



Autonomy, Rights and Children with Special Needs: A New Paradigm?

Working Paper 4 English Local Authority Survey Results

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Summary

The local authority, staff roles, training and workload

Respondents

- The majority of respondents were the lead person for SEN and Disabilities (SEND) in their Local Authority (LA).
- Just over half of the authorities completing the survey have an officer with a lead role in children's and young people's SEND participation.

Training

- A large majority (90%) of authorities stated that all or some staff with responsibility for decisions about SEND have received training regarding children's and young people's participation in SEND matters. However, there is little uniformity of provision across the LAs.
- Often, expertise and knowledge about SEND provision and support is shared between LA staff with responsibility for SEND matters and other education, care and health professionals. This usually occurs via training workshops and meetings.
- Many authorities also commission specialised training provision from outside the LA. Independent consultants and third sector organisations were frequently mentioned as contributors to LA knowledge and training expertise.

Workload

- The overwhelming majority of authorities (94%) indicated that the workload of SEND staff has greatly increased as a result of the Children and Families Act 2014. Authorities reported multiple factors that have led to an increased workload. These included:
 - Transfers of statements of SEN and Learning Difficulty Assessments to education, health and care (EHC) plans
 - Higher volumes of EHC assessment requests
 - Greater awareness and higher expectations of LAs' SEND provision under new statutory duties
 - Increased need for SEND training and/or redeployment of staff
 - Creation of appropriate mechanisms for children and young people to participate in decision making at individual and strategic levels
 - Greater collaboration and communication required between education, health and social care professionals
 - Inclusion of SEN young people up to and including the age of 24
 - Changes in the legal threshold for determining whether or not a statutory assessment is required
- Whilst respondents viewed greater opportunities for children and families to participate in decisions as a positive development, a lack of resources to implement reforms has been problematic.

Reviewing the local area's educational provision and the local offer

- The majority of LAs (67%), when keeping the SEND provision in the area under review, always consult with children and young people.
- LAs consult with children and young people using a range of approaches, such as children/young people forums, voluntary organisations, surveys and local youth councils. All LAs engage with children and young people via more than one method. Just over half of LAs stated that they had specifically set up a forum to consult.
- The majority of authorities found consultation useful and highlighted a number of benefits, both for the LA and children/young people. Forums had enabled the LA to refine policy and practice and identify gaps in provision. In addition, there were increased opportunities for children and young people to influence the agenda for change and participate more meaningfully in debates about how they might be supported.
- A few authorities highlighted difficulties consulting with younger children.
- Some authorities felt that they could improve current efforts to consult with children and young people.
- The main reasons stated by some authorities for not routinely consulting with children and young people were: a lack of time and resources; or it was overly burdensome for the child or young person. Other unspecified reasons were also mentioned.

Local Offer

- Three quarters of local authorities stated that they ensure that children and young people are always consulted in respect of the local offer.
- LAs consulted children/young people about the local offer via the same mechanisms as those used for consulting over educational provision (above). It was also common for authorities to use more than one method to consult with children and young people.
- A minority (43%) of local authorities set up a specific forum to consult with children and young people regarding the local offer.
- The majority of respondents found consultation with children and young people useful and productive and that it informed local offer provision. Consultation has also enabled authorities to improve the accessibility, layout, content and functionality of local offer information and pay closer attention to diverse communication needs.
- Reasons given for not routinely consulting with children and young people regarding the local offer were the cost or time involved, the potential burden for the child or young person, or 'other' reasons not stated.
- Three-quarters of authorities acted on any comments made by, or on behalf of, children or young people in respect of local offer provision, but one in seven respondents were uncertain if any action had been taken. A small number of others had not received any comments.

Provision of advice and information

- Almost all LAs stated that they provide information regarding SEND matters via a range of passive and active channels and undertake efforts to maximise accessibility.
- Most authorities use a variety of printed and digital media to convey SEND information in addition to sharing advice and information within meetings with children, young people and families.
- Some LAs also engage the help of specialist teachers and interpreters when required. Parent forums, local partnerships, charities and strategic groups also communicate SEND information on behalf of LAs.

Assessment of education, health and care needs

Young People

- Authorities reported that between zero and 660 requests for EHC assessments have been made in respect of young people over the last twelve months; 23% of LAs did not receive any such requests and 47% of LAs received less than 10 requests. A small proportion of authorities (17%) indicated that more than 100 requests in respect of young people were received.
- Respondents indicated that it is rare for young people themselves to make requests for EHC assessments.
- The majority of authorities consult with young people when determining whether to carry out an EHC assessment.
- A large majority of LAs (76%) indicated that they write to both the young person and their parent to consult on these matters, while the rest write to the parent or young person exclusively. On occasions when the young person is not consulted, this is generally due to the young person's incapacity as judged by the LA.
- Responses indicated that in just over half of local authorities young people submit **evidence** for EHC assessments whereas in almost four in five authorities those undergoing assessment submit their **views** to the LA.
- Authorities always or usually take into account the views, wishes and feelings of young people when an EHC assessment is conducted. They may not do so, however, where they face a lack of time and resources, or due to the young person's incapacity, or if it is not considered useful.
- The majority of LAs endorsed the importance of young people's input to SEND assessment and decisions. Many authorities described young people's views as a 'pivotal' part of the process and underlined the extent to which engaging with young people helped to ensure that the content and delivery of young people's SEND support remained meaningful and relevant.
- Difficulties which moderated how young people were able to share their views included: responding to conflicting views of parents and professionals; reliance on the individual young person's ability to communicate independently and confidently; and inconsistency in the level of commitment and skill of the advocate supporting the young person

- Less than half of LAs always arrange information, advice and support for young people in relation to EHC assessments. When information and support are not provided as a matter of course, they are nevertheless made available if needed or where there is a lack of parental engagement. A small number of LAs hardly ever or never make arrangements for supporting young people in this respect.

Children

- A large majority of LAs always seek to ascertain the views, wishes and feelings of the child when carrying out an EHC assessment. When it does not occur it is due to the child's lack of capability or the parent does not agree. One authority reported never seeking to ascertain the child's views, wishes and feelings.
- Authorities adopt a variety of approaches to ascertain the views of children for EHC assessments. Whilst some authorities highlighted the use of person centred planning meetings with children, many either relied on third party communications or recruited the support of parents, advocates and professionals to elicit the views of children. A large proportion of authorities also used questionnaires, 'one page profiles' and a range of assessment forms.
- The extent to which authorities communicated directly with children or delegated this task to key individuals such as parents, educational psychologists and other school personnel was not always made clear, but a number of authorities made efforts to ascertain a child's view through alternative media such as photographs, video and symbols.
- Almost all authorities always or usually take a child's views, wishes and feelings into account when carrying out EHC assessments. When they do not, it is for reasons to do with the child's incapacity, the parents' objection or conflict with the child's view and time/resource constraints.

Content of education, health and care plans

Young People

- Almost half of the local authorities reported that they always consult young people about the content of their EHC plan. Just over one third stated that consultation is dependent upon the capacity of the young person involved, and a smaller number stated that consultation is dependent upon sufficient time and resources. A few authorities only consult with the agreement of the parents and a further few stated that consultation with the young person 'hardly ever' happens.
- The majority of authorities indicated that young people tend not to name a preferred school, including one third who indicated this happens in fewer than half of cases. Half reported that young people never or hardly ever inform the authority of their preferred school. Only one in seven indicated that young people always name the school that they wish to attend in their EHC plan.
- Young people rarely communicate their views on the EHC plan independently. In the majority of cases, their views are communicated via a parent or another person.

- A number of intersecting issues affect the LA's ability to support young people to have the final decision and ensure that it is the young person's view that is heard and acted upon. They include:
 - Separating the young person's viewpoint from that of the parent or carer
 - A need for a broader cultural shift on the part of LA, parents and carers in order to adapt to statutory changes and ensure that the young person's voice takes precedence
 - Supporting a young person with communication difficulties and/or low confidence to articulate their independent view
 - Conflicts and ambiguities around the young person's 'best interests'
 - Capacity of the LA to invest sufficient time and resource to support young person to articulate views, wishes and feelings independently
- The use of mediation, independent advocates or support from voluntary organisations has helped to ameliorate some of the difficulties that LAs face when trying to ensure that the young person's independent voice is heard and acted upon.

Inclusion of child or young person's views in EHC plans

- The vast majority of authorities always set out the views of the child or young person in EHC plans. Reasons for this not happening relate to the child or young person's capability or the lack of parental agreement. A small number of LAs reported that the child's or young person's views on the EHC plan are not always ascertained or communicated.
- A small proportion of authorities indicated that they had not encountered any problems including children and young people's views in EHC plans, but most authorities cited a number of barriers hindering it. These include:
 - Insufficient ability or willingness of staff to engage with children and young people with more complex disabilities
 - A lack of co-operation from parents
 - The child or young person's low confidence, communication difficulties, anti-social behaviour or apathy made it difficult.

Personal Budgets

- Most LAs indicated that young people do not tend to make requests for personal budgets. Over 90% of authorities reported that less than one in ten young people have requested a personal budget.

Review of education, health and care plans EHC

Children

- A large majority of authorities always consult the child about their EHC plan review. A small proportion of such consultations are dependent upon the child's capacity, time and resources or parental agreement. Very few authorities hardly ever or never consult with children regarding EHC plan reviews.

Young People

- Similar patterns to those for children are reflected in the proportion of young people that are consulted about the EHC plan reviews. Almost all authorities stated that they always consult with young people. A small proportion of consultations are dependent upon time and resources, capacity and parental agreement. Likewise, only a few authorities hardly ever or never consult with young people regarding EHC plan reviews.
- On the whole, most authorities offered some support to young people for participation in their 'Preparing for Adulthood' (PfA) review, whether at year 9 or subsequently, but there was much variation in the approach and in the amount on offer.
- Support ranged from little or no support (due to lack of capacity within the SEN team) to comprehensive multi-agency provision which aimed to maximise young people's participation. A number of authorities also commissioned specialist support and guidance about transition and future education and careers from dedicated agencies and charities.

Disagreement Resolution; appeals and mediation of disputes

Disagreement resolution

- Authorities use a range of methods to inform young people of statutory arrangements regarding disagreement resolution. Where information is communicated to young people, this often occurs via an adult such as a parent or advocacy worker and through a range of face to face meetings or printed and online resources.
- Some authorities rely on the local offer as the primary source of information for both young people and parents. Some authorities also delegate the task of providing advice and information to young people to voluntary sector partners and advocacy services such as SENDIASS.
- It is very rare for a young person him/herself to seek dispute resolution. Two-thirds of authorities stated that there had not been any cases of disagreement pursued by young people themselves over the past twelve months.

Mediation

- It is rare for a young person to pursue SEN mediation autonomously. Most LAs had had two or fewer cases of mediation requested by young people in their own right (even if assisted by a parent or other person) and the majority of these authorities had in fact had no such cases.
- Almost all authorities make arrangements to ensure that young people with SEND are provided with, or have access to, advocacy support in connection with mediation. Authorities tend to signpost or commission support for young people participating in mediation via a range of independent advocacy providers.

- The extent to which children and young people participate in mediation meetings appears to vary. Some respondents remarked upon the exceptional nature of children's and young people's involvement in mediation meetings and noted that when it *does* happen, parents tend to speak for the child or young person. In some cases, authorities offered examples of young people demonstrating an awareness of their autonomous right to speak independently of their parents.

Appeals

- Very few young people have brought an appeal against the LA in their own right (even if assisted by a parent or other person). Most (90%) authorities stated there have been two or fewer cases where young people have appealed in the last twelve months.
- A large majority of authorities (88%) said that they ensure that young people have access to, or are provided with, advocacy support when taking part in an appeal. The LA provision of advocacy support for young people is very similar to services usually offered for mediation purposes.
- A majority of LAs experienced difficulty in ensuring that the views of children are placed before the tribunal. Common problems include: parents refusing to provide consent for the authority to obtain the child's view, issues around ascertaining capacity or establishing whether the view that is presented to the tribunal is that of the child or the parent. The intervention of legal advisors was also identified as an additional area of concern.
- The majority of authorities stated that it was very rare for a child or young person to attend a tribunal hearing. However, some of these responses were also qualified by comments about a low number of tribunal hearings more generally. A small number of authorities described how some children and young people manage to participate and present their views, but in the majority of cases this also requires the support of another adult.

General

- **Arrangements for supporting young people to make decisions** about future education or training varied across authorities. A number of authorities commissioned independent support from specialist providers and some authorities also provided specific advice and support internally. In other authorities young people are also able to access a range of services provided by schools and college careers services or are expected to consult information publicised within the local offer.
- A majority (70%) of authorities consider the **involvement of parents** to be particularly important for young people with SEND. LAs conveyed the view that whilst parental views should always be considered, the views of the young person should remain paramount. Authorities also noted that there can also be occasions when a parent's or carer's view can overshadow those of the young person and hinder a young person's autonomy. But where a young person is deemed not to have capacity to make decisions, the views and extra contextual information that

parents and carers can provide are seen as broadly positive additions to decision making processes.

- Mediation and informal discussions with young people and families (with or without independent advocacy support) were noted as the most common way in which **conflicts between the parent's and young person's views** are resolved by authorities. If a young person is deemed to have capacity, the majority of authorities consider their views to take precedence over those of parents and carers if conflicts remained unresolved. Some authorities indicated that the views of other professionals would also be considered and decisions were made on a case by case basis.
- **Authorities' views on the rights of children and young people** that have been conferred by the 2014 Act were broadly positive in the majority of cases. Many authorities highlighted the potential of the Act to bring about changes to the ways in which children and young people are able to influence LA decisions. Some authorities indicated that they were already evidencing change in this respect.
- As regards **policy implementation on the ground**, many respondents considered that there was still a long way to go before the children's and young people's participation would become engrained in routine practice and the relevant rights were properly realised. Authorities identified several problems with implementing statutory duties associated with children and young people's rights under the 2014 Act:
 - Funding and the capacity of advocacy support
 - Lack of staff awareness of the Mental Capacity Act 2005 (in addition to associated cost implications for undertaking mental capacity assessments)
 - Difficulties with parents and professionals accepting the increased emphasis on children's and young people's right to participate in SEND decisions.

1 Introduction

Within the field of special educational needs (SEN) in England, since the late 1970s there has been an increasing focus on parental involvement in education decision-making. Historically, despite the emphasis on the empowerment of children in the UN Convention on the Rights of the Child (UNCRC), parental rights in education have tended to be accorded greater prominence under domestic legislation and policy in England than those of children and young people. The Children and Families Act 2014 (the 2014 Act) and the SEN Code of Practice 0-25 Years (2015), however, appear to be concerned in part with bringing children and young people's rights into sharper focus within the local SEN decision-making process – indeed, aiming to advance the independent rights of children with SEN and to place those of young people with SEN on a par with those of their parents.

This report contains the findings of a questionnaire sent to all Local Authorities (LAs) in England aiming to gather evidence on how the 2014 Act has impacted upon LA practice with regard to supporting children and young people's rights of participation in decisions concerning SEN and provision. The questionnaire sought information on how, and to what degree, LAs are facilitating the participation of children and young people in the relevant decisions and processes and to identify the challenges these authorities are facing.

