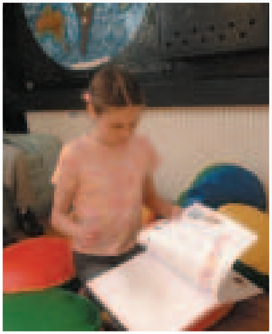

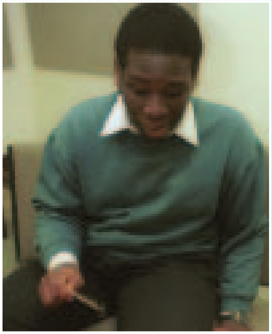

# Autism and education: the ongoing battle

## Experiences and outcomes of the Special Educational Needs and Disability Tribunal

Advocacy for Education Service

The National Autistic Society

# Acknowledgments

The authors would like to thank all the parents who completed the surveys which contributed to this report. We would also like to thank all Advocacy for Education Service volunteers and Clifford Chance lawyers who have supported families over the last three years in appealing to Tribunal.

# Terminology

Throughout this report the term **autism** is used to include all those on the autistic spectrum, including people with **Asperger syndrome**. Also mentioned in the text is the phrase ‘autistic spectrum disorders’: this term (often abbreviated to ASD) encompasses the range of disorders on the autistic spectrum, including Asperger syndrome.

All people with an autistic spectrum disorder experience difficulties in social interaction, social communication and imagination (or flexibility in thinking), usually referred to by the phrase ‘triad of impairments’.

For ease of reading we refer throughout to the Special Educational Needs and Disability Tribunal as **the Tribunal**, and Local Education Authorities as **LEAs**. The acronym SENDIST, frequently used to refer to the Special Educational Needs and Disability Tribunal, has not been used in this report.

*The quotations cited throughout the report come from parents who have used the Advocacy for Education Service between 2000-2003.*

# Autism and education: the ongoing battle

## Experiences and outcomes of the Special Educational Needs and Disability Tribunal

Advocacy for Education Service

The National Autistic Society

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Printed by Chromatec

# Summary

The Special Educational Needs and Disability Tribunal is a vital and impartial tool in resolving disagreements between parents and Local Education Authorities, one that is much valued by parents.

Nevertheless, many parents who have appealed to the Tribunal – with all the stress and financial burden this often involves – find that their Local Education Authority (LEA) agrees at the last minute to provide the help their child needs, causing unnecessary anxiety.

In some instances parents are successful in their appeal, only to find the Local Education Authority does not implement the Tribunal's order. This means they are back to square one in terms of getting their child the right kind of support.

The ongoing battle parents face in getting appropriate help shows that the education system is failing many children with autism.

## Recommendations

This report is designed to make sure that the system works to the satisfaction of all parties involved. If implemented we believe that the recommendations below will achieve this aim.

- **Department for Education and Skills (DfES) should:**
    - compile and analyse information on cases where implementation of Tribunal orders exceed statutory timescales, identify patterns of non-implementation, and highlight where additional resources may be needed
    - establish an independent monitoring body to regulate the implementation of orders made by the Tribunal, with the power to use sanctions against LEAs failing to comply with the statutory timescales
    - ensure that all LEAs and schools receive copies of the *Autistic Spectrum Disorders: Good Practice Guidance* (2002)[1] and report on its implementation to date
    - invest in improving the provision available to children with autism in mainstream schools, focusing on the training needs of classroom teachers and learning support assistants
- **Special Educational Needs and Disability Tribunal should:**
    - investigate instances of last-minute settlements by LEAs and report on any patterns that emerge

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[1] *Autistic Spectrum Disorders: Good Practice Guidance* (2002) Nottingham: Department for Education and Skills (DfES) and Department of Health (DoH)

  - ensure that orders are clearly written and promptly issued to make certain all parties understand the outcome of an appeal and enable the order to be speedily implemented
- **Local Government Association should:**
  - report on the difficulties faced by LEAs in implementing Tribunal decisions, and examine why the rate of last-minute settlements by LEAs is so high
- **Teacher Training Agency should:**
  - incorporate a module on autism into initial teacher training
- **Local Education Authorities should:**
  - publicise and promote dispute resolution services at an early stage, before parents have lodged an appeal with the Tribunal; OFSTED should monitor and report on the consistent application of this recommendation

