



The Scottish Parliament
Pàrlamaid na h-Alba

EDUCATION AND CULTURE COMMITTEE

AGENDA

15th Meeting, 2012 (Session 4)

Tuesday 15 May 2012

The Committee will meet at 10.00 am in Committee Room 2.

1. **Additional Support for Learning:** The Committee will take evidence from—

John Butcher, Head of Inclusion, Glasgow City Council, Association of Directors of Education in Scotland, Additional Support for Learning Network;

Alan Jones, Chair, Scottish Division of Educational Psychologists;

Linda Whitmore, Development Officer - Children and Young People, ENABLE Scotland;

Kristina Woolnough, National Parent Forum Scotland.

Terry Shevlin
Clerk to the Education and Culture Committee
Room T3.60
The Scottish Parliament
Edinburgh
Tel: 0131 348 5204
Email: terry.shevlin@scottish.parliament.uk

The papers for this meeting are as follows—

Agenda Item 1

SPICe Briefing

EC/S4/12/15/1

PRIVATE PAPER

EC/S4/12/15/2 (P)

Additional Support for Learning

Briefing for Education and Culture Committee meeting 15th May

Introduction

On 21st February the Committee agreed to take evidence on the first annual Scottish Government report on Additional Support for Learning (ASL) implementation. The Education (Additional Support for Learning) Act 2009 introduced a requirement for an annual report to be laid in the parliament: “on what progress has been made in each of those years in ensuring that sufficient information relating to children and young persons with additional support needs is available to effectively monitor the implementation of this Act.” It also requires the Scottish Government to collect and publish the information from local authorities:

- 1) the number of children and young people with additional support needs;
- 2) the main factors giving rise to those additional support needs;
- 3) the types of support provided; and,
- 4) the cost of providing that support.

The first Scottish Government annual report was published in February and is available via this [link](#)¹. The Committee agreed on 17th April that it would also use this meeting to discuss issues raised in Petition 1410 from Enable, which seeks mandatory ASL training for all teaching and support staff.

The Committee will take evidence from:

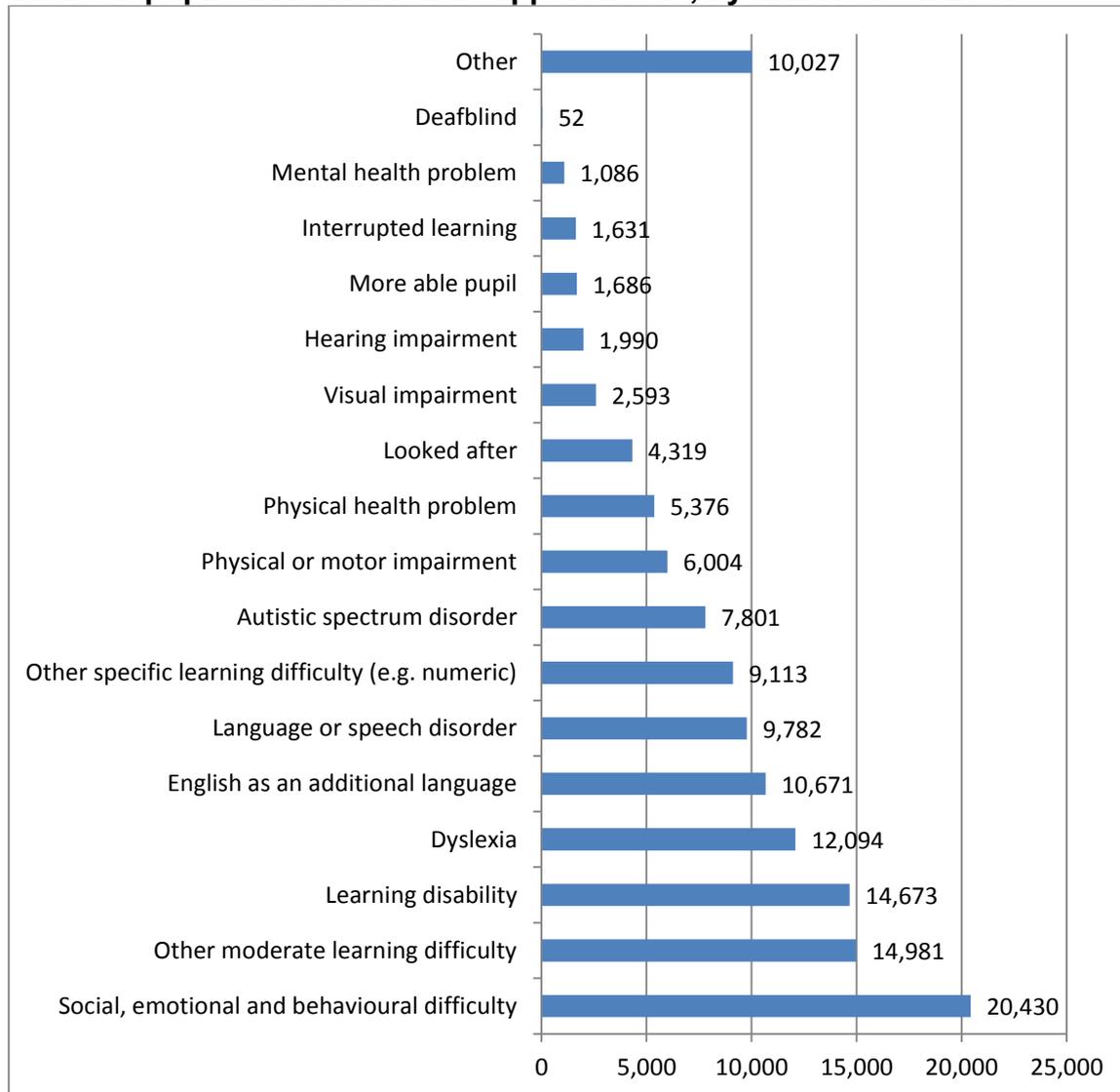
- Enable
- ADES, who are on the Scottish Government’s implementation group for ASL
- National Parent Forum, who are also represented on the Scottish Government’s implementation group for ASL
- Scottish division of Educational Psychologists Association.

