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Abstract

This paper draws on data from an ESRC funded project (RES-062-23-0803) which explores the use of dispute resolution mechanisms in the field of special educational needs in England and additional support needs in Scotland. Here, we present findings from a survey of Scottish parents' perspectives on the management of disagreements about additional support needs (ASN) in the wake of the Education (Additional Support for Learning) (Scotland) Act 2004 (the ASL Act). One of the aims of the ASL Act was to increase parental rights in relation to the education of children with additional support needs. Amongst other measures, the new legislation puts in place a range of mechanisms, specifically formal mediation, adjudication and the Additional Support Needs Tribunal, to facilitate the resolution of disputes between the parent and the school or local authority. Evidence from the survey suggests that, although a significant minority of parents are highly dissatisfied with local authority provision, only a minority have used the new formal dispute resolution procedures. Parents were generally dissatisfied with negotiation at school level as a way of resolving disputes, but also had reservations about the new ways of resolving disagreements, particularly mediation. The implications of these findings are discussed, including the possibility that, over time, parents may be able to use the dispute resolution procedures to improve provision generally, rather than as a means of maximising their individual share of educational resources.

Additional support needs and approaches to dispute resolution: the perspectives of Scottish parents

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Elisabet Weedon and Sheila Riddell, Centre for Research in Education Inclusion and Diversity, University of Edinburgh

Corresponding author: Dr Elisabet Weedon, Centre for Research in Education Inclusion and Diversity, The Moray House School of Education, University of Edinburgh elisabet.weedon@ed.ac.uk

Introduction

This paper draws on data from an ESRC funded project (RES-062-23-0803) which explores the use of dispute resolution mechanisms in the field of special educational needs in England and additional support needs in Scotland. Here, we present findings from a survey of parents' perspectives on the management of disagreements about additional support needs (ASN) in the wake of the Education (Additional Support for Learning) (Scotland) Act 2004 (the ASL Act). One of the aims of the ASL Act was to increase parental rights in relation to the education of children with additional support needs. As well as placing duties on local authorities to provide information to parents on additional support needs policy, the new legislation also put in place a range of mechanisms, specifically formal mediation, adjudication and the Additional Support Needs Tribunal, to facilitate the resolution of disputes between the parent and the school or local authority. Despite instigating these formal routes of redress, the Code of Practice (Scottish Executive, 2005) emphasised that normally disputes should be resolved through low-level negotiation with the school or local authority. The key questions addressed in this paper are the following: Are parents of children with particular types of difficulty particularly likely to seek help from external agencies offering advice, advocacy and general support? What are the issues which appear to cause disagreements to arise between parents and the school or local authority in relation to Additional support needs? How satisfied are parents with the new dispute resolution mechanisms?

Additional support needs and dispute resolution mechanisms

In Scotland, whilst partnership with parents has featured in policy rhetoric since the Warnock Report (DES, 1978), routes of redress have received scant attention until relatively recently, but, as noted above, have been considerably strengthened under the terms of the ASL Act. This legislation placed a duty on local authorities to establish and publicise procedures for identifying and meeting the needs of children requiring additional support for education, whilst underlining parents' right to be assisted by a supporter or advocate. The new legislation applies to children requiring additional support in order to benefit from education for any reason, a much wider group than those previously designated by the term 'special educational needs'. Co-ordinated Support Plans (CSPs) must be provided for those who require significant support from services outwith education as a result of long-lasting needs or needs arising from complex or multiple factors. The ASN Tribunals for Scotland were established in 2004 to hear cases pertaining to CSPs, including refusal to open a CSP and its contents. Placement requests involving children with CSPs are also considered by the Tribunal, although, unlike the Special Educational Needs and Disability Tribunal (SENDIST) in England, the ASN Tribunals for Scotland do not deal with disability discrimination cases.

The new system of independent adjudication did not feature in the original legislative proposals, but was introduced at a later point to provide routes of redress for parents whose children had additional support needs but who did not qualify for a CSP, and therefore would be unable to make a reference to the ASN Tribunal. Criteria for a CSP are much more stringent than those pertaining to a Statement of Needs in England, so that in Scotland, a child with very significant disabilities would not qualify for a CSP unless they were receiving significant input from services outwith education, such as health and social work. The system of independent adjudication was designed to address the concerns of parents who believed that the local authority or school was not meeting their child's additional support needs, whether or not these were set out in a CSP. A request for adjudication is made to the local authority, which, if it considered the request to be justified, would formally request Scottish Ministers to appoint an adjudicator to look at both the parents' and the local authority's case. The adjudicator would submit their findings to the local authority, which would then communicate their proposed course of action to the parents within a specified timescale. It should be noted that the recommendations of the adjudicator are not binding on the local authority, but are there for them to consider.