# Overview

## Introduction

The education system in England and Wales is failing many children with autism, despite the introduction of recent legislation and guidance.[2]

The number of children identified as having autism is on the increase and many parents struggle to get the right kind of provision for their child.[3] For a large number of parents, understanding their entitlements and the processes involved in getting their child's educational needs met is confusing and complex. The increasing number of appeals to the Special Educational Needs and Disability Tribunal[4] related to autism highlights this struggle.[5]

The Tribunal exists to hear parent's appeals against decisions of Local Education Authorities (LEAs) about children's special educational needs, where parents cannot reach an agreement with their LEA. The Tribunal also considers parents' claims of disability discrimination in schools.[6]

No parent will appeal to the Tribunal on spurious grounds. Every appeal represents genuine parental dissatisfaction with the educational provision available for their child.

Appealing to the Tribunal is a last resort for parents. It is time-consuming, stressful, and financially costly. Yet despite this, the Tribunal is an important, impartial tool in resolving disagreements between parents and LEAs, one which is much valued by parents.

When the Tribunal decides in their favour, parents believe their struggle to get the right kind of education for their child is over. Their disbelief and distress when the LEA ignores the decision is entirely understandable.

This report is about parents' experiences of appealing to the Special Educational Needs and Disability Tribunal and its outcomes. We have examined the experience of 90 families appealing to the Tribunal between 2000 – 2003. All these families received support from The National Autistic Society's Advocacy for Education Service. This report highlights their ongoing battle and the shortfalls of an inadequate system.

## Autism: a complex issue for schools and LEAs

Autism is a lifelong developmental disability that affects the way a person communicates and relates to those around them. Their ability to develop friendships is impaired as is their capacity to understand other people's

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[2] *Special Educational Needs Code of Practice* (2001); *SEN Toolkit* (2001): Nottingham: DfES; *Special Educational Needs and Disability Act* (2001) London: The Stationery Office

[3] J. Barnard et al, *Autism in Schools Crisis or Challenge?* (2002) London: The National Autistic Society (NAS)

[4] A detailed profile of the Tribunal is in Appendix B.

[5] Appeals have increased by 43% over the last two years: Special Educational Needs and Disability Tribunal website: current trends.

[6] This report does not detail parents' experiences of disability discrimination claims. This is due to the very small number of claims that have appeared before tribunal to date.

feelings. Some people with autism have accompanying learning disabilities. Everyone with the condition shares a difficulty in making sense of the world.

Providing an appropriate education for children with autism often requires a degree of specialist understanding that is not present in many mainstream schools.[7] Children with autism may also need significant additional support, such as a classroom assistant or regular sessions of speech and language therapy. The failure of schools and LEAs to provide appropriately for children with autism can have seriously negative consequences on a child's behaviour, which can lead to exclusion from school.

The lack of understanding and appropriate provision means that children with autism are losing out, which leaves parents with little recourse other than to appeal to the Tribunal.

## Increasing number of appeals to the Tribunal

From 2001-2003 there has been a 43.6% increase in the number of appeals concerning children with autism being lodged with the Tribunal.

In 2002-2003, 19.8% of the appeals registered at Tribunal concerned pupils with autism. This shows a marked increase in appeals from the previous year when 16.1% of appeals concerned pupils with autism.[8] It is estimated that children with autism make up 4.6% of the total population of children with special educational needs in England and Wales.[9] Therefore cases involving children with autism are clearly over-represented at Tribunal. These figures demonstrate the particular challenges that children with autism pose to the education system.

## The National Autistic Society's Advocacy for Education Service

Our Advocacy for Education Service is a volunteer-driven advice and advocacy service. We offer telephone advice to parents on special educational needs provision and entitlements. Our aim is to empower parents to be confident partners in their child's education and ensure that their child receives appropriate provision. We also provide support for parents appealing to Tribunal. Volunteer telephone caseworkers will help parents lodge their appeal, prepare their case, gather evidence and identify witnesses.

