it from the system that makes the provision, you risk creating a separate system that cannot inform the provision that is being made on a regular continuing basis. That is the risk; it could be very cost-intensive, and could fail to integrate adequately into the day-to-day provision.

Q44 Neil Carmichael: I want to talk about learning and achieving in terms of teachers and support staff. First of all, Mr Bacon, Martin—let's be friendly; I'm Neil—and then Debbie, what impact do you believe the scholarship funds for teachers and support staff will have?

Martin Bacon: There is a statement, "Transfer power to professionals". Again, this is building on some excellent practice that is taking place and looking at how that is disseminated, both within an institution—one school—as well as beyond. Certainly, a lot of onus is put on what teaching assistants, as a resource, achieve as part of support for students within the mainstream with statements of special needs. They are a group of people that we should continue to develop. Certainly as a school ourselves, we have radically restructured. Sometimes, what can happen in mainstream schools is that students with statements are almost the responsibility of the SENCO exclusively, and the TAs. We have turned it on its head, so that the TAs—

Q45 Chair: Sorry, can I bring you specifically to the issue of the scholarship funds?

Martin Bacon: It is about that, but it is also looking at developing practice and deployment of teaching assistants. It is something that Ofsted have said a lot about in terms of the quality; it is a huge investment, but it is about the quality. There is an element of training, and then recognising that it is a valued role and therefore there is investment in the training for that role. Whether it is being done at a school level or supported by that, it would be fantastic.

Debbie Jones: I would not really have anything to add to what Martin said.

Q46 Neil Carmichael: Thank you. To Martin, again. This Committee, quite rightly, is thinking in terms of promoting career pathways in the teaching profession, and that would obviously apply to SENCOs and similar staff. I certainly think that is a way forward in terms of promoting teaching generally and developing a professional attitude towards teaching beyond what we already have. Do you think that would fit in with SENCOs and special educational needs in general?

Martin Bacon: Pragmatically, what we are doing now is having teaching assistants in departments, rather than in a central base. As seen in an advert at the moment for a teaching assistant role within

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mathematics in the school, we recognise that this might provide people with suitable qualifications and expertise, which you want; if they are going to be supporting the neediest students in maths, they need to have an appreciation of it. As part of the adverts, we are saying, “We would welcome applications from those with a maths degree, and we would support them in progression towards the teaching profession.” We are doing that currently; again, it is talking about the status of roles within schools.

Debbie Jones: We would greatly support that notion, and indeed, if I could refer to my own local authority, we currently have a teaching school, and one of the early priorities will be on developing training development career pathways, particularly within this arena.

Jane McConnell: Can I make one plea? At the moment, teachers are not taught what the special educational needs system compels them to do or not to do—for instance, annual reviews or any of those processes. It is not part of the teaching curriculum or the training for teachers. It does need to be in there, because these people are at the coalface of working with parents, and if they do not understand the system or what the legal duties on them or on the local authority are, that is the basis of mistrust with parents and the whole SEN system.

Professor Norwich: Clearly, any funding of scholarships is excellent. It is necessary but not sufficient, and the sufficient conditions are really important. There is a lot of emphasis on training and development, and I subscribe to the view that the best professional development involves teachers or assistants in some sort of inquiry that is practice-based, from which they learn and can see learning and change in the children and young people. That is the most powerful influence. It seems to me that the money must be spent wisely so that it engenders that type of approach to professional development. It is not just a question of money. In fact, you can fritter away a lot of money if you do not have it well designed.

Neil Carmichael: I understand that.

Philippa Stobbs: One of the key things that came out of the Lamb Inquiry was that parents move through the system to try to find the relevant expertise to meet their child’s needs. The training is very important, but it needs to be relevant to the particular child. On a school-by-school basis, you may not be able to have the relevant skill and expertise available in every single school, so it is really important to look at it in the context of the pattern of what is available locally. The risk is that with increasingly independent institutions, whether we are talking about academies or maintained schools, some of that framework is eroded. The framework of places where schools would naturally go to find relevant expertise that they do not necessarily have on an institutional basis risks being eroded with the increased focus on individual independent institutions.

Neil Carmichael: We will talk about those in a minute.

Chair: Sorry Neil, I am afraid that thanks to the poor quality of the chairmanship of this session, we have very little time. Can I ask you to put just one more

question? I do not want to limit our time with the Minister.

Neil Carmichael: I have a lot of questions. I will have to be very—

Chair: Succinct. Fortunately, I am lucky to have you as a colleague.

Neil Carmichael: As we all are with you, Graham. We are a very friendly, inclusive and happy Committee.

Ian Mearns: Get on with it, man—for goodness’ sake.

Q47 Neil Carmichael: I would like to know, in terms of academies and independent schools, how you think the changes that we are planning, and the issues around funding, are going to be complicated because of academies. By extension, do you think that the issues of accountability are of concern as well?

Philippa Stobbs: Yes, we have a problem already, in that it would appear that the entitlement to a place in an academy for children with special educational needs is not as we were assured it would be during the passage of the Academies Act and the Education Act. Ministers were clear that there was to be absolute parity between maintained schools and academies. We understand that a number of cases are being held by the tribunal at the moment, and the concern is that we do not have that parity. The Special Education Consortium is quite clear that that needs to be addressed really urgently, whether by emergency legislation or other means. At the moment, we do not have that parity between maintained schools and academies for children with special educational needs. Given the growing numbers of academies, that is of real concern to us—that their rights are being eroded.

Q48 Neil Carmichael: Can you drop us a line with more detail on that?

Jane McConnell: Yes, certainly. We have done a briefing on it; it is in the courts at the moment, but it just needs to be sorted. There is also not parity in the application of the SEN framework to academies, so that even once a child has been admitted to the academy—within that I include free schools, university technical colleges, all the different types of schools—the SEN framework, the Education Act Part 4 regulations and the code of practice do not directly apply to that academy. They only apply through the contract, which is the funding agreement between the Secretary of State and the governors of the academy, or the academy trust. Parents, as you can see, are not a party to that, and neither is the local authority. If an academy does not do what it says on the tin, or what it says in the legislation, parents do not have the same right of appeal or of challenge as they would in a maintained school.

Q49 Neil Carmichael: Your answer is really why I slipped in my question about accountability, because that is at the core of SEN.

Jane McConnell: It is a huge issue.

Q50 Neil Carmichael: Do you agree, Martin?

Martin Bacon: My feeling is that when this legislation comes through, it needs to be very clear

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that the accountabilities are the same for state-funded and independent schools. That is very clear, and then there is appropriate challenge and opportunity as required. It does not need to be a problem, and there is lots of evidence of academies working very collaboratively together on a range of different issues like this. The example that I sent through to you in terms of children educated other than at school is in South Cambridgeshire.

Q51 Chair: It is not the good ones that we are worried about but the bad ones. Debbie very quickly, then I will go to Charlotte.

Debbie Jones: It is currently going through the system. There is a lack of parity; there is no level playing field, and that needs to be addressed. Equally, academies, free schools and all the rest—all the diversity of schools—can work together collectively, with local authorities and all interested stakeholders, to make the system work. But that particular issue has to be resolved.

Philippa Stobbs: As a matter of timing—since we have been talking about timing this morning—I think Martin’s suggestion was that this could be resolved through the Bill. It is an urgent issue and it needs to be addressed now.

Jane McConnell: We have got children waiting to go into school in September who will not have a school place because of this issue. Their parents want them to go to an academy, they are appealing to the tribunal, and because there is no legal parity between them and it is still not clear what exactly is happening, they will not have a school place in September and they will not have had their appeal heard in front of an independent panel.

Philippa Stobbs: It would be devastating if this issue cut across the potential for some of the really positive developments proposed in the Green Paper; it could undermine them.

Chair: Nicely put, politically as well.

Q52 Charlotte Leslie: I will try to keep it quite brief. I want to talk about what happens when children with SEN begin to grow up. Completely unsurprisingly, the progress report noted that a significant proportion of children in young offenders’ institutes have SEN. There are two things: firstly, do you think that these plans go far enough to support the special educational needs of those people in young offenders’ institutes? My second question is related to that. When the Minister was last before us talking about this, I asked whether we could look at exclusion from school as a trigger that something may be amiss in terms of special educational needs. She was very good, and she took that on board and took it away. Do you think that the report goes far enough in recognising exclusion as not just a kid being naughty but perhaps a very early signal that something is not quite right and needs to be looked at in a more sophisticated way?

