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NASS

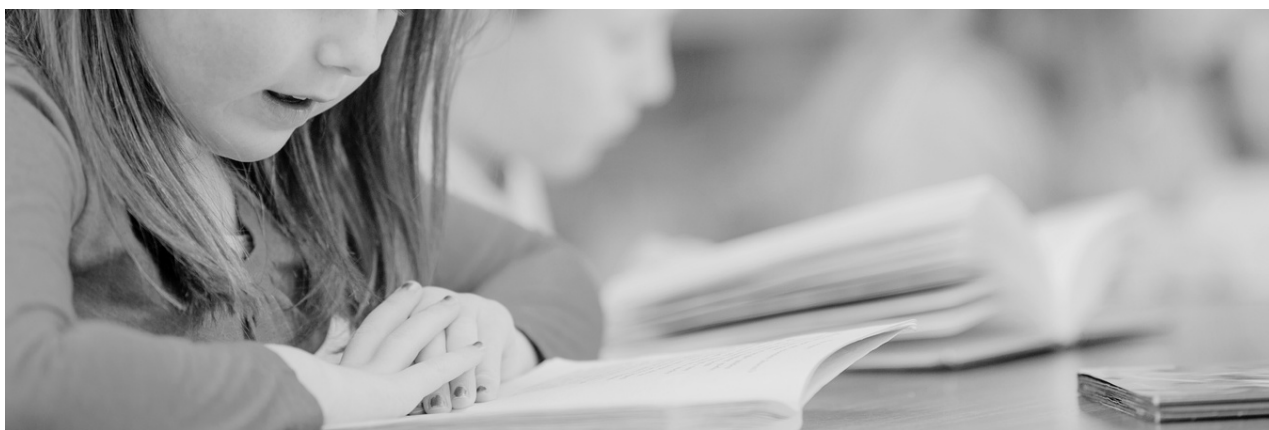
National Association
of Special Schools

WORKING STRONGER TOGETHER

Exploring the current and possible
future relationship between the state
and Independent Special Schools

EXECUTIVE SUMMARY

A NASS thought piece on the relationship between
the state and the Independent Special Schools sector



EXECUTIVE SUMMARY

This document summarises a more detailed paper, which is available at www.nassschools.org.uk/publications

About NASS

NASS is the national membership association for special schools outside local authority control and represents Independent Special Schools (ISS), Non-Maintained Special Schools (NMSS) and Special Academies (SA) – including Free Schools. NASS has over 400 schools and organisations in membership.

NASS works with its member schools to support, promote, and improve special school provision and to provide a voice for the sector via engagement with key sector stakeholders such as Government, Ofsted and local authorities (LAs).

Context

In March 2023, the Department for Education (DfE) published the SEND and AP Improvement Plan¹. Within this, DfE stated its wish to “re-examine the state’s relationship with independent special schools to ensure we set comparable expectations for all state-funded specialist providers”². In this paper, we take ‘state’ as including both central and local Government.

NASS set out to explore how ISS currently work with the state and what an effective future relationship might look like. ISS are the specific focus of the paper but we recognise that many of the points raised also speak to the relationship between the state and other types of special school.

This paper is informed by our member schools. An Independent Special School Working Group met several times between April and July 2023. Their proposals were further tested via a survey of wider ISS NASS membership and two workshops at NASS’s annual conference in October 2023.

1 HM Government (March 2023), Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Improvement Plan Right Support, Right Place, Right Time