2 Methodology

The questionnaire was produced using an online survey platform. An early version of the questionnaire was piloted with two LAs. After revisions, an electronic link to the final version of the questionnaire was emailed to the named person with overall responsibility for SEND in each of the 150 LAs in England. Two follow-up reminders were sent out over a two week period to any authorities that had partially completed the survey or had failed to respond.

Fifty-six LAs completed all or part of the questionnaire, giving an overall response rate of 37%. Five authorities completed duplicate submissions and these responses were combined into single entries for each authority. Any conflicting responses from LAs with more than one survey submission were discounted. All detailed comments received from respondents within the same authority were combined into one response and analysed alongside the remaining data. Quotations from respondents that have been highlighted within this report were selected on the basis of being representative of a range of responses or as unique examples of particular issues that respondents raised. Respondents were advised that any information provided by the LA would not be used to identify the respondent or LA to anyone outside the research team or in any publications. For the purposes of the survey, the terms 'child/children' and 'young person' have the same meaning as under the 2014 Act.¹

¹ A child is someone who is of compulsory school age; and a young person is someone (aged 16 or over) who has ceased to be of compulsory school age but is under the age of 25.

All of the questions in the survey were optional to answer. The results presented below are based on all answers from the 56 LAs which completed the survey. The number of responses for each question is noted in the results.

3 Findings

The questionnaire was divided into eight sections, which focussed on:

- The LA and staff roles (3.1)
- Reviewing the local area’s educational provision and ‘Local Offer’ (3.2)
- Provision of information and advice (3.3)
- Assessment of education, health and care (EHC) needs (3.4)
- Contents of EHC plans (3.5)
- Personal budgets (3.6)
- Review of EHC plans (3.7)
- Disagreement resolution; appeals and mediation of disputes (3.8)
- General (3.9)

The results presented in this report are structured according to these section headings.

3.1 The local authority, staff roles, training and workload

3.1.1 The respondent

The first question asked whether the respondent was the lead person for SEN and Disabilities (SEND) in their LA. The majority of respondents answering this question (40/52) identified themselves as the lead person for SEND. See table 1.

Table 1: Is the respondent the lead person responsible for SEND in the authority?

	Number	%
Yes	40	77
No	12	23
Number of Responses = 52		

The job titles of the respondents who are not the lead person responsible for SEND in their LA included:

- Senior Assessment and Review Officer
- Education Development Adviser - SEND
- Family Voice Worker (SEND)
- Working with SEND and Inclusion service

Best Practice Development Officer
 SEND and Inclusion service support
 Family Voice Worker
 Local Offer Co-ordinator
 SEN Inclusion Manager
 Head of Service Children (SEND 0-25)
 QA and Participation Manager
 Head SENDIAGS (Information, Advice & Support Service)
 Senior Assessment and Review Officer

3.1.2. A children and young people’s participation officer?

We also asked whether there is an officer with a specific role in children’s and young people’s participation regarding SEND in the LA. Twenty-nine LAs reported having an officer who acts as lead in children’s and young people’s SEN participation, and 22 LAs have not assigned anyone to such a role. See table 2.

Table 2: Is there an officer with a specific role in children's and young people's participation regarding SEND in your authority?

	Number	%
Yes	29	57
No	22	43
Number of Responses = 51		

3.1.3. Training for staff

(a) *Whether training is given*

We also wanted to know if LA staff with responsibility for decisions about SEND in relation to individual children and young people have received training on children’s and young people’s participation. Just over half of respondents (53%) reported that some staff had received training. See table 3.

Table 3: Have SEND staff received training regarding children and young people's participation?

	Number	%
Yes, all	18	37
Yes, some	26	53
No	5	10
Number of responses = 49		

(b) What kind of training and to whom?

Respondents were then asked to outline what training on children and young people's participation was given and to whom. Of the 44 respondents who answered either 'yes' or 'yes, some' in relation to whether training was given, 39 offered further comment on its nature. Although there were some parallels that could be drawn between the local authorities, the majority of responses demonstrated little convergence between them in relation to the type of training and recipient. Responses were also very mixed in terms of detail and ranged from vague, general answers to detailed explanations of specialist training courses attended. However, it should also be noted that qualitative analysis of responses to questions where respondents were invited to make further comment has been undertaken with a view to highlighting pertinent issues that respondents have described, rather than attempting to provide a representative sample and detailed analysis of all English LA training provision in this area.

Caseworkers, SEN case officers and staff in senior SEN management roles were frequently mentioned as recipients of training, as were a wide range of social and health care workers and professionals. Seven authorities stated that all or most staff working within SEN or roles dedicated to working with children and young people had received some sort of training on children's and young people's participation. Other responses identified specific training provision for staff working within education, health and social care with an emphasis on encouraging engagement and participation. For example:

'Educational Psychologists have trained Education, Health and Care Co-ordinators in how to seek pupil views and engage them.'

'Each service that contributes to EHC needs assessments have provided their staff with training regarding CYPs' participation.'

Just over a quarter of respondents (10/39) also described LA provision for delivering training to educational settings such as early years, schools and further education (FE) colleges. The ways in which LAs engaged in training activities varied from direct instruction and advice from educational psychologists or SENCOs to supporting 'service days where participation has been key to sessions within'. Likewise, expertise from individuals based both within and outside LA education settings also contributed to knowledge and staff training to varying degrees. For example, one authority reported that staff in SEN had received a: 'formal presentation from special school lead for pupil voice' and another referred to inviting guest speakers to 'SENCO briefings that officers attend'. A number of authorities described similar strategies in terms of more senior or specialised staff cascading knowledge to others within the authority or delivering training workshops to other education, health and social care staff in SEN based roles. A small number of responses also made reference to how individual staff with skills and qualifications enhanced internal training provision. For example:

'Some staff have roles targeted to working with YP aged 15+ and they have careers qualifications as well as in house sessions.'

The sharing of knowledge and expertise within areas such as child or person centred practices and co-production was mentioned by a significant number (18/39) of respondents.

Three authorities stated that they had recruited person centred training support from social enterprise, Helen Sanderson Associates. Moreover, one LA remarked that the Helen Sanderson person-centred training is now delivered 'in-house'. In addition to this, Independent consultants and third sector organisations were frequently mentioned as contributors of LA knowledge and training expertise. Many responses highlighted external charities and support groups such as 'In Control', The Council for Disabled Children (CDC), Special Educational Needs and Disabilities Information Advice and Support Service (SENDIASS) and The National Development Team for Inclusion (NDTi) as key organisations that also engaged in training activities with LA staff. For example:

'We had a consultant in to help us deliver a participation programme for SEND in the authority, she held workshops and established a pupil participation network.'

Of the authorities that highlighted training on EHC assessment and planning, three drew attention to input from the DfE. One authority was part of the Pathfinder programme and as such 'worked on developing the child's voice in plan development'.

Training on statutory duties and requirements was frequently mentioned either specifically or via indirect references to EHC processes. Five authorities drew attention to Independent Parental Special Education Advice (IPSEA) training in relation to this. One authority stated that IPSEA legal training had been provided to information and advice service staff (level 3 training) and to senior staff responsible for SEND.

Almost a third of respondents (12/39) also highlighted training that has focussed specifically on participation and voice and a small number of these reported an extended focus on developing roles and opportunities for vulnerable children and young people to influence and change local, regional and national decision making outside mandatory EHC planning and assessment activities. One authority described a series of workshops that were delivered by organisational leads from the voluntary sector, a local university and LA youth teams. This authority illustrated a range of training programmes and activities that sought to involve young people as representatives in steering groups, engage socially excluded and looked after children and young people in voice and influence activities, and support children and young people to participate confidently in consultations and local decision making, as well as sharing good practice as part of a national conference. A small number of respondents also reported accessing training that focussed on engaging and including children and young people with autism in addition to including those who access a range of Child and Adolescent Mental Health Services (CAMHS).

We have become aware of training under the auspices of the DfE in the form of workshops provided on a regional basis in all areas during November and December 2017 aimed at assisting local authorities in interpreting and applying the 2014 Act.² The materials used indicate that the training focused on the main obligations on LAs in the areas of assessment and EHC plans. Children and young people's rights seem to have been mentioned but they

² Details and materials are posted at <http://www.sendpathfinder.co.uk/send-decision-making-and-the-law-workshops>

were not central to the training and indeed are not specifically flagged up in the case studies used.

(c) Frequency and availability of training

Although a small number (3/39) of responses made reference to the ‘ongoing’ nature of this type of training, frequency of training was rarely mentioned by other respondents except in one instance acknowledging the need for training to be ‘refreshed because of new members of team’ and two where the need to ensure that new members of staff are able to access training as part of being equipped for their respective roles was specifically highlighted.

Whilst variances in responses to this question reflect the increasingly marketised landscape within which LAs are situated and thus manage their training resources, it is also important to acknowledge that the open-ended structure of this question may have contributed to the range of responses. It is also difficult to ascertain the extent to which training activities described by respondents are considered voluntary or mandatory requirements of their respective roles.

Respondents who informed us that no training had been given were asked if any was planned in the next 12 months. One answered ‘yes’, two answered ‘don’t know/uncertain’ and two indicated that no training was planned.

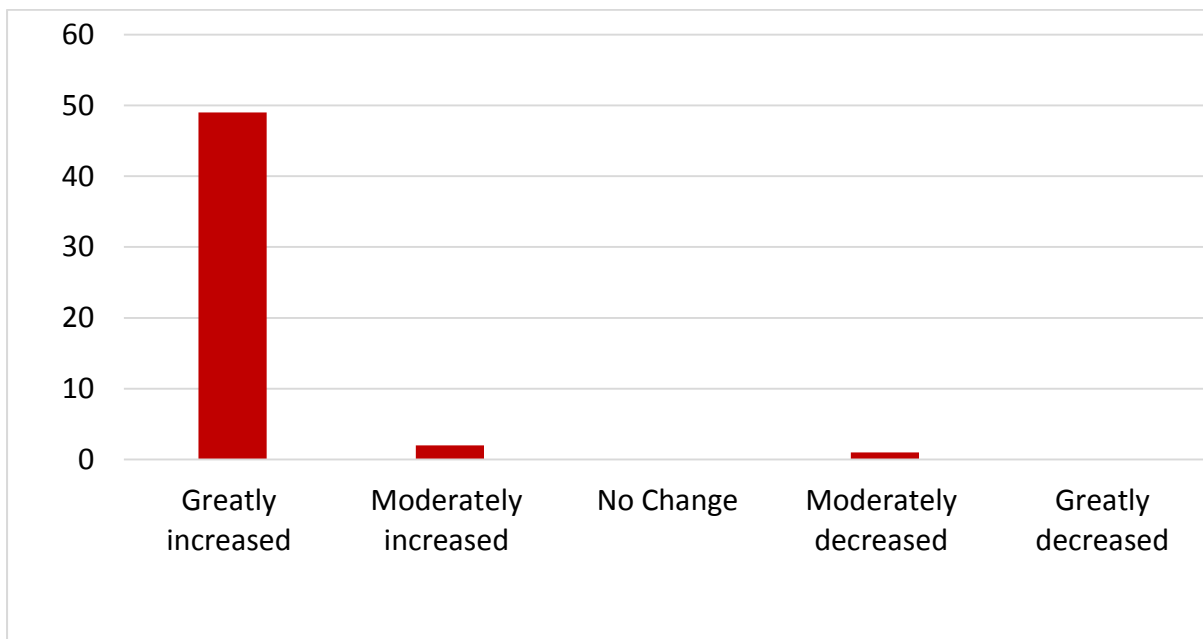
3.1.4 Staff workload

The next question considered how the implementation of the 2014 Act had impacted upon the workload of SEND staff. Respondents were asked to indicate whether workload had increased or decreased or whether there had been no change. The overwhelming majority of responses (49/52) indicated that workload had greatly increased as a result of the Act. Two authorities felt that workload had moderately increased and another reported a moderate decrease in workload. See table 4 and figure 1.

Table 4: How has the implementation of the 2014 Act impacted on the workload of SEND staff?

	Number	%
Greatly increased	49	94
Moderately increased	2	4
No change	0	0
Moderately decreased	1	2
Greatly decreased	0	0
Number of responses = 52		

Figure 1: Impact of implementation of the 2014 Act on the workload of SEND staff



Respondents were then invited to add comments on the impact of the 2014 Act changes on workload. Of the 43 that did so, the majority indicated that increases in workload were both significant and wide ranging in scope across health, social care and SEND roles.

(a) Factors in an increased workload

Many responses described how an increase in the volume of EHC plan applications, in addition to bringing greater complexity and breadth of work in terms of planning and responding to all of the new statutory requirements, has required a significant investment of scarce LA resources. For example:

‘Workloads have increased greatly due to the increase in the number of EHCPs. This is compounded by the increased time each EHC needs assessment and plan takes to conclude.’

In addition, numerous responses also highlighted that the inclusion of young people with SEN up to the age of 25 has impacted upon both the volume and range of work undertaken. For example:

‘The 19-25 agenda is a particular concern, with there being very little challenge to “sideways progress”, thus EHC plans are continuing for longer and we are funding further education support when previously plans would have ceased. More EHC plans in the system means much more work for CWOs and support services!’

This has also had a number of consequences that concern collaboration between the LA and FE staff. For example:

'The extension of age range, with no real clarity of expectation linking to the law, has increased volume significantly and opened the age range to professionals not used to working with this group e.g. EPs. FE colleagues new to the statutory system creates significant additional workload for LA to keep reminding them of expectations. Difference in culture to placement in FE and fluidity of movement creating significant issues on knowing where or whether YP are engaging in education post 16. Lack of clear definition re what progression means to maintain YP in the system - expectation of YP remaining in college until 25 is endorsed in tribunal with over reliance on parent rather than YP views post 19.'

'Work with 19-25 has been evolving; little national guidance; huge work pressure to create a new market of provision.'

Many responses referred to significant increases in workload due to negotiating the transfer of existing statements to EHC plans, whilst also managing changes to statutory timescales and expectations for children and families to participate more fully in the process. For example:

'Double whammy of decreasing timescales to 20 weeks whilst (rightly) increasing expectation for CYP and parent participation in process.'

'Inclusion of child's view and parent view is right, but adds time to the process
- Overall, reduction from 26 weeks to 20 week process
- Significant resource required to convert all statements to EHC plans.'

'Transfer of Statements and LDA to [EHC] plans had an enormous impact on capacity - 4 extra staff needed in every team. Temporary nature of employment has become a recruitment and retention burden... 16% increase in EHCP between 2016 and 2017 - above national 12.1% and pressure to deliver in 20 weeks has seen absenteeism increase; management issues.'

A number of responses also indicated that workloads had grown due to changes in the legal threshold for determining whether or not a statutory assessment is required, in addition to greater awareness of the 2014 reforms which has resulted in authorities receiving more requests from families. For example:

'The lower legal threshold for determining whether or not a statutory assessment is needed has had a significant impact on the number of requests that we receive and the number of assessments subsequently carried out.'

'3 of 4 requests for statutory assessment are now from families, not professionals. Unhelpful lobbying by some pressure groups antagonising families and creating additional work to unpick misinformation.'

'There is a higher expectation from parents and young people re the level of communication from the case officer.'

'The publicity on the reforms, co-production approaches to their implementation and person centred planning have all significantly raised the awareness and expectations of parents/carers and young people which has increased demand on the system.'

