



The Scottish Parliament  
Pàrlamaid na h-Alba

## EDUCATION AND SKILLS COMMITTEE

John Swinney MSP  
Cabinet Secretary for Education and Skills

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9<sup>th</sup> April 2019

Dear Mr Swinney,

### **Additional support needs**

Thank you for your letter dated 25 March which sets out the recent and planned work by the Scottish Government in relation to the presumption of mainstreaming and additional support for learning. The Committee is encouraged to hear that additional steps are being taken by the Scottish Government, acknowledging that there is a real need to ensure the legislation relating to the presumption to mainstream and additional support for learning operates as intended for children and young people across Scotland.

### Committee scrutiny

The Committee has taken formal evidence and undertaken engagement work in December, February and March to assess the status in 2019 of the findings of its 2017 report [How is Additional Support for Learning working in practice?](#) It very much hopes that the valuable evidence gathered through this work can feed into the various Scottish Government workstreams set out in your letter and associated documents. I should be grateful if you could highlight all of this evidence to the Advisory Group on Additional Support for Learning and to the short life working group you mention in your letter. Links to all submissions from parents, carers, teachers and school staff are provided at the end of this letter. Links to evidence sessions and engagement work notes are also attached at the end of this letter.

Through a call for views and a focus group with parents, young people, school staff and others the Committee sought to establish how their experiences and perspectives on the issues they raised with the Committee in 2017 had evolved. The Committee also visited the Royal Blind School and held a meeting with representatives of the Consortium for Research in Deaf Education (CRIDE) to follow up on its predecessor committee's work on the attainment of pupils with sensory impairment.

The Committee held two formal evidence sessions with those who made key contributions to the Committee's 2017 scrutiny, such as Enable and Professor Sheila Riddell, Director of the Centre for Research in Education, Inclusion and Diversity at the University of Edinburgh. It also took evidence from those who had produced influential reports since 2017, including *Not Included, Not Engaged, Not Involved* and the Children and Young People's Commissioner report *No Safe Place: Restraint and Seclusion in Scotland's Schools*.

As you know, the Committee also held a formal evidence session with Government officials and entered into correspondence with statisticians and you in relation to data on school support staff, including concerns regarding the adequacy of existing data on additional support for learning assistants.

The Committee is very grateful for all the contributions from those who wrote to or spoke to the Committee. In particular, the Committee very much appreciates those who have felt able to share often very personal experiences, such as parents and carers discussing the education and support available for their children.

### ***Key issues***

Based on the evidence the Committee has taken in recent months, the issues raised by parents and teachers who submitted to the last inquiry would appear to be abiding issues that remain today. On that basis the Committee's series of recommendations, attached in an annexe to this letter, remain very relevant.

### **Mainstreaming and inclusion – policy intentions and policy in practice**

Before working through the key themes from evidence, the Committee wants to highlight its two distinct considerations in relation to the placement of children in mainstream education or in special schools or units attached to mainstream schools.

Firstly, there are some children who undoubtedly require a level of support that means mainstream education is never going to be a suitable setting, irrespective of the level of resource available. The issue here is whether the presumption of mainstreaming criteria for circumstances where children require a special school placement are being followed. There is also concern that the number of places available has reduced to such an extent that this is not an option in some areas.

Secondly, there are children who, with the correct level of support, mainstream education can undoubtedly be an inclusive experience. The issue here is the level of support being provided to create inclusivity in practice.

Professor Sheila Riddell highlighted the key criteria that already exist in law when deciding whether a child should attend mainstream education and suggested the terms of the law were sufficient:

“it should not involve unreasonable public expenditure; it should be in line with the parents' wishes; and it should not be against the interests of the individual child or the interests of the other children in the class. I think that those principles should be perfectly sufficient to ensure that children are not inappropriately placed in mainstream education.”

Nick Ward from NAS emphasised the impact of resources on the delivery of the terms of the law on presumption to mainstream:

“the current funding means that we work on a deficit model, as Seamus Searson [SSTA] has said. If we go back to first principles, as I have mentioned, having a presumption of mainstreaming is the right way forward, but if we neither fund it properly nor build a system to deliver it properly, we start to create a system that in some ways is worse than the older system and which has perverse incentives.”

