1. The Advisory Group for Additional Support for Learning (AGASL) supports the Scottish Government and Scottish Ministers in developing policy and supporting the implementation of the Additional Support for Learning legislation through their consideration of emerging and current issues which impact on the successful implementation of the legislation.

Attainment

1. What improvements in attainment, in achievement and in reducing inequalities of outcome do you consider the Bill in itself could deliver? What would be a desirable level of improvement?

2. The group felt that the requirements introduced by the Bill would have minimal impact on their own. Schools and local authorities can take action to reduce inequalities of outcome without the need for legislation.

3. Examples given of action which could be taken included addressing the financial impact of uniform policies, school trips and other day-to-day costs of schooling on families.

4. The group felt that authorities were already aware of, and have due regard to, the “desirability of reducing inequalities of outcome”. There was agreement that to make real progress, additional resources would be required, for example: to reduce class sizes, sustain the provision of additional support for learning and support for children with English as an additional language.

5. Some within the group did see the benefit in creating an extra “layer of thinking” within local authority which would keep the issue on the agenda.

6. The group as a whole felt that reducing inequalities of educational outcome was only partly the responsibility of the education authority. To make real inroads, the education authority must work in tandem with others such as health, social work services, parents etc. Addressing socio-economic disadvantage is a difficult and complex task.

5. How do the provisions on attainment fit with existing statutory National Priorities for Education and the requirements to produce annual statements of improvement objectives and school development plans?

6. Do you consider that such terms are clearly defined and widely understood? Could the different terms used in the Policy Memorandum and in the Bill create any problems in delivering the policy objectives?

7. The group felt that the issues are well known, and that understanding of the terminology will depend on the audience.
7. Should the Bill contain sanctions in the event that the Scottish Government or local authorities fail to achieve the policy intention of reducing inequalities of outcome? If so, what sanctions would you suggest are appropriate?

8. Some within the group felt that imposing a duty on education authorities begged the question, what happens if that duty is not met? In fact, the Bill does not appear to impose a duty to reduce inequality of outcome as such, far less identify a meaningful way to measure any such reduction. A requirement to “have due regard to the desirability” of certain matters is an easy test to pass.

9. Some felt that the terminology was unhelpful and suggested that “remedy” might be a better term rather than “sanction”.

9. The Bill focuses on reducing inequalities of outcome resulting from pupils’ socio-economic disadvantage. Should all examples of inequality of outcome be addressed?

10. The group felt that there were a number of factors which led to inequality of outcome and that it was important to address all such examples, rather than believe an Education Act alone will have a dramatic impact.

**Additional Support for Learning**

16. What will be the outcomes of extending rights under the Education (Additional Support for Learning) (Scotland) Act 2004 to children aged 12 and over with capacity? Please give practical examples.

11. The group felt that one key outcome would be enabling the Scottish Government to comply with its international obligations under the UN Convention on the Rights of the Child.

12. Some within the group felt that the increase in the amount of time spent by local authorities dealing with disputes would divert resources away from education and teaching. It could have a significant impact on smaller local authorities. Some felt that there was a danger that resources would be diverted to the well-off and articulate, more able to take advantage of the system.

13. Others in the group argued that while there may not be a large number of children who will take up these rights, those who do could benefit greatly and the individual impact could be huge. It was argued that even though it may not make a great deal of direct material difference, indirectly it will help to reinforce the weight which we expect to be attributed to children’s views in decision making about additional support needs.

14. Some questioned whether the rights were needed in the context of GIRFEC, where all the relevant professionals would have to have regard to the views of
the child in any event. There would be an impact on the role of the named person.

15. Others pointed to the particular need to allow children without effective parental advocates a mechanism to exercise their rights. The impact may be greatest for looked after children – these proposed rights should help address the internal conflict within the local authorities as a result of their corporate parenting role.

16. Many within the group felt that adequate resources and a support mechanism were needed to allow children to exercise their rights. They therefore felt that the proposed support service would play a vital role.

17. The group also noted that educational dispute resolution is a complex landscape, involving several different avenues and remedies. While these proposals do not increase those, neither do they simplify or clarify matters.

17. Do you agree with the proposal that not all of the rights in the ASL legislation should be extended to children (see paragraphs 49 and 50 of the policy memorandum)?

18. The group in general agreed that the right to make a placing request should not be extended to children.

19. The group understood that the decision not to extend rights to children for mediation was a practical one. However, many in the group felt that access to mediation should be encouraged over other forms of dispute resolution. Some felt there was a risk, especially in the case of looked after children that if they are not allowed to request mediation, they will be forced down the route of making a Tribunal reference instead.

20. The group felt that further thought should be given to facilitating a support system for children to access mediation, in particular for looked after children.

18. What are your views on the statutory children’s support service proposed by the Scottish Government?

21. The group felt that the provision of the support service would be an important factor in whether the extension of rights is successful.

22. However, some felt that such support mechanisms give the impression of being powerful tools for the child’s voice, but mask the effect of continued underfunding.

23. Some within the group felt that there would be a knock on impact on local authority budgets and consideration should be given to whether the cost of the service will draw away from services provided to children. Will there be an evaluation of the cost of the service and its benefit to children?
24. The group felt that to succeed, the support service must be known about and its role understood.

Complaints

23. The Bill will introduce a power to make regulations about the procedure to be followed in relation to complaints to Scottish Ministers. Paragraph 74 of the Policy Memorandum sets out some proposed deadlines. What is your view on the deadlines for these procedures?

25. The group felt that eight weeks as a proposed deadline where no investigation is required, was a good turnaround, and an appropriate timescale.

26. Some members felt the 6 month timescale in cases where an investigation is undertaken was too long and there was a potential that children’s education would be disrupted during this period.

27. At the same time, there was a recognition that there is a lot to fit into the investigation phase. Some felt that it would be beneficial to have milestones set within the overall timescale.

24. The policy intention is that Scottish Ministers should not consider an issue or reconsider a decision which should be dealt with by the Additional Support Needs Tribunal for Scotland (ASNTS). Do you agree with this proposal and will it always be clear cut when a complaint is solely for the ASNTS?

28. The group agreed with this proposal. It was felt the legislation made it clear when a complaint was solely for the Additional Support Needs Tribunals for Scotland.

25. Overall, how will the Scottish Government’s proposals affect parents’ ability to complain about the actions of an education authority or other relevant body? Will the new system be more effective? Is it clear which matters can and cannot be the grounds of a complaint to Scottish Ministers?

29. The group noted that this was not a new system, but a change to an existing system. It was felt that the proposals would make the process clearer and provides definite timescales.

30. Some noted that it was a complicated process which is not widely known about. Promoting the awareness of section 70 and publication of guidance would be helpful.

Submitted by Deborah Lynch on behalf of the group
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