A duty on the local authority to provide an independent mediation service was also established under the terms of the ASL Act. There has recently been a great deal of interest in mediation in a range of arenas where disputes may occur, such as the family, local and international conflicts and certain types of criminal cases. In Scottish schools, mediation plays a key role in the implementation of restoratives practices (Kane et al. 2007). A key tenet of mediation is that all participants have to agree to participate, and may withdraw at any time, and the outcome of a mediation is not binding.

To summarise, the ASL Act increased the redress mechanisms available to parents of children with additional support needs. Whilst low level negotiation at school and local authority level was encouraged, parents were also given the opportunity to use the ASN Tribunal, adjudication and mediation. If dissatisfied with these remedies, routes to higher courts and complaints procedures continued to be available, although are little used for reasons of cost and complexity. As indicated above, the aim of this paper is to understand parents' views of the causes of disagreement in the field of additional support needs and efficacy of different types of dispute resolution, ranging from low level and informal to high level and formal.

Parents' rights in the field of additional support needs

In the immediate post-war period in England and Scotland, parents had very little say over the education of their children with special educational needs. They were compelled to bring their children into clinics for assessment by medical officers, who would subsequently decide, in conjunction with education officers, on the appropriate form of educational provision (see Riddell, 2006 for further discussion). From the 1970s onwards, with the advent of child centred education, it was increasingly recognised that parents played a very important role in their children's educational development, and in the Warnock report (DES, 1978) they were granted partnership status in decision-making. The Conservative Government's educational reforms of the 1980s cast parents not just as partners, but as drivers of the market, in that their choices, in theory if not in practice, would determine what type of educational provision would flourish or dwindle (Tomlinson, 2001). Within managerialist and consumerist discourses, which gained growing currency in the 1990s, parents also occupied an important position, with rights to information on performance and targets set out in a range of charters which employed the rhetoric of safeguarding consumers' interests against the vested interests of service providers. From a very different philosophical position, the growth of the disability movement from the 1980s onwards established a discourse of rights, which recast disabled children as having the same rights to education as their non-disabled peers, with parents acting as their proxies, using routes of redress to ensure that rights were enforceable.

The citizen-consumer has featured prominently in New Labour's social policy and Clarke et al. (2007) discuss the implications of this hyphenation, pointing out the complexity and contested nature of both terms. In relation to citizenship, as noted by Lister (2003), there continue to be disagreements over the areas of life in which the rights and entitlements of citizenship should hold sway, and who should be counted as a citizen. For example, in the field of education, it is evident that parents are accorded greater rights than children, even though, as argued by Harris (2005), these rights tend to be weak. Similarly, the consumer has been viewed through a variety of lenses (Trentmann, 2006), sometimes regarded critically as an individualist seeking to capture scarce or valued resources, or alternatively as a champion of collective mobilisation against the vested interests of goods and service producers such as the food or automobile industry, or the providers of public services such as health and education. Direct payments, for example, were promoted by the disability movement on the grounds that the social services which were ostensibly serving the needs of disabled people were, in reality, geared towards protecting the interests of public sector workers.

Earlier analysis of decision-making in relation to special educational needs provision and practice in England and Scotland (Riddell et al., 2000, 2002, 2003; Riddell, 2006) suggested that parents tended to have greater power in England than in Scotland. Under the terms of the 1994 Education Act, a Code of Practice was instituted in England which specified the procedures which professionals must follow in order to comply with legislative requirements. This legislation also established the Special Educational Needs Tribunal, which gave parents access to a quasi-judicial system of appeal. At about the same time, parent-partnership services were established in each local authority, with a remit to work with parents of children with special educational needs to try to minimise the possibility of conflict. As noted above, similar, although not identical, measures were put in place a decade later in Scotland, signifying a time lag between developments north and south of the Border.

Methodology

The questionnaire was designed to explore the reasons for disagreement between parents and the school or local authority, and parents' views of the efficacy of the new dispute resolution mechanisms instigated under the ASL Act. Three organisations involved in providing information and support to parents of children with additional support needs were contacted: Enquire, the national advice and information service for additional support needs in Scotland; ISEA (Independent Special Education Advice), a voluntary sector advocacy organisation; and Dyslexia Scotland (DS). About 750 questionnaires were distributed between June and August 2008 and a total of 182 questionnaires were returned, approximately a 24% response rate. This rather low rate of response could be attributed to the fact that some questionnaires were sent to parents whose children were either pre- or post-school, and some of those who received the questionnaire were education professionals and were therefore not eligible to complete it. Forty-two percent of the questionnaires were returned by parents contacted through Enquire, 20% were from those contacted through the DS and 38% were contacted via ISEA. Please note that where names are used these are fictitious and local authority numbering is not based on alphabetical order of authorities.