Incidence of additional support needs

In 2010, around 15% of pupils were recorded as having additional support needs. This covers a very broad spectrum of type and complexity of need. Chart 1 below shows that the most common principal reason for needing additional support is social, emotional and behavioural difficulties.

¹ <http://www.scotland.gov.uk/Resource/0038/00387992.pdf>

Chart 1: pupils with additional support needs, by main reason 2011



source: *Pupil Census 2011*.

Legislative Framework

The legislative framework is the Education (Additional Support for Learning) (Scotland) Act 2004 as amended in 2009. The 2004 Act made fundamental changes to the provision for children who needed extra support at school. The Act covers school children under the age of 18, children in pre-school education and disabled children under 3 who are brought to the attention of the local authority. Within these groups, all children who need extra support in order to benefit from school education are covered by the Act. This means that a very wide range of circumstances are covered. For example, it includes family circumstances such as bereavement, divorce or being a young carer and also covers being a particularly able child.

Local authorities must identify and meet additional support needs. Where these needs are particularly complex then a statutory 'Co-ordinated Support Plan' (CSP) should be drawn up. Other pupils will have non-statutory plans.

If parents and the local authority disagree about the type of additional support required then they can use independent mediation. There is independent adjudication for disputes over certain issues and for those with a CSP, there is the Additional Support Needs

Tribunal. Only the Tribunal can issue binding decisions and there is an appeal to the Court of Session.

The Act was amended in 2009 mainly to ensure that parents could make placing requests to local authorities other than the one in which they live, as was the original policy intention. At that time, the then Education Committee heard evidence that there were other, fundamental issues with the system that needed to be addressed—

- the complexity of the system
- the cost of making provision,
- different interpretations of the criteria for developing CSPs
- lack of clarity about support that could be provided that was not teaching support.
- uncertainty about how ASL fits in with other policies particularly CfE and GIRFEC.

The Government intended to address these through a Code of Practice rather than through legislation. During its passage through the Parliament, the 2009 Bill was amended to include a number of extra duties including:

- all looked after children are deemed to have ASN unless assessed otherwise, and should be considered for a CSP
- an annual report to be laid before Parliament in each of the following five years
- certain statistical and financial information to be collected from local authorities and published by the Scottish Government
- an assessment of ASN can be requested at any time
- additional support for learning includes provision, whether or not education provision. i.e. it is not limited to learning support
- the Act applies to disabled children under 3 years of age brought to the attention of the local authority (previously it only applied if the authority was notified by the health board)
- mediation services are to be independent of the local authority
- new grounds of appeal to the Tribunal are; an appeal regarding any placing request to a special school; that a local authority has failed to discharge its duties on transitions from secondary school and that a local authority has failed to implement a CSP. New powers of the Tribunal are the ability to specify when a placement will start and the ability to monitor the implementation of Tribunal decisions. In addition, Scottish Ministers will be required to provide a free advocacy service for those using the Tribunal.