A significant proportion of the respondents also added that whilst they viewed greater opportunities for children and families to participate in decisions as a positive development, a lack of resources to implement the reforms has also had a negative impact on overall quality of provision. This was summarised by one respondent's comment that: 'Drive for pace has seen quality dip'. However, a small number of respondents also acknowledged that significant changes take time to implement. For example:

'The culture change required across education, health and social care is significant and cannot be achieved quickly.'

'Child and family at centre is key but takes time to do correctly and has an impact on capacity.'

(b) Impact of increased workload

Alongside these challenges, increased workloads have also impacted upon the management of scarce human resources in terms of training, recruitment and retention of staff:

'Certain key staff have changed roles to become more practitioner based with the need to develop person centred skills.'

'...Additional strain was placed on key 'expert' services against which there was no capacity to recruit, specifically Educational Psychology, Speech Therapy, Occupational Therapy and Disability Social Care. All of these professions are facing severe shortfalls nationally in suitably qualified personnel. Together this has created significant stress across the system that has proved counter-productive when trying to drive culture change in the spirit of co-production.'

'The personalisation agenda has increased the amount of meetings involved in producing a robust plan and the work has to be completed in a shorter timescale. This is against a background of financial cuts impacting on the recruitment of sufficient staff to manage the workload.'

Respondents also highlighted that greater consultation with children and families and extended collaboration across different areas of LA provision has impacted upon the range, allocation and capacity of LA resources to meet the demands of the 2014 Act. For example:

'Joint working processes across education, health and social care is still being developed.'

'The workload is further hindered by the lack of an integrated IT system across all agencies and to be interactive with families.'

'In order to write quality EHC plans, we need to gather high quality advice from the child/young person, parents/carers and a wide range of professionals ... There is additional time required for drafting a plan which summarises educational, health and care advice and which includes holistic outcomes and provision described with sufficient specificity.'

'The transfer process demanding that all current Statements of SEN and LDAs were converted to an EHCP demanded a x2 increase in the volume of new assessments, meetings and EHCPs - the workforce did not double to support this and recruitment brought challenges of training and retention.'

3.2 Reviewing the local area's educational provision and 'local offer'

3.2.1 Consultation with children and young people over local provision

(a) *Is there consultation with children and young people?*

We asked if the LA always ensures that it consults with children and young people in preparing and continually reviewing the relevant SEND educational, training and social care provision. Two thirds of respondents answered 'yes' and the remaining third answered 'no'. See table 5.

Table 5: Does the LA regularly consult with children/young people regarding SEND provision in the area?

	Number	%
Yes	30	67
No	15	33
Number of Responses = 45		

Authorities reporting that they did not consult with children and young people in respect of this provision were asked to indicate the reasons. Sixteen authorities responded. Of the factors referred to, three authorities stated that it was burdensome for the child or young person, eight reported cost or time factors precluding consultation and 10 authorities stated 'other' reasons but did not expand upon these. See table 6.

Table 6: Why does consultation with children/young people not happen?

	Number
Burdensome for Child/YP	3
Cost or time factors	8
Other	10
Number of Responses =16	

NB: Local authorities could choose multiple options

(b) Modes and utility of consultation

Authorities indicating that they regularly consult with children and young people were asked how this is undertaken. Some LAs used more than one method of consultation (see table 7). Eight LAs selected 'other' means. Two authorities described alternative provision by way of parent participation groups, three referred to aspirations to improve or expand current consultation efforts and the remainder referred to special school/FE councils and a young person's SEN group.

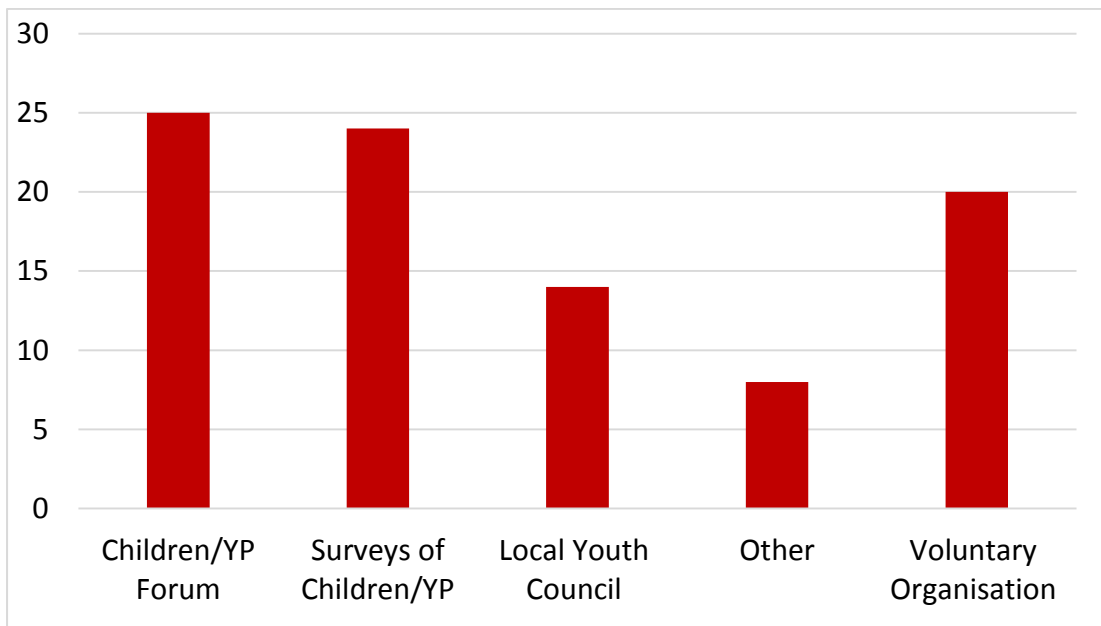
Table 7: How does the LA consult with children/young people over local SEN provision?

	Number
Children/Young People Forums	25
Voluntary Organisations	20
Surveys of Children/Young People	24
Local Youth Councils	14
Other	8
Total Number of responses = 91	

NB: Local authorities could choose multiple options

The channels by which LAs consulted with children and young people were mixed across the 31 authorities that answered (see figure 2). Authorities used varying numbers of consultation methods. No LAs used just one single method of consultation.

Figure 2: How does the consultation of children and young people over local provision take place?



NB: Local authorities could choose multiple options.

The LAs carrying out consultations were also asked whether they established a Young People Forum (YPF) specifically for this purpose. Establishing and using a YPF is specifically recommended by the SEN Code as a mechanism for effective consultation. Twenty-three authorities responded and the results were almost evenly split. Almost half of respondents (48%) stated that they had not set up a forum whereas the remainder said that they had done so.

Authorities that had established a YPF were asked to comment on the extent to which they had found it a useful mechanism. Two authorities stated that forums were in very early stages of development and remarked that it was therefore difficult to ascertain effectiveness at this stage. Seven authorities acknowledged the usefulness of forums but felt that current efforts to consult could be improved. For example:

‘We definitely do not do this enough! We do not have a specific group of CYP with SEND; we do have a group of LAC [looked After Children], many of who do have SEND.’

The remaining authorities referred to having gained insights from consulting with children and young people via a forum. It had helped some LAs to refine current policy and practice, identify gaps in provision and develop their services. For example:

‘It was useful to feedback their views back to the SEND Strategy Board.’

‘It was extremely useful. We still use the voluntary organisations for consultations on changes made to paperwork and processes.’

A number of authorities drew attention to the benefits of enabling professionals to ‘see things from a CYP’s point of view’. In addition, some LAs viewed a forum as a potential space

within which children and young people could influence the agenda for change and participate more meaningfully in debates about how they might be supported. For example:

‘Consultation with children and young people with SEND is hugely useful and can change the debate.’

[Forums are] Very useful, particularly if their comments are followed up and explored rather than sticking to a fixed set of questions with limited options for answers.’

One authority also explained that forums co-ordinated by dedicated staff were places that encouraged collaboration and change across different sectors:

‘The YP coordinator is a joint venture between Health and the LA- this often results in change across both sectors around policy and practice.’

On a more general point, a few respondents also commented about the difficulties they had experienced in consulting with younger children. For example:

‘Consulting is very useful but limited to older children would like to find out more from younger children.’

‘Consultation with children aged 5-11 has been less influential.’

Finally, one authority also considered the benefits of such spaces for the children and young people themselves: ‘Whilst consultation forms part of the process, bringing young people together builds resilience and friendships.’

3.2.2. Consultation with children and young people over the local offer

(a) *Is there consultation with children and young people?*

Authorities were asked if they consult with children and young people about the preparation, content and continual review of the local offer. Thirty-four authorities confirmed that they did so, and 10 authorities reported that they did not. See table 8.

Table 8: Does the LA always ensure that it consults with children and young people regarding the local offer?

	Number	%
Yes	34	77
No	10	23
Number of Responses = 44		

Explicit reasons given for not routinely consulting with children and young people regarding the local offer centred on cost or time factors or the burden for the child or young person. See table 9.

Table 9: Why LA does not consult with children and young people about the local offer

	Number
Burdensome for Child/YP	2
Cost or time factors	5
Other	7
Number of responses = 14	

NB: Local authorities could choose multiple options

(b) Modes and utility of consultation

The 34 LAs that undertook regular consultation with children and young people about the local offer were then asked how it took place. Respondents were asked to select as many of the options available as applied. Mechanisms to consult about the local offer were broadly similar to those used in connection with local SEN provision. Thirteen LAs also selected 'other' methods of consultation but did not expand upon these. See table 10.

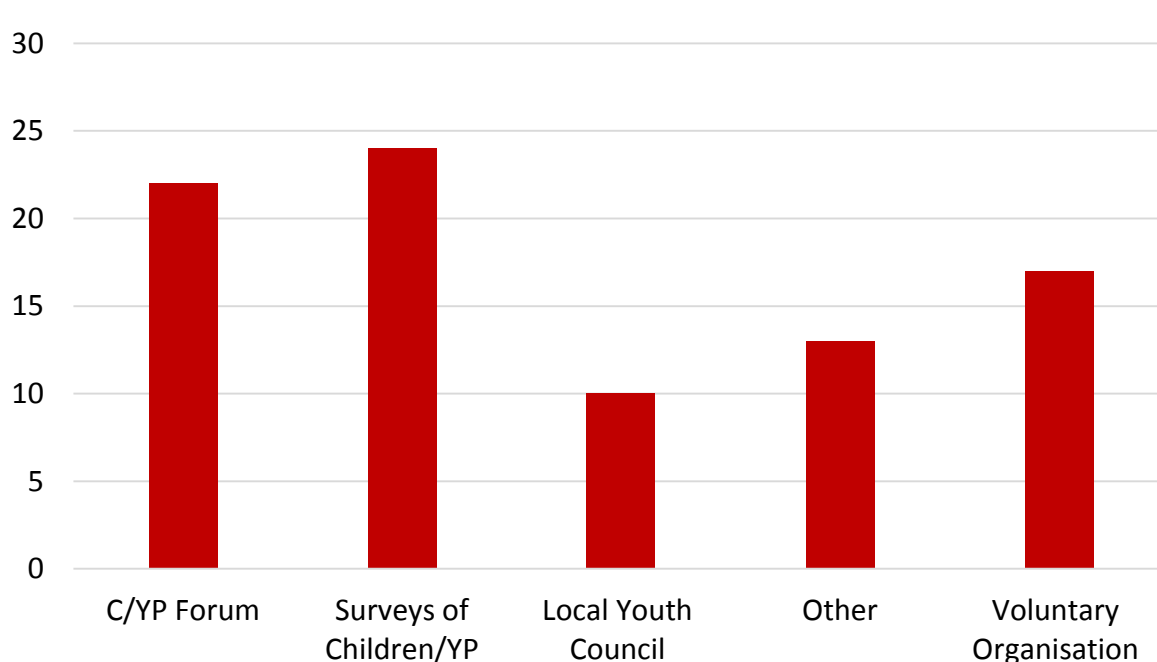
Table 10: How does the LA consult with children and young people regarding the local offer?

	Number
Children/YP Forums	22
Voluntary Organisations	17
Surveys of Children/YP	24
Local Youth Councils	10
Other	13
Number of responses = 86	

NB: Local authorities could choose multiple options

The extent to which LAs used multiple methods of consultation with children and young people varied. Seven authorities responded that they used only one method and seven other authorities used two different ways of consulting. Nine authorities said they used three methods and six authorities reported using four. The remaining three authorities stated that they used up to five methods to consult with children and young people in matters regarding the local offer. See figure 3.

Figure 3: How do local authorities consult with children and young people regarding the Local Offer?



Respondents were then asked about the involvement of a Young People Forum in connection with local offer consultation. Of the 23 authorities that replied, 10 confirmed that they had specifically set up a forum and 13 respondents stated that a specific forum had not been set up for this purpose. See table 11.

Table 11: Was there a Young People Forum established by the LA for the purposes of consultation?

	Number	%
Yes	10	43
No	13	57
Number of responses = 23		

Local authorities were also asked to comment on the perceived utility of consultation with children and young people in connection with the local offer. While some authorities questioned the suitability/utility of the local offer as an information resource for children and young people or drew attention to the nascent status of current provision, several highlighted the merits of obtaining young people's feedback to make improvements:.

'It has been useful to assist us to ensure the language used on the local offer is accessible to young people. However, the young people routinely express that they do not want a local offer and don't find this sort of website useful to them. They would like an app accessible from a smart phone or tablet.'

...the local offer [is] not reflecting the needs of children and young people as well as would be hoped. However, this has meant that we are now in a new development phase of the LO in which we will be working harder to ensure more effective co-production in this area.'

On the whole, the majority of responses indicated that consultation with children and young people about the local offer had been a useful and productive exercise. One authority pointed out that it had been 'essential', and extended a preference for 'co-production' rather than 'consultation'. Many authorities also illustrated how consultations shaped subsequent provision and delivery. For example:

'When engaging with young people on our Local Offer website we went to meet with young people in community groups. We set tasks for them to complete and observed how they navigated the system. We also asked about their expectations. This allowed us to make changes such as embedding You Tube videos as graphics, rather than as text hyperlinks. We observed how young people went past certain links because they were not in the obvious place. We observed how they glossed over text and the importance of getting graphics right. This is still a work in progress.'

'CYP have given useful insights as part of our Behaviour Review such as the extent to which their lessons are disrupted when other children are not on task. We are hoping to extend the few examples we have to a broader review of the Local Offer.'

One authority referred to the need for information on the local offer to be accessible to children and families with a range of communication needs and explicitly sought the views of different populations of young people with SEN to assist with this:

'A cohort of hearing impaired young people are working with the [authority] to develop videos relating to their experiences that we can post.'

Consultations with children and young people were also identified as affording opportunities for authorities to consider the relevance and reach of different services included in the local offer, and in some cases, consider this in terms of both children and young people's and parents' perspectives. For example:

'Highlighted importance of access to universal services/provision - not all CYP with SEND want to attend short breaks. Identified gaps for 18-25 cohort.'

'It enabled the Council to consider the young person's voice alongside the parent/carer voice - and take a view when there was a difference. For example, a recent review of travel assistance to secure an entitlement to independent travel training and the prioritisation of employment pathways using the banner of "raising the cloud of limitation" to an ordinary life in adulthood.'