Sufficient resources are fundamental to the effective operation in practice of both the presumption to mainstream and additional support for learning policies. Indeed, resources are fundamental to the educational experiences of children with additional support needs wherever they are educated. The Committee continues to be supportive of the intentions of these policies but continues to have real concerns about how they function with current resource levels.

#### Experiences of children and young people

The Committee was encouraged to hear evidence of young people, if initially limited in numbers, pursuing their rights up to Tribunal level and was interested to note that this had come about partly as a result of the Tribunal’s child friendly website highlighting these rights. The Committee questions whether local authorities are making efforts to produce similarly accessible and informative sites to fulfil their obligations to ensure children can secure the rights provided for in legislation.

Powerful contributions, including from young people in a focus group, were on the sensory overload that some school settings create and also the extent to which the impact of being in a setting that a child or young person finds stressful or chaotic can be masked at school. Examples were given of pupils trying to fit in and not make a fuss when at school, but the result of this pent-up stress is that a child can be traumatised on their return home and come to associate school with strong feelings of anxiety.

Seclusion and restraint received emphasis in evidence, including from the office of the Commissioner, as examples of measures being taken in response to children who are often not in settings or receiving support that are appropriate for them. The inappropriateness of the examples of restraint and seclusion raised in the Commissioner’s report must be acknowledged. The Committee welcomes the result of the first occasion when the Commissioner has used the investigatory powers.

The Committee also heard evidence of an increased use of part time timetabling and unlawful exclusions. NAS detailed situations where part time timetables, which when used correctly can be beneficial, involved shorter and shorter periods in school and so incrementally become unrecorded exclusions. NAS also highlighted that they considered the extent of unrecorded, or unlawful, exclusions to be a scandal.

A number of submissions also raised an issue, that was carried through to the focus group and formal evidence sessions, about an increase in the number of children being home schooled not through preference but because the parents or carers considered they had no alternative as a result of issues with the appropriateness of the education and associated support being offered by their local authority.

A number of contributions suggested that some children and young people are having to attend a school setting that is not suitable for their needs or receive a level of support which is not sufficient, and it is only when the extent to which it is unsuitable can be demonstrated by parents or by a school that an enhanced level of support or alternative placement is found. The Committee considers that the evidence it received highlights that too many children and young people go through often traumatic formative experiences, the effects of which then require to be worked through when they move to a new school setting. There is clearly a perception that children and young people need to be tested out, and demonstrate that they struggle, in mainstream education first before they can receive more appropriate support in that setting or elsewhere.

**In light of the evidence received on seclusion and restraint, part-time timetabling, unlawful exclusions, and home-schooling as a last resort, the Committee considers that the Scottish Government should consider ways of improving data gathering on these approaches, be it through random sampling of schools or a wider approach.** The Committee notes that there is a requirement to collect data in relation to care experienced young people attending school and invites the Government to consider whether elements of this approach could be adopted for children with certain additional support needs.

#### Experiences of parents

One theme in 2017 that was also a common theme in 2019 was the extent to which parents consider that they need to actively and vigorously pursue adequate support for their children, including informing themselves of often complex processes or seeking specialist support. Indeed, the Committee heard some evidence that access to information about specialist services as a gateway to access that provision could, on occasion, be actively withheld from parents. For example, during its visit to the Royal Blind School the Committee heard that in certain council areas school staff have been told that it is a disciplinary matter if they mention to parents out-of-authority provision such as the Royal Blind School. The experiences of parents are explored in more detail in the section below on Co-ordinated Support Plans.

**The Committee reiterates its analysis from 2017 on the need for increased awareness raising amongst and support for parents, including the recommendation that the Scottish Government should increase the provision of advocacy services and look at how these could be best targeted at raising awareness and supporting parents from areas of deprivation.**

#### Experiences of school staff

The Committee received submissions from a number of teachers in 2019 and also submissions in 2017 suggesting that the presence of some children with certain needs in a mainstream environment, in the absence of adequate resource to support them, disrupted the education of other children in a class. A number of teachers described difficult situations where they were having to decide between giving attention to a child with additional support needs or other children, and that this situation is exacerbated by the growing proportion of children with some form of ASN in classes. The evidence suggests that these are decisions teachers are having to take reluctantly in the absence of sufficient classroom resources.