The Code of Practice was subsequently revised and considered by the Committee. It makes it clear that cost should not be the primary issue in providing additional support and gives guidance on how to apply the criteria for a CSP, how ASL fits with CfE and GIRFEC, and provision of support provided outwith the school.

For members' information, the annexe to this paper provides more detail on what is actually meant by "additional support".

Scottish Government annual report

The Scottish Government's annual report draws together findings from recent reports on ASL and statistics from the pupil census. It reports that 15% of pupils have ASN, with the single most common type being social, emotional and behavioural difficulties. This affects around a fifth of pupils with ASN. Most support is provided by specialist teaching, but 11%

of pupils have social work support and 19% having health support. Only 1.5% had support from the voluntary sector. Only 3.6% of pupils who are recorded as having ASN have CSPs. In all of these statistics there is considerable variability between local authorities (see chart 2). In relation to costs, the annual report gives the total local authority expenditure on education. It does not report specific amounts for meeting ASN. The annual report draws together a number of existing reports on additional support for learning which raised the following issues:

- there is still variability - especially in applying the criteria for CSPs
- there is considerable scope to improve the identification of and provision for 'hidden' ASN - such as bereavement, parental illness, divorce, young carers, looked after children and those with mental health difficulties. Each child should be well known by at least one named adult
- staff in schools and partner agencies should have appropriate training - staff need high quality CPD
- recruitment of quality, well trained support staff is vital
- parents should be made aware of their rights
- some Local Authorities say that GIRFEC has helped them meet ASN more effectively
- there is considerable scope to improve transitions. An exercise looking at post school transitions only found isolated examples of effective practice. The annual report found that: "sometimes communication and procedures between authorities can be a barrier to ensuring a continuity of provision when a child changes school"
- the quality of young people's learning experiences in off site facilities is currently too variable. There remains considerable scope for off site bases to work more closely with mainstream schools and other partners to deliver better outcomes for children and young people.

This is the first year of the annual report. The Scottish Government has said that it will develop a long-term plan to support the ongoing implementation of the legislation. Future reports may be themed to consider particular aspects of provision.

The following section provides more detail on some of the main themes raised in the annual report, the training issues raised by the petition and a summary of the Doran review of provision for children with complex needs.