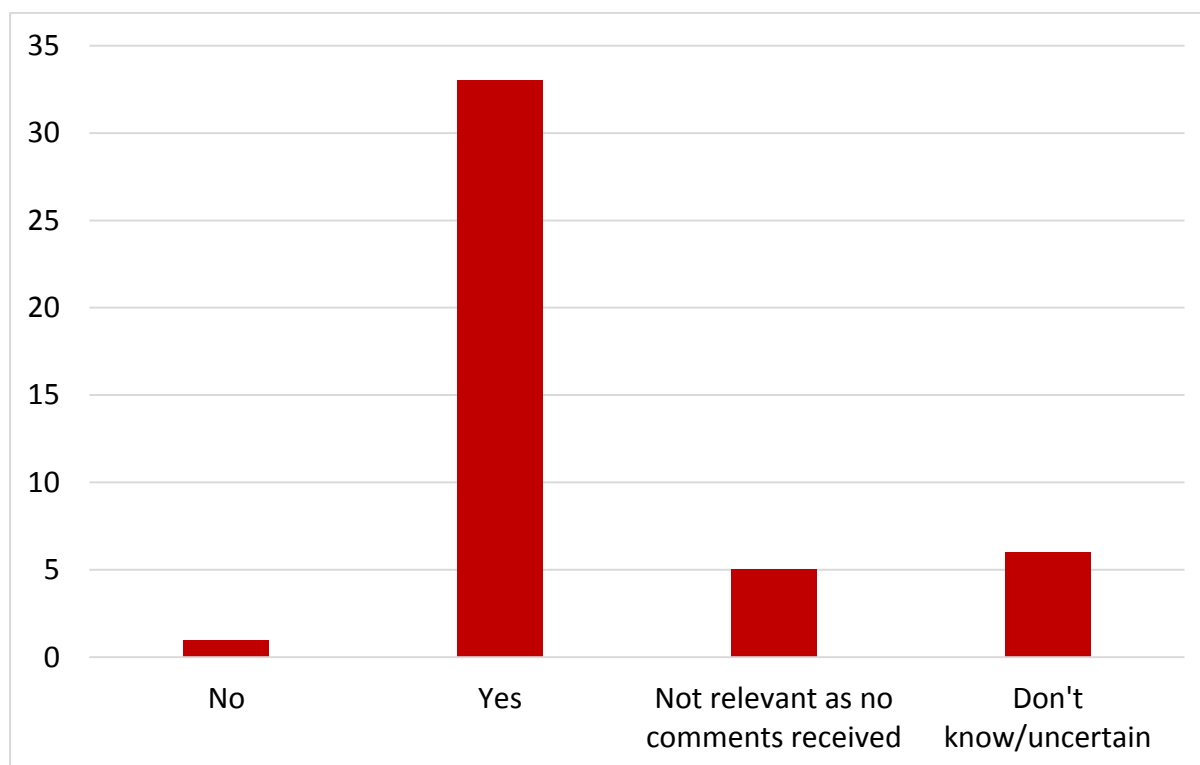
(c) LA responsiveness to comments from children and young people

Next, respondents were asked about LA responsiveness to comments received from, or on behalf of, children and young people following consultation regarding the local offer. Only one authority declared that it did not respond to comments. The majority of authorities (33/45) however did so. See table 12 and figure 4.

Table 12: Does the LA act on comments about its local offer it receives, from or on behalf of, children and young people?

	Number	%
No	1	2
Yes	33	73
Not relevant as no responses received	5	11
Don't know/uncertain	6	13
Number of responses = 45		

Figure 4: Does the LA act on comments it receives about the local offer, from or on behalf of, children and young people?



Twenty-six respondents expanded upon the kinds of action that have been taken in response to such comments. Many authorities described making changes to the accessibility, layout and functionality of local offer information. For example:

- ‘The re-design of the landing pages and expansion of content.’
- ‘More pictorial/video based information on provision etc.’
- ‘Not running a moving banner on the site as a result of feedback from visually impaired young people.’
- ‘Made the Local Offer compatible with mobile phones.’
- ‘We have cut out a lot of text and we have reviewed that text against “age readability”. Still a work in progress.’

One authority ruled out any reliance on social media or electronic platforms for communicating details about the local offer as a result of listening to children and young people’s views:

‘To not pursue social media as a possible tool in the [authority’s] Local Offer to engage young people. There was no interest from the young people we consulted with, to develop this idea any further. We have recognised that a Local Offer in website format is not useful for young people and that they use different websites than their parents / carers... We have started holding Local Offer Live events around PfA. These regular events have been very well attended by young people, their teachers and Voluntary Sector organisations who provide services to young people with or without SEND.’

Furthermore, another authority had not produced a version for young people due to an expressed wish from representatives of this age group that the authority not 'patronise them'. Likewise, a further authority acted upon children and young people's request to: 'Set up a young person's blog - Not a separate CYP area'.

A small number of respondents also commented on changing or adding content that parents or children and young people have requested, such as information on: 'transport issues; items on holiday breaks and things to do; videos on dealing with Bullying; more information on social activities; more information on educational pathways post-16.'

Finally, referring to something that has become common practice in LA public service provision, a significant number of respondents also described including a, 'you said, we did' approach to responding to feedback within the local offer information content.

(d) Accessibility of local offer information

LAs were asked to explain how they ensure that the local offer information is accessible to those with SEND. Thirty-four authorities responded to this question, in varying levels of detail. One LA had not considered this issue to date. Five LAs identified concerns around the accessibility of the current local offer and reported that efforts were being made to a review or improve access for different groups with additional needs. The remaining responses indicated that the authority had taken some measures to improve access to the information.

A large number of authorities described efforts to improve access for different groups via a range of technological solutions. For example:

'Browse aloud. Google translate. Videos with interpreters to explain key features of LO.'

'Our LCC / Local Offer webpages are accessible on tablets smart phones as well as desk tops. We have tried to ensure that the website is compatible to use with a variety of ICT aids.'

In addition, a significant proportion of respondents highlighted efforts to offer alternative layouts or adjust formats by including features such as: 'dyslexia friendly' fonts, increasing text size, adding symbols, adding more video content, incorporating symbols, 'Easy Read' information for people with learning disabilities, reordering information, changing colour schemes and incorporating 'jargon free' language.

Some authorities were mindful that potential audiences may not be able to access the internet or may have limited to digital information and described alternative methods for communicating local offer provision. One authority had

'...started to hold Local Offer Live Events for young people, parents and carers - who prefer a face to face discussion. '

Other authorities stated that printed formats of the local offer are also made available. In addition to this, some respondents highlighted dedicated phone lines and working in partnership with organisations such as SENDIASS or NDTi to ensure that different audiences were able to access information about the local offer more easily.

As well as making efforts to ensure that different audiences are able to access the local offer information via digital and print publications, a number of respondents referred to a need to train and liaise with organisations and specialist staff. For example:

‘Family hub workers support families to access information on the local offer if they do not have internet access or need help with text.’

‘We try to get out to many of a specialist schools to ensure they are aware of the local offer as well addressing both internal and external staff teams - promoting the local offer and the range of information that can be found within it - this has enabled staff to feel more comfortable in signposting service users to it or supporting YP to access information themselves.’

Finally, a small number of authorities also remarked upon the need to ensure the relevance and accessibility of the content and format of the local offer, which required continual review and consultation with a variety of stakeholders. For example:

‘Regular consultation and review through the local Parent Carer Forum.’

‘We consult with our platform provider- Open Objects. We also have a Local Offer working group which includes partners, parents and carers - they give feedback on content, access and services posted.’

3.3 Provision of information and advice

Respondents were asked about arrangements made by the LA to provide children and young people with information regarding SEND matters in general, as well as whether any special versions, formats or media were used to ensure accessibility.

Only a few authorities had not yet become geared up for supporting children and young people through advice and information provision. Across the overwhelming majority where arrangements have been made, a variety of printed, digital and more personalised approaches to conveying SEND information to children, young people and families have been adopted. They include local SEND newsletters, leaflets and guides, information on school or LA websites (including the local offer), animations and videos, posts on social media such as Facebook, telephone helplines, local events, and direct meetings with parents, carers, children and young people such as annual review meetings. One authority also piloted a ‘Local Offer Roadshow’ which aimed to share information regarding SEND matters more widely. Another authority reported that it takes a personalised approach:

‘All children however are given the opportunity on a one to one basis to share their views and ask any questions. Support and guidance is then personalised to support the specific child's needs.’

Just over a third of respondents highlighted efforts to share information with reference to the local offer. In addition, a large number of respondents said they utilise parent forums, local partnerships and collaborations with charities and strategic groups as brokers of SEND information. For example:

‘SENDIASS has a CYP officer to offer information, advice and support.’

‘Provision of the SEND information, advice and guidance service through commissioning of Citizen's Advice Bureau, access to independent parent/carer support thorough partnership with Barnardo's.’

Respondents also described specific efforts to ensure that information was accessible to persons with SEND. Some reported that information was available via a range of alternative formats. For example:

‘Info is available in different formats and languages and local offer has Browse aloud.’

‘Our translate tab enables text magnifier, screen mask, reads out some text, blocks distracting text and translates text into multiple languages.’

‘We use Google Translate for the whole of the Reading Services Guide. EHCPs translated into first language of parents/ children and young people if required.’

A small number of authorities have commissioned support from other organisations and professionals or obtained specialist equipment in order to include younger audiences with a range of communication support needs. For example:

‘Contract with “Amaze” - produce special versions and format to ensure info is accessible.’

‘Information shared at Annual review in a format appropriate to the needs of the child or young person. Talking Mats have been purchased to improve communication with non-verbal children.’

‘We engage the help of specialist teachers, BSL translators when engaging with children and young people with SEND.’

Some respondents also said that consultations with targeted groups have enabled them to extend channels of communication and include formats that respond to the needs and wishes of children and young people. For example:

‘Our SENDIAS Service has posters and information on the local offer designed by CYP. On their feedback they now have a text facility as well as email and telephone contacts.’

Finally, in one authority, there were ‘no specific links to children and young people or special versions of SEND information’, ‘MOMO’ (Mind Of My Own) was utilised as a communication tool. This application can be accessed via a tablet or smartphone and aims to help children and young people to structure their thoughts via minimal text and expressive pictures.

3.4 Assessment of education, health and care (EHC) needs

When asking about assessment we divided the survey into two parts, one concerning the needs of *young people* and the other *children*. Section 3.4.1. reports on the responses relating to young people. Children are covered in section 3.4.2..

3.4.1 Young people and assessment of EHC needs

(a) Assessment requests received and whether made by young people themselves

We asked about the number of requests that authorities have received for EHC assessments under part 3 of the 2014 Act relating to young people over the last twelve months. The survey also asked respondents to indicate whether answers were an estimate or an exact number.

Thirty authorities responded. Responses ranged between zero and 660 requests received over the last twelve months. Just over one half of responses were estimates and the remainder were quoted as recorded numbers. See table 13.

Table 13: How many EHC assessment requests were made in respect of young people to the LA in the past twelve months?

No. of requests	Number of LAs	% of LAs
Zero	7	23
Less than 10	14	47
Between 10-100	4	13
More than 100	5	17
Number of Responses = 30		

NB. Estimated and actual numbers were combined

Respondents were then asked what percentage of these assessment requests had been made by the young people *themselves*. Once again, respondents were asked to indicate whether this was an estimate or an exact number.

Twenty-seven authorities responded to this question. Again, a majority of LAs provided estimated numbers.

All responses indicated low rates. Almost half of the authorities stated that the proportion of requests made by young people themselves was between one and seven per cent. Eight respondents reported that no requests had been made by young people themselves and the

remaining six authorities stated that less than one per cent of EHC assessment requests were made by young people themselves. See table 14.

Table 14: What percentage of EHC assessment requests concerning young people were made by the young people themselves in the past twelve months?

Proportion of requests	Number of LAs	% of LAs
0%	8	30
Less than 1%	6	22
Between 1 and 7%	13	48
Number of responses = 27		

NB. Estimated and actual numbers were combined

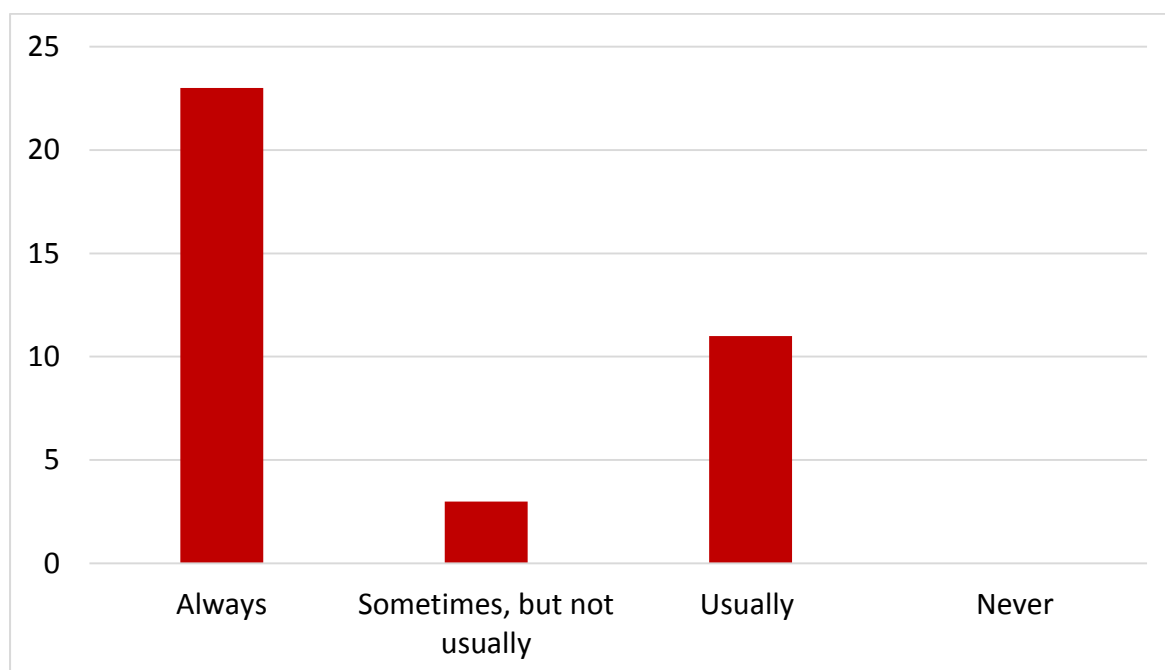
(b) Consultation with the young person

We also asked whether the authority consults with the young person when an EHC assessment request is received. Thirty-seven authorities responded and the majority of respondents (23/37) indicated that they always consult with the young person in this instance. No authorities chose 'never' as a response. See table 15 and figure 5.

Table 15: Does the authority consult with young people when an EHC assessment is received?

	Number	%
Never	0	0
Sometimes but not usually	3	8
Usually	11	30
Always	23	62
Number of responses = 37		

Figure 5: Does the LA consult with young people when an EHC assessment is received?



We also asked whether, for the purposes of EHC consultation, the authority wrote to the young person or the parent exclusively or to both. Thirty-four authorities answered this question and a large majority of respondents stated that the authority wrote to both the young person *and* the parent. Four authorities reported that they wrote to the parent only and four others just wrote to the young person. See table 16.

Table 16: For the purposes of the EHC consultation, to whom does the LA write?