Jane McConnell: Certainly, no—it does not go far enough. For us, exclusion is evidence that a child’s needs are not being met, so it needs to be addressed, and the earlier you address it, the better or more effective it is. Again, this has a high correlation with looked-after children. I think the Department are

about to produce some more statistics that show that the correlation between looked-after children and exclusion is very high. There is also the fact that academies are disproportionately excluding; we are talking about permanent exclusion as well as fixed-term exclusion at the moment. This is an issue that needs to be addressed for kids with SEN, kids with SEN who are looked after, and kids with SEN who may or may not be looked after who are in academies. It cuts across all those different categories.

Philippa Stobbs: It comes back a little bit to the issue we discussed earlier about parents who may be able to put pressure on the system to respond to their child’s needs. The key thing is that there needs to be greater accountability for that early provision so that it does not depend so much in the future on individual parents challenging a plan, whether that is at the school level or the local authority level. Crucially, there needs to be much tighter accountability around the progress and outcomes for these children from the very earliest stage. That is difficult in a system that tends to measure academic attainment while not focusing as clearly on children’s progress. A clearer focus on progress in the system, which could hold schools more closely to account at that early stage, would help to prevent some of those problems; for example, the over-representation of children with dyslexia in young offenders’ institutes. Why hasn’t that been picked up at an earlier stage?

Q53 Chair: Sorry to interrupt, Charlotte. Jane, you said that there was a disproportionate number of exclusions among academies. Earlier data suggested that if you made the comparison with comparator schools, there was not in fact a disproportionate number. Do you have any data now that you can share with us?

Jane McConnell: We have our own personal data, but I have an understanding that data is coming out from the DfE that does show this as well.

Q54 Chair: If you could send us yours, that would be great.

Jane McConnell: Okay.

Q55 Charlotte Leslie: Debbie, you had a comment.

Debbie Jones: On the question of whether the proposals help in terms of transition, yes they do—the whole concept of moving to 25. However, I would make the point that you need whole-life commissioning, and this helps towards that, and a number of the pathfinders are looking specifically at transition. That is another important point about them. On the issue of exclusions, we would greatly welcome the DfE producing some statistics to either demystify or not the issue about exclusions. The issue is critical. Whatever the reason, whatever the context, exclusions—particularly in relation to looked-after children and young people with special educational needs—are an indicator, a sign, of difficulty in the system. We need to know which parts of the system are not working.

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Q56 Charlotte Leslie: If the panel had a quick recommendation for what an exclusion could or should be a trigger for, what would it be?

Philippa Stobbs: It should be a trigger for a full assessment, and if the child already has a plan—

Q57 Chair: Debbie, do you agree?

Debbie Jones: Yes.

Martin Bacon: We are an academy that has a no-permanent exclusion philosophy, because previously when we did, they would probably end up in the pupil referral unit, and not attend and not achieve. The key thing is where the accountability lies. If the accountability lies with the school, as in our view it does, you then need to find appropriate solutions for those youngsters. The other key thing is an issue that Graham is very aware that we have a very strong view on, which is about the nature of the national curriculum. While I agree with some of the outcomes of the Wolf report on vocational work, it was really looking at vocation as ICT for all.

As a school that has a hair salon and a beauty salon—neither of which I am allowed into, obviously—and construction engineering, that is how we as a school are able to include every single child. I certainly believe now that we will have an opportunity to speak to the national curriculum review group about that. With young people it is about self-esteem, about feeling that they can achieve, and it is pretty simple. For those students that come to Swavesey and have that as an element of their curriculum, it is fundamental, whether they are students who would have been previously permanently excluded, or whatever. That is critical.

Chair: Thank you. This will be the final question for this session.

Q58 Mr Ward: I will keep it related rather than going into a new area. This is about the traditional role of a good LEA in terms of monitoring and supporting, but also challenging. Have you any views on how the changing role of LEAs in the new growth of academies and free schools may impact upon supporting children with SEN?

Debbie Jones: Local authorities retain responsibility for children with SEN. All local authorities, more or

less without exception, continue to maintain a role in relation to their overall responsibility and accountability for improvement and indeed quality in ensuring the best possible provisions for those children for whom they are responsible. Particularly around the SEN arena, where the changes make it very clear, with all the tensions that are created, we retain those responsibilities.

Jane McConnell: We would like to see local authorities being champions of children, and at the moment they are not. There are a lot of reasons for this, and many of them are based on finance. There are particular issues around local authorities that are becoming commissioning authorities, so they are getting rid of their in-house expert staff in the field of SEN—their teachers for the deaf, their specialist teacher teams—and moving to a commissioning basis and scaling back what they do—what expertise they have in-house. They are dumbing themselves down, for want of a better term. If the role of local authorities is to be the champion of children with SEN, we have to give them the financial ability to be able to do that, and it is not happening at the moment.

Philippa Stobbs: One of the critical roles is to provide a framework with expertise that is reasonably expected to be beyond the capacity of every individual institution to provide, so there is that bit as well, but it comes back to real clarity about the funding. There is a link; there is a continuing role for the local authority in working with their schools forums, where academies and colleges are represented as well, to secure that clarity about the respective responsibilities. The local authority still needs that, as well as the individual decision-making that Debbie has referred to. It is important to remember that there is a very significant role in supplementing and co-ordinating beyond the level of the individual institution if we are to have a system that is designed to meet children's needs when they fall beyond the level of the individual institution.

Chair: Can I thank you all very much for a thoroughly interesting session? I hope you do not mind—there is quite a lot that we did not cover, so we might correspond with you, if we may, to seek further information. Thank you all very much indeed for coming this morning.

Examination of Witness

Witness: **Sarah Teather MP**, Minister of State for Children and Families, gave evidence.

Q59 Chair: Good morning Minister, and thank you for coming to give evidence to us this morning.

Sarah Teather: Good morning. Thank you for having me.

Q60 Chair: Four of the five expert witnesses we have just had before us recommended not bringing forward draft legislation this year until the evidence from the pathfinders is available. Is there any sense in that recommendation?

Sarah Teather: We are trying to balance a number of competing voices, and I am sure you expect that. Parents told us repeatedly that the current system does

not work and that they want us to move as quickly as possible. Some of the stakeholder groups are saying, "Well, we've got to get the detail right," and at the same time some of them are saying that it is not quite radical enough, so there are lots of competing voices in this space. I want to say to the Committee immediately that one of the things that we have been trying to balance is your need for adequate time to do pre-legislative scrutiny for us. Our original intention had been to publish the draft clauses in July, but our officials have been speaking with your clerk and we understand that if we publish in the first week of September there will be adequate time for you. We

would like slightly to delay publishing our draft clauses, which allows a little more time for the pathfinders to continue their work.

Q61 Chair: I thought that September had been redesignated as part of the summer by the DfE anyway, as February can sometimes form part of autumn.

Sarah Teather: I cannot comment on that. Given the weather, perhaps our classifications are a bit irrelevant anyway. Would you like me to answer the rest of the point?

Chair: Yes.

Sarah Teather: The other thing I should say about speed is that I know that a number of the stakeholder groups have said to us that they are anxious about it. In some ways I am not surprised, because if you have been fighting for something for a very long time, it creates huge anxiety when you start to create change. I come back to that first point—individual parents are telling us that they want us to move more quickly. It is not as though this has come from nowhere; it is part of quite a long process. Obviously Ofsted have done a review; as did Toby Salt, John Bercow, and Brian Lamb. We then had a call for evidence back in September 2010 when we had 1,800 responses, 40% of which were from parents. We published a Green Paper last year and we had 2,500 responses; we published the Next Steps document this spring; we are publishing the draft clauses in September; the Bill comes in in spring next year, and it is a carry-over Bill, so we have time.

We are not talking about an academies-style speed of getting through the Commons; we have time to go through that—time during the Committee phase and Report stage. We do not expect to receive Royal Assent until 2014, and then we need to think carefully about how we implement, to make sure that we are doing that right. In terms of the evaluation, SQW, who are our partners for this, are doing regular updates; as it happens they are publishing another update next week, which is a couple of months out of date. Our first proper evaluation will come in time for you to do pre-legislative scrutiny, but regular updates will be published all the way through, so it is not as though this is going into a black box and we are waiting for the answers to come out the other end.

