



expert legal remedies for children with  
special educational needs

the Education Law Unit : 2002 to 2004  
report on activities  
funded by the Scottish Executive (SEN Innovation Grant)

## **Forewords**

I am delighted to be able to provide a foreword for this report. Glasgow City Council, Education Services has engaged with the Education Law Unit in its training capacity and as a representative of parents and young people. On both aspects of its operation I have been regularly impressed by the quality of its input and the professional integrity of its advice.

Training sessions to education staff have consistently attracted a high rating for content and style of delivery. The quality of reference materials distributed at the sessions is reflected in the fact that schools use them as regular sources of information and guidance on a range of issues. The authority intends to commission further training packages in the coming session.

The information leaflets aimed at pupils are distributed to all schools and copies are also made available in the reception area of Education headquarters. In drawing up the leaflets unit staff consulted with the Steering Group, Education Services and young people.

In respect of individual cases, the unit has shown a commitment to proactive dialogue with the authority with the mutual aim of ensuring that a pupil's rights are protected while also respecting the context in which the authority operates. As a consequence, most issues have been resolved to the mutual satisfaction of the client and the department.

In summary, I have no hesitation in commending the work of the Education Law Unit.

**Margaret Orr**  
**Head of Special Educational Needs**  
**Glasgow City Council**  
**April 2004**

*Enquire* finds it vital to have an independent source of expert advice as a point of reference when we are asked about complex legal education issues. In the past we have paid Govan Law Centre to provide this service, but in the last two years we have been able to make use of the Education Law Helpline free of charge. This is an important resource for our service. We have also benefited from the comprehensive training which the Education Law Unit provides.

**Dinah Aitken**  
**Senior Information and Advice Manager**  
**Enquire**  
**April 2004**

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## Education Law Training

### Stream One: for education authorities

In consultation with senior education officers, a two day programme was designed which covered all of the key legal areas related to children with special educational needs. A typical events programme looked something like this:

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<b>Day One</b>	<b>Day Two</b>
Pupils' Rights	Disabled Pupils
Pupil Welfare	⊕ Definition of Disability
⊕ Safety & Supervision	⊕ Disability Discrimination
⊕ Bullying & the Law	⊕ Accessibility Strategies
⊕ Admin of Medicines	Placing & Exclusion
Pupils with Special Needs	⊕ Placing Requests
⊕ Special Educational Needs	⊕ Exclusion from School
⊕ Record of Needs	⊕ Rights of Appeal
⊕ Additional Support for Learning	

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Govan Law Centre is registered with the GTC's national register of CPD providers for teachers and each two day training event provides approx. 8 hours of CPD.

The above programme (or locally adapted versions thereof) was provided to delegates from every education authority in Scotland (apart from Western Isles, to whom it was offered). The feedback from these training events was excellent.

**98%** rated the training as "excellent" or "good"

**98%** rated the training as "useful" or "very useful"

**97%** rated the training materials as "excellent" or "good"

In addition to the above activities, which were funded by the SEN Innovations Grant Scheme, Govan Law Centre ran a number of one-off conferences or seminars, and undertook a large amount of in-house training for schools and authorities.

These events covered such topics as: challenging behaviour; out-of-school trips; access to pupils records; exclusion and discipline; disability discrimination and human rights in the classroom.

In total, over 4,800 members of education authority staff were trained by the Education Law Unit in 2002-2004. Here's what they said about our training:

**Really helpful – nay, essential!**

Secondary Head Teacher, Glasgow City Council

**Excellent two days. Well done!**  
Solicitor, East Dunbartonshire Council

**Very helpful indeed. Clear comprehensive delivery.**  
Principal Educational Psychologist, North Lanarkshire Council

**Very well presented with excellent practical application of legal issues.**  
Head Teacher, East Renfrewshire Council

**Excellent presenter with amazing depth of knowledge!**  
Assistant Head Teacher, Midlothian Council

**This was a useful well delivered training .. excellent !**  
Support for Learning Manager, Midlothian Council

**Something of a tour de force!**  
Head Teacher, Highland Council

**Excellent content, interesting delivery – just what was needed.**  
Access Officer (Children's Services), Orkney Islands Council

**Vital training – why didn't it happen before?**  
Head Teacher, Orkney Islands Council

**.. will provoke audit in future practice.**  
Head Teacher, Glasgow City

**.. we need to disseminate this to all our colleagues.**  
Principal Teacher, Behaviour Support

**Revealing and stimulating presentation .. invaluable.**  
Secondary Teacher, East Dunbartonshire

**High quality, very well informed speakers.**  
Depute Rector, Fife

**Every teacher, depute and head teacher  
should have the opportunity to hear this.**  
Primary Teacher, Glasgow City

**More conferences like this should be held.**  
Senior Manager, Independent Special School

**Interesting, amusing & not a little frightening!**

Head Teacher, East Ayrshire

**.. greatly exceeded my expectations ..**

Head Teacher, Dumfries & Galloway

**.. made the topic relevant and real to school practice**

Head Teacher, East Ayrshire

**Would bear repeating for other staff as new legislation is released.**

Head Teacher, East Ayrshire

**Was extremely helpful in the light of current legislation  
and the client group in my school .. covered many areas  
which are currently topical in school and wider community.**