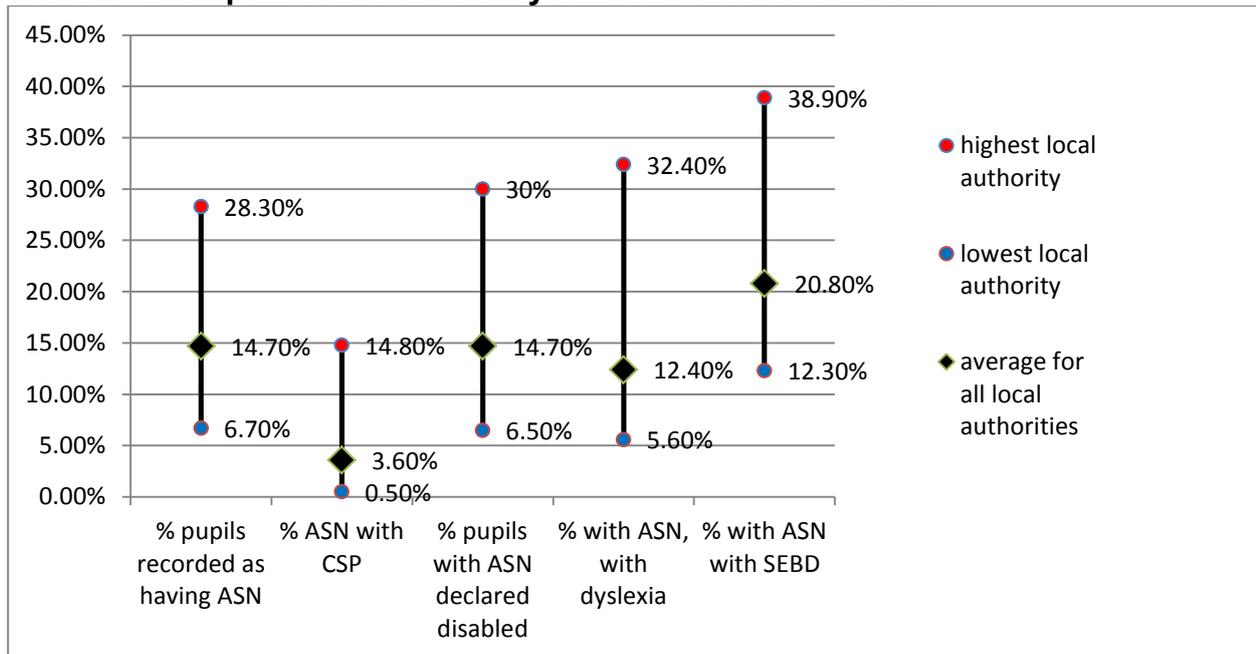
Variability

Some examples of the variability between local authorities are shown in chart 2 below. For example, in one authority over a quarter (28%) of pupils were recorded as having ASN, but in another only 6.7% were. This suggests either that the incidence and nature of ASN differs considerably between local authorities or that policy, practice and administration varies considerably.

One aspect which has had considerable attention since the 2004 Act came into force is the low and varied rate of granting CSPs. Far fewer children have CSPs than were expected by the Scottish Executive when the legislation was introduced; it had been expected that between 11,700 and 13,700 children would have CSPs ([FM to 2003 Bill para 81](#)), in fact, only 3,617 children have them. In relation to CSPs the annual report finds differing views about their usefulness:

"there remains inconsistency and variability in ... the extent to which authorities and practitioners view CSPs as useful in planning and improving provision for learners."

Chart 2: examples of the variability between local authorities



source: Pupil Census supplementary data 2011

Costs

During the passage of the 2009 Act, the then Committee heard views that cost was a major factor in influencing decisions on additional support. In its revised Code of Practice (2009) the Scottish Government emphasised that cost should not be the deciding factor. Section 27A of the 2004 Act requires the Scottish Government to collect from local authorities information about the cost of providing additional support from local authorities. However information on costs is difficult to identify - particularly given the broad definition of ASN. For example, an FoI request to a number of local authorities was refused on the grounds that it would be too costly to provide the information². The annual report refers to the total amount provided to local authorities each year for education but does not identify specific amounts spent on additional support for learning.

Looked after children, young carers, mental health

The annual report reflects previous HMle reports in finding that more support is needed for looked after children (particularly those looked after at home), young carers and young people with mental health problems. It states that:

there is still much work to be done to ensure that barriers to learning for looked after children are removed or minimised ... Staff ... are not always sufficiently alert to the multiple barriers to learning that children who are looked after, either away from home or at home, may be experiencing.

effective practice in identifying the needs of young carers is also developing slowly

the needs of children and young people with significant mental health difficulties are not always being met effectively.

Since November 2010 local authorities have had a legislative duty to consider all looked after children as having additional support needs (unless they are assessed not to have

² http://www.whatdotheyknow.com/request/spending_on_additional_support_f_23

them) and to be considered for a CSP. In the 2011 pupil census, 4319 pupils were recorded as being 'looked after' and having additional support needs. However, according to the Scottish Government's looked after children statistics there were 11,161 looked after children aged between 5 and 16. Either most looked after children have been assessed as not requiring additional support, or there is still some way to go in recognising their needs.

In 2001, the Census in Scotland identified 16,701 young carers. The [Young Carers Strategy](#) gave a commitment that the number of young carers would be recorded in the pupil census. This will be included in the 2012 pupil census (Scottish Government, personal communication).

Around 10% of children and young people are estimated to have mental health difficulties³. The pupil census recorded 1,086 pupils with a mental health problem and additional support needs. In 2009, the health committee considered provision for children with mental health difficulties. Its report - [child and adolescent mental health and well being](#) - included consideration of non-specialist support, in universal services such as school. The Committee found that while there was a willingness to provide support, there was a need for training:

There is evidently a will in the non-specialist sector to embrace children and young people's needs and there are obvious benefits to be gained from developing that will. It is also evident, however, that non-specialists often lack either the awareness, the skills or the confidence to deal with emerging mental health problems effectively. The Committee notes the Government's stated commitment to this area but is concerned at the Minister for Public Health and Sport's statement that the element of the Framework on the training of staff who work in schools or who come into contact with children and young people has been implemented⁴⁰, given that evidence from a range of stakeholders consistently indicated continuing problems in this area. The Committee urges the Scottish Government to examine again training needs in this area, in particular how mental health and well-being are covered in initial and continuing teacher training.

