

The Additional Support Needs Update

Children's Rights | Equality | Inclusion

Issue 4 Spring 2019



Welcome back! Spring has sprung and with it comes a blossom of news articles focusing on additional support needs – from funding levels, to numbers of specialist teachers, to more on exclusions. Alongside that, a fresh review of the implementation of the law in this area has been announced.

Reporting of these issues can be quite negative but the picture is not all doom and gloom. New research 'Additional Support for Learning: Experiences of Pupils and Those That Support Them' released by the Scottish Government on 26th March indicates that – on the whole – pupils and parents think that their additional support needs are being well met in both mainstream and special schools. As a qualitative study across 18 schools in 6 local authority areas, it is perhaps difficult to generalise the results – but most pupils in the study attending mainstream school felt included in school life and were happy with their placement. Look out for a more detailed analysis on my blog soon.

However, the study also indicated that although most parents were happy with the current provision, getting to that point was often a difficult, drawn out process. One common theme is that ensuring the right support is in place across different agencies can be particularly difficult. Co-ordinated Support Plans (CSPs) are one way of applying a focus to pupils' needs, support requirements and educational objectives – but are increasingly under-used by local authorities. In this issue, we ask why that is, what the benefits of using a CSP are and provide some tips on how to navigate the process.

Finally, our Support Spotlight this issue comes in the form of a blog from Kindred. Kindred is a parent-led organisation which provides practical information, advocacy, emotional support and guidance to families of children with complex needs. The range of work they undertake is as varied as it is vital, and their blog is a useful insight into the organisation and the support they offer. I will be addressing their AGM later on this year, and look forward to hearing about another successful year of supporting families.

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Although the focus of this newsletter, and my casework, is education, I do also occasionally cover items related to additional support needs and disability which have a broader scope. One such example is the Changing Places consultation.

Accessible toilets or 'disabled toilets' do not necessarily meet the needs of all people with a disability. Many need the additional equipment and space afforded by a Changing Places toilet.

The Scottish Government has just launched a consultation which aims to tackle the lack of Changing Places by amending building regulations. This would make it a requirement to include Changing Places in certain types of larger new buildings. As presently proposed, however, Changing Places would only be required in secondary schools where community facilities are provided. All other new-build secondary schools, special schools and primary schools would not be required to make this provision. This needs to change. The consultation runs until 13th May 2019 – so it's not too late for you to [have your say](#).



Restraint, seclusion and exclusion within schools have all featured heavily in the press in the last few months. In January, the Children and Young People's Commissioner Scotland published the report "No Safe Space" following a national investigation into the use of restraint and seclusion in Scotland's schools. It recommended (among other things) that the Scottish Government should publish a rights-based national policy and guidance on restraint and seclusion in schools. Children and young people should be involved in all stages of this process to inform its development. Beth Morrison, Founder and CEO of Positive & Active Behaviour Support Scotland (PABSS) and campaigner on these issues, welcomes the report commenting:

"I feel change is coming. We must provide schools and staff with the support and resources they require to meet the needs of Scotland's Children. I do not believe this is all about money, I think we are already spending hundreds of thousands of pounds training staff to restrain children, so the money is already there, but why are we spending so much of this money training staff to do something that is supposed to be a "last resort"?"

Those resources should be going towards pro-actively meeting the needs of our children, understanding that behaviour is a form of communication- usually a distress response due to unmet needs. Our teachers and support staff should be receiving training in Positive Behaviour Support with a focus on the child's needs and their human rights. Early intervention is the key. Happy children simply do not challenge. Unhappy children go on to become unhappy adults."