	Number	%
Parent only	4	12
Young person only	4	12
Young person and parent	26	76
Number of responses = 34		

Reasons for not consulting with the young person, either by direct communication or communication sent via the parent, were indicated from a list of four applicable options. Across the eight respondent authorities the most likely reason was the young person's incapacity, as judged by the LA. One authority also took account of the parent's objection to

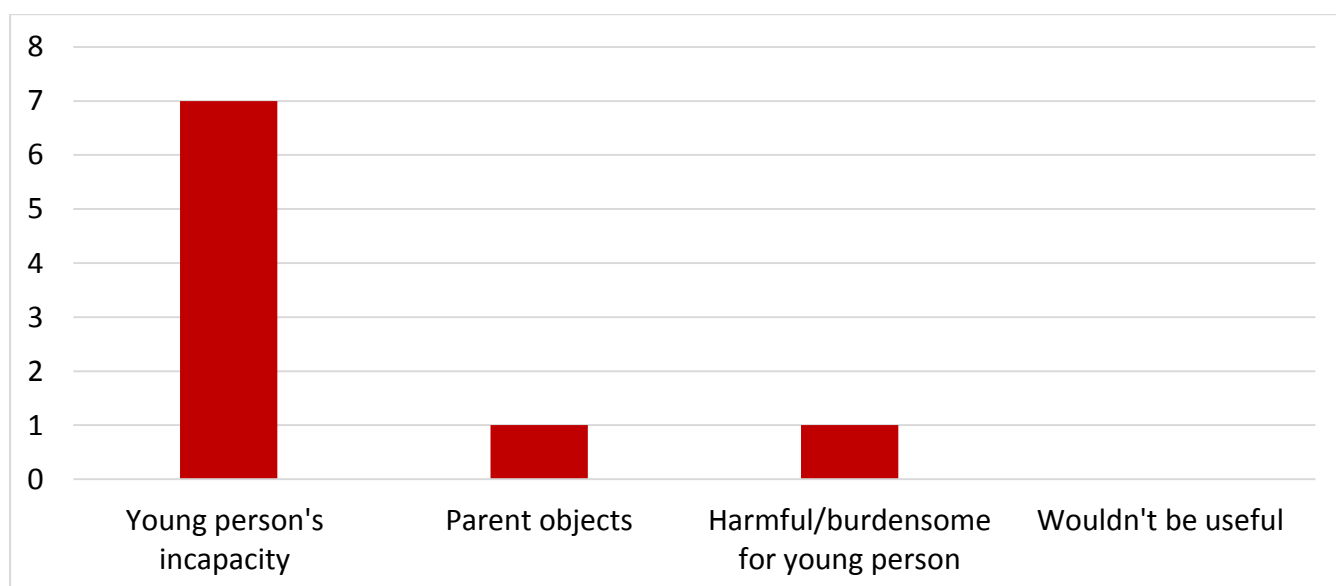
such consultation. Another reported that it considered it to be harmful or too burdensome for the young person. See table 17 and figure 6.

Table 17: Why does the LA not consult with a young person regarding an EHC assessment?

	Number
Not useful	0
Harmful/burdensome for YP	1
Parent objects	1
Incapacity	7
Number of responses = 9	

NB: Respondents could choose from multiple options

Figure 6: Why does the LA not consult with the young person regarding an EHC assessment?



NB: Respondents could choose from multiple options

(c) Submission of evidence and views

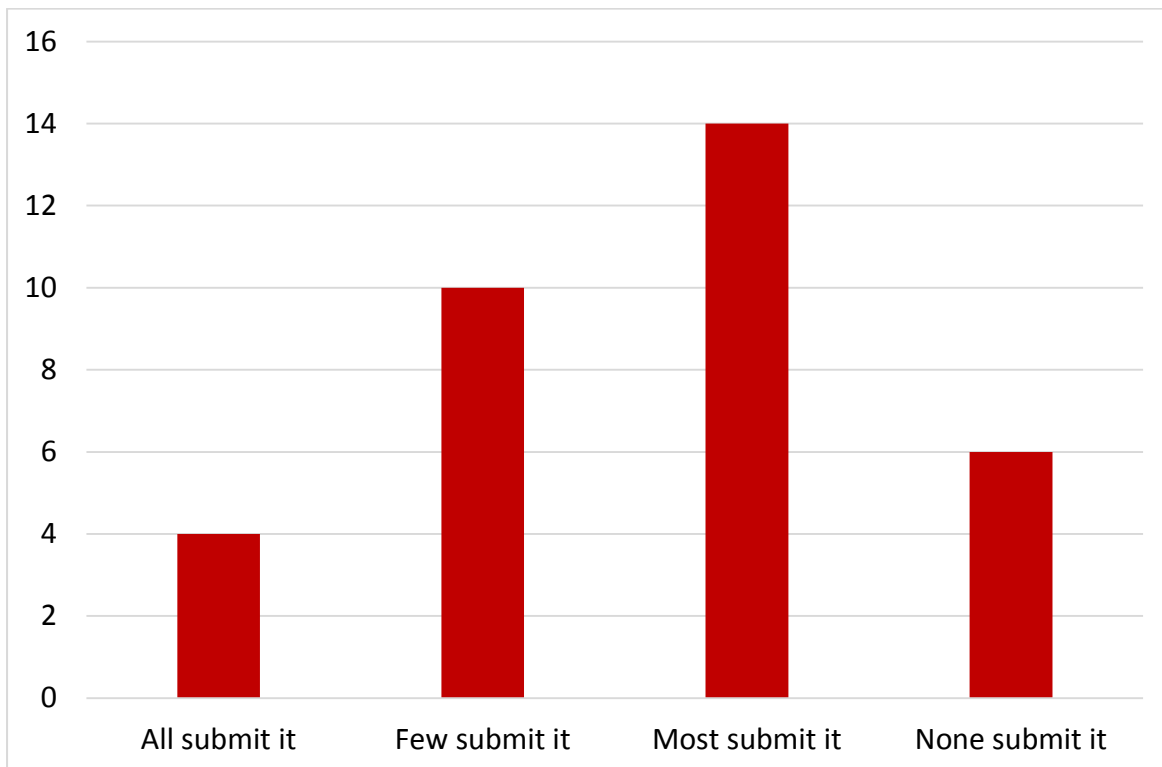
We also wanted to find out the likelihood of young people who undergo an assessment under the 2014 Act submitting evidence. We were thinking here of such evidence as a letter from a teacher, GP or voluntary sector worker. Respondents were able to choose from four options and responses were mixed. Of the 34 authorities responding, four reported that *all*

young people submit evidence, 14 stated that *most* young people submit evidence, but 10 said that only *a few* young people submit evidence and the remaining six authorities that *none* did. See table 18 and figure 7.

Table 18: Proportion of young people submitting evidence for EHC assessment

	Number	%
None	6	18
Few	10	29
Most	14	41
All	4	12
Number of responses = 34		

Figure 7: Proportion of young people submitting evidence for EHC assessment



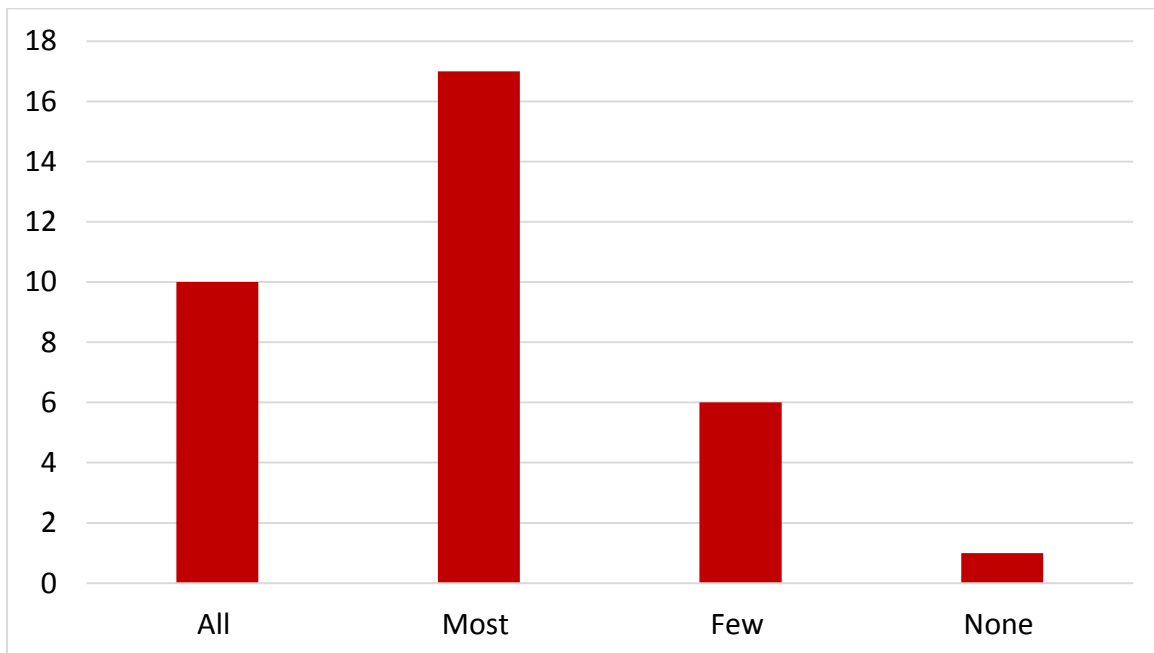
In addition to responding to questions about *evidence* submitted by young people, authorities were also asked about their submission of *views* to the LA. Once again, 34 authorities responded to this question and answers were again mixed. Overall, views were more likely to be submitted than evidence. Ten authorities stated that *all* young people

submit views and half of the respondents (17/34) indicated that *most* young people do so. Six authorities stated that few young people submit their views and one authority noted that none of the young people undergoing an assessment under the 2014 Act have submitted their views. See table 19 and figure 8.

Table 19: Proportion of young people submitting their views when undergoing EHC assessment, per local authority

Proportion of young people	Number of LAs	Proportion of LAs (%)
None	1	3
Few	6	18
Most	17	50
All	10	29
Number of responses = 34		

Figure 8: Proportion of young people who submit their views during EHC assessment, per local authority



LAs were also asked whether they take into account the views, wishes and feelings of young people when an EHC assessment is conducted. Results for this question were clear-cut. The large majority of authorities (31/36) gave an affirmative answer. See table 20.

Table 20: Does the LA seek to ascertain the views of a young person when carrying out an EHC assessment?

	Number	%
Always	31	86
Usually	5	14
Yes, but not usually	0	0
Never or hardly ever	0	0
Number of responses = 36		

Authorities were then asked about any circumstances in which they would *not* take young people's views, wishes and feelings into account when carrying out EHC assessments. Five authorities responded to this question. Two referred to time and resource constraints limiting their capacity to take young people's views into account. Three gave other reasons. One explained that no information had been submitted by the young person and the remaining respondents considered that taking views, wishes and feelings into account would not be useful in addition to the young person being judged not to have capacity. See table 21.

Table 21: Under what circumstances would LA not seek views, wishes and feelings of a young person for EHC assessment?

	Number	%
Wouldn't be useful	1	N/A
Burdensome for C/YP	0	
Harmful for C/YP	0	
C/YP Incapacity	1	
Parent objects	0	
Time/resource constraints	2	
Other	3	
Number of responses = 7		

NB: Respondents could choose multiple answers

(d) Value attached to views and their submission

Authorities were invited to expand upon the general usefulness and importance of young people's views in informing SEND assessment decisions made by the LA. Thirty-one authorities described, to varying degrees, the extent to which young people's views influenced SEND decisions within their respective areas.

A significant proportion of responses characterised the importance of young people's input to SEND assessment and decisions as 'pivotal'. More than half of the responses underlined the importance of engaging with young people in order to ensure that the content and delivery of young people's SEND support remained meaningful and relevant. For example:

'It certainly is important for any young person going through the assessment to be able to contribute their own views, wishes and aspirations and for them to have an input in what outcomes are being sought.'

'Young people feel they are an important part of the process and not having things done to them. Provides young people with more choice and control and therefore helps confidence and self-esteem.'

'Very useful. Capturing aspirations and writing a plan around their needs, wants and aspirations is inspiring. Ensuring the young person gets what they need to succeed and then seeing this in practice is a very powerful experience.'

Although the overriding majority of answers highlighted the value of young people having a meaningful involvement in SEND assessment and decision making processes, one authority remarked that this area was still 'a work in progress' and others also drew attention to a number of challenges which thwarted efforts to consult with young people. For example:

'Surprisingly, FEC [Further Education Colleges] are not good at gathering and recording YP views - they are poor at formal reviews and outcomes are not SMART but course related.'

'This is very variable and is reliant on the individual young person's confidence and ability to communicate independently, or the commitment and skill of the person's advocate or enabler.'

Tensions around responding to conflicting views of parents and professionals were also highlighted as a particular challenge. For example:

'It can be challenging in some instances but we work with families to understand why we must consult with the young person and use independent people to assist with this where appropriate.'

'Some parents unhappy that the LA asks YP separately; it can antagonise the parent if they disagree with their son/daughter.'

'Often can explain which interventions they will cooperate with or will help them. The interventions/strategies are not always the ones recommended by professionals!'

(e) Provision of information, advice and support regarding EHC assessment

LAs were asked whether they arranged for information, advice and support to be given to young people in connection with an EHC assessment. They were invited to select one or more possible answers from a section of six options. Thirty-six authorities responded to this question and the majority of respondents (32/36) chose one option only. However, three authorities selected two options and one authority submitted three responses. See table 22 and figure 9.

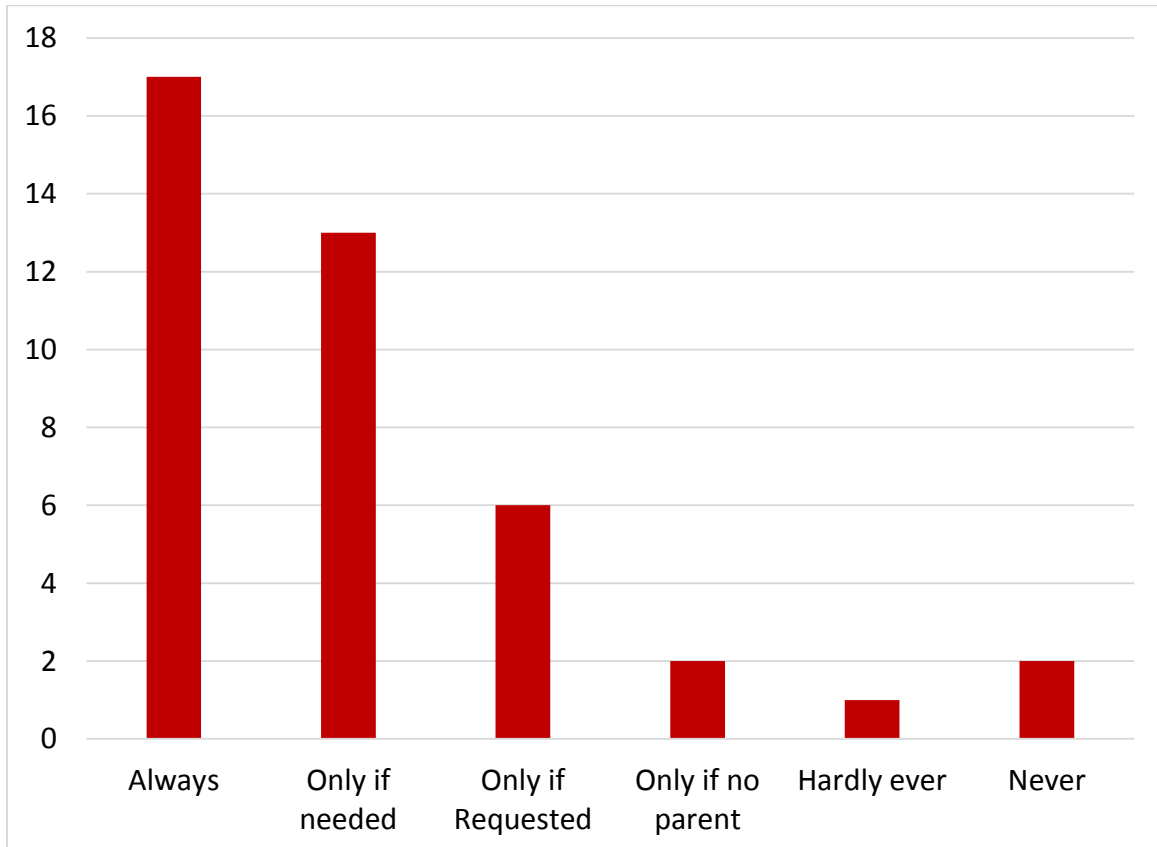
Less than half of the responses indicated that the authority always arranges information, advice and support for young people in relation to EHC assessments. Thirteen said, 'only if needed' and a further six indicated that advice and support was available on request. A small number of authorities indicated that they never arrange any or only make such arrangements if there is no parent involved.