The issue appears to be a continuing one as the ASL annual report states that:

"Often school staff report a lack of expertise and training around mental health issues." (p.20)

Training

The issue of training arises in the annual report and is the subject of the Enable petition. The annual report advises that: "staff need access to CPD of the highest quality" and that "recruitment of quality, well trained support staff is vital" (p.21).

There are no national requirements for the level of training of ASN support staff. On the other hand, the issue of teacher training has been considered in depth by the [Donaldson review](#). This did not provide a list of subjects that ought to be covered in either initial teacher education (ITE) or continuing professional development (CPD). Recommendation 14 referred to these in general terms:

³ Based on SNAP report 2003, and reported in the 2005 Mental Health Framework for Children and Young People <http://www.scotland.gov.uk/Publications/2005/10/2191333/13341>

The professional component in programmes of initial teacher education should address more directly areas where teachers experience greatest difficulty and where we know that Scottish education needs to improve. That will require a radical reappraisal of present courses and of the guidelines provided by GTCS

The recommendations from Donaldson are being developed by the [National Partnership Group](#) who expect to report to Ministers in June. Its work plan includes mention of ASN in its consideration of CPD:

The systematic identification of priority areas for continuing professional development, including areas such as subject content knowledge, assessment and supporting learners (for example those with additional support needs such as dyslexia or autism).(Scottish Government reply to public petitions committee)

Petition 1410 from Enable asks for mandatory training on additional support needs both through initial teacher training and CPD. The table below summarises the provision found by ENABLE in the 32 local authorities and 7 teacher training universities. They found that voluntary training was generally offered in local authorities but mandatory training was far less common. In contrast, universities had a mandatory element on general ASN, although only voluntary elements which looked at specific conditions in more depth.

Table 1: Training in ASN

Type of training	LA teaching staff	LA support staff	BEd students	PGDE students
General ASN/equalities	21 (5 mandatory)	17 (4 mandatory)	7 (all mandatory)	7 (all mandatory)
Specific condition	30 (0 mandatory)		3 mandatory	3 mandatory

source: [Bridging the Training Gap](#) research carried out July 2010.

Enable gave evidence to the Petitions Committee on 13th December 2011. That Committee also received written evidence from eight local authorities, GTCS, Education Scotland and the Scottish Government.

GTCS said that: "To have every teacher in Scotland „fully trained“ to deal with every additional support need and every learning disability and/or autistic spectrum disorder may quite simply be impossible to achieve. What, much more realistically, is achievable is to have every teacher with sufficient knowledge and skill to deal with the most commonly found additional support needs and learning disabilities and for them also to have the appropriate degree of professionalism to know how to seek out specialised information and specialised support when necessary."

However, "the GTCS does recognise that often, as the petition states, „learning support assistants receive only basic training“ and would certainly concur with the sentiment of raising the status and quality of such training."

Education Scotland: "would concur with the view that there is considerable scope to improve training for all staff working with children and young people to ensure that the needs of those with additional support needs are met more effectively."

The Scottish Government response referred to its funding of the development of the National Framework for Inclusion, £240,000 from 2008-2010, within initial teacher

education and of the Inclusive Practice Project (IPP) at the University of Aberdeen, £1.4m from 2006-2010. The Government has also supported the development of the Assessing Dyslexia Toolkit and the Autism toolkit.

In general the eight councils that responded acknowledged the importance of staff training and highlighted work that they were already doing in this area. East Renfrewshire said that: "The aspiration is not contentious and reflects the aspiration of East Renfrewshire Council." East Ayrshire thought "the opportunity should be taken to look at current good practice and explore how this can be developed to provide a bespoke continuing professional development tool." Dumfries and Galloway: "recognise the need for continuing training in a number of ASN areas." West Lothian "is fully committed to multi agency partnership working to ensure that the needs of all pupils are fully met." Inverclyde is: "aware of the need for pre and in-service development and training for all staff in meeting learning needs and additional support needs issues." Aberdeen: "welcomes a national focus on the issues to do with training and capacity building".