Q62 Chair: You yourself said that the reason for having these pathfinders was because of the direction of travel, all the various reports saying what we want—there is broad consensus on that—and how you actually deliver this integration, this single assessment that cannot actually be a single assessment unless you are collocating all these people in one huge building somewhere.

Sarah Teather: It is a single assessment process rather than single assessment.

Q63 Chair: Precisely. So it is not really a single assessment. How you make that work—the duties that you need to impose on people and where you just encourage them—all has to be informed by the pilots. Everyone has wanted to have a more integrated system for a long time. Children's Trusts and all sorts

of organisations have tried to look at bringing people together, and they have struggled. The point is that notwithstanding everyone wanting to see this new vision delivered, getting the legislation right is absolutely critical.

Sarah Teather: Getting the legislation right is absolutely critical, otherwise there is no point. It is not a public relations exercise but a pretty radical piece of reform. The pathfinders began in September, and they have worked very hard with parents to re-engineer the process, so it is not as though we only started them last week. They have been doing a very concentrated piece of thinking, working hard with parents on the ground, and there is time during the process through which the legislation goes through Parliament. I am quite sure, particularly in an area such as SEN, that we are going to get a lot of amendments—it is an area of significant interest in both Houses—but it will probably get me into deep trouble with the Public Bills Committee to even suggest that that might be the case.

Q64 Chair: I was suggesting to the previous panel that they were being naïve if they thought it was going to change that much.

Sarah Teather: All the way through we have tried to respond to comments that have come from the last time I came before the Select Committee, from individual Members who have raised things in the House, and from parents who have been to see me. The Next Steps document is not exactly the same as the Green Paper. The proposals have been developing all the way through, so I hope that people feel that we are willing to listen to the detail that comes through.

Chair: Thank you.

Q65 Craig Whittaker: You mentioned the 2,500 responses from the consultation. We know that about a quarter of those were from parents and carers, but only six were from children. One of the key things we heard this morning was that the consultation had 59 horrendously complex questions, which may be an issue. We also heard that Denise Jackson, whose son has autistic spectrum disorder, said recently that when she read about the Green Paper she “lay awake worrying, thinking about all the extra work that might be involved”. What can you say to reassure people that this is not the intention?

Sarah Teather: In terms of involving children, we have tried to involve children's and young people's views in other ways. Expecting them to respond to a Green Paper is not necessarily realistic, although as you said, some chose to do so. The Council for Disabled Children were very helpful in helping us work with their young ambassadors. First News, which is a children's newspaper, have been very helpful in filtering their views through to us, and I met with young people as part of that process as well.

As I said in my opening remarks, if you are a parent who has been battling the system for a very long time, any change will be a time of anxiety. Even if it may herald greater hope for you, if you have been fighting the system for a long time it is inevitable that you will be frightened that the system may get worse. Frankly, most parents have not had a good experience, so you

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are not beginning from a point of trusting a Government that you might be choosing to help. A lot of parents will think negatively of any of the authorities that have been involved in working with them.

Q66 Craig Whittaker: What are we doing, then, to reassure parents if that is the history? I will bring this on to my next question as well, because we are talking about complexity, and one of the complex issues is the amount of legislation. However, we have seen, in consecutive paragraphs of your progress report, that one piece of legislation seems to be abandoned and another one introduced.

Sarah Teather: I am not sure I know what you mean.

Q67 Craig Whittaker: Okay. Let's take the complexity issue all in all, bearing in mind that you said, very clearly, that parents do not have trust in Government in this area. How are we making it much simpler for people to understand, so that we do not have people like Denise Jackson lying awake at night, worrying about what the changes to the system are going to do?

Sarah Teather: What we are trying to do with the system is to engage parents much better right from the beginning. This is a complete re-engineering of the system. It is not just taking one bit out; we are trying to do the whole process in a very different way. I will go through those steps in a minute, but before I do that, it is worth saying that the reports we have from the pathfinders are extremely positive. Individual parents who have begun to go through the system say that it feels completely different. I will give you one example.

One of the first parents in Hartlepool to be involved in testing the new process said, "There really is no comparison between the statutory assessment and the new approach. As the annual statement reviews are totally education-focused, you don't get to know who my child is. I am fortunate enough to be involved in care co-ordination, which looks not only at my child but also his wider world. To have a similar approach in one plan instead of several different ones will be far less time-consuming, and make life a lot easier for parents and carers." We are picking up similar comments from many of the pathfinders. I know that with one of the pathfinders in Solihull, the problem they had with the parents was that they thought it was too good to be true. It felt so different, and the relationship felt so different when working with the authorities involved, they thought, "This can't actually happen," which says as much about the hard work that the authorities involved in pathfinders are doing to try to change the system as it does about how bad it has been before—that people's expectations that things can get better are so low.

I want to tell you a bit about the re-engineering of the whole system; it is worth thinking about what we are doing in the whole to give you a sense of the big picture, as it is quite a big document, as you said. First of all, the local offer, laying out what parents should expect, should change the relationship right from the beginning. Instead of starting with a blank sheet of paper, you are starting with an offer of services about

what is involved, involving everybody—from early years, professionals, schools, right up to colleges, health, and social care—and better earlier identification. We have already begun putting some of those steps in place with the new early years foundation stage curriculum and the two and two-and-a-half-year-old check. There is better training for teachers, which I can talk to you about in a minute.

The protections are being extended downwards; the statementing process at the moment normally only begins when you start at school. The last Government tried to discourage areas from using the statementing process in the early years. This is explicitly 0–25, and we are effectively formalising some of the triggers that exist in the system where it works well, so that health professionals can refer in to the system, for example. We want team around the child and early support, which is really good practice, to become best practice right from the beginning, so that instead of fighting for the first four or five years, until your child starts school, that should be in place right from the beginning. We are extending the age ranges, extending those statutory protections from 16 to 25, which is new.

There is a more integrated, streamlined assessment process, working with parents from the beginning, and that is really important in what is being tested. We have a joined-up plan, making clear who will pay; joint commissioning and duties on health for the first time, to make it clear that you have to plan and commission services together with the local authority, so that for the first time you might actually have the right types of services available that are needed by families and children in a particular area. The personal budget is not just about giving more choice to parents; it also requires people to set aside the money, and not just stick it in a plan and then not come up with the money to pay for it. Mediation will become a compulsory part of the process.

The whole system is designed to make sure that we can reach agreement at an earlier stage—that we are less likely to have to go all the way through to the end, fighting the process. Nevertheless, we intend to leave in the statutory protections that exist in the current statementing system, so you still have recourse to the tribunal. Our purpose is to try to prevent everybody from having to go all the way to the end, and to make sure that we are more likely to get agreement, and put safeguards in place from the very beginning. This is a very big, radical change, and it involves lots of different pieces of the jigsaw.

Q68 Craig Whittaker: Thank you for explaining that. During that process you mentioned things like mediation, you spoke about capacity, being much more joined up in partnership working and thought processes—I think that is where you were going. But there is no new money. We have heard a lot this morning about capacity and who is going to pay for it all. We also understand that there is going to be much more emphasis on different ways of working, but there is real anxiety out there. This is a fantastic, exciting, broadly welcomed piece of legislation, but the general feeling is that unless we recognise the capacity needs and the need for money, then it is not

going to happen. My question to you is, bearing that in mind and bearing in mind the economic difficulties that parents and families are currently dealing with, how can you reassure partners working within the industry to try to make this work—and more importantly families, who are having to deal with it—that it is going to work and that it will be better for them?

Sarah Teather: There is obviously financial support for the pathfinders, who are the trailblazers who are setting out the new process. It is important also to say that the pathfinders are not just testing proposals; they are part of a wider cultural change that needs to take place. Obviously their work will filter back through into the system, but a lot of what they are doing is actually changing relationships on the ground. One of the things we will need to think through in terms of implementation is about how we roll that process out. We understand that even a lot of local authorities that are not involved in the pathfinders process, because they know that the legislation is coming down the tracks, are beginning to think about how they might change things on the ground. That is good, and it is part of the reason for sometimes having sticks as well as carrots; it persuades people that they need to begin to change practice.

The other thing I would say about finances, however, is that an awful lot of money is wasted in the current system. A lot of professionals' time and energy is tied up in fighting parents. If a significant number of the educational psychologists who are currently involved in fighting parents through a tribunal system were employed more in schools, supporting children from the beginning, it would free up an awful lot of resources that are, frankly, currently wasted in the process.