Another theme was a perception that there has been a reduction of classroom assistants with a specialism in additional support needs. In addition, a number of members and people submitting views suggested that despite the fact that the role of additional support needs assistant is one of the most skilled and challenging roles in education, in some circumstances people are employed as classroom assistants and then required to perform the role of an ASNT without the relevant training. NAS also raised the issue of training specifically for teachers, including the importance of ensuring more consistent and practical training in initial teacher education.

In addition, SSTA suggested in relation to specialist teacher numbers that at present, due to financial constraints, where an ASN teacher leaves a school they tend not to be replaced. The SSTA in evidence suggested that, in general, the situation with resources in schools since 2017 had become worse, exacerbated by an increase in the incidence of ASN, a reduction in staffing levels and continuing issues with workload.

**As previously raised with you, in order to allow for a meaningful assessment of trends in staffing levels it is vital to have statistics that reflect the number of support staff with a specialism in supporting those with additional support needs. Work to standardise the nomenclature used by local authorities is a starting point for making progress in this area.**

#### The role of local authorities

The Committee is aware of a number of areas in the implementation of policy where there are inconsistencies between the approaches of local authorities. As ever, the Committee appreciates the need to respect the autonomous nature of local authorities, however, where these inconsistencies impact on the probability of the national level policy being implemented effectively, there is a role for the Scottish Government to take the lead in encouraging greater consistency. For example, the Committee made recommendations in 2017 on:

- the need for a financial review undertaken by the Scottish Government to ascertain the extent to which education authorities are spending in line with the level of need in their area, and identify any authorities that have spends lower than their recognition rates might require; and
- the need for improvements in the accuracy of data on the recording of incidence of ASN across local authorities including a breakdown by particular ASN, and an analysis of local authorities figures that reflect ‘inexplicably low percentages.

**The Committee invites you to revisit these recommendations, in light of the evidence the Committee has received, in particular the recommendation for a financial review.**

#### Co-ordinated Support Plans

The effective use of Co-ordinated Support Plans was a new theme of evidence that was not considered in detail in the 2017 inquiry. The Committee heard that the declining use of statutory co-ordinated support plans (CSPs) is concerning as access to many of the new rights depends on statutory support plans being in place. The

recorded incidence of additional support needs in certain local authorities is up to 35% in some local authorities but the proportion of the school population with a CSP is less than 0.3%. This is a lower uptake than for a comparable system in England. Young people who have no CSP in place have no means of challenging placing decisions, and the absence of a CSP limits access to the Tribunal system.

Professor Riddell suggested that the rights of those eligible for support are not particularly reflected in some local authority behaviours and processes. She also suggested that the expertise is not present in some schools to understand CSPs. This was substantiated by May Dunsmuir, President of the Tribunal, who suggested some schools are often unaware when the criteria for a CSP are met, and the legal obligation to provide one when they are. Professor Riddell suggested that the Scottish Government, in passing responsibilities down to local authorities, which in turn delegated to schools, where the technical expertise on the requirements of the law may understandably be more limited, had certainly limited the effective implementation of CSPs.

May Dunsmuir also suggested CSPs were sometimes not sufficiently prescriptive as to what a child was entitled to and to what timescales, including necessary reviews. The need for stronger guidance for local authorities on the use of CSPs and the lack of consistency of approach was highlighted by NAS and Enable.

The need for greater awareness raising with parents of the existence of CSPs was also raised. Enable suggested that there was a distinct lack of a proactive system to inform families. May Dunsmuir also highlighted the limited awareness amongst parents of the existence of the Tribunal. The Commissioner's Office talked about the current need for resilience and capacity of families to challenge decision making processes. For example, where decisions are taken that a child cannot receive a CSP until the support outwith education (such as CAMHS) that is required has been received, parents might be unaware that, in fact, a child can receive a CSP as soon as the decision that extra support is needed has been made.

The SSTA suggested that due to staffing shortages additional support needs teachers were being redeployed to cover classes, limiting their capacity to undertake elements of their role focussing on additional support needs. It was also suggested that the bureaucratic layers of the process for teachers to work through can act as a barrier to support such as CSPs being applied for and accessed in a timely way.