Most parents, given this support, are able to represent themselves at Tribunal. However, for some parents this is a daunting task and assistance is needed. Legal Aid is not available for representation and so we offer support through our alliance with global law firm Clifford Chance, who provide pro bono representation for these families. The Advocacy for Education Service has helped over 3,000 families to date, over 300 at Tribunal.

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[7] J. Barnard et al, *Autism in Schools Crisis or Challenge?* (2002), London: NAS

[8] Figures taken from current trends displayed on the Special Educational Needs and Disability Tribunal website. Figures show registrations of appeals by nature of special educational needs: September 2002 - June 2003 compared to the same period last year.

[9] Figures extrapolated from the total population of children with SEN cited in *Special Educational Needs A Mainstream Issue* (2002) London: Audit Commission.

The struggle parents face in obtaining an appropriate education for their child is demonstrated by the fact that parents contact the service at each stage of the process. As the number of parents who return to our service following their experience at Tribunal has steadily increased over the past year, we have investigated why this might be and where the opportunities for improvement lie.

> *‘No one with a child with special needs should have to go through this. There is not enough support for families. I do not know how I would have coped without The National Autistic Society.’*

# Findings

## Methodology

We surveyed 214 parents who at some point in their appeal to the Tribunal had support from The National Autistic Society's Advocacy for Education Service. 90 parents responded and of this sample 80% were successful in their appeal.[10]

This report concerns parents' experiences of appealing to the Special Educational Needs and Disability Tribunal. Parents ask for support from the Advocacy for Education Service only when they experience difficulties, therefore the report does not capture the many positive experiences of education that we know exist.

## Parents views of the Tribunal

'The Tribunal was polite and direct – they listened to both parties and arrived at a decision, which benefited our son.'

The Tribunal plays a vital, independent role in resolving disagreements between parents and local education authorities, which is greatly appreciated by parents.

> *'[It is] Excellent to have Tribunal as a tool for parents.'*
>
> *'The Tribunal was polite and direct – they listened to both parties and arrived at a decision, which benefited our son.'*

However, many parents felt the Tribunal process could be better administered to reduce unnecessary stress and expenditure.

'[The] Tribunal process is clear – [although] the preparation of documentation is designed to frustrate all except the most determined.'

> *'[The] Tribunal process is clear – [although] the preparation of documentation is designed to frustrate all except the most determined.'*
>
> *'The tribunal process is slow and tedious and very daunting initially. However, now that I am familiar with the process I believe it is a fair and honest system.'*

The Tribunal consistently delivers decisions that demonstrate parental concerns are well founded.[11] Nearly two fifths of parents (38%) told us that their child's education had improved greatly as a result of their successful appeal.

The high success rate of appeals to the Tribunal indicates that parents only contemplate bringing a case when they have genuine grounds for concern about their child's education. It also highlights the failure of the current process to consistently deliver appropriate provision for all children with autism without the intervention of the Tribunal and underlines the need for such a body.

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[10] A detailed profile of respondents is in Appendix A.

[11] In 2001 – 2002, 76% of parents' appeals to Tribunal were upheld. *Special Educational Needs and Disability Tribunal Annual Report* (2001 – 2002) Nottingham: DfES

## A problem with the process

While the main thrust of our survey was to find out what happened after a successful appeal to Tribunal, our findings uncovered many problems with the nature of appeals and the process itself.

‘LEAs appear to deliberately refuse to assess with the expectation that parents will go to Tribunal. The LEA then 'backs off' a few days before the hearing.’

## Refusing to assess

A statutory assessment is a key stage in the process to unlocking the additional resources a child might need to fulfil their educational potential. LEAs must identify a child’s special educational needs and what provision is needed to meet them through a statutory assessment for those children who have special educational needs and who probably need a statement.[12]

Significantly, in our survey over half (56%) of the families where the child had a specific diagnosis of Asperger syndrome had been refused a statutory assessment by their LEA. This suggests that LEAs continue to underestimate the impact of Asperger syndrome on a child’s special educational needs.

Official Tribunal figures state that from 2001 - 2002 a total of 1,141 cases were registered regarding refusal to assess.[13] However, only 286 decisions were made (186 upheld). This leads to the assumption that, of the remaining 855 cases, a large number of cases were withdrawn because the LEA agreed to assess.