There was a particular rationale for using these organisations as the means of obtaining parents' views. Because the focus of the project was on dispute resolution, we were particularly interested in contacting parents who might have had some concerns about local authority or school provision. Clearly, parents contacting Enquire or ISEA had some specific questions they wished to have addressed, and in some cases were in dispute with the school or the local authority. Evidence from England suggests that a relatively high proportion of cases referred to the Special Educational Needs and Disability Tribunal (SENDIST) involve parents of children with dyslexia, hence our reason for sending questionnaires to parents associated with this organisation. The questionnaire responses provide interesting insights into the views of a particular group of parents who had contacted a voluntary organisation or advice and information service for support, but should not be seen as representative of the views of the generality of parents of children with ASN. In this report, due to relatively small numbers, we simply report frequencies.

Characteristics of the children

The questionnaire asked parents to provide background details including age and nature of the child's difficulties. Questionnaires were returned by parents in 28 local authorities, the ages of the children ranged from 3 to 19 with a mean age of 11. (Table 1 about here)

Parents were asked to provide a brief description of their child(ren)'s difficulties, and these were classified using the new categories in the Pupil Census (Scottish Government, 2008) (see table 1 above), although a number of parents mentioned a range of difficulties not all of which are included here. Thirty four percent of parents referred to dyslexia and/or other SpLD and 28% mentioned that their child had autistic spectrum disorder or Asperger's Syndrome. The next largest categories were those with ADHD (10%) (or ADD), physical health problems (7%) and language and speech disorders (6%).

The range of children's difficulties and the proportion in each category does not entirely reflect the wider ASN population. According to official statistics, the largest group are those with learning disabilities followed by those with social, emotional and behavioural difficulties and other moderate learning disabilities (Scottish Government, 2008). The two largest groups in our sample are children with dyslexia and children with autistic spectrum disorder, probably reflecting the fact that disputes are particularly likely to occur in relation to children with these types of difficulty. The largest number of references to the Additional Support Needs Tribunal concern children with autism (ASNT, Scotland, 2008), and the largest number of cases referred to the Special Educational Needs and Disability Tribunal pertain to autism and dyslexia (SENDIST, 2008).

Apart from these two main areas of difficulties, a wide range of conditions were mentioned by parents, including visual, hearing and physical impairment, Fragile X Syndrome and Tourette's Syndrome. The number in each category was low, but highlights the challenges faced by authorities and schools in catering for children with very differing needs, with a concomitant demand that class teachers have at least a rudimentary understanding of the nature of children's conditions in order to meet their additional support needs. The next section examines the type of support that the children were (or had been) receiving and the parents' level of satisfaction with the support.

Educational provision and level of satisfaction

Educational planning mechanisms

Parents were asked if their child had any particular educational plan which specified his/her needs. A list of possible plans was provided and parents were asked to state if their child had a plan which was not listed. The responses here are based on the total sample, as it can reasonably be assumed that the missing responses indicate lack of a plan or lack of knowledge of plans. (Table 2 about here)

As can be seen from table 2, 50% of the parents stated that their child had an IEP (Individualised Educational Plan) and about one third said their child had a CSP. Other plans mentioned by parents were Integrated Support Plans, Behavioural Support Plans and Personal Learning Plans. A small number of parents (22) also referred to other types of plans; seven of these stated their child had an Additional Support Plan (ASP). In a number of cases the same child had more than one plan in place, for example, a CSP and an IEP. Just under a quarter of parents (n=38) intimated that their child had no plan; however, some of these parents qualified this statement with *'not that I am aware of'*, suggesting a possible lack of communication between school and home.

Four parents indicated that their child had previously had a Record of Needs and there were two mentions of Staged Interventions and two of Care/Support Plans and Health Care Plans. The Code of Practice (Scottish Executive, 2005) mentions two types of plan for children with ASN (CSPs, intended for children with multiple needs requiring input from more than one agency, and IEPs, intended for children requiring a specified learning programme, including individually-specified targets, in order to benefit from learning). The HMIe report (2007) reviewing the early implementation of the ASL Act drew attention to the proliferation of non-statutory planning mechanisms which were potentially very confusing for parents and problematic when families moved to a new authority. These findings provide further evidence that authorities are devising their own planning mechanisms which do not provide parents with access to redress mechanisms.

Type of support received by child and satisfaction with support
In addition to stating the plan provided for their child, parents were also asked to indicate more specifically what type of support their child was receiving. Responses are based on the total sample.

(Table 3 about here)
Over half of the parents said that their child received support from a classroom assistant in class and a slightly smaller number that the class teacher provided extra help. Help from a learning support teacher was available to just over one third of the children either in class or in a support base and slightly fewer children received support from a therapist. In the main, 'other' therapist referred either to physiotherapy or occupational therapy. One or two parents mentioned play or music therapy. Virtually all children received some form of additional support, as only 8% of parents said their child received no support.

Forty-eight parents stated that their children received other forms of support. Just under half of these mentioned support from some kind of professional such as educational/clinical psychologist, GP or other health professional or social worker. A smaller number referred to private tuition or said that they themselves provided the support. One person said their child was in receipt of direct payments to fund a personal assistant, one mentioned peer and buddy support at school and two mentioned special clubs, e.g. for autistic children.