In addition, May Dunsmuir suggested that there was a misunderstanding that other forms of plan can substitute for CSPs, with parents being 'misinformed' by some schools or local authorities. For example, child's plans were often provided as a substitute for a CSP when they do not provide any rights and cannot be challenged in law. Professor Riddell suggested aspects of the GIRFEC approach, including child's plans, existing alongside statutory CSPs causes confusion. The SSTA also suggested that the range of alternatives to CSPs, including child's plans, made transitions between schools in different local authorities more challenging for children and their families.

**The Committee considers that the depth of evidence received about issues with the implementation of CSPs and the associated impact, including on the ability**

**to access the Tribunal, should become the focus of a stand-alone piece of work by the Scottish Government.**

#### Definition of additional support needs

A final theme was the extent to which the definition of what constitutes an additional support need has perhaps become so broad as to have become diluted. Professor Riddell suggested that a more narrow and precise definition was preferable, for example by removing children and young people who do not use English as a first language from the definition.

The Committee would welcome the Scottish Government's perspective on the suggestion from Professor Riddell that the definition of what constitutes an additional support need under existing legislation could be reviewed.

#### Conclusion

As in 2017, there remains wide support for creating an inclusive education system, however the Committee considers that a statement it made in 2017 still applies: "the policy to include is having the opposite effect in some circumstances due to a lack of resources".

The Committee was interested in the Scottish Government's Advisory Group on Additional Support for Learning's recent recommendation to you:

"Our collective judgement is that the Education (Scotland) (Additional Support for Learning) Act 2004 (as amended) is sound and fit for purpose. We are proud that Scotland has such progressive legislation in place. We are supportive of the forthcoming guidance on the Presumption to Mainstream and believe that this will help provide a stronger framework for education authorities and school leaders to develop more inclusive school environments.

In light of discussions at AGASL on 23 January, AGASL recommends that the Scottish Government should consider undertaking or commissioning an independent review of the of the support to deliver the objectives of the Additional Support for Learning Act throughout the Scottish education system. This should be informed by the evidence already available and supported by further evidence and be designed to inform recommendations across the education system required to support the implementation of the aims and objectives of the Additional Support for Learning Act. This review should be undertaken without undue delay."

**The Committee supports the finding of the Scottish Government's Advisory Group and hopes the Scottish Government will endorse this recommendation and act upon it.**

The Committee appreciates that there are a lot of proposals to respond to in this letter. A response by 15 May would be very much appreciated.

Yours sincerely

*Clare Adamson*

**CLARE ADAMSON MSP  
CONVENER**



## **Committee recommendations in 2017 from its report *How is Additional Support for Learning Working in Practice?***

1. The Committee wants to thank all those who shared their perspective on additional support needs, particularly those parents who shared personal and sensitive information on caring for their children and the challenge of ensuring their children receive the support they need in school. This information has been very valuable to the Committee, helping it to produce recommendations that reflect these practical experiences. This report highlights some of the themes raised in evidence, but anyone with an interest in this issue should also look at the [original submissions](#) to get a sense of the concerns raised.
2. The context for the Committee's analysis of education for children with additional support needs in this report is the "exponential"<sup>i</sup> increase in the recorded incidence of children with additional support needs in Scotland in recent years, to a level beyond many people's expectations (153% increase since 2010).
3. The Scottish Parliament passed the legislation that brought in the mainstreaming policy and the Parliament continues to support the inclusive ethos behind it. However, the success of mainstreaming, and more broadly the policy of inclusion, is dependent on how it is implemented. The Committee received lots of evidence suggesting that, due to a lack of resources, some children feel more excluded in a mainstream school setting than they may have done in a special school. In other words, the policy to include is having the opposite effect in some circumstances due to a lack of resources. An analysis of the evidence, taking available resources to support Additional Support for Learning (ASL) in mainstream schools into account, suggests that more children than are actually best served by mainstream education are currently in mainstream primary and secondary schools.
4. Looking more broadly at additional support for learning, the evidence points at a number of ways in which resources are not currently sufficient to support those with additional support needs in mainstream schools. The most notable factors are the reduction in the number of specialist staff in classrooms, the reduction in specialist support services and the reduction in special school places.
5. Nevertheless, the Committee is encouraged by the figures provided by the Cabinet Secretary on positive outcomes for those with additional support needs (ASN). It is also encouraged to have heard from a number of parents what a massive difference effective support from a particular person, school or education authority, in mainstream education, has made to the lives of their children. These achievements are particularly welcome when set against a backdrop of limited resources and a massive increase in the recorded incidence of additional support needs.