> *‘LEAs appear to deliberately refuse to assess with the expectation that parents will go to Tribunal. The LEA then 'backs off' a few days before the hearing.’*

For many of those parents who successfully contested the decision of their LEA to assess their child, the battle did not end there.

> *‘Even though the LEA implemented the decision on their refusal to assess and assessed my child, I’m now going to tribunal again as the LEA have refused to statement my child.’*

A statutory assessment does not automatically guarantee a statement of a child’s special educational needs.

## Statements

A statutory assessment does not automatically guarantee a statement of a child’s special educational needs. A statement must be made and maintained by the LEA where, in the light of a statutory assessment, it is necessary for the LEA to determine the special educational provision which the child’s learning difficulty calls for. Parents feel a statement serves as a guarantee that their child will receive the help their child needs.

Nearly four in ten respondents (38%) appealed to the Tribunal on all three possible parts of the statement – the description of the child’s special educational needs, the provision needed to meet them and the appropriate educational school or placement. This highlights serious difficulties with the existing statementing process, as a parent should be given the opportunity to review and agree on a proposed statement before a final statement is issued.[14]

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[12] *The Special Educational Needs Code of Practice* (2001) Nottingham: DfES. This document clearly explains the graduated approach to meeting a child’s special educational needs.

[13] *The Special Educational Needs and Disability Tribunal Annual Report* (2001-2002) Nottingham: DfES

[14] *The Special Educational Needs Code of Practice* (2001) Nottingham: DfES

In over 40% of cases this settlement took place in the last six weeks of a four to six month process, after both sides had submitted a case statement.

## 'Eleventh hour' settlements: an abuse of the system?

Over half of our parents surveyed (56%) said their appeal did not reach a hearing of the Tribunal panel. This figure increased to 70% of cases involving children with a diagnosis of Asperger syndrome. This suggests that the threat of lodging an appeal was sufficient to encourage the LEA to agree to the parents' requests.

In over 40% of cases this settlement took place in the last six weeks of a four to six month process, after both sides had submitted a case statement.

The case statement is the second part of the appeal process following the initial application. Preparing a case statement involves gathering together all the evidence and documentation needed to fully present an argument before the Tribunal. For parents this is often an overwhelming and intimidating task. To present a robust case many parents have to commission an independent assessment of their child by a relevant professional such as an educational psychologist or speech and language therapist. This often incurs considerable cost and is frequently difficult to obtain within the time limits set for submitting a case statement.[15]

We are concerned that the high rate of eleventh-hour settlements may mean that LEAs are using the Tribunal process as a delaying tactic in the anticipation that parents will not have the fortitude to go through a complex four to six month process.

Some parents confirmed that this was indeed their perception:

> *'[The LEA] totally ignored my son's needs until I issued an appeal – only then did they concede what his needs were both in relation to education and [speech and language] therapy – previously he had no educational provision.'*
>
> *'I am an articulate well-educated person who found the whole process extremely distressing. I had the money to fund the private reports and despite all this found the whole process completely unbearable. Without the help and support of [an NAS volunteer] I could not have coped. I feel sorry for anyone who either can't afford or doesn't have the same personal skills. It must be impossible.'*
>
> *'The LEA agreed to re-assess [my child] after a tribunal date was set. However, they made no further moves to start the re-assessment process, making the excuse that he was moving to a specialist unit.'*

We are concerned that the high rate of eleventh-hour settlements may mean that LEAs are using the Tribunal process as a delaying tactic...

## Financial and emotional costs

While it could be argued late agreements such as this are still welcome by parents, they must be considered in the light of the emotional and financial costs of appealing to tribunal.

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[15] This is due to the lack of independent educational psychologists and speech and language therapists with an expertise in autism

Two families' experiences:

> *'The whole thing from start to finish is a living nightmare. I don't think anyone understands [my son's] needs. They dismiss you as a parent and it affects everybody, the entire family. The amount of paperwork is unbelievable and my son was very stressed, even suicidal.'*
>
> *'We have all put our lives on hold. We dare not spend any money or commit to going on holiday.'*

Parents who have the strength and perhaps more importantly the finances will continue to battle, but what of those who are unable to do so?