Parents were also asked to indicate how satisfied they were with the support provided. The percentages refer to parents who actually responded to the question and do not include the missing responses. As the numbers in some of the categories are very low, actual numbers are shown in bold with the percentages in brackets.

(Table 4 about here)

Parents' levels of satisfaction with different types of support varied but it is important when exploring these figures to note that only two types of support (extra help from class teacher and help from classroom assistant in class) drew responses from more than half the parents. In these two cases just over half the parents were either satisfied or very satisfied with the support. The additional comments made by the parents who were satisfied stressed the importance of maintaining good channels of communication:

> *The learning support base teacher is very good and has helped Kathryn enormously. The classroom assistant is also very good, but she has a huge amount of children to support. I think more classroom assistants should be available to support children with ASN. (Parent of child with dyslexic type difficulties, LA 28)*

> *They fully understand his needs and are well motivated to help him. Most importantly they listen to him and to us at meetings and act on anything we ask or suggest. (Parent of child with Asperger's Syndrome, LA 2)*

> *We feel very fortunate that Jamie is so well supported. Good communication between all parties. (Parent of child with autistic spectrum disorder) (independent special school)*

> *Both the school and speech and language therapist have provided a high level of support and kept in close contact with me. (Parent of child with Asperger's Syndrome, LA 12)*

The need for effective communication was also stressed by one of the very dissatisfied parents who described a highly unsatisfactory and damaging set of experiences

> *The school's attitude to my son's disability was to send him to a special unit. The support that was supposed to be put in place failed badly. Teachers either shouted at him or talked to him as if he was an idiot. One example was a comment made by a teacher "Oh I forgot I have to spell everything out for you." This comment was made in front of a full classroom. He was assaulted by a teacher and last but not least he was seriously beaten by seven pupils in the yard after I was promised these bullies would be kept in line. His diagnosis was confidential but his personal details were left on a staff member desk and pupils accessed these details and spread word to other pupils. At this point I had to consult a lawyer as the Council failed to speak to me and the education department ignored my telephone calls. My case was taken to the Disability Conciliation Service. (Parent of child with Asperger's Syndrome, LA 21)*

Fortunately for this child, there has been a change as he is now attending a school in another local authority and is thriving in the new community. However, a number of parents reported that getting support took considerable time and effort from the parent.

> *There has been no support whatsoever, even though he is starting P7 and was diagnosed in P2. The school has been unhelpful, even issuing a letter of exclusion. We have had to fight for basic rights. DCFP have been very supportive, however. (Parent of child with ADHD, LA 15)*

Another parent had problems in relation to getting a CSP because of disagreements over the level of input from other agencies.

> *Boys are now in P5. However, it has taken us several years to get us to the stage where we are reasonably satisfied with the level of support, including an actual diagnosis of 'fragile X' which has only recently been confirmed. Advised speech & language therapist was not going to have direct input as with occupational therapist despite being recommended both boys would benefit from regular sessions. CSP was declined as there was insufficient input from outside agencies. We then discovered speech therapist had been seeing boys at school for block of six weeks. (Parent of child with Fragile X Syndrome, LA 25)*

Another parent got so frustrated by the level of support, or rather lack of it, and decided to educate her child at home.

> *Niamh was supposed to have full-time help from an auxiliary helper. This is rarely the case because they were assigned to other children in the school. Not even in the same class!* (*Parent of child with autistic spectrum disorder, ADHD and dyslexic difficulties*, *Home educated)*

> *You wouldn't believe the negative experiences he's had since diagnosis with dyslexia. Ignorance on the part of teachers, school doctor, educational psychologist about learning difficulties if not profound.* (*Parent of child with dyslexia*, *LA 27)*

These quotes and the evidence above suggest different levels of satisfaction among parents. It shows variation between authorities and, probably also between schools in an authority. The nature of difficulty does not seem to determine parents' level of satisfaction, since a parent in one authority with a child with Asperger's Syndrome was satisfied with the support available, whereas another parent with a child with the same difficulty in another authority was highly dissatisfied until the child moved to another authority.

Additional resources provided for child and level of satisfaction

Parents were also asked about additional, non-people resources that might be provided for their child and their level of satisfaction with those resources.

(Table 5 about here)

There was limited evidence of additional resources being provided for individual children as can be seen from table 5. Around one third of parents stated that their child had additional access to computers and around one quarter that they had special software provided. Around a quarter of the parents mentioned other types of resources and the main ones were:

- Scribes and extra time in exams
- Teaching materials such as colour coded materials, visual materials, spell checkers and 'card signals' used to show high stress levels
- Furniture adaptations such as tilted desks
- Access to alternative spaces, special arrangements, e.g. early exit from classroom to avoid crowd

One parent mentioned that a hoist was provided in contrast to the parent who found that a newly built primary school did not have an accessible toilet and lacked staff who were able to provide personal assistance for a disabled child.