i Quote in the focus group note from the visit to Dalkeith Community Campus

6. The Committee acknowledges that it only heard from those who wanted to respond to its call for views, and so naturally comments centred around what needs to improve. However, the Committee places real value on the amount of evidence it received, the depth of the detail, and the consistency of the issues raised with the implementation of the mainstreaming legislation, and more generally the insufficient resources for additional support for learning in mainstream education. More has to be done to establish the extent to which the experiences conveyed in evidence are happening across Scotland.
7. The Scottish Government must assess the extent to which the policy to mainstream and the associated communications to education authorities are leading to mainstreaming in practice. The Scottish Government must also assess the extent to which a lack of resources is impacting on mainstreaming in practice and more generally on the provision of additional support for learning in mainstream education.
8. The Committee recommends that the Scottish Government should undertake a quality assurance review of the implementation of the presumption to mainstream policy, and more broadly of the availability of additional support for learning in mainstream schools. This review should place emphasis on the direct experiences of parents (and by extension the children themselves), teachers and support staff in schools. The evidence received by this Committee should be context for the Government's work. Having children in mainstream education who would benefit from it is the starting point, but insight into the real experiences of children with additional support needs in mainstream education is vital to the success of inclusion, including mainstreaming.
9. The Committee recommends that this quality assurance review should feed into the terms of the revised guidance planned by the Government. The revised guidance must ensure the impact of a lack of resources is reflected in the form the additional support for learning policy takes in the future.
10. Given the evidence received, and the fact that the mainstreaming policy is a "cornerstone" of inclusivity in mainstream schools, the Committee considers that parliamentary oversight of the progress of the implementation of mainstreaming, and more broadly additional support for learning, is required. The Committee recommends that the Scottish Government, having established a process of quality assurance as part of the review recommended above, reports to Parliament on an annual basis providing qualitative as well as quantitative evidence on additional support for learning in mainstream education.
11. The Committee welcomes the Scottish Government's review of the guidance on mainstreaming and recommends that the review includes a systematic assessment of the processes outlined in paragraphs 69 to 88, including an assessment of the extent to which resources are impacting on each process. Resource limitations that are impacting on these processes include:
  - the number of trained ASN teachers and ASN assistants,
  - the availability of specialists including mental health specialists and

- educational psychologists,
  - the level of resources supporting the ASN Tribunal process and other appeal processes, and
  - the availability of spaces in special schools.
12. Since approaching 1 in 4 children have a recognised additional support need, the successful provision of additional support for learning is integral to the success of Getting it Right for Every Child (GIRFEC). The Committee is concerned that parents from areas of deprivation may have lower chances at present to receive advice and support to ensure additional support needs of their children are recognised and the necessary support for learning provided. Given the emphasis in evidence on the importance of the parent pushing for support for their child, the Committee is concerned that this issue will disproportionately impact upon disadvantaged families and potentially have an adverse effect, namely widening the attainment gap between children with ASN in deprived and more affluent families.
  13. The Committee welcomes the undertaking from the Cabinet Secretary to set out the criteria that the attainment gap will be assessed against by "the middle of this year [2017]". As supporting children with ASN is integral to closing the attainment gap, the Committee recommends that the Scottish Government analyses the extent to which a process that relies largely on parental involvement to have their child's ASN recognised and supported, could potentially widen the gap.
  14. The Committee also recommends that the Scottish Government increases the provision of advocacy services and looks at how these could be best targeted at raising awareness and supporting parents from areas of deprivation.
  15. The Committee welcomes the undertaking from the Cabinet Secretary and recommends that the Scottish Government establishes whether there are deep-seated factors that are influencing the variation in these figures. Specifically, the Committee is concerned that additional support needs are going unrecognised in some education authorities more than others and that, in addition to parental involvement and resource limitations, the culture of the education authority, and some particular schools within authorities, is also a factor.
  16. The Committee recommends that, once the raw data has been improved as a result of the Scottish Government working group's efforts, anomalies in these figures should be used as a basis to explore with individual authorities the basis for any inexplicably low percentages of ASN in their area. Information from the quality assurance review recommended above could also be analysed on an education authority by education authority basis to establish whether the patterns in parent, child and school staff experiences in these areas, specifically on cultural barriers to recognition, support the figures. The Committee would ask that, when the Scottish Government has established which education authorities are cause for concern, that the Government shares this information with the Committee so that the Committee can also seek to hold these authorities to account.