> *'The financial cost of lawyer, independent educational psychologist and speech and language therapist totalled £3,000.'*
>
> *'We spent around £10,000 to fight [the LEA]. The process took two years by which time [our daughter] was almost 16.'*

We believe there is a flaw in the system if LEAs are consistently capitulating at the last moment to the requests made by parents. This is at great emotional costs to families, and financial outlay to parents, LEAs and the Tribunal itself. Some urgent investigation is needed to identify why this is happening time after time and to stop the Tribunal process being used as a rearguard action by LEAs intent on protecting their budgets.

The financial and emotional burden on a family going to Tribunal once is high. The cost to a family having to go to Tribunal three times is unthinkable.

## Returning to Tribunal

The situations where parents are repeatedly appealing to Tribunal to have their child's educational needs met are particularly perturbing. We have helped parents who have appealed against a refusal to assess their child, then appealed against a refusal to statement, and appealed for the third time against the contents of a statement and the provision or placement identified to meet their child's needs.

The financial and emotional burden on a family going to Tribunal once is high. The cost to a family having to go to Tribunal three times is unthinkable.

> *'The whole process of assessment and statementing, including getting agreement to assess took over four years, by which time my son was so disengaged, disaffected from education that he has not been able to cope in mainstream school.'*
>
> *'Even though the assessment process was implemented we are having to go to Tribunal again for refusal to statement.'*

## Implementation of Tribunal decisions

Many parents who are successful in their appeal find the LEA does not effectively implement the Tribunal's order and they are back to square one in terms of getting their child the right kind of support.

> *'Once we received a statement at Tribunal in 2000, this was not implemented by the LEA and we returned in 2003 and were successful in*

> (cont.) *getting substantial changes to it. Things have been extremely difficult. The LEA has failed to access the level of support required, the support has been mismanaged and this has led to crisis in the mainstream school and my child was excluded and has been unable to return.'*

Over a third (36%) of parents surveyed found it extremely difficult to get the LEA to implement the Tribunal's order. This struggle to secure effective implementation turns the Tribunal process from an even-handed arbitration to a lottery biased towards parents with substantial intellectual and financial resources, along with the emotional strength to continue to fight for their child's interests.

> *'We found the implementation process extremely stressful and once again a delay in the LEA finding an appropriate placement for C. after she was excluded from mainstream school.'*
>
> *'I feel it is all very stressful, expensive and exhausting, for what ends up to being agreed by the LEA. It seems only parents who can jump through hoops get their children more suitable provision. I have seen more affluent parents "go for it" with solicitors pursuing their cases, and they end up with a lot more than I have achieved and much earlier.'*

In only six of every ten cases were Tribunal orders fully implemented by LEAs, or the LEA delivered the improved provision agreed when the case was settled before reaching the Tribunal panel. Of the remainder, a third of Tribunal orders were partially implemented and one in ten decisions were not implemented at all.

> *'Promises were made at the hearing that we knew could not be met - the panel were hoodwinked.'*
>
> *'[The LEA] changed the statement but have said that they do not have the power to force the school to implement it.'*

No robust mechanism exists to monitor the implementation[16] of Tribunal rulings, nor is there an easy route for parents to seek redress if a decision is not implemented.

Implementation was easiest in primary settings, while a case at secondary level was twice as likely to be only partially implemented. This may reflect the ongoing difficulties experienced by mainstream secondary schools in adapting the curriculum and the physical environment to meet the needs of pupils with autism.

## Policing the LEAs

Decisions made by the Tribunal are legally binding and should be automatically implemented by an LEA within set timescales. However, no robust mechanism exists to monitor the implementation[16] of Tribunal rulings, nor is there an easy route for parents to seek redress if a decision is not implemented.

> *'Once the tribunal has been won there is nowhere to turn to when the LEA do not comply. There is no follow up to make sure the decision is implemented.'*

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[16] These are set out in the Education (Special Educational Needs) (England) (Consolidation) regulations 2001, SI 2001/3455, reg 25(2) and in Wales, Special Educational Needs (Time Limits) (Wales) Regulations 2001, SI 2001/3982, reg 3(2), London: The Stationery Office

Parents contacted a wide range of bodies for support with implementation, including the usual routes of redress: the Local Government Ombudsman, the DfES and the Secretary of State. Nearly three in ten parents (29%) had contacted a solicitor at some stage during the implementation process, incurring additional expense to that created by the Tribunal process itself. Of the 59 respondents seeking support for the implementation of a Tribunal order, only one found any of the logical 'watchdogs' listed above to be the most helpful resource.