2 HM Government (March 2023), Ibid pg 13

Key discussion points and recommendations

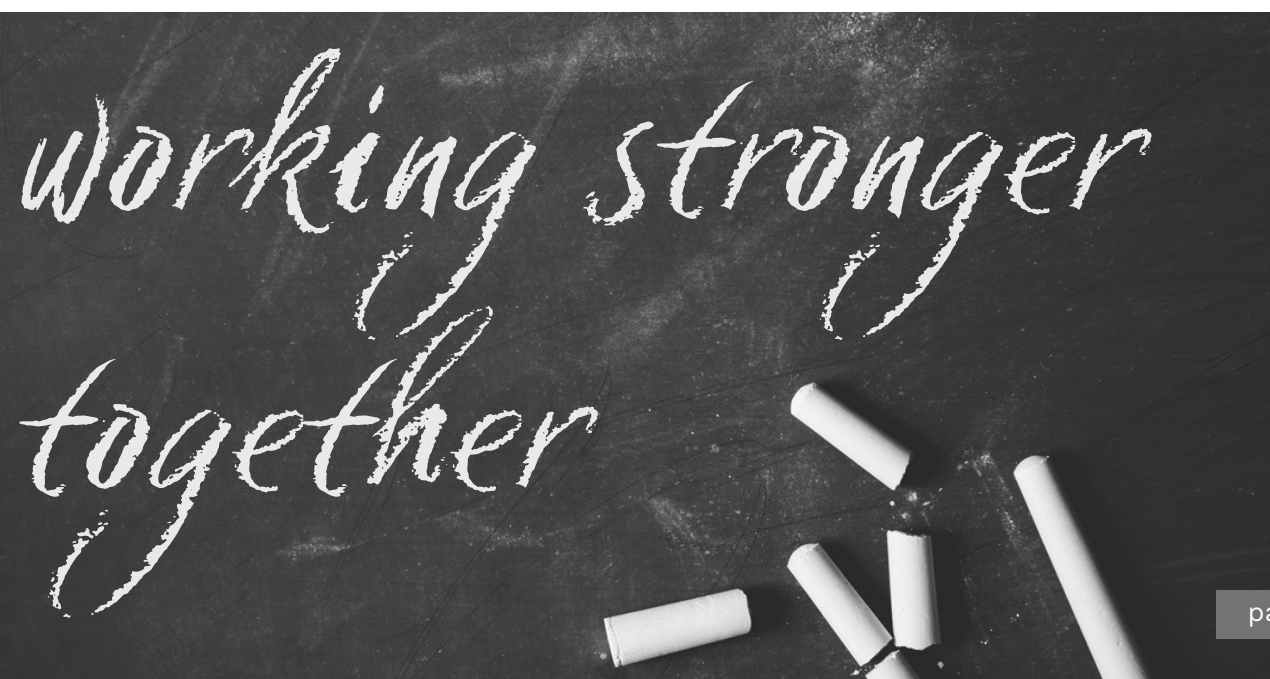
Our starting point was consideration of whether ISS are more effective and valuable to the wider system if treated as ‘just another special school’ or maintained as a distinct group of schools with a specific role to play.

In this paper, we make the case for utilising ISS as a distinct resource, which complements, rather than replicates, the wider SEND system. We discuss how the freedoms and flexibilities currently available to ISS allow these schools, at their best, to act as the sector’s specialist ‘rapid response’ service. We argue that these should be maintained but developed and refined to ensure that ISS can, and do, provide this resource.

The paper explores four principles which were identified by schools as being necessary for ISS to maintain and develop a specialist role:

-  **Defining and recognising the role ISS play in the wider SEND offer.**
-  **To have ISS expertise and role valued and utilised more effectively.**
-  **ISS should maintain the freedoms needed to innovate and respond at speed.**
-  **ISS continue to have the power to set their own fee levels and that these allow for reasonable surplus/profit.**

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Defining and recognising the role ISS play in the wider SEND offer.

ISS placements still represent a small percentage of children with Education, Health and Care (EHC) plans. The sector was established as a means of meeting needs which LAs had been unable to meet within its own provision.

Consequently, schools generally offer specialist services, focused on a specific type of SEND. Fewer than 30% of ISS placements are a child's first school placement;³ suggesting that the sector is used as and when a child's needs have been unmet elsewhere.

ISS have a growing evidence base of which children its provision impacts most positively.⁴ Many can now evidence the impact of the timing of placement has on the outcomes that might be achieved. This could, and should, result in the sector being used more effectively for the children for whom it can make the most positive difference.

ISS currently operate outside of the state-maintained SEND system but with local authorities as the primary purchaser of their services. We believe that maintaining that independence is crucial, in order for schools to maintain the ability to quickly adapt services to meet need. In return, schools accept the risk this brings in terms of fluctuating demand for places and not being eligible for state support.