An [interesting article](#) featured at the start of the year in the Guardian discussed the significantly higher level of exclusions and children in pupil referral units in London than in the rest of the UK. Inner London has rates that are almost double those of the national average, with some boroughs more than three times the average figure. One explanation offered for these alarming levels is the pressure on schools to perform in league tables. By permanently excluding (or “off-rolling”) pupils they are no longer included in performance figures. Of particular concern is the fact that those from areas with high levels of child poverty, and vulnerable children with the most complex needs are disproportionately affected. Until recently Scotland did not have the same league table pressures. However, the introduction of standardised testing provides a mode of comparison between schools at an early stage, and comparison brings with it competition. The last thing vulnerable children need is unintended incentives to exclude. Local authorities will need to keep a careful eye on exclusion rates to ensure that the same pressures do not lead to the same results.

For it is well established that exclusions affect pupils long after they have left school as Chrissie Rodgers, Professor of Sociology, University of Bradford revealed in her powerful [guest blog](#) last month (republished from theconversation.com). She discusses the links between exclusions, criminality and jail time. Estimates suggest 30% of prisoners have learning difficulties or disability and 60% have problems with communication. It continues to be the case that school exclusions, which can have such a devastating impact, are used disproportionately against our most vulnerable pupils. For more on exclusions, please see my third newsletter.

On a similar theme, a pupil in Yorkshire has brought legal action against his school over the use of “consequence rooms” containing booths in which children sit in silence for hours as punishment for breaking school rules. This [article in the Guardian](#) gives the details of the case, including the Dept. for Education’s response – which considers whether there may be some educational benefit to this practice!

One of the most widely reported events in the education sector in recent months is the motion debated in the Scottish Parliament at the end of January calling for a **review on the presumption of mainstreaming**. The review is not of the presumption itself; rather how it is operating in practice; press reports have not always made this distinction clear. There is some concern that the review could be hijacked by those opposed to mainstreaming in principle.

The simple fact is that mainstreaming and inclusion costs more than maintaining special schools (cf “Moving to Mainstream” report by Audit Scotland, 2003). So a move to mainstreaming as a means to reduce public expenditure would be doomed from the outset. The policy is the right one, but must be resourced properly as a matter of urgency. There are no quick fixes, but it is a journey that is well worth making.

The campaign for **funded nursery places** for all deferred pupils, Give Them Time, had a useful blog piece outlining the right to defer in Scotland: [“To Defer or not to Defer?”](#)



The UK Supreme Court delivered a judgement about **Section 15 of the Equality Act 2010** (Discrimination arising from disability) in the case of [Williams v. Trustees of Swansea University Pension and Assurance Scheme \[2018\] UKSC 65](#). Though not an education case, the principles apply. Helpfully, the Court confirmed “the relatively low threshold of disadvantage which is sufficient to trigger the requirement to justify under this section.”

As always, if you’ve seen a news article, consultation or opinion piece that you think I should feature within the newsletter, please contact me (details below).

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In [February 2019 TES Scotland](#) reported that Co-ordinated Support Plans (CSPs) were in ‘terminal decline’ leading to fears that they may soon disappear altogether. At a time when the number of children recorded as having additional support needs is increasing, it seems counter-intuitive that the numbers of CSPs are dwindling. For children with complex additional support needs that makes identifying, coordinating and reviewing the multi-disciplinary support they need to fully engage with and benefit from education more difficult.

What is a Co-ordinated Support Plan?

A Co-ordinated Support Plan (CSP) is the only education planning document that has direct legal force, along with a statutory framework for assessment, opening and review. The Education (Additional Support for Learning) (Scotland) Act 2004 created a system for identifying and supporting children and young people who have additional support needs arising from complex or multiple factors. Where this led to support being required from multiple departments within a local authority – or involved certain external “appropriate” agencies – it was recognised that there needed to be co-ordination for that support to be effective. Thus, the CSP was born.

Who is eligible for a CSP?

The Act provides that a child requires a CSP if:

- (a) An education authority is responsible for the school education of the child,
- (b) The child has additional support needs arising from –
 - (i) One or more complex factors, or
 - (ii) Multiple factors,
- (c) Those needs are likely to continue for more than a year, and
- (d) Those needs require significant additional support to be provided by the education authority and either another local authority department (such as social work) or another appropriate agency (such as the NHS).