Q69 Mr Ward: I have some short questions on early intervention and assessment. The first one is on the 4,200 new health visitors. What progress is being made on recruitment, and indeed on the funding of the training, of those health visitors?

Sarah Teather: This is something that is being led by the Department of Health, so I speak gingerly in this area. It might be better, Chair, if I were to ask Ann Milton about this, or I could write back to you, having taken some advice from Ann Milton on the detail of that. We are working closely with the Department of Health to make sure that the training of health visitors takes into account key areas around child development that are particularly important from an educational perspective. Our intention, over the longer term, is to integrate that two to two-and-a-half-year-old check with the check that is done by health visitors at that stage as well. Your question comes from more of a health funding perspective, however, so I will make sure that we provide that information to the Committee.

Q70 Mr Ward: You are obviously already receiving some feedback from the pathfinders. On the issue of how the agencies' different disciplines can come together for the HCPs, is there any evidence about how that is going, and have you heard any success stories so far?

Sarah Teather: I emphasise that all of those who are involved in the pathfinders are coming to this with a real spirit of wanting to change the system. We have really been impressed by their openness and willingness to think afresh. Certainly the reports we have had from parents and voluntary sector organisations who have been working on the ground is that this is broadly positive. Of course, it is not going to be completely positive; there will be individual families who will have a bad experience, just as happens in the current system. Some things will go wrong and we will need to think about how we change them.

What is impressive is that it has been taken as an opportunity to forge new relationships or to build on existing relationships where they work well. The pathfinders come in different places. There are some areas where those links between education and health provision have been working relatively well and they are building on what is effectively good practice, and there are some areas where their relationships with parents are fantastic. Calderdale, for example, is one of the pathfinders that has a particularly good reputation for working with parents. There are other areas where, frankly, they need to begin almost from scratch, because their historic working with parents has been at a low level. They are moving at different speeds, but so far the feedback we are getting is very good.

Q71 Chair: We were told in the earlier panel that someone rang the IPSEA helpline yesterday and said that they had been offered a personal budget as one of the pathfinders, and that seemed okay until they then got the figure and it was half that which was required to pay for the services that were supposed to be delivered. What can we put in place to ensure that we do not get that kind of mismatch?

Sarah Teather: As I said before, all of the existing safeguards in the system are still there, so parents will still have the opportunity to appeal to the tribunal, if that is what is required, but what—

Q72 Chair: But that is exactly what we are trying to avoid. Here is the pathfinder, with these highly motivated people, with a spirit of change—

Sarah Teather: Let me finish my answer. I sometimes use two clauses in my answers, Graham. I am hoping that local authorities and others will work carefully with parents, so that you have a process of negotiation. If that becomes apparent, I hope relationships will be good enough for them to be able to have that conversation, and say, "Look, it is clear that this is not going to supply the kind of care and support that we need." That is exactly what we are trying to test. I do not know which pathfinder that is. Our partners, SQW, are trying to support best practice and make sure that pathfinders are learning from one another and learning from good examples, and it is helpful for us to know any detail of that so that we can make sure that they are really being supported to improve practice on the ground.

Q73 Chair: Do you have any specific ways of making that happen? It was suggested to us in the last

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panel that you definitely need the plan and you need a menu of services: "Here is the assessment. This is what you need. We're giving you the personal budget." But actually it is possible, without going to tribunals or having massive negotiations, for the parent, who is supposedly empowered, to be able to see, "Yes, there's the need. Those are the services. That's the menu. Here's my budget, and I can deliver it." If they do not have that kind of structure in place, they are going to be spending all the time in negotiation and then, ultimately, tribunals, which is exactly what we are trying not to do.

Sarah Teather: It will depend a little on the services the child needs, so it is quite difficult to generalise about all of this. The pathfinders are testing out a mix between notional budgets and direct payments. If you only have one provider in an area, there is not much point in providing direct payments; that is a complete waste of everybody's time and money. You need to test exactly how these processes work best in a particular area, and what mix of notional and direct payments is right. That is exactly the kind of detail that we need to work through, and not all of that will be required to go into legislation—some of it is stuff you need to understand through practice.

Part of the reason why you cannot necessarily have exactly the same price in every area is that services will cost different amounts in different areas, depending on what the local market is and on what local services they have. If the only expert is miles away, it will inevitably cost you more in order to buy that service than if you have an awful lot of a particular service on your doorstep. I am hesitating to require that general restriction, because I am not sure that it is useful.

I know that some people are worried about whether or not parents will somehow misuse the money or not know what to do with it. There is a great tendency sometimes in Britain to make legislation on the basis that the British public are mad, bad or inadequate, and that does not help anybody. My experience of parents is that they want the best for their children. By the time they have been in the system for a long time, they are usually a good deal more expert than anybody who is working with them. Perhaps when they first begin, they will require very different levels of support, but by the time they have felt frustrated at getting services that are not meeting their families' needs, they are more than capable of saying what that they need and choosing differently.

Some of this is also about how we support parents in making that decision. All of the pathfinders are testing out key working, and different models of key working and how that might work—what levels of support different parents might need and whether it needs to be an entirely separate individual or one of the professionals working with families at present. They are all testing that, and that will be very helpful for us as we roll out personal budgets.

Q74 Alex Cunningham: The bottom line in all this has got to be that the family has sufficient resource in order to buy the services that they require. You rightly say that different services cost different amounts of money in different places. How do we make sure that

Child A and Child B, who live in different geographical areas, but with the same range of needs and requirements of services, can afford the real services they need if prices are considerably higher in Wolverhampton than they are in Stockton-on-Tees?

Sarah Teather: One of these is about how we commission services. Part of the problem at the moment is that some services are very patchily available, which is one of the things that changes costs. The new requirement for joint commissioning across local authorities and health providers will make a big difference, particularly for things like speech and language therapy, which we know in some areas children really struggle to access at the right time, as well as mental health provision. Making sure that you properly commission, on the basis of need, and that you plan together to do that, will help significantly in alleviating that.

Q75 Alex Cunningham: But it could still cost one family more to buy a particular service in one area than in another.

Sarah Teather: The whole point about the new plan is that you work out what the child and the family need, what outcomes we are trying to achieve, and therefore what services we need to put in place to deliver that. That is part of the process—that the local authority and the health service will have to put in place a realistic amount to buy that. This is not a cost-cutting measure, because apart from anything else, if the family chooses not to have the personal budget, the local authority will have to provide it, so they will have to pay for it instead.

Q76 Alex Cunningham: You are content that everybody will get the services they need, regardless of the variation in cost.

Sarah Teather: I am not going to guarantee that every family everywhere will always get everything that they need, because that would be a foolish thing for any Minister to guarantee. However, it is much more likely to deliver what families want, with the increased safeguards, than the current system, which certainly does not.

Q77 Chair: How many of your pathfinders have recruited families with whom to work?

Sarah Teather: All of them have been working carefully with families since September to re-engineer the systems, so they have all been working closely to redesign the system. Somewhere between a third and a half have recruited families to actually test going through the system now, but that is not to say that for the last six months they have been idly waiting. The last six months have seen a very active process of thinking about the system, redesigning it, and talking to the families who are likely to benefit from the system about what they want in the new system.

Q78 Chair: Your progress report makes no mention of the bias towards inclusion. Is this a slip, a change in phraseology, or a change in ideology?

Sarah Teather: You will see that one of the questions in the Green Paper was about the current inclusion guidance—what families felt, and what they thought

about that guidance. We got a mixture of responses back; some families felt that there was too great a bias towards inclusion, and others felt that it was inadequate to meet their needs, but the overwhelming thing we found was astonishing ignorance about the guidance that is available and what is contained within it. So the most important thing we do is to make sure that we revise that guidance, particularly in the light of the newer school system, and that we make clear that that guidance and the important elements for families goes into the new SEN code of practice, because the moment it is basically being ignored.

Q79 Chair: But it was not them, it was you, Minister, who said that there was a bias towards inclusion, and you have not mentioned it.

Sarah Teather: It was not what, sorry?

Q80 Chair: The Government said there was a bias towards inclusion within the system, and a year later has not referred to it. I wanted to find out whether you still think that there is a bias towards inclusion, or whether you have modified your views.

Sarah Teather: Parents have a range of different experiences. Some parents experience a bias towards inclusion, and it is extremely frustrating for them. There are other parents who feel rather the reverse—they are desperate to have their child in a mainstream school but the current system does not cater for it or support it. The language of personal choice, and trying to increase parental choice, is probably more helpful for where we are and what we are doing now, but there are certainly families who believe that there is a bias towards inclusion, and they feel pushed into making choices to go to a mainstream school rather than getting the support that they wanted to go to a special school.