To have ISS expertise and role valued and utilised more effectively.

Our ISS members wish to be seen as a resource that can support the wider SEND system. There is a clear desire to identify and realise opportunities to collaborate with mainstream settings, allowing ISS to share the valuable SEND skills, knowledge and experience from within ISS with others. There is considerable untapped potential for knowledge, skills and experience within ISS to benefit children with SEND far beyond those on the school role. However, there are financial and cultural barriers which hinder schools in realising this.

The sector has already invested resources in unlocking its expertise. In 2019, NASS ran an Incubator Programme with the Young Foundation which enabled nine schools to replicate and scale effective interventions across a range of topics from mental health to sex education and to maths vocabulary. We call for Government to replicate this via a national SEND Innovation Fund, to mirror the successful programme previously run for children's social care.

³ NASS (2017) NASS Survey of Parents of Children in NMISS Residential Placements for Lenehan Inquiry

⁴ Clifford, J., Hutchison, E., Kemp, J. and Cooke, C. (2023). 'Reaching my potential: The value of SEND provision demonstrated through learners' stories. A report for the National Association of Independent Schools and Non-Maintained Special Schools (NASS)', London. Sonnet Impact



ISS should maintain the freedoms needed to innovate and respond at speed.

Opening a new Independent Special School is currently the quickest route to establishing new SEND Provision. The sector has been agile in responding to need and there are many examples of LAs actively welcoming new ISS into their area. We believe that the Free Schools programme has not fully realised its potential. As of May 2023, 93 new special free schools have opened and are admitting pupils out of a proposed 179 schools. Two schools have closed and another two proposed schools have been withdrawn. 48 schools are in pre-opening stage, with 13 having been in 'preopening' for six years or more.

We recognise that ISS represent a relatively high-cost option but argue that this is an effective use of public resource if placements are made for those who benefit from them most. To this end, we believe that schools should not be subject to a 'duty to admit' and are best placed to judge which children they can best support. It is becoming increasingly common for schools to be named on a child's EHC plan against the wishes of the school and where they feel they are not the right placement. This is symptomatic of the current system where demand exceeds supply of placements. However, it is a poor use of both a specialist placements and public funding.



ISS continue to have the power to set their own fee levels and that these allow for reasonable surplus/profit.

ISS and commissioners need to be confident that the school's offer provides value for money and demonstrates a positive impact and outcomes. It is reasonable that commissioners should be able to see and understand the fee they are being charged and the service being provided.

We assert that schools should continue to be able to determine their own fees. ISS receive no direct state support and operate without the economic stability afforded to state-maintained schools. All activities and developments are funded through the fees raised through placements and all risk for these is entirely borne by providers. Operating surplus is a necessary condition of this and is a concept that is widely accepted across the educational landscape. We note wider concern about the role of profit within the sector and call on Government to work with NASS to explore and create an agreed position of the relative role of profit and surplus within SEND.

Recommendations

We recognise that all stakeholders play a role in achieving a well-defined, effectively used ISS sector. We have identified specific recommendations for different stakeholders:

For Independent Special Schools:

- ▶ **To work in partnership with LAs when developing a new provision to ensure that it will meet local needs and demand.**
- ▶ **To work with other parts of the sector to identify those students where 'step-down' from high to lower-level support might be possible.**
- ▶ **To work towards greater fee transparency so that LAs are clear what fees cover.**

For Department for Education:

- ▶ **To formally explore and define the future role of special schools, and the role of ISS within this.**
- ▶ **To formally explore and define the roles of surplus and profit within the SEND system and to create a position which sets clear expectations for all schools.**
- ▶ **To drive innovation in SEND by funding a dedicated SEND Innovation Fund, which enables effective interventions to be replicated and delivered at scale.**

For Local Authorities:

- ▶ **To make best use of their area needs assessments to forecast likely demand for specialist interventions.**
- ▶ **To work with providers as they develop proposals for new provision to enable ISS to be considered as an alternative to new state provision.**

NASS will continue to play a key role in gathering evidence, facilitating communication between stakeholders and offering thought leadership to support these recommendations.