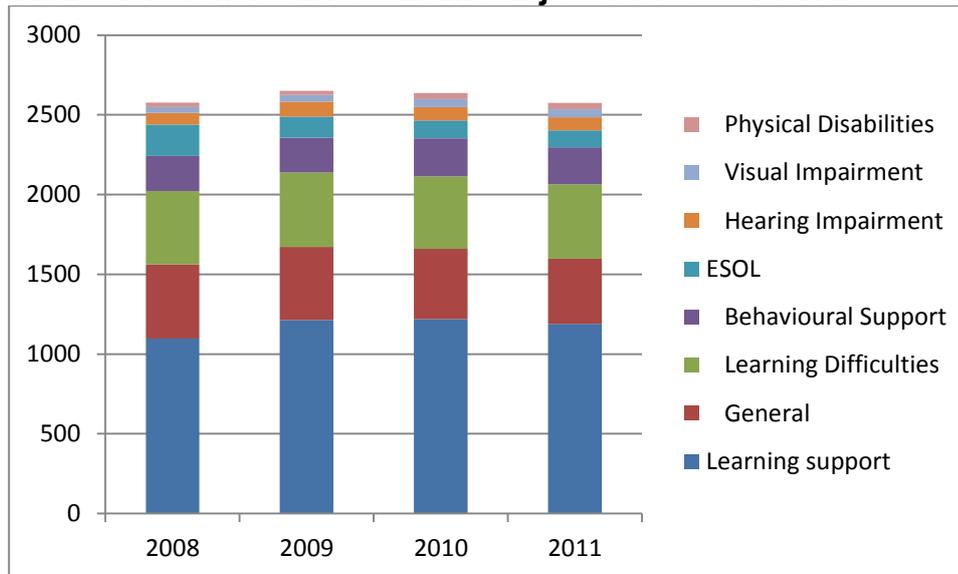
However Falkirk thought training was not a priority: "It is self-evident that all staff should be fully trained to do their jobs. Whether this particular task needs this attention at a time when Scotland faces a number of challenges is a matter for greater debate." North Lanarkshire was unsure about mandatory training: "While it is advantageous for all staff working in the field of additional support needs to have basic skills knowledge, mandatory training may be difficult to implement due to current job descriptions and changing workforce."

ENABLE requested that their petition be referred to the Education and Culture Committee. In doing so, the Petitions' Committee highlighted ENABLE's comment that they: "remain concerned that the membership of the NPG and its Strategic Reference Group does not include a representative from a learning disability organisation". As mentioned above, this group is covering a wide range of issues on teacher training and is due to report to Ministers in June.

Staff numbers

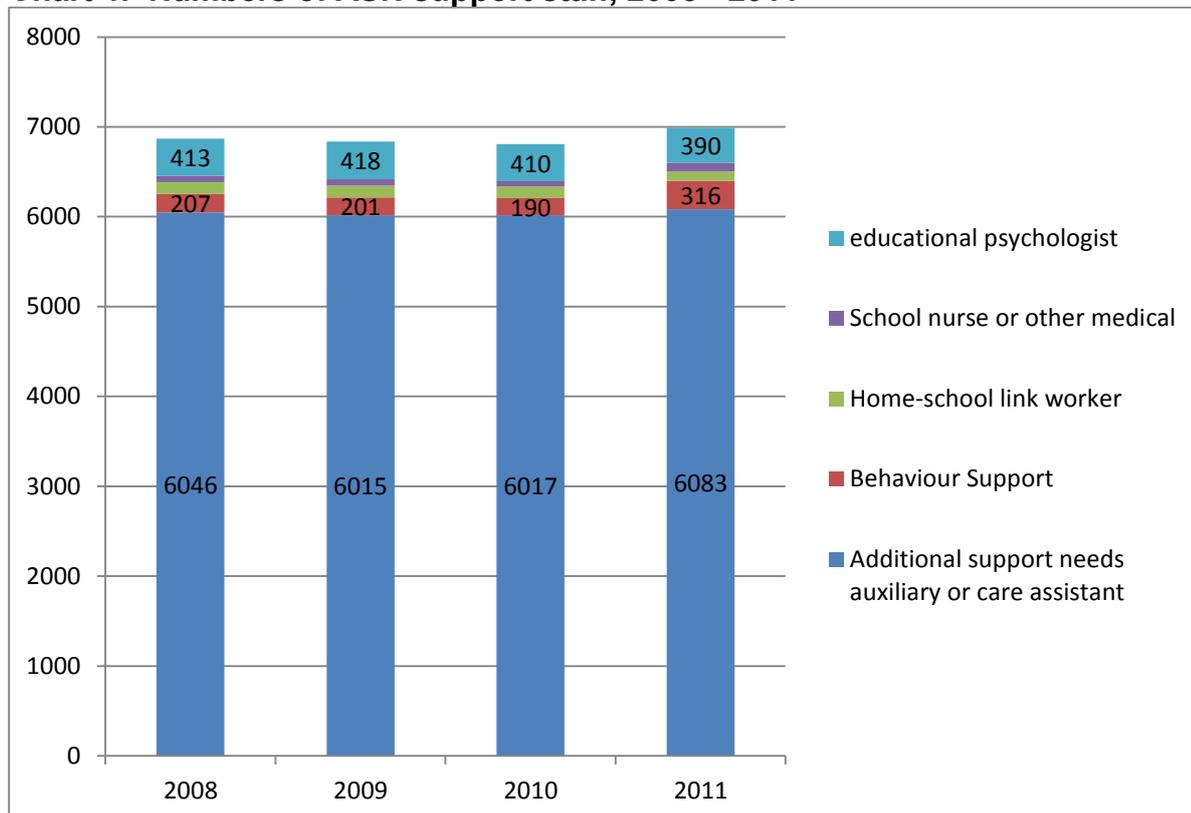
Charts 3 and 4 below show the trend in the number of teaching staff and support staff for additional support needs. They show that the number of teachers whose main subject is related to ASN has reduced slightly from 2,637 in 2010 to 2,574 in 2011. The number of educational psychologists has decreased from 410 to 390. However the number of ASN auxiliaries has increased slightly from 6,017 to 6,083.