Q81 Ian Mearns: You have painted a picture of a patchwork quilt of current provision, and that is probably exactly right. I do not like to use the term “postcode lottery”, but levels of provision and what is available are very different in different parts of the country. I was interested when you said that parents will not always get what they need; the thing is that sometimes what parents want is not necessarily what they need. That is an interesting distinction, and we should all reflect on that. Earlier we strayed into talking about parents managing their own affairs. I am interested to see what monitoring procedures will be in place to ensure that parents who are mad, bad or inadequate cannot misuse those personal budgets.

Sarah Teather: So my exhortation that we should try not to consider that the British public is mad, bad or inadequate is—

Q82 Ian Mearns: Absolutely. But the point is that we have to make provision for a relatively small minority who may be one or all three of those. Also, I am not going to say that parents are at all inadequate, but many parents will need advice, guidance, advocacy, in order to support and negotiate their way through preparing a contract for provision for that child, and then they will also need advice, support, guidance and advocacy in managing that contract.

Sarah Teather: On the difference between what families need and what they want, my personal view is that what drives some of that big gap is lack of trust in the system. That is not wholly the case; all of us want the best for our family, and we all strive hard to make sure that we can get the best for our family, and that is a normal and good parent’s instinct. Some of what drives the big gap is the belief that everybody who is providing services and advising you does not have your best interests at heart. If you begin from the perspective of assuming that every conversation you have with somebody is driven by cost-cutting and not by looking at the needs of you as an individual and your child, and your experience of previous services was that they were grossly inadequate and that everything broke down, then you will always try to get one step more than you are being offered. This is why, in my view, the whole system needs a massive cultural change.

In terms of monitoring, obviously there will need to be some monitoring put in place, and it will be different according to whether it is a notional budget that is being managed, or a direct payment. The evidence from the children’s individual budget pilots, which have been running since 2009, is that on the whole parents have managed this very well. The Department of Health have also had young people’s pilots for similar issues, and again, the evidence has been that this has worked very well. There are relatively few families who will be looking to squirrel money away and use it for inadequate purposes.

Q83 Ian Mearns: While parents may have managed it, I wouldn’t mind betting that there are quite a few parents who have managed it with an awful lot of stress.

Sarah Teather: This is why it is not compulsory. We are not saying that personal budgets are compulsory. This is an option, and I do not want to make personal budgets compulsory, partly because families will want to do different things at different stages in their child’s life. If your child has just been diagnosed with autism, you will have an awful lot of personal stuff to deal with at that stage. If you have three children, two of whom are under five, and one child has just been diagnosed with something, the chances are that you are not going to want to manage a personal budget, but by the time you have been in the system for a while and you know your child well, you understand the services in the local area, your best friend’s sister is managing a personal budget fine and you have met the key worker, you might say, “Okay, now it’s time to do this; I’d like to take on that responsibility.” It is then important that we make sure that parents get the right level of support through key working to help them to do that, and that is what the pathfinders are testing out.

Yes, there will need to be monitoring, and we need to work out how much monitoring is required. I do not want to overburden the system with so much monitoring that it becomes the cause of stress. If parents have to fill in so many forms and do so much relaying of information that it makes it a burden, the freedom that it should give them is taken away, so this is a balance. Sometimes we have to accept some risk

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in the system in order to provide freedom. You have to accept that not everything will always be perfect, and put the right kind of advice in place.

Q84 Ian Mearns: Last year, you said that you needed to do some further thinking on the issue of personal budgets for children who are in the care of a local authority or in the care system. Where are you with that now?

Sarah Teather: You have asked me an extremely good question to which I do not know the answer, so I will write to the Committee. No need to bluff.

Chair: We like Ministers who give us straight answers and do not flannel. We appreciate it.

Q85 Ian Mearns: How will you ensure that personal budgets do not simply jeopardise further young people whose parents are disengaged or simply not around?

Sarah Teather: Again, it is not compulsory, so there is no requirement for you to take up a personal budget. You need to make sure that you have the right kind of support through key working so that you are supporting parents who want to take that but who may be struggling with it—perhaps whose educational level is not too high, but who still feel frustrated that the current system is not offering them the kind of support that they and their child need. The system has to be flexible enough to manage that, but it does not need to be compulsory.

Q86 Ian Mearns: Back to the patchwork quilt; what evaluation and monitoring procedures do you envisage to scrutinise the comparative quality of local offers around the country?

Sarah Teather: It is inevitable, and in some ways desirable, that local offers should be different, because it is a local offer, not a national offer. We intend to stipulate the kind of elements that should be in the local offer, and the legislation will do that, and you will be able to see that.

Q87 Ian Mearns: So you will have a minimum standard?

Sarah Teather: That is not quite what I said. We intend to stipulate the kinds of things that should be included in the local offer—that it should include an offer of services from early years, from schools and from colleges. I would like to see areas that are really good at something championing that in their local offer, and not just making it something that you need to reach a threshold in order to attain. There are areas that are genuinely good at something. I know that we do not believe that, because we believe that the current system is so completely broken, but in fact the local offer comes out of experience in one local authority who tried this out and who had worked with parents in different ways. Some elements will be stipulated in legislation, but this is intended to be additional. You still have the statutory system, which functions through the education, health and care plan, which replaces statements and LDAs; however, this is intended to be an additional offer.

Q88 Ian Mearns: How much will the work in the pilot authorities guide your thinking in terms of—you

did not want to call it a minimum offer—that good practice?

Sarah Teather: Certainly, that is true; we will learn from the kinds of experience about what works well in a local offer and how to do that. The key thing about the local offer is that you need to communicate it to parents; it needs not to be so complicated a document that parents cannot find their way around it. The purpose of the local offer is that it is something you give to parents so that it enables them to find their way around the system, so that they know what support would normally be provided, where to go to get that, where to go if they are unhappy and what happens next if they want to escalate the level of support that is provided.

Q89 Alex Cunningham: But no minimum standard?

Sarah Teather: That is not my thinking at this stage, no. It is more about stipulating the kinds of things that will be in the local offer. As I said, this is additional, and intended to be additional to the statutory protections. The danger is if we wrap everything up so tightly into the statutory provisions, you do not leave any freedom for local authorities to be better at some areas than others. Minimum standards sometimes just drive everything to the bottom rather than driving things upwards.

Q90 Charlotte Leslie: I want to talk about structure in schools—of teachers and of those children in them. Recently the National Professional Qualification for Headship was made non-mandatory. Of course, within that the Government have just put in specific requirements and modules for head teachers to have more regard for special educational needs and to do more training on it. Do you think that the reforms to the NPQH will actually matter if it has now been made optional, and do you think that there is any mechanism to get poorly performing heads who do not recognise the need to look out for SEN in their schools to train in that regard?

Sarah Teather: First of all, most people are using the NPQH as a route to headship, even if they are not all using it. Michael Gove would be able to explain better why that decision was taken, but my understanding is—

Q91 Chair: Does that mean you don't agree with it?

Sarah Teather: No, that is not at all what I meant; I just hate to speak for him sometimes. It is not at all that I do not agree with him. His thinking is that he does not want to discourage people who have real expertise from coming into headship because they think that they have another burden to go through. The thinking through a lot of the reforms around teacher training is to make sure that good people are not discouraged from coming in, and not to expect that you need to jump through every hurdle in the system in order to get to the top. This needs to be driven by head teachers, but they are not the only people in a school who drive this level of change, and a number of other things are happening in terms of our support for teachers and teachers practice that are important. The NPQH is not the only game in town, if you like. Achievement for All, for example, is a very successful

model that was piloted in 450 schools; we are now making it available to any school that wants it, and something like 1,300 schools have signed up for that. Achievement for All certainly works best when it is driven right from the top, by leadership, but it is about giving teachers more confidence to have conversations with parents, setting clear objectives and monitoring them, setting high aspirations and getting behind the reasons why children might be falling behind. The results were staggering. We found that children who were on the SEN register made more progress in English and maths, sometimes even more than children who were not on the SEN register, so not just children on the SEN register who were not part of the programme.