Table 22: Does the LA arrange advice, information and support for young people in relation to EHC assessment?

	Number
Always	17
Only if needed	13
Only if requested	6
Only if no parent	2
Hardly ever	1
Never	2
Number of responses = 41	

NB: Respondents could choose multiple answers

Figure 9: Does the LA arrange information, advice and support for young people in relation to EHC assessment?



NB: Respondents could choose multiple answers

3.4.2. Children and assessment of EHC needs

(a) *Whether views, wishes and feeling of children sought*

Authorities were asked if they sought to ascertain the views, wishes and feelings of the child when carrying out an EHC assessment. Thirty-eight authorities responded to this question, a large majority indicating that this always happens. A small proportion stated that it happens 'only if the child is judged capable by the authority' or 'only if the parent agrees'. One authority admitted to never seeking to ascertain the views of children when carrying out an EHC assessment. See table 23.

Table 23: Does the LA seek to ascertain the views of the child when carrying out EHC assessment?

	Number	%
Always	30	79
Only if Child capable	4	11
Only if parent agrees	3	8
Hardly ever	0	0
Never	1	2
Number of responses = 38		

(b) *How views of children are ascertained*

Following on from this, authorities were asked how they ascertain the views of children when carrying out EHC assessments. Answers varied but almost all of the responses drew attention to more than one approach. A large proportion referred to questionnaires, forms and booklets, whilst some drew explicit attention to using pro formas, including 'section A' of the EHC assessment form. Some referred to the completion of a 'one-page profile' in support of an assessment request and one authority noted that they had taken this one step further and had 'embedded one page profiles into all our SEND processes.'

Whilst person centred planning meetings with children formed part of the assessment process in some authorities, on the whole, there was often reliance on third party communications or on parents, advocates and professionals to elicit the views of children. For example:

'Through the assessment process - facilitated by a trusted adult. Parents are asked to submit their child's views; schools are asked to submit the child's views; health

professionals include the child's views and Educational Psychologists always begin their reports with the child's views, hopes and aspirations.'

A number of authorities also made reference to additional considerations around the child's capability and made use of alternative media such as 'photos, video and symbols' or third party knowledge and observations to capture the child's view. For example:

'Where a child is too young or not able to express their views we still ask for adult observations to be submitted on behalf of the child so that we can ascertain what they like/ dislike etc.'

'In a range of ways depending on individual ability - some children may be able to fully participate - for other children we may have to work with a number of people who know the child well to gauge their feelings.'

The extent to which authorities communicated directly with children or delegated this task to key individuals such as parents, educational psychologists and school personnel was not always made clear. One authority acknowledged the need for authorities to ascertain children's views but stated that this did not happen consistently. There were ambiguities and challenges on this issue. For example:

'Schools will include CYP views. Ed Psych also includes YP views. Sometimes difficult to tell whose voice e.g. parent or CYP?'

(c) Whether child's views, wishes and feelings were taken into account

It was important to find out whether actually LAs take into account the views, wishes and feelings of the child when an EHC assessment is carried out. Thirty-six authorities responded affirmatively. See table 24.

Table 24: Does the LA take the child's views, wishes and feelings into account when carrying out EHC assessment?

	Number	%
Yes, always	24	69
Yes, usually	10	29
Yes, but not usually	1	2
Never	0	0
Number of responses = 35		

Various reasons were given by eight of the authorities for not taking children's views into account. See table 25.

Time and resource constraints comprised the most cited reason, followed by a child's incapacity as judged by the authority together with parental objection and 'other' reasons. One authority referred specifically to the potential harm to or burden for the child. Another authority explained: 'If the child is under 16 and there is a conflict between their wishes and the parents we would seek a legal view on which to follow.' Another respondent referred to cases where 'despite best efforts we have not been able to obtain [the child's] views.'

Table 25: Under what circumstances would the LA not seek the views of a child when conducting EHC assessment?

	Number
Wouldn't be useful	0
Burdensome for child	1
Time/resource constraints	4
Incapacity	3
Parent objects	3
Other	3
Number of responses = 14	

NB: Respondents could choose multiple answers

3.5 Content of education, health and care plans

We wanted to find out from LAs about the extent to which, and how, the views of children and young people are ascertained and inform decisions about the contents of an EHC plan. Since young people now have the same rights as parents in relation to choice about plan contents it was particularly important to see how far they are able to participate in the determination of the plan's contents.

3.5.1. Consultation with the young person over EHC plan contents

We asked how routinely young people are consulted about the content of their EHC plan.

Almost half of the respondents reported that they always consult young people about the content of their EHC plan, but one authority stated that it hardly ever consulted. Twelve highlighted the degree of capacity of the young person as the primary factor in deciding whether consultation takes place and one said that a young person would only be consulted if the parent agrees. The four remaining authorities stated that consultation was dependent on available time and resources. See table 26.

Table 26: Are young people always consulted about the contents of their EHC plan?

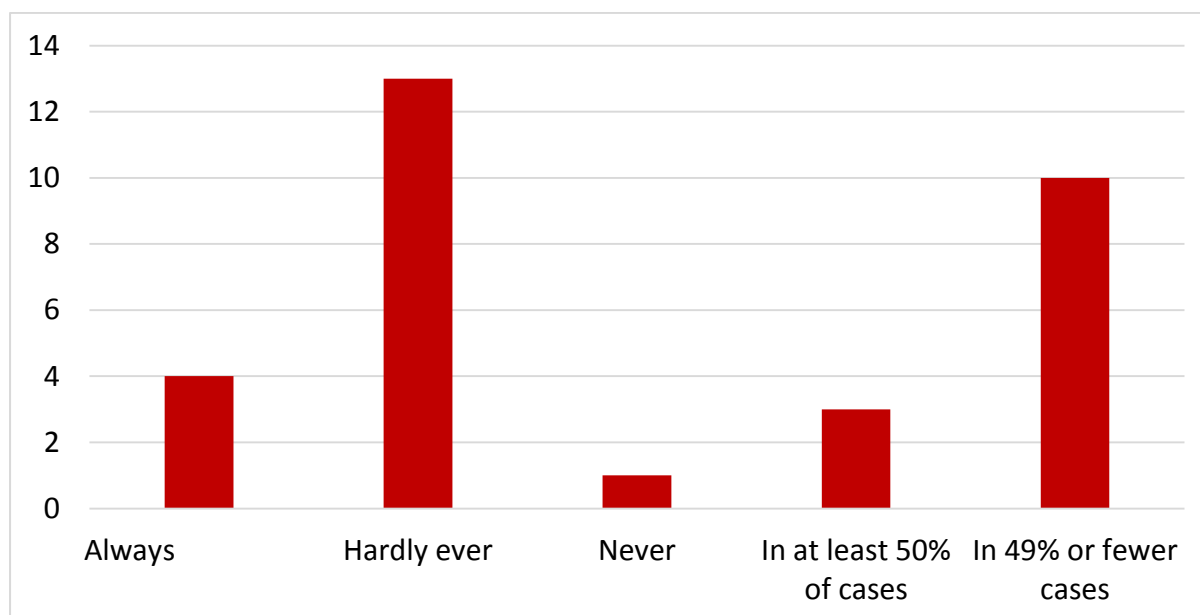
	Number	%
Yes, always	15	45
Only if capable	12	36
Only if parent agrees	1	3
Only if time/resources allow	4	12
Hardly ever	1	3
Never	0	0
Number of responses = 33		

Next, authorities were asked to indicate how frequently, if at all, young people inform the authority of a specific school that they would like to be named in the EHC plan. Four LAs indicated that this always happens, and three stated that it happens in at least 50% of cases. However, the majority of LAs indicated that it happens in 49% or fewer cases, including one authority where it never happens. See table 27 and figure 10.

Table 27: How often do young people inform the authority of the school they would like named in their EHC plan?

	Number	%
Always	4	13
In at least 50% of cases	3	10
In 49% or fewer cases	10	32
Hardly ever	13	42
Never	1	3
Number of responses = 31		

Figure 10: How often do young people inform the authority of school they would like named in EHC plan?



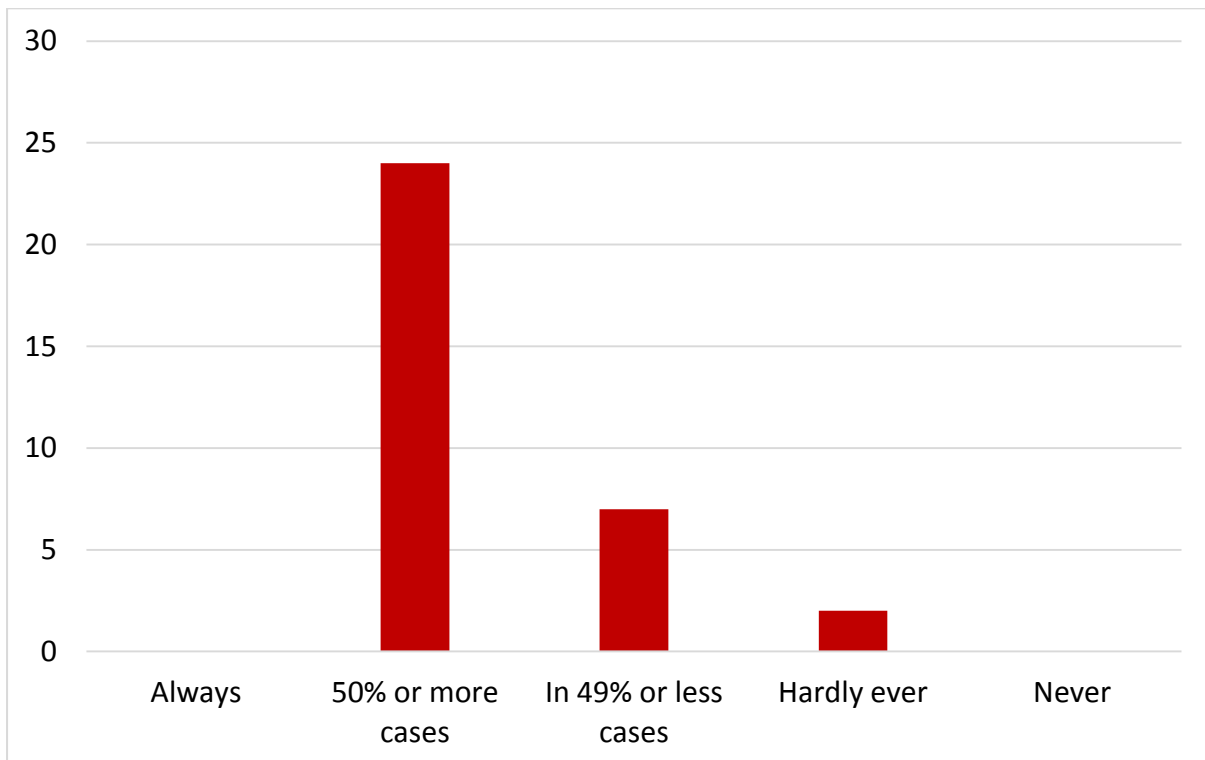
3.5.2. Communication of the young person’s (independent) views on the EHC plan

LAs were asked how often a young person’s views on the EHC plan were communicated via a parent or other person rather than by themselves. The majority of authorities (24/33) reported that communication is via a parent or other third person in at least 50% of cases. Seven authorities stated that this happened in 49% or fewer cases and two stated that this hardly ever happens. See table 28 and figure 11.

Table 28: How often is a young person's view on the EHC plan communicated via a parent or other person rather than directly by themselves?

	Number	%
Always	0	0
In at least 50% of cases	24	73
In 49% or fewer cases	7	21
Hardly ever	2	6
Never	0	0
Number of responses = 33		

Figure 11: How often is a young person's view on the EHC plan communicated via a parent or other person rather than directly by themselves?



3.5.3. Ensuring it is the young person's independent voice

The SEN 0-25 Code of Practice (2015) states: 'A decision by a young person in respect of an EHC plan will typically involve discussion with their family and others, but the final decision rests with the young person'. Authorities were asked to comment on any problems that might have been encountered in ensuring that it is the young person's independent voice that is heard and acted upon.

This question was answered in detail by most respondents. With the exception of one authority which reported 'very few difficulties', the majority of comments highlighted a number of intersecting tensions concerning the degree to which parents or other interested parties influenced the young person's independent voice. Some authorities highlighted difficulties around ascertaining whose view was being presented. For example:

'Some parents will take all the responsibility and it is not clear what the YP's views are.'

Some respondents also pointed out that adjusting to the statutory changes and ensuring that the young person's voice takes precedence is something with which they were struggling:

'Parents have spent 16 years making the decisions and being the person who the LA must talk to - they and we in the LA find it difficult to shift.'

'It is very hard to convince parents that we should be dealing directly with the young person after they are aged 16. The parents often see this as the LA trying to persuade the young person to agree to something other than what the parent would want.'

Others also highlighted instances where young people might initially express different views to those of parents or professionals but are hindered by a lack of confidence or by a sense of deference. For example:

'In some cases parents will try to overrule the young person with their own particular preference. Most young people will then end up agreeing to this in order to please parents.'

'Any CYP, let alone those with SEN, may be nervous about communicating with people they do not know; and even if they do they tend to have sought or been given advice on what to say by their parents or teachers. It is very difficult to get their own, uninfluenced, views.'

Authorities also reported that listening to and acting upon a young person's independent voice required a considerable investment of time and resource. Some respondents pointed out that as a result of these pressures it was sometimes not possible. For example:

'We have no resource to encourage this despite knowing it is critical.'

'Time and resource issues, need to mediate between young person and parents.'

Although a number of respondents acknowledged a young person's right to express an independent view, concerns were also raised around capacity and a young person's ability to understand what is in his or her best interests. For example:

'Occasionally the young person's view will differ from parents. Officers spend time talking to parents explaining that the young person has autonomy and is allowed to make decisions even if they may be the wrong ones.'

'If the decision is different to their parents' the young person may not be basing their decision on factual information and may not be aware of what is available and how it can be delivered.'