An independent body is urgently needed to monitor LEAs, and help enforce Tribunal decisions so that they are implemented within the time limits stated.

Most parents stated that even where Tribunal orders had been implemented, LEAs were ignoring the timescales for implementation.  The only grounds for which LEAs consistently implemented decisions on time were to amend a statement. For those grounds where implementation required tangible action on the part of the LEA (assessment, reassessment, changing a school), many cases exceeded the statutory timescales for implementation.

> *'The LEA was very bad at following the time limit after the assessment was made and although the decision to assess was made in February and all assessments carried out by April, there were delays of which we were not informed about and his draft statement did not appear until the end of July.'*

An independent body is urgently needed to monitor LEAs, and help enforce Tribunal decisions so that they are implemented within the time limits stated. The body should be required to monitor the time it takes LEAs to implement tribunal decisions and be allowed to impose sanctions if they do not do so.

> *'I feel that there needs to be a follow-up service following the order in which someone is checking what has happened and whether or not the order has been implemented properly. It is very difficult for a layperson to assess this.'*

## Consequences

The consequences of failures on the part of LEAs to implement Tribunal decisions, or failures to stick to statutory timescales, are sadly predictable.

> *'The LEA's failure to implement recommendations made at Tribunal have been to the detriment of my child…the LEA is failing autistic children and their families.'*

Many parents described the impact of these delays on their child, including exclusion from school, increased social isolation and extreme behavioural difficulties. Several parents also told of a serious negative impact on the health and well being of the whole family. At the most extreme, parents spoke of nervous breakdowns, episodes of physical and mental ill health and unemployment as consequences of non-implementation of Tribunal decisions.

One parent reported:

> *'We found the implementation process extremely stressful, coping with and caring for my daughter and the stress of going through the statementing procedure affected my mental health. I had to be put on medication by my GP. I feel that parents with special needs children should not have to cope with the added stress of dealing with an LEA who cannot be bothered to educate your child. I dread ever having to go through anything like this again.'*

'We found the implementation process extremely stressful, coping with and caring for my daughter and the stress of going through the statementing procedure affected my mental health...'

Parents see themselves in conflict with their LEA. The whole ethos of the government's education policy is that LEAs should work in partnership with parents to meet the needs of children. However, 56% of parents in our survey said they had a non-existent relationship with their LEA. With the introduction of dispute resolution services[17] this position may improve.

However, good communication although essential, does not eradicate the fundamental problem: the lack of resources.

## Time for change

In reality, schools and LEAs are constrained in the provision they can offer by their education budgets set by central Government. Although the LEA continues to hold absolute legal responsibility for meeting a child's special educational needs, it will face severe sanctions if it overspends on its budget, as was shown during the dispute over school funding at the end of the 2002-2003 academic year.

Recent initiatives, such as the production of *Autistic Spectrum Disorders: Good Practice Guidance* from the Department for Education and Skills and the Department of Health, are leading to a gradual improvement in provision for children with autism across many areas. Yet parents cannot wait for practice in their child's setting to slowly improve. A negative educational experience seriously hinders the development of social and communication skills in children with autism that are vital for adult life. This is why parents continue to seek appropriate provision for their child through recourse to the Tribunal.

Central Government must adequately resource LEAs to provide an appropriate education for all children. In the short term, additional funding must be made available so that LEAs have the resources to implement Tribunal decisions within statutory timescales.

> *'My experience with the LEA is that they drag their heels until forced to act. This I believe is due to the lack of Government funding.'*

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[17] See appendix C for further details.