A lot of it is just basic common sense and good teaching practice. We are doing a great deal to try to support initial teacher training, with more placements within special schools, for example, trying to encourage outstanding special school teachers to work with initial teacher training providers to make sure that those on PGCEs can get access to some of the complex needs materials that were produced on the back of the Toby Salt review. We have launched a scholarship scheme for teachers for postgraduate training, and 400 teachers are already coming through that system, and we have also just launched it for teaching assistants to enable them to improve their practice as well.

The new system for teacher training, School Direct, offers some quite interesting opportunities to make sure that special schools might be more involved in the design of initial teacher training. We are also providing funding for 9,000 SENCOs to complete the SENCO award. There is, therefore, an awful lot of stuff going on, and a lot of this is progress since we published the Green Paper, so it is one area where we have been particularly active in our thinking.

Q92 Charlotte Leslie: As you know, we have had quite a few conversations about looking, again at a classroom level, at exclusions as perhaps a signal that something is wrong with the child and that the kind of education they are receiving is not appropriate to their needs, as opposed to saying, "Naughty child, out." Can you update us where we and the progress report are now on looking at exclusion as a signal for reassessment of a child's needs, as opposed to a condemnation?

Sarah Teather: I think exclusion is too late to be looking at that, actually. We put into the Green Paper that we want to encourage schools to do a multi-agency assessment of a child's needs if they have behaviour that is repeatedly escalating and is worse than can be managed through normal means. Yes, short-term fixed exclusions should be a trigger for that, but if behaviour is not being managed through normal disciplinary means, then it should be a trigger for multi-agency assessment. We have deliberately gone for multi-agency assessment rather than a full assessment of SEN, because SEN is not necessarily the only reason why a child's behaviour might be getting worse. It may well be that there is a problem at home, or that they have a mental health problem, and it is important to pick those things up as well. Just

to assess for SEN, if SEN is not the cause, may still let down that child; there is likely to be a reason why that child's behaviour is suddenly escalating out of control.

Q93 Chair: Just to be clear, you would like it to be earlier, but if it has not happened, to go back to Charlotte's point, should no child be permanently excluded who does not have an assessment—multi-agency or otherwise—carried out on them? In other words, it is the trigger to ensure that if all else has failed up to that point and they are being permanently excluded, at least at that point somebody turns around and looks at their needs.

Sarah Teather: It would be extremely good practice to do a multi-agency assessment at some stage in that journey, so you either do it earlier or later. What we have put into the Green Paper is that repeated fixed-term or short-term exclusions, or behaviour that is escalating, should be cause for a multi-agency assessment. The right thing is multi-agency assessment, whatever form that takes in your local area, rather than an SEN assessment. That may then throw up SEN needs and you then might decide to do a full assessment of them.

Q94 Charlotte Leslie: So there should be no permanently excluded child that has not, at some stage, been through that. Permanent exclusion should not take place without that assessment having been done.

Sarah Teather: You may still have to exclude; I am not sure that I would say that the school should not exclude, but they still should do the multi-agency assessment.

Q95 Charlotte Leslie: The child should not be replaced or put somewhere in alternative provision without that assessment having taken place.

Sarah Teather: You are not going to commission your alternative provision adequately unless you have done a multi-agency assessment.

Q96 Charlotte Leslie: Moving on to alternative provision, how do the reforms ensure that those in alternative provision have adequate SEN needs? There are a lot of children with SEN in PRUs, for example. How do the reforms cover the standard of alternative provision in alternative providers?

Sarah Teather: There is a wider piece of work that looks at how we can improve the provision across the board in our alternative provision. You will be aware, I am sure, and I dare say that you have looked at this, that alternative provision is extremely patchy at the moment, and that is part of the reason for the new trials of schools commissioning that provision, which again is a reason why in a new world, where schools are commissioning that provision, you will really want to do that multi-agency assessment and get to the bottom of what the cause is, because you are responsible. You might still choose to permanently exclude, but you will have to place that child somewhere and buy that provision. That is one of the drivers that should drive up standards. But of course you are still eligible for all of the support, in terms of

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the education, health and care plan, wherever you are placed, whether or not you are in alternative provision or whether or not you are in a mainstream school.

Q97 Charlotte Leslie: In terms of special schools becoming academies, and free schools setting up, a significant number of respondents to the consultation said that those schools should have a duty or should be encouraged to work alongside non-special schools, to share their specialisms and expertise. How will you make sure that actually happens?

Sarah Teather: I would not want to impose a duty; however, I would want to encourage them to do that, and I know that this is something that Michael Gove agrees with—we want to encourage that kind of specialist provision to work with others. For a lot of the special schools, particularly outstanding special schools who are thinking of becoming academies, it is partly because they recognise that they have a slightly more regional role to play, and that they have an expertise that they would quite like to share with others, and they feel that becoming an academy will give them slightly more freedom to do that. The new teaching schools model is really interesting for a lot of outstanding special schools to work with other schools, whether mainstream schools or other special schools, within their area or beyond, to try and encourage good practice and transfer skills. There are lots of ways in which we are trying to get the best out of both special and mainstream schools. I would also say that of course there is some outstanding practice in working with children with SEN in mainstream schools as well as in special schools. The challenge of teaching a child with SEN in a mainstream school is slightly different from teaching a child with SEN in a special school; there is a range of practices around teaching that are extremely useful, expertise is extremely useful, and there are slightly different challenges. It is important that we make use of both sets of expertise. Teaching schools and working together is one of the options for doing that, as well as the specialist leaders in education.

Q98 Damian Hinds: I know we are very short of time but I wanted to ask about the transition to adulthood. With all the changes coming to careers information advice and guidance, how confident are you that young people with special needs disabilities will not be disadvantaged through that process?

Sarah Teather: The new way of thinking about the plan ought to make sure that we bring in the specialists and expertise that you need from an earlier stage; that should be part of the planning process and should be done very specifically with that child in mind. That is part of the point about rolling the plan up to 25—you are going to need to pull different people in at different stages of the child's journey. The other thing is that we are trying to make sure that there is more suitable provision available. It is all very well having good careers guidance, but historically there has been a real problem with having many options for young people, particularly in the college system. In response to Alison Wolf's review, we have been thinking about how we might move forward with recommendations around learner-led programmes of

study. For example, we have been talking about teacher CPD, but again in the FE sector as well, so the new cluster model in colleges, working with independent specialist providers and what have you to try and improve practice there, is very important. Extending those duties up to 25 gives colleges more of an incentive to take a young person with special educational needs, because they get more access to support. But obviously it will be *quid pro quo* around duties.

Q99 Damian Hinds: Can I ask about how supported internships envisaged to work? Is there a programme of study in a work place?

Sarah Teather: It is, exactly. It is a new trial that will begin in September. We have set aside £3 million to do this. It is a very specific programme of study for young people who might not really be at the right threshold to begin an apprenticeship. Our expectation and hope would be that at the end of that they would get an offer of an apprenticeship or work. The new freedoms around funding are one of the things that make this possible. The changes in funding to high-needs blocks etc, which cut across between schools and colleges, make this kind of work possible. The trial is really intended to test and tease out how it will work, and what other types of innovation colleges might do. I think the new freedoms ought to allow colleges to use this as a kind of springboard to think about other things that they might do for these young people, because the funding works in a much more flexible way from 2013 onwards. This trial is intended to enable young people to get some experience of work, to begin with independent living, and to support them during that process.

Q100 Damian Hinds: To allow for a programme of study based primarily with employers, presumably you are talking about big employers.

Sarah Teather: This is a matter for the trial to sort out. We have already got some people signed up. Would you like me to perhaps write to you in a little bit more detail about some of the areas where this is already ready to go? I will give you a bit more detail.

Damian Hinds: That would be useful.

Sarah Teather: I would hope that colleges would work with whatever employers they have in their local area and encourage them to do that. It may be a small employer; it may be a larger employer. I will send you a bit more information about some of the trials where they are already getting going.

Q101 Damian Hinds: Do you have any concerns about this idea that the expectation would be, or it sounds like the expectation really is—forgive the language—that if you have succeeded in your supported internship you will be offered a place? First of all, that might put off people who do not succeed in that supported internship, but it also might put off some employers in offering those places, in the knowledge that there is this expectation, in that if they are not offering places at the end of it that might gloss them in a bad light.

Sarah Teather: It may not be necessarily that the offer of a job is the right thing; it may be that an apprenticeship is the right thing for that young person.

Chair: That is a job.