Chart 3: Teachers whose main subject relates to ASN 2008 to 2011



ESOL – English as a second language. source: Scottish Government, Teacher census

Chart 4: Numbers of ASN support staff, 2008 - 2011



source: Scottish Government Teacher census.

Disputes and complaints

One indication of the success of a system might be the level of complaints it attracts. The Scottish Government annual report states that in 2010/11:

- 971 people contacted the national helpline, Enquire (these will cover advice and information and may or may not indicate dissatisfaction with the local authority)
- 55 cases of mediation completed by Resolve and Common Ground. (covering 23 local authorities) and another 87 cases resolved without having to go to mediation

- 73 referrals to the Additional Support Needs Tribunal
- 35 advocacy cases completed by TakeNote, the national advocacy service for cases at the [Additional Support needs Tribunal](#)
- 18 referrals to independent adjudication
- 13 'section 70' complaints to Scottish Ministers that local authorities have failed in their statutory duties in relation to additional support for learning.
- 6 appeals from an ASNT to the Court of Session. One of these appeals was heard and an opinion has been issued which can be found at <http://www.scotcourts.gov.uk/opinions/2011CSIH13.html> This concerned a placing request to a Rudolph Steiner school in Aberdeen at a cost of £105 to £156k per school year. It found in favour of the parent.

The [2010/11 annual report](#) from the then president of the Tribunal, Jessica Burns, highlighted a number of issues including:

- the complications arising from the multiplicity of planning tools including GIRFEC, the statutory care plan and CSPs.
- half of the references related to placing requests - references were particularly high from Edinburgh Council.
- further judicial clarification may be necessary of the precise meaning of the amended definition of additional support in Section 1(3) of the 2004 Act. Its extension to cover provision "whether or not educational provision" has already been the subject of debate at hearings.
- that the standard of ASN decision making is improving.
- It is now less common to see a decision letter omitting to signpost appeal rights.
- Since 2005/06 there have been 37 decisions in favour of the local authority and 87 in favour of the parent. In addition, in 113 cases, the parent withdrew their reference.

Complex Needs

The [Doran Review](#) is an 18 month review into the needs of children with very complex, low incidence conditions which began in November 2010. These are the children who are at the most complex end of the ASN spectrum. A similar review was carried out in 1999. The remit of the current review is:

For some children and young people, their complex range of ASNs may be beyond what could reasonably be expected of an individual Local Authority to cater for and may require access to regional or national provision. The Doran Review will draw upon the evidence base held within the community of interest to identify the best fit between a national sector and the national need, and make recommendations for short and longer term actions to deliver the best fit which meets future as well as present needs.

The original frame of reference envisaged the following outcomes

- A shared understanding of the local and national provision available to children and young people with complex ASNs;
- Better understanding and transparency in decision making;
- A commissioning framework for services which is transparent and holds the child at the centre, supported through clear recommendations on criteria for future use of any nationally administered funding; and

- National services which are financially sustainable, which provide clear public value and which make best use nationally of valued scarce specialist expertise.