> *New build school -- No disabled kids' toilets. Disgusted! Staff have to volunteer for training in EVAC procedure only done after mum created a fuss.* (*Parent of child with spastic quadriplegic cerebral palsy (mild to moderate) registered partially sighted, bowel condition and Asperger's Syndrome, LA 28)*
>
> *The school has not helped my son in this way. He was in a chair and could not walk, then had a zimmer and could not walk. I had to carry him. They would not give parking closer to school although they could have, for they have for other kids.* (*Parent of child with learning disabilities, LA 13)*

Parents were also asked to rate their levels of satisfaction with any resources provided.

(Table 6 about here)

As was the case in relation to additional support, those who were either satisfied or very satisfied with additional resources outnumbered those who were not satisfied. However, these figures have to be interpreted with caution as the numbers responding in each category are low and percentages have only been included to indicate proportions. Some of the resources are not relevant to all children so non-response cannot be interpreted as dissatisfaction or lack of availability in a particular area.

The nature of disagreements between parents and school or local authority

Parents were asked about whether they had had any disagreement with the local authority and/or the school about their child's educational provision. A total of 174 parents (96%) responded to this question and, out of these, 80% (139) stated that they had indeed had a disagreement. They were further asked to comment on the reason for the disagreement and encouraged to identify all areas of disagreement. The following analysis is based only on those who responded affirmatively to this question.

(Table 7 about here)

By far the largest number of disagreements centred around additional educational support followed by assessment by educational staff. Concerns were expressed that school staff were left to undertake assessments independently without the expert input of educational psychologists:

> *Head teacher very supportive. The Educational Psychologist appears to advise from afar without actual assessment. (Parent of child with perceptual visual difficulty, LA 9)*

This may reflect the different role mapped out for educational psychologists in Scotland (Scottish Executive, 2002), whereby work is now being deliberately focused on systemic evaluation and change, rather than individual pupil assessments.

Just under half of the parents mentioned teaching methods and slightly fewer problems around relationships with a member of staff.

> *I tried to get extra tuition and was told - lack of resources prevented this. She couldn't read at all or count to 20 - plus her auxiliary, who was to be full-time, wasn't. Again lack of resources was the excuse used. (Parent of child with ADHD, autistic spectrum disorder and dyslexia, LA 16)*

Lack of resources was also an issue even when parents had been to a tribunal, as the comment from one parent shows:

> *Continual tribunal – council is untouchable and unaccountable. Council refused something the Tribunal ordered and the Tribunal could not do anything. (Parent of child with autistic spectrum disorder, LA 12)*

(Table 8 about here)

Table 8 shows that the most common way of dealing with any disagreement is informally at the school level; however, as table 9 shows, the level of satisfaction with this mechanism is low as more than half of the parents were dissatisfied. It is also clear that there have been very small numbers of parents involved with formal mediation and the tribunal and even fewer with independent adjudication. Few parents made any mention of adjudication or mediation and there was some limited evidence that requests were not always attended to:

> *Part of the settlement (imposed by Council) was that we attend mediation which I feel would be beneficial. However, this has yet not taken place. (Parent of child with multiple impairments, (LA 3)*

And

> *We put in an application for independent adjudication but got no response (sent May 2008) (Parent of child with multiple impairments, (LA 16)*

Where parents had used some form of dispute resolution, there was not always evidence of recommendations being put in place and some parents felt that the process led to them being victimised:

> *We had a case at dispute resolution and the adjudicator's recommendations in Jan 2008 were agreed upon by the education authority. Since then they have refused to action a number of recommendations. He was to be immediately multi-agency assessed to identify needs. Health refused, totally dismissing the adjudicator's report. "Who was this person teaching them what to do?", said the manager in Health. … Since the dispute resolution case I am being personally attacked by school/authority. (Parent of child with multiple impairments, LA 9)*

(Table 9 about here)

As noted above, communication with school and local authority staff was vital in terms of ensuring effective support. This emerged as an issue in relation to dealing with disagreements and a number of parents commented on the lack of listening by staff at the school or council.

> *Negotiation at school level was very disappointing. Parental concerns were not taken seriously. (Very complex additional support needs, LA 21)*
>
> *(Always disagreement at school meetings.) I always feel that they have made up their minds before the meetings take place. They never listen to the parent at all. Also, there is never a full turn-out at the review meetings, so nothing gets resolved, social services, G.P., school nurse, physio, head teacher, etc. do not come. Parents always repeating ourselves. (Parent of child with multiple impairments, LA 4)*

However, a number of parents commented on positive relationships and, some stated it was important in terms of ensuring good support for their child:

> *I didn't blow things out of proportion, but stood my ground to my beliefs. I have an excellent working relationship with the school and do believe it is because I didn't go in screaming and shouting. There are other people who did it this way and the support has been not as good. (Parent of child with dyslexia and dyspraxia, LA 10)*

Changing school was seen as a possible remedy by some parents. For example, some felt that going from primary to secondary might allow a 'fresh start' and others that a deliberate, request to move to a different school would provide better support. One parent even moved house to get her child into a new school.