Sarah Teather: It is a job, yes; I see what you are getting at. But it may be a place on another apprenticeship scheme, not necessarily with that employer. It may give them experience to take on an apprenticeship with a different employer. That was the point I was making.

Q102 Alex Cunningham: You suggested in evidence last year that your predecessors had failed to get health, education and social care to work together, and you were determined to sort it out. Is it now working?

Sarah Teather: Not yet. We have only just started the pathfinders.

Q103 Alex Cunningham: It has been two years.

Sarah Teather: Two years. We have just started the pathfinders. That is exactly what the pathfinders are intended to do. The legislation with new duties on health to jointly plan and commission is a very significant step forward. That is exactly what I hope will be happening by the end of the Parliament as we are rolling out the education, health and care plans.

Q104 Alex Cunningham: Can I ask you about Children's Trusts and what your impression is of them? Are many of them failing? What are you doing to try and get them to work even better, bearing in mind pathfinders is another area?

Sarah Teather: Children's Trusts clearly have not done all the job that is required in terms of getting everybody to work together, otherwise we would not be needing to create a new system. In some areas it works well, and in other areas that kind of co-ordination has just been a bit of a tick-box exercise. The point about the new way of thinking about assessment and planning is that you should look at the child. Rather than it just being a formal process where you have to sit round a meeting table once a month, you are looking at the child and solving the problem of the child in the context of that family.

Q105 Alex Cunningham: Maybe they are not necessary. Have Children's Trusts in fact failed?

Sarah Teather: Clearly they have not done all the job that everybody was hoping they would do.

Q106 Alex Cunningham: One of your colleagues in the Home Office told an APPG inquiry into runaway children from care that she was not discussing the issues with ministerial colleagues in Education. Are you convinced that Government working is sufficiently joined up—the sort of joined-up working you are requiring of local agencies?

Sarah Teather: Runaway children in care is an issue for Tim Loughton, and I know that he has discussed it with almost everybody around Government. I am sure he will be happy to tell you that.

Q107 Alex Cunningham: You favour an increased role for voluntary community sector organisations working with families, providing services, advice and

guidance. Can they expect increased funding in order to cope with this additional work?

Sarah Teather: We have been testing out in different areas how the voluntary sector might be involved. This is partly a matter for local areas; it is not that we are having a national job for a particular voluntary sector organisation. We have been working very closely with the Council for Disabled Children who are our partners in this particular area. This is a matter for local authorities to decide their precise local working arrangements.

Q108 Alex Cunningham: Is there no particular requirement on them to develop your vision for them to be more involved?

Sarah Teather: We are very much hoping that local authorities will involve the voluntary sector better. Some of the pathfinders are specifically testing out how they can use the voluntary sector in the right way to help support the confidence of parents, to perhaps co-ordinate the assessment process in some areas, and maybe in terms of the role of key workers, but it is being tested in different ways in different areas, as is right because the voluntary sector organisations are different in different areas.

Q109 Alex Cunningham: There is a lot of expertise in very small charities who have difficulty accessing real funding. How do you ensure that we do not lose that expertise as things change in the future?

Sarah Teather: Can you be a bit more specific, because it is a very general question?

Q110 Alex Cunningham: Basically what I am saying is that the smaller charities do not have the time or the resources to bid for funding and they could be lost in the mix as services change.

Sarah Teather: Personal budgets will help with some of this in terms of more flexibility for families to buy in expertise from particular charities who may have a real role to play. Reflecting on some of the areas that I have visited, I think particularly the case would apply around transition. I have met a number of voluntary sector organisations who have a very particular expertise around helping young people to move towards independence. The increased flexibility around personal budgets I hope would encourage those charities to be much more involved, rather than necessarily everything being provided by the local authority.

Q111 Alex Cunningham: So commissioners have a role to play there as well.

Sarah Teather: Yes.

Q112 Alex Cunningham: Finally, how will Health Education England interact with the education service to ensure that we get the right outcomes for children with special educational needs?

Sarah Teather: There is a new Children and Young People's Health Outcomes Forum, which is being chaired by Christine Lenehan and a gentleman from Great Ormond Street Hospital whose name I have forgotten. I will tell the Committee a bit more about this and drop you a note. My officials are grumbling

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behind me, but I cannot hear what they are saying, so I will have to write to you.

Ian—it is Ian Lewis from Alder Hey, not from Great Ormond Street. Thank you very much.

Chair: I thought it was you, Ian.

Sarah Teather: It is not Ian Mearns. They are looking at how we can get the health service to work specifically towards better outcomes for children and young people. One of the things they are tasked with particularly is looking at services around disabled children and children with special educational needs.

Q113 Mr Ward: Going back to multi-agency working, my own experience is that multi-agency approaches work very well when the agencies are exchanging ideas. It is when the six agencies in the room turn to the seventh and say, “But shouldn’t this be coming out of your budget?” that it becomes more difficult, and that includes the Children’s Trust. Is there anything in the proposals—there is a lot of emphasis on working together—that will actually look at whole-budget working across the piece?

Sarah Teather: Some of the pathfinders are doing that; one of the ways in which they have chosen to do this is to pool budgets. I do not want to make that a requirement, but let’s see what the results from pathfinders are, and what their experiences are. Some pathfinders are choosing to do that right from the beginning, and it would be very interesting to see how they are getting on with that.

Q114 Chair: Exclusions. Jane McConnell has said, “We are seeing an increase of schools that transfer from the maintained sector to academies excluding children with SEN”. Is that right? Are we seeing an increase in exclusions?

Sarah Teather: I have not seen any evidence of that. If IPSEA have particular views on that, perhaps they would like to let us know.

Q115 Chair: As the Minister responsible in this area, do you have any concerns for the accountability system, which is a continuing concern of this Committee, in secondary schools? Are you concerned that the benchmark GCSE score, for instance, creates an incentive for those with an ever higher benchmark requirement from Government to exclude children who may make them less likely to meet that benchmark?

Sarah Teather: It is not the only accountability measure; there are lots of accountability measures. I am trying to remember what year we are in; it has been a long week, and it feels as though I’ve already had a year just this week. In 2011, around Christmas the new measures for the 20% poorest attainers were published. From here on in we will also be publishing figures demonstrating how schools are working with children who are in the performance—

Chair: Which is welcome, but not in fact an accountability measure, as we heard Nick Gibb in here specifically telling us the E-bac is not.

Damian Hinds: I think it depends whether you use a small or a big A.

Sarah Teather: I cannot comment on small and big As, but it is one of the many things that will be

published. Ofsted, within their new inspection framework, will be looking at the performance of schools around special educational needs, and nothing moves schools to focus more than the idea of an inspection from Ofsted.

Q116 Chair: Reflecting on some of the things we heard in the previous panel, in terms of the separation of assessment of need and the provision for that need, is that not what is really required if we are going to see a transformation in the area of special educational needs? It was also said that the SEN funding problem is intractable and must be sorted as it stands. It comes down to the fundamental point about the direction of Government policy. Is it exciting an expectation that, given the funding levels, simply cannot be delivered? Debbie Jones, the President of the Association of Directors of Children’s Services said that the increased expectations of parents with no change in funding would lead to a perfect storm.

Sarah Teather: There are two contradictory points encapsulated in your question, which is part of the tension that we in Government are trying to hold together. On the one hand there are people pushing for complete separation of assessment and funding, and on the other local authorities will say, “Don’t generate expectations that are completely impossible for us to meet”. I do not think it is very good practice for any Government to set expectations so high that it always results in disappointment; I don’t think that is very sensible public policy making.

There are other reasons why you would want to keep some connection between the two: primarily that you are trying to get the services involved to think about the family from the beginning. You want them to keep thinking about the family and not to do one assessment and stick it in a drawer, but to work on a continuous basis with that family as their needs change, and as that child’s needs change, which they inevitably do as children grow and develop. There are a number of pathfinders who, as I indicated in my answer a minute ago to Alex about the voluntary sector, are looking at how they might be involved in creating some element of independence to drive forward parental confidence. They are testing different methods. We considered whether or not it would be sensible to completely separate the systems. I thought it was likely to generate a bigger bureaucratic nightmare and more problems—different problems, admittedly, but more problems—than trying to have a system that focuses more on the needs of the child and the family right from the beginning.

Q117 Chair: Are we going to move to a system in which the need of the child trumps the desired budgetary spend of those who have to fund it?

Alex Cunningham: How much cash have you got?