A small number of authorities reported that parental views and wishes still often overshadow those of the young person. For example:

'Parents have the final say, they will refuse access to provision due to benefits or because they say their young person is not capable of independence, travel training etc.'

However, the majority of authorities demonstrated an awareness of the statutory requirements, and where necessary, prioritised young people's views over those of parents. For example:

'Very often parents still see themselves as key decision makers for the young person. Almost exclusively in these cases, the young person has indicated to us that they are happy for parents to continue to make such decisions on their behalf. Whenever there is a discrepancy the LA would default to the young person's viewpoint as far as it appropriate under the relevant law (e.g. Section 39, Section 33 etc).'

Other respondents also included details of different strategies or resources that are employed in order to ensure that young people’s autonomy in respect of EHC plan decisions is supported. For example:

‘Sometimes it is very difficult to ensure that we have the voice of the young person rather than the parent. We involve Off the Record, SEND Partnership and Youth Connect to try to ensure that we do have their voice. We use whichever voluntary organisation is most appropriate.’

3.5.4. Inclusion of children and young people’s views in EHC plans

Regulation 12 of the Special Educational Needs and Disability Regulations 2014³ stipulates that EHC plans must set out (in section A) ‘the views, interests and aspirations of the child and his parents or the young person’. Authorities were asked how often their EHC plans set out the views of the child or young person, including the factors that might affect inclusion. A large majority of LAs stated that the views of the child or young person were always included in EHC plans. In a small number of the authorities the views of the child or young person are not always ascertained or communicated: see table 29.

Table 29: How routinely do EHC plans set out the views of child or young person?

	Number	%
Always Included	29	83
Only if C/YP capable	2	6
Only if parent agrees	1	3
Views not always obtained	3	8
Hardly ever or never	0	0
Number of responses = 35		

Many respondents also acknowledged problems with the ability or willingness of staff to engage with children and young people with more complex disabilities. For example:

‘Professionals not confident in talking to students with complex and profound disabilities.’

‘Some education staff not attempting to obtain views due to child's SEN. Easier to state that the child is unable to provide a view due to their additional needs.’

³ SI 2014/1530

'A belief that the child/young person is cognitively unable to give a view or resource and capacity restrictions.'

Some authorities also mentioned a 'lack of parental co-operation', 'apathy from parents' or parents overriding views of a child or young person as factors which hindered efforts in this area. For example:

'Occasionally parents blocking opportunities for professionals to obtain views.'

'No My Story. Parent filled My Story.'

Difficulties engaging a child or young person to take part were also often cited as a barrier that was difficult to overcome. For example:

'Communication barriers, difficulties associated with anti-social behaviour and inability or lack of willingness to contribute.'

'A child or young person's refusal to engage, or lack of confidence or trust to contribute.'

Two authorities referred to a lack of time or resources as also being limiting factors.

3.6 Personal budgets

LAs were asked what percentage of young people for whom an EHC plan is maintained or being prepared have requested a 'personal budget'. Thirty authorities responded, 21 estimating the percentage and nine reporting actual numbers.

Most LAs indicated low levels of requests and all respondent authorities reported a proportion of less than 50%. See table 30.

Table 30: What percentage of Personal budget requests are made by young people

	Number	%
0-10%	28	93
Between 11 and 50%	2	7
Number of responses = 30		

3.7 Review of education, health and care plans

The next section of the survey concerned reviews of EHC plans. A review of a plan must take place not later than 12 months after the plan is confirmed and then at intervals of not more than 12 months after the previous review.⁴ It must also take place where a child or young person is within 12 months of a transfer between phases of education; where they will be transferring from primary to secondary education the review must be conducted by 15 February prior to the transfer, and where a young person is transferring from a secondary school to a post-16 institution the deadline is 31 March.⁵

3.7.1. Reviews of EHC plans for children

LAs were asked how often *children* are consulted about a review of their EHC plan. A large majority of respondents indicated that children were always consulted about it. In the remaining authorities consultation was dependent upon the child's capacity, parental agreement or sufficiency of time or resource. Only one authority hardly ever or never consulted with children. See table 31.

Table 31: How routinely do LAs consult children about a review of their EHC plan?

	Number	%
Always	25	81
Only if child is capable	2	6
Only if parent agrees	1	3
If time/resources allow	2	6
Hardly ever or never	1	3
Number of responses = 31		

3.7.2. Reviews of EHC plans for young people

Authorities were asked the same question as for children (see section 3.7.1. above) in respect of *young people*. Responses indicated very similar patterns. In the vast majority of the authorities young people were always consulted about a review of the EHC plan. In the remaining authorities consultation was, as in the case of children, dependent upon the

⁴ Children and Families Act 2014, s.44(1).

⁵ Special Educational Needs and Disability Regulations 2014 (op cit), reg.18.

young person’s capacity, parental agreement or sufficiency of time or resource. Only one authority hardly ever or never consults with young people. See table 32.

Table 32: How routinely do LAs consult young people about a review of their EHC plan?

	Number	%
Always	29	91
Only if YP is capable	1	3
Only if parent agrees	0	0
If time/resources allow	1	3
Hardly ever or never	1	3
Number of responses = 32		

Authorities were asked what support they provide to assist young people to participate in their ‘Preparing for Adulthood’ (PfA) review, whether at year 9 (ages 13-14) or subsequently. The SEN Code 0-25 stipulates that an EHC plan review at year 9, and any review after that, must include ‘a focus on preparing for adulthood’.⁶ There is an underlying premise that as ‘young people develop, and increasingly form their own views, they should be involved more and more closely in decisions about their own future’.⁷ However, it stresses that where 16 and 17 year olds are concerned, local authorities should continue to involve the parents in the ‘vast majority of decisions’.⁸ This is stated to be for reasons to do with safeguarding and welfare, which appears to be intended to reflect the wider legal position of those in this age group (for example in the Children Act 1989) as still, legally speaking, children.

The 30 responses from authorities indicated little consistency of approach. Support ranged from little or no support (due to lack of capacity within the SEN team) to comprehensive provision and support which aimed to maximise young people’s participation. On the whole, most authorities offered some support in this area, but there was much variation in the approach and in the amount on offer.

Three respondents acknowledged that current support for young people to participate in the PfA review was limited and were taking steps to consult with young people about how to: ‘better manage these critical transition times’.

A number of authorities adopted an individualised approach. For example, person-centred meetings with young people and families were sometimes cited as a method used to

⁶ DfE, SEN Code 0-25 (2015), para 8.9.

⁷ Ibid para 8.13.

⁸ Ibid para 8.17.

encourage young people's participation. This was reported to take place as a dedicated 'moving-on' meeting or incorporated into other scheduled meetings with the young person's key workers or included as part of annual review meetings with the EHC plan officer:

'We have a young people's service and each child has an allocated key worker to support them through the transition process.'

'LA officers attend Y9 reviews and share the local offer at the review to enable young people to make informed choices. EHC plans contain PfA Outcomes.'

Comments on the support for young people to participate in PfA planning meetings by way of dedicated LA personnel and procedures included:

'Participation and Transition advisers, guidance and training to secondary schools and post 16 settings on preparing for, conducting and reporting on a statutory review, one page profile updates, attendance at the review.'

'Casework teams have specialists for Early Years, for school age and for YP aged 14+ so we can make sure we are alert to the need for support.'

A significant number of authorities also referred to the practice of commissioning support from agencies and charities in order to offer specialist information and guidance about transition and future education and careers in addition to other LA provision:

'Commission an independent careers adviser. The LA has commissioned a SEND careers adviser who will either support the child at the review or will work with other careers advisers to provide the support. SENDIASS contracted to provide information, advice and support to children on the PfA review.'

'We use Off the Record - a voluntary Organisation and we have a PfA coordinator employed by the LA that either can work with young people to complete/update the My future My Choice book or to obtain their views in the most suitable way.'

Other authorities were not as proactive and often signposted advocacy services or included more general references to guidance such as: 'Transition Plan online'. A significant number of respondents also referred to support available from the young person's educational setting which was delivered either 'in house' or from a range of commissioned services.

A small number of respondents also highlighted steps taken to support young people with communication difficulties by way of specialist technology or significant adult support:

'Assistance with communication where necessary and the creation of a positive environment which encourages participation in the process.'

'Invite key staff to maximize CYP participation. For example, communication support worker or assistive technology specialist.'

3.8 Disagreement resolution, appeals and mediation of disputes

3.8.1. Disagreement resolution

(a) How young people were informed

LAs were asked to explain how young people are made aware of arrangements (under section 57 of the 2014 Act) for the avoidance of disagreements between themselves and schools or the LA. They were also asked to indicate whether such communications were sent directly to the young person or via a parent.

Once again, there appeared to be no uniform approach. However, where information is communicated to young people, this is often via an adult such as a parent or advocacy worker and through a range of face to face meetings or printed and online resources.

A number of authorities explained that details about disagreement resolution process are routinely included as footnotes on specific EHC documents such as draft and final EHC plans or highlighted in more general leaflets and written correspondence. Letters or emails were reported as the most common method in which details were communicated.

Many respondents highlighted more passive methods of information-sharing in this regard, leaving the onus on the parent or young person to retrieve the information if required. Some authorities also delegate the task of providing advice and information to young people to voluntary sector partners and advocacy services such as SENDIASS.

Many authorities stated that information about disagreement resolution is shared with parents as standard practice, but few authorities took more active measures to inform or check young people's understanding of the process as a matter of course. Sharing information directly with young people themselves seems to require a prompt. For example:

'In the vast majority of cases parents are advised of the process of resolving disagreements. However, where a young person raises a concern direct contact is made.'

(b) Cases taken to disagreement resolution by young people

Authorities were then asked to give estimates or recorded numbers of cases of disagreement that have been pursued by young people themselves over the past twelve months. Thirty-three authorities responded. Two-thirds offered actual figures and the rest gave estimates. The majority of authorities (21/33) had had no cases of disagreement pursued by young people themselves over the past twelve months. Others mostly had small numbers of cases. See table 33.

Table 33: How many disagreement resolution cases have been pursued by young people themselves in the past twelve months?

	Number	%
No cases	21	64
1-2 cases	8	24
3-9 cases	2	6
10+ cases	1	3
Don't know	1	3
Number of responses = 33		

Estimated and actual numbers of cases have been combined.

3.8.2 Mediation

(a) Young people opting for mediation of their dispute

The second part of this section concerned mediation of disputes around SEN issues. Authorities were asked to indicate how many young people in their own right (even if assisted by a parent or other person) have exercised their right to request this process during the past 12 months.⁹

Thirty-two authorities responded and the overall reported incidence of requests was low. Around two-thirds gave actual numbers. The majority of authorities reported that *no* young people had requested mediation of their dispute. In authorities where young people had requested mediation case numbers varied, but were small, with only one authority stating the number was 10 or more (Table 34).

⁹ The right is in the Children and Families Act 2014 ss 52-54.

Table 34: How many mediation requests have been made by young people in their own right in the past twelve months?

	Number	%
No cases	21	66
1-2 cases	6	19
3-9 cases	1	3
10+ cases	1	3
Don't know	3	9
Number of responses = 32		

Estimated and actual numbers of cases have been combined

(b) Advocacy support for young people in mediation cases

Authorities were also asked whether they make arrangements to ensure that young people with SEND are provided with, or have access to, advocacy support when taking part in mediation. Almost all authorities answering this question confirmed that young people have such support when engaging in mediation: see table 35.

Table 35: Does LA make arrangements to ensure young people with SEND have access to advocacy support when taking part in mediation?

	Number	%
Yes	24	92
No	2	8
Number of responses = 26		

Authorities were also asked to comment on the kinds of arrangements that were made regarding this support. Twenty-one authorities commented and almost all responses referred to signposting or commissioning support for young people via a range of independent advocacy providers such as Off the Record, Barnardo's or KIDS and Independent Advice Services provided by the Council for Disabled Children.

Two authorities noted that arrangements were made on a 'case by case basis' and one authority commented that arrangements would be made, 'if requested'.

(c) Participation in mediation meetings

Respondents were asked about the extent to which children and young people participate in any mediation meetings which take place, including where mediation has been requested by parents.

Twenty-five authorities responded, but seven authorities were unable to comment due to lack of mediation cases where young people have attended. A further seven respondents remarked upon the exceptional nature of children's and young people's involvement in mediation meetings but noted that when this does happen parents tend to speak for the child or young person. For example:

'Hardly ever happens. Parents/carers always advocate on behalf of the child/young person. Very difficult to obtain views at this stage and get involvement from the young person.'

'Very low incidence of mediation. In the mediation cases that have taken place the child has either been too young (pre-5) or has been too anxious to attend.'

In some cases young people have demonstrated an awareness of their right to speak independently of their parents. For example:

'Post 16 YP have participated effectively to the extent that at least one asked her parent to leave the room whilst she carried on the conversation with the LA and mediation organisation.'

And others highlighted the extent to which, in advance of the official mediation meeting, mediators have attempted to encourage greater participation from children and young people. For example:

'At the few meetings we've had, the young person has been present and has been encouraged by the mediator to contribute verbally in the meeting. The mediator had spent time with the young person prior to the meeting to discuss how they wanted to contribute.'

3.8.3. Appeals

(a) Appeals brought by young people

The final part of this section concerned children and young people's involvement in SEN appeals, which lie to the First-tier Tribunal (Health, Education and Social Care Chamber). Authorities were asked how many young people had, in their own right (even if assisted by a parent or other adult), brought an appeal against a decision of the LA concerning a SEND decision over the last twelve months.

Two-thirds of respondents provided actual numbers of cases and the remainder gave estimates. One authority noted that the relevant figure was unknown or not recorded. In the case of just over half of the respondents, the total number of cases was zero. Generally,

where appeals had been brought the numbers were small and only one authority had had more than 10 appeals over the relevant period. See table 36.

Table 36: How many appeals have young people in their own right brought against a SEN decision by the LA over the past twelve months?

	Number	%
No cases	17	55
1-2 cases	11	35
3-9 cases	1	3
10+ cases	1	3
Don't know	1	3
Number of responses = 31		

Estimated and actual numbers of cases have been combined

(b) Advocacy support for young appellants

Arrangements for advocacy support for young people who appeal were made by the majority of respondents. Three authorities stated that this provision was not offered. See table 37.

Table 37: Does the LA ensure that young people have access to, or are provided with, advocacy support when taking part in an appeal?

	Number	%
Yes	23	88
No	3	12
Number of responses = 26		

Authorities that added further comment indicated that arrangements for the provision of advocacy support were very similar to the services offered in connection with mediation. That is to say that, independent advocacy support was commissioned by most from providers such as SENDIAS, KIDS, and NYAS. The only exception was one authority which had subcontracted advocacy provision to NCH Action for Children but, since 2017, had found this organisation's provision too inflexible and the authority now uses Educational Psychology to support any young people involved in appealing.

(c) *Ensuring the views of a child are available*

When asked if the LA ever experiences any difficulties in ensuring that the views of the child are available to be placed before the tribunal, or in providing the tribunal with the reasons why those views could not be obtained, just over half of the respondents indicated that they did. Eleven authorities stated no difficulties were encountered. See table 38.

Table 38: Does the LA ever experience difficulties in ensuring that the views of the child are placed before the tribunal?