# Appendices

## Appendix A – profile of respondents

| | |
|---|---|
| Total surveys sent out: | 214 |
| Total received | 90 |

Diagnosis

| | |
|---|---|
| Autism | 39 |
| Asperger syndrome | 47 |
| Not stated | 4 |

School type by age

| | |
|---|---|
| Nursery/Preschool | 5 |
| Primary | 38 |
| Secondary | 38 |
| At home/not at school/other | 9 |

Educational setting*

| | |
|---|---|
| Mainstream | 41 |
| Maintained Special | 26 |
| Independent | 17 |
| Home | 8 |
| Not stated | 4 |

* The slight discrepancy in the total indicates that a small number of parents have ticked two boxes in our survey

## Appendix B – the Special Educational Needs and Disability Tribunal

The Special Educational Needs and Disability Tribunal is an independent tribunal which hears parents' appeals against some decisions made by the LEA about their child's special educational needs. The Tribunal only covers England and Wales.[18] Parents can appeal against:

- LEA refusal to carry out a statutory assessment or reassessment of a child's special educational needs
- LEA refusal to issue a Statement after carrying out a statutory assessment or reassessment
- The description of a child's special educational needs in Part 2 of the Statement
- The description of the special educational provision in Part 3 of the Statement
- School named in Part 4 of the Statement
- The fact that no school has been named in the Statement
- LEA refusal to change the school named in the Statement
- LEA deciding to cease to maintain a child's Statement.

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[18] From 1 September 2003 parents in Wales will be able to appeal to a new, devolved, Special Educational Needs Tribunal for Wales (SENTW). The SENTW will hear Welsh SEN appeals, and also claims of disability discrimination in relation to schools in Wales.

The Tribunal consists of three people: a legally qualified Chair and two lay members who will have experience of children with special educational needs, although they are not required to have experience in the type of special educational need that the specific hearing concerns.

If parents do not agree with the Tribunal's decision, they can either apply for the Tribunal to review the decision or in some circumstances they can appeal to the High Court. Parents cannot appeal to the High Court simply because they do not agree with the decision; they must show that there was something wrong with the legal approach to the case.

Since September 2002, the Tribunal has also been able to hear disability discrimination claims. This results from the *Special Educational Needs and Disability Act* 2001.

## Appendix C – dispute resolution

*Under the Special Educational Needs and Disability Act* 2001[19] , LEAs must put in place dispute resolution mechanisms and an independent person or organisation must provide these arrangements. The crucially important detail stated in the Act is that these arrangements cannot affect the parents' right to go to tribunal.

The Special Educational Needs Code of Practice sets out the minimum standards required in delivering an effective disagreement resolution service. The aim of the service is made clear: it is to prevent the development of long-term problems so that in time the number of appeals going to Tribunal will be reduced. It also states that disagreement resolution should ensure that practical educational solutions, acceptable to all parties, are reached as quickly as possible so that there is minimum disruption to a child's education.

It is possible the rising number of Tribunal cases reflects the limited use of these mechanisms when a fundamental disagreement arises between parents and LEAs over the most appropriate type of provision. It also seems that some parents are given access to the disagreement resolution service only when they have lodged an appeal with the Tribunal, when parents are unlikely to feel inclined to negotiate with the LEA.

[19] An act to amend Part 4 of the *Education Act* (1996) London: HMSO

The National Autistic Society (NAS) was founded in 1962 by a group of parents who were later joined by people with a professional interest in autism. Today, the Society has become the UK's foremost charity for people with autism and Asperger syndrome, and for their parents and carers. The NAS leads national and international initiatives providing a strong voice for autism. The organisation works in many areas to help people with an autistic spectrum disorder live their lives with as much independence as possible.

The NAS

- runs schools and adult centres
- supports local authorities in the development of their own specialist services
- maintains a library available to parents and researchers by appointment
- publishes a range of books and leaflets
- runs the Autism Helpline for parents and carers and people with autistic spectrum disorders
- organises conferences and training programmes
- offers specialist diagnosis and assessment services
- supports local groups and families around the country
- organises parent workshops
- encourages research into the causes of autism
- offers advice and advocacy for special educational needs
- raises awareness and creates a better understanding of autism
- organises volunteering schemes
- provides information and consultancy to professionals and organisations working in the field of autism
- offers an accreditation programme for autism-specific education and care services
- runs Prospects, a supported employment service, for adults with autistic spectrum disorders
- Campaigns to improve services for autism in Westminster, the Scottish Parliament and the Welsh Assembly

The National
Autistic Society

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