Finally parents were asked if their disagreement had been resolved. Eighteen of the parents failed to answer this question. Of those who did respond (n=121), half said their disagreement had been resolved and half reported that the dispute was ongoing. It is clear that for many parents getting support for their child is a constant battle and one that goes on, at least until the child leaves school. Whilst only a very small number of parents had used the tribunal, it was evidently not an easy experience as one parent explained:

> *We have just received the Tribunal ruling. It was in our favour and quite critical of the local EA and HA. Nevertheless, the Tribunal process was a stressful nightmare. It extended over 5 months (4 days sitting) and parents should not have to experience that. The Tribunal panel was fair in its conduct, but the actual process served to demonstrate that a quasi-judicial process like this is not family friendly and inquisitional, but adversarial and trial-like. How ministers and policy officials in SEED*

> *could think otherwise is beyond belief.* (Parent of child with multiple impairments, LA 1)

To summarise, the parents responding to this survey had all sought advice and/or support on how to access additional help for their child, and therefore they might be expected to have some negative views of the school or the education authority. However, whilst some are clearly extremely unhappy and disappointed at the level of support their child is getting, many of the parents recognise the need to develop positive relationships with schools. Several appreciated the support provided, even if they might have wished for more of it. It was clear from parents' comments that they saw themselves as their child's champion and would go to great lengths to ensure that they received the best possible educational support:

> *I always thanked the school for everything they have done or were going to do for my daughter. However, as a mother, who feels that there is more to her child's difficulties than just being 'slow', the school have to appreciate that I will do everything in my power to find the root of her difficulties. If this means going down other routes, then I will. I found out where the teachers get to learn about dyslexia, found an Ed Psych who trained them, got him to do an assessment on my daughter, everything went well from then on. (91) (Parent of child with dyslexia, dyspraxia and other difficulties) (LA 10)*

Summary and conclusion

As noted at the start of this paper, one of the principal aims of the new additional support for learning legislation was to increase parents' involvement in decisions concerning their child's education and to provide effective means of resolving disagreements when these arose. Our survey of parents who had contacted an external agency offering advice, advocacy or general support provided interesting insights into the issues over which disagreements are likely to arise and the extent to which parents are satisfied with the new means of dispute resolution provided by the ASL Act. It would appear that, in line with the experiences of the SENDIST, parents of children with autistic spectrum disorder and dyslexia are particularly likely to have disagreements with the local authority or the school. However, it is worth noting that the majority of our respondents were satisfied with the support provided, whilst a significant minority appeared to be highly dissatisfied. It is interesting to note that IEPs and CSPs, the formal educational plans specified in the Code of Practice (Scottish Executive, 2005), appeared to be used relatively sparingly (50% of parents reported their child had an IEP and 30% said their child had a CSP).

In general, where parents reported that tensions had arisen with the local authority or school, these tended to concern the availability of support, such as learning support assistants or personnel able to provide more specialised personal assistance including intimate care. The availability of accessible school buildings was also mentioned, although this appeared to be a lesser concern than the availability of human support in a range of guises. The ways in which children's needs were assessed also appeared to be the cause of disagreements between parents and education staff, with parents generally seeking more specialised input than the type of assessment which might be carried out routinely by a class or learning support teacher. In relation to the resolution of disputes, parents appeared to be highly critical of the low-level dispute resolution methods used at school level and seen by local authorities as the most appropriate ways of dealing with disputes in most cases (Riddell and Weedon, forthcoming 2009). By way of contrast, parents were extremely satisfied with the support provided by Enquire, the independent national advice and information service funded by the Scottish Government and based in Children in Scotland. The new forms of dispute resolution (mediation, adjudication and tribunal) had been used by very few parents in our sample, and were seen as problematic by about half of users for a variety of reasons, including the reluctance of local authorities and schools to act on recommendations or findings.

In an earlier paper (Riddell and Weedon, 2009 forthcoming), we reported that Scottish local authorities tend to believe that the vast majority of parents are satisfied with the service provided, and that disputes can best be sorted out through low-level dispute resolution at school level. Local authority officers tended to be quite critical of the new dispute resolution routes, on the grounds that they would lead to more conflict as parents were encouraged to question local authority decisions. As a result, the majority of Scottish local authorities do not routinely inform parents of children with additional support needs of the various mechanisms in place to assist with the resolution of disputes. The results reported here indicate that local authorities are right to assume that the majority of parents are reasonably satisfied with additional support needs provision, but wrong to be complacent, since a significant minority of parents who responded to the survey were highly dissatisfied with the support provided. They were prepared to go to great lengths to act as effective champions for their children, often seeking more specialist input than was routinely available. Whereas local authorities believed that low level dispute resolution at school level was generally the best way of dealing with disagreements, parents in our survey did not find this type of dispute resolution particularly effective. It is worth noting that poor communication and a lack of respect at school level exacerbated parents' sense of not being taken seriously, causing them to move towards higher levels of dispute resolution.