17. The Committee also recommends that the Scottish Government should undertake a financial review to ascertain the extent to which education authorities are spending in line with the level of need in their area and identify any education authorities that have spends lower than their recognition rates might require. The Committee recommends that the Scottish Government undertakes this review in collaboration with education authorities as the Committee appreciates that authorities will have some valid explanations in relation to the disparities in recognition rates and in levels of spend per pupil with ASN. The financial review should be the starting point for Scottish Government discussions with education authorities on their funding allocations.
18. Inclusive education for those with additional support needs is "based on the premise that there is benefit to all children when the inclusion of pupils with special educational needs is properly prepared, well supported and takes place in mainstream schools within a positive ethos". The Committee would therefore welcome further analysis from the Scottish Government on how the education and ultimately the attainment of pupils in general is being impacted upon by insufficient resources being provided to support children with additional support needs. This should include any correlation between the reduction in specialist ASN staff in certain education authorities and overall attainment.
19. The Committee recommends that education authorities seek to collaborate more, including in respect of designing and delivering training in order to remove duplication of effort. The Committee will seek a response from Cosla and SLGP on this and other relevant recommendations and will also highlight this report to all education authorities.
20. In relation to initial teacher training, the Committee welcomes the undertaking from the Cabinet Secretary to highlight to the GTCS the Committee's concerns that combining post-graduate training with the probationary year, which is one proposal for change, will limit further the time available for trainee teachers to train in additional support needs. The Committee recommends that the GTCS takes this into account when assessing proposals from the colleges of education, produced in line with the Government's intention to "encourage more teachers to come into the classroom and get them there quicker".

## **Links to Submissions, Official Reports and Focus Group notes**

### **Focus Group**

The Committee held a focus group on 20 February 2019. The attendees included parents, young people, individuals and organisations involved with additional support needs.

- [Read the focus group notes 20 February 2019](#)

### **27 February 2019**

The Committee heard evidence on Additional Support Needs. The Committee has received a number of submissions from teaching staff, parents, academics and organisation these are in a pack as part of the papers for meeting. Notes from a visit to the Royal Blind School and discussions with CRIDE are also in these papers.

- [Read the meeting papers for the 27 February 2019](#)
- [Read the Official report for the 27 February 2019](#)

### **6 March 2019**

The second meeting was held on the 6 March 2019

- [Read the meeting papers for 6 March 2019](#)
- [Read the Official report for the 6th March 2019](#)

### **School support staff statistics - Links to the meeting papers and the Official report from 28 November 2018 and correspondence with Government Statisticians and local authorities**

The Committee heard evidence from the Scottish Government Statisticians on the availability of information on school support staff data.

- [Read the meeting papers for the meeting 28 November 2018](#)
- [Read the official report from 28 November 2018](#)

The Convener wrote to the Cabinet Secretary for Education and Skills regarding the level of support available for Children and Young People with additional support needs. The Convener's letter, the response from the Cabinet Secretary for Education and Skills and the response from Chief Statistician are below.

- [Read the letter to the Cabinet Secretary for Education and Skills. 11 December 2018 \(234KB pdf\)](#)
- [Read the response from the Cabinet Secretary for Education and Skills. 10 January 2019 \(907KB pdf\)](#)
- [Read the letter from Chief Statistician. 10 January 2019 \(272KB pdf\)](#)

### **March 2019**

The Committee received responses from some Local Authorities to a letter sent to the Directors of Education in December 2018 with questions regarding classroom support staff, these responses also form part of the papers.

- [Read the letter from the Convener to the Directors of Education. 21 December 2018 \(327KB pdf\)](#)
- [Read the responses from the Local Authorities. 22 February 2019 \(466KB pdf\)](#)

Late response

- [Midlothian Council. 26 February 2019 \(10KB pdf\)](#)