	Number	%
Yes	15	58
No	11	42
Number of responses = 26		

Authorities reporting difficulty in this area were asked to elaborate further. The majority of comments refer to problems around accessing children's views on account of parents refusing to provide consent for the authority to obtain the child's view; or difficulties in ascertaining the child's capacity or ascertaining whether the view that is recorded is that of the child or parent. For example:

'Parents on occasion do not give consent for the LA to obtain the views of the child.'

'It is often believed that children are not able to form a view and/or are not aware of the consequences of any view they may express. It is difficult to determine if the information that LAs are provided with is actually the view of the child or that of the adult supporting the child.'

Some authorities sought to ameliorate the problem by employing educational psychologists to obtain the views of a child.

One authority also drew attention to the lack of staff or funding to assist with efforts in seeking the view of the child.

Finally, the intervention of legal advisors was also identified an additional area of concern by a small number of authorities. The issue seems to concern a problem in accessing the child's view once there is legal representation. For example:

'The parents of the young person were effectively making the appeal. They commissioned a solicitor who prevented the LA's access to the young person in order to seek their views directly. As the young person was not in a college/school there was no effective means by which the LA was able to talk to the young person to gain their views.'

It is not, however, clear whether the majority legal (or other representatives) are obstructive in this context.

(d) At the appeal hearing: attendance and participation of children and young people

LAs were asked about the extent to which children and young people attend appeal hearings.

Twenty-six authorities responded to this question and the majority reported attendance by a child or young person are being very rare, although in some authorities there had anyway been few appeals. Thirteen respondents indicated that they had never witnessed or heard about a child or young person attending or presenting their views directly to a tribunal. For example:

‘This has never happened in the 3 years I have worked for the LA. It is always parents/carers representing and attending along with solicitors. Not seen a child/young person at a review.’

‘[The LA] has very few tribunal hearings. Of those that have taken place CYP have not attended. Their views however are included in the LA's evidence for tribunal.’

Some authorities drew attention to cases where the children or young person was able to attend the hearing. However, the views were usually presented via another adult. For example:

‘Children generally attend where they are over 16 but it is usually parent or solicitor who communicates for them.’

Five authorities described how some children and young people participate to varying extents. For example:

‘We have one appeal to tribunal by a young person and she is attending the appeal hearing and will be speaking to the tribunal herself.’

‘They [CYP] sometimes attend the hearings and when they do, the judges are usually good at ensuring they are comfortable enough to speak up.’

‘Children and/or young people usually attend with their parents/carers. There has been little participation and even less exclusive presentation by them.’

3.9 General

There were a number of more general issues arising under the post 2014 Act framework in which we were also interested.

3.9.1. Assistance from independent skilled supporters

One issue was the types of arrangements made by the LA to ensure that young people with SEND are provided with assistance from an independent skilled supporter so that their views about their future education or training are acknowledged and valued.

Twenty-six authorities responded. Three respondents acknowledged that this was an area for future development and one authority stated that there were not any arrangements to provide young people with independent support in the area.

The remaining authorities (22/26) offered broadly similar descriptions of current arrangements. For example:

‘Mixed - it maybe someone from the student’s education provider, short break provision, a PA or enabler.’

In the majority of authorities independent support was commissioned from specialist providers such as SENDIAS and NYAS (National Youth Advocacy Service) or third sector organisations like Barnardo’s.

Two authorities made reference to services and information that young people could access themselves via provision publicised within the local offer. A small number of respondents also highlighted a range of services provided by schools and college careers services. However, the extent to which these arrangements catered specifically for young people with SEND remained unclear. For example:

‘Local Offer, signposted via all LA correspondence and also colleges and school make information available.’

Although the majority of authorities tended to signpost or commission arrangements for independent advice and advocacy via third parties, some authorities also provided specific advice and support internally:

‘Participation and Transition Officers are all Level 6 Careers Guidance qualified.’

‘We use our in house Youth Connect Service.’

3.9.2. Involvement of parents in cases concerning young people

(a) Utility of parental involvement

LAs were asked to reflect on the degree of importance they would attach to the involvement of parents in decisions affecting young people. Two-thirds of respondents considered the involvement of parents to be important. Only one authority regarded it as not important and eight others did not know. See table 39.

Table 39: Is the involvement of parents particularly important in cases involving young people with SEND?

	Number	%
Yes	21	70
No	1	3
Don't know	8	27
Number of responses = 30		

When asked to elaborate further, respondents acknowledged the potential difficulties that may arise if a young person's and his/her parent's views conflict, especially in circumstances where the young person's capacity to understand the broader consequences of a decision is unclear. However, the majority of respondents considered that whilst parental views are important and should always be considered, the views of the young person should remain paramount. For example:

'It is important to ensure that we have collected the views of the YP and their voice is essential to their future success. Only where [the] young person is assessed not to have MC [mental capacity] would we view the involvement of parents as being particularly important. It is essential that the voice of the YP is not masked by the voice of the parent.'

A small number of respondents referred to difficulties that may arise in ascertaining the extent to which young people understand the wider consequences of their decisions or in judging whose view is being represented. For example:

'Parents will often ask for residential placement and will represent the young person's view on this. What is difficult is the level of understanding of what residential means for the young person and it is difficult to ascertain whether this is what the young person wants or whether this is a need of the parents/carers.'

On the other hand, authorities also acknowledged the value of parental involvement in terms of the additional information that parents or carers can often provide. For example:

'Decisions made by the young person may impact considerably on the parent. For example, one young person who did not want to go into further education but stay at home (which requires supervision). Often parents have further pieces of information which may affect whether the LA agrees with the young person's decision (best interests guidance).'

Two authorities also said that some young people find the involvement of parents or carers reassuring. For example:

'Young people with SEND usually have depended on their parents/carers for most of their lives to date and value their parents/carers' views as they usually have strength of trust in their views.'

However, a small number of authorities did not view parental involvement as always beneficial. For example:

‘Parents can be the barrier to young people progressing.’

‘There are a number of cases where parental anxiety takes over and the YP's voice does not get heard.’

It appears that LAs view parental involvement largely positively but there are also occasions when the parent's or carer's views overshadow those of the young person and thus interfere with young people's autonomy. Where a young person is not deemed to have capacity to make decisions, however, the views and extra contextual information that parents and carers can provide is seen as a broadly positive addition to decision making processes.

(b) Conflict between the parent's and the young person's views

LAs were then asked how any conflict between the parent's and the young person's views would be resolved when the LA has to make its decision. Mediation and informal discussions between young people and families (with or without independent advocacy support) were noted as the most common way in which such conflicts were resolved. For example:

‘Meeting with parent and young person - use IASS to work with family and young person.’

‘Round the table meetings, potential mental capacity assessment and support from an advocate.’

The majority of authorities considered that, if a young person is deemed to have capacity, the young person's views will take precedence over their parent's or carer's in the event of unresolved conflict between them. For example:

‘The LA would respect the right of the young person to have the final decision and would adopt an approach to ensure the liberty and rights of the individual are not being ignored or overridden.’

One authority, however, considered that such conflict should be weighed in favour of the parents:

‘We seek views from young people but parents have the final say and will refuse access to the young person if we try to pursue options they are not in agreement with.’

Several respondents also drew attention to measures undertaken by their authority to achieve consensus between all parties. In some cases additional efforts to secure parental support for a young person's chosen outcome were employed. For example:

‘We would work with the parent to persuade them of the importance of the young person's view, using the framework of the preparation for adulthood outcomes. We would always aim to get a consensus between parent and young person. For post 16 education to succeed, we need the parent and family to support the young person.’

One authority placed responsibility for resolving any conflicting views with the family involved, prompted by the LA:

‘We request that family conflict is dealt with between them, with mediation if necessary. We try to put the young person’s views before their parents but this can be very difficult, e.g. if a parent says their child needs specialist setting, but they want mainstream because that is where their friends are going.’

3.9.3. Influence of the child’s or young person’s voice on local authority decision-making

LAs were asked about the extent to which the Children and Families Act 2014 and the rights it has conferred on children and young people under part 3 have made a difference in enabling children’s and young people’s views to influence decision making.

Twenty-seven authorities responded. Most were broadly positive about the new rights for children and young people, highlighting the potential of the Act to bring about changes to the ways in which they enable children and young people’s views to influence LA decisions. Some authorities indicated that they were already having such an influence. For example:

‘Our view and ethos has changed to be much more person centred and to meet their aspirations - to do things with them instead of for or to them.’

‘It is making a real difference and will continue to improve on the situation so far.’

‘It has made some difference, we try to consider their views wherever possible. We have made some decisions based on the child and young person’s views rather than parents.’

‘Outcomes for young people with EHC plans have been more successful as targets and provision have been put in place in agreement with the young person. In other words, the young person having ownership of decisions appears to result in more successful outcomes.’

However, while acknowledging the potential benefits of the Act, many respondents considered that there was still a long way to go before policy would become engrained in routine practice and children and young people’s rights were realised. For example:

‘There is potential but there needs to be a big change in ethos/culture.’

‘It should do, but has not been fully imbedded into practice regarding SEND and EHCP.’

A number of authorities stated that parental consent and influence are still dominant. For example:

‘Without the parents’ support we are unable to enforce [the] views.’

‘It has the potential to make a real difference, but often it is persuading the parents that the young person/child can have a voice in the decision making that is the barrier.’

Others highlighted how there is much ground that needs to be covered in terms of informing children and young people of their rights and supporting children and young people to participate:

‘As yet young people are not necessarily exercising their rights. Further work needs to be carried out to ensure that they understand that they have a voice in any decision made on their behalf.’

‘Has the potential but probably need to consider having independent support more readily available for the young person - without it having to come via LA’

A number of respondents also highlighted inconsistencies around the quality and practice of different professionals charged with supporting children and young people to participate in decisions about their education. For example:

‘A difference has been made by including views of the child. However, the quality of how professionals discern those views varies - particularly at annual review. Improving the quality of how professionals support the voice of the child & young person is the key to making further difference.’

3.9.4. Implementing the new children and young people’s rights

A final area we explored with authorities was their overall view of the implementation of children and young person’s rights under the 2014 Act (and SEND regulations 2014).

Some authorities stated that the implementation of legislation has not currently posed any specific problems and others indicated that it was too early to comment. Other respondents detailed various concerns.

For example, some referred to difficulties relating in part to funding of advocacy support for young people. For example:

‘IAG/ SENDIASS services are unsure of the continuation of their funding post March 2018’.

One authority was concerned that young people over 18 could now secure funded legal advice and assistance and that this had resulted in an increased resort to the tribunal by them.

Other issues that were highlighted included a need to increase staff awareness of the Mental Capacity Act 2005, in addition to associated cost implications for undertaking mental capacity assessments.

4 Conclusion

Local authorities have reported uneven progress in implementing the principles and requirements introduced under the Children and Families Act 2014 and SEND Code of

Practice 0-25 years (2015). On the whole, however, they were optimistic about the potential of the 2014 Act to transform children's and young people's participation in SEND decisions and indicated various positive changes that had already taken place. However, many local authorities also acknowledged that there is still a long way to go before the new legal framework and policy are engrained into routine practice and children and young people's rights are realised consistently and uniformly.

Authorities reported that systematically involving children and young people in both consultations about local provision and in decisions about their own education and enabling their independent voice to be heard and properly considered required a considerable investment of time and resource. In light of the constraints under which they are operating, some respondents realise that despite best intentions, realising this objective can be impossible. Despite considerable inconsistencies across respective authorities in terms of responding to new statutory requirements, authorities conveyed a very clear message about not being sufficiently well resourced to implement reforms; especially in relation to managing significant increases in both the volume and scope of SEN related workload. Some authorities also reported that these constraints have caused a reduction in the overall quality of provision on offer.

In addition, survey respondents underlined a number of other important issues that may impede the effectiveness of the new framework for children's and young people's rights concerning SEN provision, which warrant further investigation:

- Variations in the frequency and scope of LA SEN training provision, which limit both the quantity and consistency of support that children and young people receive across the country.
- The way that the inclusion of young people aged 19-24 years has impacted on local authority and further education sector workloads. Authorities have identified a pressing need for greater collaboration with the FE sector as well as requiring further guidance on how best to include and support this age group with educational decision making.
- Difficulties facing local authorities in consulting with younger children and those with more complex needs. Respondents have indicated that improving the availability and quality of independent professional support for promoting the voice of the child and young person as a key requirement for improving practice and provision in the future.
- Variations in the capacity of different authorities to ensure that SEN related information and advice is both accessible and appropriate for children and young people. In order for children and young people to understand what provision and support is available, further clarity and uniformity around the information provision is required.
- Sub-optimal levels of children's and young people's participation in EHC plans and assessments (see also the evidence outlined below). Less than half of the responses indicated that the authority always arranges information, advice and support for young people in relation to EHC assessments. Given the statutory requirement for local authorities to consult with children and young people, further investigation into why this is not happening consistently needs to be undertaken.

- Difficulties in determining capacity, representing a significant obstacle, especially in cases of dispute resolution. Some LAs appear to be much more proactive than others in trying to elicit views of children/young people with communication difficulties. If resources are scarce, there is an inherent risk that apparent concerns about capacity may mask other underlying issues around resource allocation and staff workload or even cause unnecessary default to the parent's or LA's view.
- Tensions around balancing the right of a young person to express his or her independent view and clarifying whose view is presented or takes precedence. This is regarded as a problematic issue even though local authorities broadly welcome the contributions of parents, carers and other professionals in decision making processes. Some authorities also reported that parents had expressed difficulties in accepting the increased emphasis on children's and young people's voice in respect of SEN decision making processes.

The above issues will be explored further in the case study research we will be conducting in three English local authorities in the next stage of the research.

A few of the issues we have explored in this survey have also been the subject of the local authority and Parent Carer Forum survey carried out by the DfE as part of routine monitoring.¹⁰ Just as with our survey, in the DfE's survey a large majority of LAs reported that children and young people are involved in 'planning and co-production' of SEND services, including the local offer. The DfE's survey however adds a degree of granularity to the data available by showing that such engagement is mostly at a 'moderate' level only, particularly where children rather than young people are concerned. The Parent Carer Forum survey indicates a lower level of engagement than that reported by local authorities, showing that children's participation is at a poor level or non-existent in over half the areas and that the involvement of young people is at a similarly low level in over one quarter of areas.

The other issue covered by the above DfE survey concerns children and young people's participation in decisions about their own educational provision, including EHC plans. It is difficult to compare the results on this issue with ours, since we asked much more detailed and specific questions about matters such as consultation with children and young people and whether their views are communicated and taken into account, whereas the DfE survey simply asked a general question about 'how well engaged' children and young people were. Nevertheless, set in the broadest context, the DfE results reflect ours in showing that there is a fairly high level of engagement, at least in terms of the effort made by local authorities to involve children and young people. In the DfE survey just under half of authorities reported that children were largely or fully engaged and just over half that young people were so engaged. However, the Parent Carer Forum element of the survey indicated that children and young people were less well engaged: in just under 30% of areas in the case of children, and just over 20% in the case of young people, engagement was poor (including a few areas where, in the case of children, it was non-existent).

The degree of inconsistency between the Parent Carer Forum and local authority results in the DfE's survey above reinforces the importance of looking beyond the responses of local

¹⁰ DfE, 0-25 Special Educational Needs and Disabilities, Alternative Provision and Attendance Unit, March 2018 Newsletter, Annex B.

authorities when assessing progress in policy implementation, which the research project's plan of research already recognises.