In answer to the question of how effective the new dispute resolution mechanisms are proving to be, it would appear that the jury is still out. Fewer parents than expected are currently making references to the tribunal (Riddell and Weedon, 2009 forthcoming), and only half of the parents in our survey who had used the tribunal appear to be have had a satisfactory experience. Those who were dissatisfied appear to have found the process intimidating and, in the longer term, were frustrated in that findings were not implemented speedily. These problems are similar to those identified in earlier reviews of public experiences of using courts and tribunals (Adler and Gulland, 2003; DCA, 2004; Genn, 1999; Genn et al, 2006).

At the same time, it is worth noting that the alternative dispute resolution measures put in place by the ASL Act, namely mediation and adjudication, are also being used somewhat less than anticipated and are not experienced as entirely unproblematic. Interestingly, of the new dispute resolution mechanisms (tribunal, adjudication and mediation), mediation is viewed least positively by parents who used it. Genn (2008), in her review of the international literature on mediation, notes the enthusiasm with which it is promoted by its adherents, yet suggests that it may be flawed as a means of delivering justice, which is what most individuals in dispute with the state are seeking. It might have been anticipated that parents would be even more sceptical of adjudication as a route to justice, because of the private nature of the process, the invisibility of the adjudicator and the fact that judgements are not publicly reported. However, in contrast with mediation, the majority of parents who have used this route appear to be satisfied with the process and outcome. It is also revealing that the telephone advice and information service provided by Enquire appears to be particularly valued by parents, and is regarded as extremely effective in providing parents with the support they need to resolve disagreements with the school or local authority.

Finally, in relation to Clarke et al's (2007) analysis of the various forms which consumerism may take, it would appear that currently parents are operating as individuals seeking to obtain the best possible deal from the education system for their child. Our interviews with local authority officers suggested that they tended to be disapproving of such behaviour, believing that parents should have greater concern for the collective interests of children and greater awareness of the problems they faced in attempting to 'balance the books'. On the other hand, it may be that individual parents acting as proxy consumers on behalf of their children may succeed in pressurising local authorities to deliver a better service overall, including training teachers to interact more sympathetically and respectfully with parents whose children have additional support needs.

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Table 1: Additional support need of child according to new categories used in Pupil Census

	Frequency	%	% Pupil Census[1]
Learning disability	12	8%	27%
Dyslexia	45	29%	10%
Other Specific Learning Difficulty	7	4.5%	8%
Other moderate learning difficulty	0	0%	14%
Visual impairment	2	1%	3%
Hearing impairment	3	2%	3%
Deafblind	0	0%	0.1%
Physical or motor impairment	3	2%	9%
Language or speech disorder	9	6%	12%
Autistic spectrum disorder	44	28%	14%
Social, emotional and behavioural difficulty	1	1%	21%
Physical health problems	10	7%	5%
Attention deficit hyperactive disorder (ADHD)[2]	15	10%	-
Hearing and visual impairment[3]	1	1%	-
Learning disability and physical health problem[3]	1	1%	-
Physical health problem and visual impairment[3]	1	1%	-
Physical health problem and language/speech disorder[3]	1	1%	-
Total	**155**	**85%**	

1. The percentages shown here reports children in the new categories according to the Pupil Census 2007 (Scottish Government, 2008) and they indicate the proportion in each category in relation to the total for whom reason for support is reported.
2. There is no category in the census for ADHD
3. These categories do not exist in the Pupil Census but pupils may be entered in more than one category

Table 2: Type of educational plan issued to the child

	Yes		**No**			**No response**	
	Nos	**%[1]**	**Nos**	**%[1]**		**Nos**	**%**
Coordinated Support Plan (CSP)	58	32%	71	39%		53	29%
Individualised Learning Plan (IEP)	90	50%	48	26%		44	24%
Integrated Support Plan (ISP)	17	9%	76	42%		89	49%
Behavioural Support Plan	15	8%	78	43%		89	49%
Personal Learning Plan (PLP)	28	15%	67	37%		87	48%
Child Plan	2	1%	78	43%		102	56%

1. Of total sample

Table 3: Support provided to the child

Type of support	**Yes**	**No**
Extra help from class teacher	52%	48%
Help from learning support teacher in class	39%	61%
Help from learning support teacher in support base	39%	61%
Help from classroom assistant in class	56%	45%
Help from classroom assistant in support base	19%	81%
Help from visiting teacher, e.g. to assist child with visual or hearing impairment	10%	90%
Help from speech & language therapist	36%	64%
Help from other therapist (e.g. occupational therapist, physiotherapist – please specify)	35%	64%
Help from school nurse	10%	89%
Help from social worker	15%	85%
Help from voluntary organisation	16%	85%
No additional support	8%	92%