Complex Factors

Unfortunately, complex factors are not defined in the Act, but the statutory guidance makes it clear that a factor is complex if it has, or is likely to have, a significant adverse effect on the school education of the child. As such complex factors can encompass a broad range of circumstances including:

- » The learning environment.
- » Family circumstances.
- » Disability or health.
- » Social and emotional factors.

Just one complex factor, if it has a significant adverse effect on the school education of a child, will be enough to warrant a CSP being drafted. If a child has multiple factors which contribute to a significant adverse impact on their schooling, even if one factor alone would not be enough, that too should trigger a CSP.

Significant Additional Support

Again the Act does not define this term. However, it has been the subject of a number of Tribunal and Court cases. The most influential decision on interpretation was delivered by Lord Nimmo Smith in *Mrs J.T. as Legal Guardian for K.T. v Stirling Council* [2007] CSIH 52. In essence, ‘significant’ signals that the scale of support provided stands out from the continuum of possible additional support. The support can be provided in a variety of ways such as approaches to learning and teaching; personnel or resources. Significant additional support is likely to be direct, continuing and substantial (to quote the Code of Practice).

What does a CSP contain?

It contains information about:

- » What has led to the child or young person needing additional support.
- » The educational objectives for the child.
- » The additional support needed.
- » Who will provide the support.
- » Who will coordinate the support.
- » The person in the local authority who can provide advice and further assistance.

What are the benefits?

When a child has a CSP, educational objectives and the support needed to achieve these are clearly outlined. The plan must be reviewed at least every 12 months to ensure it is still fulfilling the objectives, or indeed if the objectives have changed. More significantly it provides a focus for all the agencies involved to work towards. Everyone knows the role they have to play in the education of the child. Importantly, someone is designated as the point of contact through whom queries, changes in circumstances and monitoring can take place. It does what it says on the tin. It is co-ordinated and ensures the support provided to the child is targeted and focused on achieving set aims.

Who can ask for a CSP?

The education authority may initiate the CSP assessment process themselves. However, that statutory process can also be initiated by parents, young people and (as of January 2018) children aged 12 – 15 with capacity (see <https://childreninscotland.org.uk/my-rights-my-say/> for more information on the My Rights, My Say children's support service). The Act also provides that looked after children are presumed in law to have additional support needs and must be considered for a CSP.

Why the decline?

Given the rise in the numbers of children in Scotland with additional support needs, the news that there is a decline in CSPs issued makes little sense. It would seem that the nub of the issue is that despite endorsement and legislative steps taken by the Scottish Government to reinforce the importance of CSPs in schools, it is increasingly being overshadowed by non-statutory alternatives, such as the "child's plan". There is a tension between local authorities and parents about their usefulness, with local authorities often reluctant to use CSPs as they find them cumbersome and time-consuming. On the other hand, parents believe that these statutory plans are important to ensure that their child's needs are being properly assessed, recorded and reviewed – and supports required properly put into place.



I spoke with Professor Sheila Riddell who, in her role as **Director of Centre for Research in Education, Inclusion and Diversity, University of Edinburgh**, has the benefit of thirty years research into these issues behind her. She encapsulates the problem like this:

"Most local authorities have done little to raise pupils' and parents' awareness of their rights, and school staff have generally not been told about the legislative changes. At a more fundamental level, local authority and school staff have little knowledge and awareness of the ASfL legislation, believing that it has been superseded by the Children and Young People Act 2014 and the GIRFEC agenda. Parents are often told that their child does not qualify for a CSP even when they appear to meet the criteria and that these documents have little practical value. As a result, at the same time as the proportion of children identified as having learning difficulties has rapidly increased, there has been a major decline in the use of CSPs. This is a great pity since, far from being obsolete, statutory support plans are more important than ever as a means of supporting the rights of children and young people with ASN and their families."

What can be done?

