

SEND dispute resolution research

Purpose of report

For information.

Summary

In September 2021 the LGA commissioned the Isos Partnership, an independent consultancy, to undertake research on the effectiveness of the current Special Educational Needs and Disability (SEND) dispute resolution arrangements. The findings of this research were published last week and Natalie Parish from Isos will be attending the Board to discuss their findings and recommendations.

Recommendation/s

Members are asked to consider the findings of the research and how they feed into the LGA's wider work on the forthcoming SEND Green Paper.

Action/s

Officers to take forward Member's comments in our response to the forthcoming SEND Green Paper.

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SEND dispute resolution research

Background

1. The Children and Families Act 2014 was designed to fully reform services for vulnerable children, by giving them greater protection, paying special attention to those with additional needs, and helping parents and the family.
2. Since 2014, demand for SEND support has increased, with the number of children and young people with an Education, Health and Care Plan (EHCP) increasing year-on-yearⁱ. This increase in demand for support has been mirrored by an increase in the number of cases going before the SEND tribunalⁱⁱ. Ministry of Justice data suggests that 95% of cases were either won by parents, or saw local authorities withdraw or concede, it has been claimedⁱⁱⁱ.
3. In September 2021 the LGA commissioned the Isos Partnership, an independent consultancy, to undertake research on the effectiveness of the current Special Educational Needs and Disability (SEND) dispute resolution arrangements focussed on why so many cases are being lost by councils, how SEND resolution arrangements, including the use of mediation, can be improved to benefit all parties and; identifying work undertaken by councils and parents that seeks to resolve disputes without the need for tribunals.

Issues

4. The final report, *agreeing to disagree? Research into arrangements for avoiding disagreements and resolving disputes in the SEND system in England*, was published last week and covers:
 - 4.1 The current system for dealing with disagreements and resolving disputes
 - 4.2 Trends in disputes within the SEND system
 - 4.3 Key factors in avoiding disagreements and disputes and key challenges causing them and;
 - 4.4 What is needed to avoid disagreements and strengthen the way disputes are dealt with.
5. Based on conversations with council leaders, partners and national bodies that took part in the research, the report suggests that addressing the underlying tensions in the SEND system and reversing the trends in disagreements and disputes will require three fundamental changes:
 - 5.1 Rebalancing the SEND statutory framework to remove the tension between meeting the needs of an individual young person and ensuring there is provision that supports all children and young people

- 5.2 Strengthening expectations of, and accountability for, SEN support in mainstream education and;
- 5.3 Continuing to strengthen joint working between education, health and care services.

6. The full report, including an executive summary on pages 2-9, is attached at **Annex A**.

Implications for Wales

7. Special Educational Needs and Disability policy is a devolved issue and the findings of the report and the LGA's on-going SEND policy work applies to councils in England only.

Financial Implications

8. There are no financial implications for the LGA arising from this report.

Next steps

9. The Government's SEND Green Paper is due for publication by the end of March 2022 and the findings of this report, as well as comments from Members, will be taken forward as part of the LGA's response to the Green Paper.

ⁱ [Education, health and care plans, Reporting Year 2021 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics)

ⁱⁱ [Tribunal Statistics Quarterly, April to June 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

ⁱⁱⁱ [MoJ data suggests 95% of SEN tribunal cases lost, withdrawn or conceded by local authorities, claims charity \(localgovernmentlawyer.co.uk\)](https://www.localgovernmentlawyer.co.uk)