Table 4: Level of satisfaction with support provided

Type of support child is receiving	**Very satisfied**	**Satisfied with support**	**Not satisfied**	**Missing Nos/%**
Extra help from class teacher	**30** (24%)	**38** (31%)	**56** (45%)	**58** (32%)
Help from learning support teacher in class	**21** (25%)	**19** (23%)	**44** (52%)	**98** (54%)
Help from learning support teacher in support base	**24** (28%)	**22** (26%)	**40** (47%)	**96** (53%)
Help from classroom assistant in class	**27** (27%)	**29** (29%)	**45** (45%)	**81** (45%)
Help from classroom assistant in support base	**16** (33%)	**9** (19%)	**23** (48%)	**134** (74%)
Help from visiting teacher	**4** (14%)	**10** (35%)	**15** (52%)	**153** (84%)
Help from speech & language therapist	**23** (32%)	**20** (28%)	**28** (39%)	**111** (61%)
Help from school nurse	**6** (24%)	**6** (24%)	**13** (52%)	**157** (86%)
Help from social worker	**5** (14%)	**11** (31%)	**19** (54%)	**147** (81%)
Help from voluntary organisation	**17** (59%)	**5** (17%)	**7** (24%)	**153** (84%)
Help from other professional	**21** (55%)	**5** (13%)	**12** (32%)	**144** (79%)
Help from other therapist (e.g. occupational therapist, physiotherapist)	**19** (33%)	**12** (21%)	**26** (46%)	**125** ((69%)

Table 5: Type of resources provided for the child

Type of resources	**Yes**		**No/NA**	
	Nos	**%**	**Nos**	**%**
Building adaptations, e.g. physical access to buildings	21	12%	161	88%
Adaptations to signage	14	8%	168	92%
Adapted or additional equipment, e.g. special chair	25	14%	157	86%
Additional access to computers	62	34%	120	66%
Special software	44	24%	138	76%
Adapted teaching materials, e.g. large font or easy read texts	35	19%	147	81%

Table 6: Levels of satisfaction with resources provided

Type of resources	**Very satisfied**	**Satisfied**	**Not satisfied**		**Missing Nos/%**
Building adaptations, e.g. physical access to buildings	**9** (24%)	**16** (43%)	**12** (32%)		**145** (80%)
Adaptations to signage	**5** (21%)	**11** (46%)	**8** (33%)		**158** (87%)
Adapted or additional equipment, e.g. special chair	**9** (26%)	**18** (51%)	**8** (23%)		**147** (81%)
Additional access to computers	**18** (23%)	**24** (31%)	**35** (46%)		**105** (58%)
Special software	**12** (22%)	**19** (35%)	**23** (43%)		**128** (70%)
Adapted teaching materials, e.g. large font or easy read texts	**11** (20%)	**20** (36%)	**25** (45%)		**126** (69%)
Other materials	**16** (41%)	**12** (31%)	**11** (28%)		**143** (79%)

Table 7: Nature of disagreement with school/local authority, based on responses from those that had had a disagreement

About:	**Yes**		**No/non-response**	
	Nos	**%**	**Nos**	**%**
School placement	45	32%	94	68%
Additional education support	105	76%	34	24%
Additional support from health	34	25%	105	76%
Additional support from social work	17	12%	122	88%
Teaching methods	68	49%	71	51%
Assessment of difficulties by education staff	84	60%	55	40%
Assessment of difficulties by health staff	27	19%	112	81%
Assessment of difficulties by social work staff	10	7%	129	93%
Relationship with staff member	64	46%	75	54%

Table 8: Mechanisms for dealing with the disagreement used by parents, based on responses from parents who had had a disagreement

	Yes		**No/non-response**	
	Nos	**%**	**Nos**	**%**
Informal negotiation/mediation at school level	84	60%	55	40%
Information and advice provided by Enquire	67	48%	72	52%
Formal mediation provided by local authority	20	14%	119	86%
Independent adjudicator appointed by the Scottish Government	11	8%	128	92%
Additional Support Needs Tribunal	19	14%	120	86%

Table 9: Satisfaction with the way the disagreement was handled

	Very satisfied	**Satisfied**	**Not satisfied**		**Missing**
At school level	**10** (8%)	**27** (22%)	**84** (69%)		**18** (13%)
By information and advice provided by Enquire	**41** (51%)	**27** (34%)	**12** (15%)		**59** (42%)
By formal mediation provided by local authority	**1** (3%)	**15** (39%)	**23** (59%)		**100** (72%)
By independent adjudicator appointed by the Scottish Government	**6** (40%)	**3** (20%)	**6** (40%)		**124** (89%)
At Additional Support Needs Tribunal	**5** (24%)	**6** (29%)	**10** (48%)		**118** 85%