Change to both policy and practice is required to turn this declining trend around. But raising awareness amongst parents is part of the solution too. If you have a child with complex needs that is having a significant adverse impact on their schooling – request a CSP. And if you don't know the best way to do that my How-To on page 6 will provide you with some pointers!

To find out more please visit my [facebook page](#), [website](#) or send me a [tweet](#).



If you ask for your child to be considered for a CSP, you must do that in a form that can be kept for future reference (so in writing, video or audio format) and it must contain set information to enable the authority to make a decision. The authority must tell you within eight weeks of your request whether they are going to deal with it, and if so they then have 16 weeks to consider whether your child is eligible and to prepare the plan if they are. You are expected to join in these considerations, and often you will be invited to a meeting. I've put together ten top tips to help you navigate that process.

1. While there is no legal requirement for the education authority to hold a CSP meeting, it is considered good practice and is a very common feature of the process of deciding whether a child or young person requires a CSP. If they do require a CSP, it is also a good way of ascertaining what the contents of that plan should be.
2. The CSP process is, however, a statutory one, and it is important to be clear about what stage in the process you are at. The 16-week timescale does not begin until the education authority has issued a formal letter confirming that they are to determine whether the child or young person requires a CSP. If that letter has not been issued, then the clock is not ticking.
3. Chapter 7 of the Code of Practice has some very useful guidance on good communication between schools and parents. For your meeting, it is always useful to have copies of any documents to be discussed in advance, rather than being distributed on the day. Minutes should be available in draft as soon after the meeting as possible, and plenty of notice should be given of the meeting date to allow as many people as possible to attend.
4. The question of what counts as "significant" additional support is a notoriously difficult one to get to grips with. The Code of Practice is a useful starting point. Remember that the focus should be on what the child or young person requires, not what is currently in place, or on offer.
5. Remember that while this is a multi-agency plan, it remains an educational plan in essence. Any proposed supports from social work, NHS or other appropriate agencies do have to be relevant to the child's or young person's educational objectives.
6. Rather than focussing solely on what supports are required, do take the time to fully consider and agree on appropriate educational objectives. The question of what support is required cannot be answered properly without first addressing this. The one flows naturally from the other. The Tribunal has suggested in more than one case the use of S.M.A.R.T. objectives (Specific, Measurable, Attainable, Relevant and Time-based) in the CSP.
7. The description of the support required by the child or young person should be suitably detailed. The Code of Practice says that this section of the CSP should be "specific" and "where possible, quantified". So, you would ordinarily expect to see a number of hours or sessions per week for each type of support recorded. The Tribunal has stated that a CSP which indicates that a provision would "normally" be for X hours per week, for example, is sufficiently specific while allowing some flexibility in the case of unforeseen staff absences etc.
8. As part of the CSP process, the parent, young person or qualifying child (aged 12 – 15 with capacity) can make a statutory assessment request. This is a request for the authority to carry out or arrange to have carried out, a particular type of assessment or examination. This may be an educational, medical, psychological or other type of assessment. This may be relevant in providing additional assessment information which is of use in preparing a final CSP.
9. Sometimes it is not clear whether a child or young person requires a CSP, as the criteria are complex and sometimes counter-intuitive. However, that shouldn't necessarily put people off from asking that the CSP process is initiated. The process of gathering all of the relevant agencies together to discuss a child's or young person's additional support needs and how best to support them can be a very useful one in and of itself, whether or not a statutory plan is the result.
10. Remember that this is intended to be a collaborative process, in which the voice of the child (of whatever age) is heard as a key part of the process. Depending on the age of the child, and local availability, there would often be specialist children's advocacy services available to support this process and ensure that the child or young person is at the centre of the process and the plan.

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This edition's Support Spotlight focuses on the work of Kindred. Kindred is a parent-led organisation which provides practical information, advocacy emotional support and guidance. They support families of children with complex needs to:

- come to terms with their child's diagnosis and implications for the future
- understand their child's limitations – and/or pain – and/or challenging behaviour
- learn new skills to care for a disabled child at home
- apply for necessary disability benefits, equipment and home adaptations
- cope with bereavement.