Sarah Teather: For some children, their needs are so extraordinarily complex that inevitably they are going to be at a very high level of need. Right at the beginning—I cannot remember who asked me this question—I said there is an awful lot of waste of money in the current system. Money is not being well spent in the current system. A lot of money is spent on fighting families and on the bureaucracy rather than

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actually providing services right from the beginning, which drives the process of a lack of trust that I mentioned in my answer to Ian's question, and drives parents to fight the system all the way through.

Q118 Chair: There is, and part of that is because of the gross mismatch between need and/or expectation, and the funding result. When you have that mismatch you will necessarily have a war zone.

Sarah Teather: That is one of the things that drive me, but I don't think that is the only thing. People get

stuck into a way of thinking—of assuming that the role of a local authority is to fight a parent. People assume roles. The pathfinders are beginning to break down some of those roles.

Chair: We will wait and see, and look forward to hearing further about the pathfinder findings, and indeed the legislation in due course. Thank you very much for giving evidence today.

**Written evidence submitted by Sarah Teather MP, Minister of State for Children and Families,
Department for Education**

During my evidence to the Education Select Committee on Special Educational Needs and Disability on 20 June I promised to write with further information on issues that were raised by members of the Committee.

PERSONAL BUDGETS FOR LOOKED-AFTER CHILDREN

I am clear that personal budgets and the benefits they can bring should be available for all children including, where appropriate, looked-after children.

However, looked after children are not a homogeneous group and there cannot be single approach in relation to personal budgets. As I said in Committee last year, where children are in short term foster placements, or where we know that they have experienced a series of unstable placements, a personal budget would not work. For a child in a long term stable placement giving the child's foster carer a personal budget may be absolutely right if the foster carer wishes to manage the purchase of SEN provision in this way.

I can also see real opportunity offered by personal budgets to improve looked after young people's experience of transition at age 18 and this should include, where appropriate, offering young people the choice and support to manage that budget themselves.

With this in mind, we will ensure that the forthcoming legislation does not exclude looked after children from the offer of a personal budget. However, I do recognise that there will be particular challenges depending on the individual circumstances of the children. For children looked after under a care order, for example, the local authority is the corporate parent. For children who are accommodated by a local authority under section 20 of the Children Act 1989, their parents retain full parental responsibility. Local authorities will need to consider these issues as well as the duration and stability of any placement when deciding whether a personal budget is appropriate. They will need to work with the child or young person and carers to decide how best a personal budget can work to meet individual needs including any interaction with provision in their care plan.

Our Green Paper pathfinders are testing how our reforms will work for the most vulnerable children. This includes the work of local authorities, such as Hartlepool and Darlington, who have recruited a cohort of looked-after children to test how the new assessment and planning processes can be made to work for them.

SUPPORTED INTERNSHIPS AND THE EMPLOYERS INVOLVED

Supported Internships are a structured study programme, for students in post 16 education, based with an employer. The programme is tailored to the individual needs of the young person and will equip them with the skills they need for the workplace. This will include on-the-job training, backed by expert "job coaches" to support interns and employers, and the chance to study for relevant qualifications—where appropriate.

Supported Internships as study programmes are therefore college led. I want to give colleges the freedom to deliver Supported Internships in a way that meets individual's needs. I expect colleges—probably through the role of the Job Coach—to work with local employers to engage them in offering job roles that are tailored to the needs and abilities of individual young people; and that meet a genuine business need so that there is a genuine chance of paid employment or an Apprenticeship at the end of the Internship.

I am expecting colleges to draw on their local links with employers in their area, to design suitable work placements for specific individual students. However, I will be speaking with some key national employers soon to set out our intentions and seek their support, for example asking them for a commitment in principle to consider offering local opportunities if colleges approach them.

The goal of the programme is for the young person to get the support—and opportunity—to show an employer what they can do, that will enable them to move into paid work. In most cases this should be with the employer offering the internship, although I recognise this may not be possible on every occasion. Where this is not possible, the participant will have new skills and direct workplace experience, and so have much

better opportunity than they have currently to access the labour market. My department are linking too with the Access to Work programme which already provides support in work to a disabled person from the point they are offered a job.

This is why I announced £3 million to trial the Supported Model in 15 colleges from September 2012. The trial, accompanied by an evaluation, is intended to inform our proposed national roll out in September 2013 for students aged 16–24 in further education with a Learning Difficulty Assessment (colleges in the SEN Green Paper Pathfinder areas may have young people referred to them using an Education, Health and Care Plan rather than a Learning Difficulty Assessment). A formal announcement regarding the 13 colleges participating in the trial was made on Wednesday 27 June (final two colleges to be confirmed). The colleges, including one Independent Specialist Provider, are listed below.

Supported Internships are part of a broader intention, set out in Professor Wolfs Review last year, to help many more young people in post-16 education obtain genuine work experience. In response to this as part of the Growth Review my Department announced £4.5 million new investment over two years (2011–12 and 2012–13) for 25 Further Education (FE) colleges across the country to pilot innovative models for delivering work experience for 16–19 year olds. Throughout the duration of this pilot my Department will aim to help colleges to place over 4,000 students, many of whom are from the most deprived areas and most at risk of becoming NEET as well as learners with learning difficulties and/or disabilities (LLDD), into high quality work placements.

I expect that these pilots will encourage improved and sustainable partnerships between the FE sector and employers. Colleges targeting LLDD have successfully engaged large national organisations in the pilot, such as food stores Waitrose, Tesco, Sainsbury's and Asda, clothes retailer New Look and fast food chain, McDonald's. Local, public sector and charity organisations have also been accommodating, providing a variety of roles for these young people, such as, catering assistants, business administrative assistants, gardening and production assistants.

List of Colleges Involved

Hull College (Kingston upon Hull City Council)
 Blackburn College (Lancashire LA)
 Mid-Cheshire College of Further Education (Cheshire West and Chester Council)
 Shipley College (Bradford Metropolitan District Council)
 Stephenson College (North West Leicestershire District Council)
 Otley College of Agriculture and Horticulture (Suffolk County Council)
 North Warwickshire and Hinckley College (Warwickshire)
 Plumpton College Special College—Agriculture and Horticulture (East Sussex)
 Thanet College (Kent)
 Bexley College (London Borough of Bexley)
 Somerset College of Arts and Technology (Somerset)
 Worcester College of Technology General FE College (Worcester City Council)
 Queen Alexandra College (Independent Specialist provider [Birmingham City Council]).

FUNDING FOR THE HEALTH VISITOR IMPLEMENTATION PROGRAMME

As you know, the Government has committed, through the Coalition Agreement and subsequent Health Visitor Implementation Plan 2011–15—A Call to Action (DH Feb 2011), to improving the health outcomes for children, families and their communities. This is to be delivered by increasing the number of full time equivalent health visitors by 4200 and implementing an expanded, rejuvenated and strengthened health visiting service by 2015.

The Health Visitor Implementation Plan 2011–15 sets out indicative trajectories of health visitor growth for each Strategic Health Authority (SHA). It is for each Strategic Health Authority to agree with individual Primary Care Trusts (PCT) the specific levels of growth in their area and for the Primary Care Trust to allocate appropriate funding.

Delivery of the health visitor commitment received significant investment in the 2010 Spending Review. Money is not routinely ring-fenced within NHS allocations. However, for the second successive year, requirements concerning implementation of “A Call to Action” appear in the NHS Operating Framework 2012–13, notably that SHA and PCT clusters will work together to deliver growth, support health visitors' deployment and improve family support. SHAs and PCTs will be held to account in line with the Operating Framework and central indicative trajectories, issued annually by the Department.

I'm sure you will agree a key element of success in achieving the 4,200 new health visitors will be a strong effective training programme for new recruits. Health Visitor commissions are funded through the multi professional education and training (MPET) budget, which is issued to SHAs as part of their NHS central budget bundle each financial year.

MPET is not ring-fenced and it is the responsibility of SHAs to invest the budget appropriately, as they are best placed to assess the health needs of their local health community and plan the workforce they need. It is entirely appropriate that individual healthcare providers plan and develop their workforce. However, a measure of cooperation and joint planning for the development of the workforce is required in healthcare and this is currently supported by the SHAs. The SHAs are best placed to commission the education and training programmes, on behalf of providers, to benefit from economies of scale and contract management expertise.

The SHAs will remain responsible for commissioning pre-registration courses until April 2013 and will be responsible for the safe transfer of training contracts to new organisations from this date.

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