An [interim report](#) was published in October 2011. This considered issues including commissioning out of authority placements, definitions of complex need and the relationship between local and national provision. Interim conclusions included:

- Strategic commissioning of services should be further developed to ensure the range of provision is available to meet the needs of all children in Scotland who have complex additional support needs.
- There are strong views that the interagency cooperation required to address the complex interplay of factors which are described in 5.12 could be improved⁴. These strong views extended to the equity of the current resource contribution of relevant agencies to meet identified need.
- The current pattern of national funding is a contentious issue. For example those organisations which receive national funding strive to justify their receipt of that funding. Other views are that current funding is inequitable and lacking in evidence of effectiveness. Previous recommendations to change national funding have not been acted upon. Renewed discussion about planning and funding mechanisms will reopen past debates and anxieties.
- Some parents have expressed strong views that services are not easily accessible and they often feel the process of securing those services is adversarial.

Camilla Kidner
SPICe
9 May 2012

⁴ This referred to the definition of complex need including a combination of mild factors which work together to create a need for significant support. For example, a child with difficulties in learning to read, making relationships with peers and controlling anger, combined with fragmented schooling and difficult home or family circumstances, may require complex arrangements in order to progress

Annexe: Defining “additional support”

The following information has been taken from the Supporting Children's Learning Code of Practice (Revised edition): <http://www.scotland.gov.uk/Publications/2011/04/04090720/5>

Additional support

1(3) In this Act, "additional support" means—

(a) in relation to a prescribed pre-school child, a child of school age or a young person receiving school education, provision (whether or not educational provision) which is additional to, or otherwise different from, the educational provision made generally for children or, as the case may be, young persons of the same age in schools (other than special schools) under the management of the education authority responsible for the school education of the child or young person, or in the case where there is no such authority, the education authority for the area to which the child or young person belongs,

(b) in relation to a child under school age other than a prescribed pre-school child, such provision (whether or not educational provision) as is appropriate in the circumstances.

The definition of additional support provided in the Act is a wide, inclusive one and it is not possible to provide an exhaustive list of all possible forms of additional support. Additional support falls into three overlapping, broad headings: approaches to learning and teaching, support from personnel and provision of resources. Examples are provided below of forms of additional support which are common in our schools, and many more can be given ⁹.

What is central to all these forms of support is that they have been identified as additional provision required to help individual children and young people benefit from school education, taking account of their particular needs and circumstances. The examples below refer to particular situations but should be understood more widely. They can be used to suggest how the law may apply in analogous situations. However, the examples are illustrative, not comprehensive, and they do not constitute an authoritative or exhaustive interpretation of the legislation.

Additional support for children and young people may be provided in a range of locations including in school, at home, in hospital, or in a specialist health, social services or voluntary agency facility. The additional support may include:

- a particular approach to learning and teaching: for example, as used with children and young people with autism spectrum disorders, dyslexia or sensory impairments
- youth work provided through community learning and development
- attendance shared between school and further education college
- the deployment of personnel from within the school or education authority: for example, support from a learning support teacher in the school or from a peripatetic teacher of the deaf
- the deployment of personnel from outwith education: for example, support provided by allied health professionals working in health or social workers from the local authority or staff from the voluntary sector where this support enables the child or young person to benefit from education
- provision of particular resources: including information and communications technology (ICT) and particular learning and teaching materials.

Examples of additional support provided from within education services to children and young people are the following:

- a support for learning assistant working with a learning disabled child in a nursery
- class teacher helping a child by following a behaviour management programme drawn up in consultation with a behaviour support teacher
- tutorial support from a support for learning teacher to help with a reading difficulty
- use of communication symbols by a child with an autism spectrum disorder
- designated support staff working with Gypsy/Traveller children on their site to help them improve their literacy and numeracy skills
- in-class support provided by an English as Additional Language (EAL) teacher for a child whose first language is not English
- a highly able child at the later stages of primary school receiving support to access the secondary mathematics curriculum

Some children and young people will require additional support from agencies from outwith education services if they are to make progress. This support may be provided outwith an educational setting. Some examples are:

- social work support to help a young person with social and emotional needs address his substance misuse
- communication programme drawn up by a speech and language therapist and teacher for implementation in the classroom
- anger management programme delivered to a group of young people by staff from a voluntary agency
- counselling provided by a voluntary agency for a child who has been bereaved and needs support to help her overcome difficulties in school
- psychiatric support for a child with mental health difficulties
- specialist equipment support from physiotherapy
- sensory integration programme provided by an occupational therapist
- group or individual career support to engage choices for education, training or employment in anticipating school leaving.