This support takes many different forms as **Director Sophie Pilgrim** highlights in this blog.

"This morning we hosted a meeting for a number of parents, all of whom were raising concerns about their child's school placement. We met with the local authority and school managers. The parents had not met before but spoke with one voice: they were worried about their school placements breaking down, raised questions about behavioural management within the classroom, and wanted changes to how school communicated with home. What they said made good sense, not just for them and their families, but for the school and the local authority.

Over the last couple of years, Kindred has increasingly focussed on families with complex needs. This is quite a change for us. In the past, we were able to support pretty much any parent who came through our doors, even if the child had relatively minor additional needs. Rising demand for our service and changing patterns of funding has meant that we have had to narrow our criteria.

We have shifted from supporting a very large number of families (1,091 was the high point in 2016/2017) to focus on a smaller number of families with greater complexity. In 2016 around 30% of families had a child with complex needs and this has increased to almost 50% of families. As a guide, we take 'high rate care' (Disability Living Allowance) to indicate complex needs. We have three teams: one based at the Royal Hospital for Sick Children, our Helpline team based in Rutland Court Lane near Edinburgh city centre, and our Fife team which is based in Dunfermline. We also have a partnership with the National Clinical Network for Children with Exceptional Healthcare Needs (these are children who are either tube-fed or ventilated, combined with further disabilities).



Our Fife team and our Helpline team support families with complex medical needs, but also families who require 'Tier IV' CAMHS (their children are either inpatient in CAMHS or receive intensive community support to prevent admission to inpatient CAMHS). These families are at the highest end of educational provision. Where placement within the local authority falls apart then out of authority residential provision is extremely costly, and we regularly hear of sums of £90,000 per annum upwards for the cost of providing an education and care for a child. Most children that we support in this group have a diagnosis of autism. Kindred has campaigned over the last four years for an inpatient provision in Scotland for children with a learning disability and autism, which would include building up a national hub of expertise on autism. By improving our expertise in autism, we can increase the resilience of local educational provision.

At the Royal Hospital for Sick Children we are supporting families of children who are inpatients and over a quarter have a child in the Paediatric Intensive Care Unit (PICU). A quarter of the families (63 out of 251) come from health boards outwith NHS Lothian, as many of the hospital departments cover the East side of Scotland and some are national. We are anticipating an increase in the number of families when we move to the new hospital at Little France in July. Interestingly, only nine of the hospital families (less than 4%) require help and advocacy regarding education. The majority of families in the hospital require support with funding applications, benefits and practical help with caring for a child in the hospital. For example, in the last twelve months, our team have raised £127,106 in charitable trust grants for a whole range of aids and adaptations, specialist equipment, and holidays.

In contrast, our Fife and Helpline teams have supported around 250 families with education enquiries. Of these, around 30 – 40 require help with a placing request to a special school or other specialist provision. Some families then require support with a reference to ASN Tribunal or to claim Disability Discrimination to the ASN Tribunal. However, it is rare that we find ourselves reaching the final stages of the tribunal. Fortunately, the vast majority of cases resolve before a hearing.

“The parents had not met before but spoke with one voice: they were worried about their school placements breaking down, raised questions about behavioural management within the classroom, and wanted changes to how school communicated with home.”

Which brings us back to the group of families who met in Kindred's offices today. Families need to be heard individually and as a group. We still have more to learn about autism. We can find better ways of explaining the behaviour of our autistic children which will help us to provide for our children more effectively. And that will mean happier, calmer children, better use of teacher time, happier homes and much less cost to the local authority.”

If you would like to find out more about what we do, or have a child with complex needs and would like to enquire about the services we offer please visit our website at <http://www.kindred-scotland.org/>



To find out more please visit my [facebook page](#), [website](#) or send me a [tweet](#).

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