Head Teacher, North Ayrshire

**Stream Two: for advisers**

Govan Law Centre's Education Law Unit designed and delivered a certificated course for people who advise pupils with special educational needs (or their parents). We adopted a variety of modes of delivery in order to suit both volunteer and professional advisers and these were delivered in various parts of the country to maximise access.

**3-31 October 2002, Glasgow**

Run as a five week course on Thursday afternoons.

**4-5 March 2003, Inverness**

Run as a mid-week two day condensed course.

**20 August-17 September 2003, Edinburgh**

Run as a five week twilight course on Wednesday evenings.

**6-7 November 2003, Aberdeen**

Run as a mid-week two day condensed course.

In all, a total of 125 advisers have now been trained in advising clients with education law problems related to special educational needs. Continuing support is available to these advisers by way of access to the Education Law Helpline.

**96%** rated the course as "excellent" or "good"

**98%** rated the course as "useful" or "very useful"

**100%** rated the course materials as "excellent" or "good"

Here's what advisers have been saying about the course:

**Very useful and relevant to my work.**

**It will help me in children's panel, school board  
and other education volunteer work.**

**This was an excellent course.**

**Very informative – good information to pass on.**

**Very practical and easily understandable.  
Not too much jargon! Plenty of time for questions etc.**

**Very helpful as we get a lot of questions  
from parents of disabled children and school issues.**

**Stream Three:** for parents

A workshop on parents' rights has proved to be a popular format, often delivered in the evenings or at weekends to suit parents who work or have childcare commitments during the day. By invitation, the Education Law Unit has run this event (or similar training on parents' rights) for 29 parents groups.

Here's a selection of what parents have been saying about the workshops:

**Invaluable.**

Parent of child with special educational needs

**Very worthwhile.**

Parent of child with ADHD, Asperger's Syndrome, Dyslexia and Dyspraxia

**Complex subjects, all very succinct and informative.**

Single parent of child with special educational needs

**All of it excellent and very interesting –  
lots of good information very clearly presented.**

Parent of child with special educational needs

**Most helpful to pass on to other families.**

Parent of child with special educational needs

**It was an insight into education law.**  
Parent of child with special educational needs

**A National Training Remit: for all of Scotland**

The Education Law Unit's national training remit has taken us to all parts of Scotland: from Kirkwall to Dumfries and from Aberdeen to Inverary, including:

<b>Aberdeen *</b>	<b>Biggar</b>	<b>Blantyre</b>	<b>Cambuslang</b>
<b>Cardenden</b>	<b>Castle Douglas</b>	<b>Clydebank</b>	<b>Crieff</b>
<b>Dingwall</b>	<b>Dumfries *</b>	<b>Dunfermline *</b>	<b>East Kilbride *</b>
<b>Edinburgh *</b>	<b>Elgin</b>	<b>Fenwick</b>	<b>Glasgow *</b>
<b>Hamilton</b>	<b>Inverary</b>	<b>Inverness *</b>	<b>Kilmarnock</b>
<b>Kincardine</b>	<b>Kirkwall</b>	<b>Lanark</b>	<b>Lenzie</b>
<b>Lesmahagow</b>	<b>Lochgelly</b>	<b>Menstrie</b>	<b>Nairn</b>
<b>Newton Stewart</b>	<b>Perth *</b>	<b>Rumbling Bridge</b>	<b>Rutherglen</b>
<b>Stepps</b>	<b>Stirling *</b>	<b>Strathaven</b>	

\* indicates a location visited more than once

## Education Law Advice

### Education Law Helpline: second-tier advice for SEN advisers

Govan Law Centre's Education Law Helpline, having been set up in June 2003 to a slow start, now receives hundreds of telephone calls and e-mails a year and provides a vital support service for advisers helping children with special educational needs across Scotland.

Our service is relied on by dozens of local and national advice bodies, both specialist and generalist, from small parent support groups to publicly funded national services including:

CHES	Enquire	ENABLE
Tourette Scotland	Schoolhouse	Scottish Child Law Centre
Dyslexia Scotland	Equity Group	Downs Syndrome Scotland
Solicitors	Citizens' Advice Bureaux	Scottish Spina Bifida Assoc
Education Authorities	Social Work Departments	ADD it up (ADHD Group)

and a number of referrals made by the Scottish Executive Education Department.

The Helpline can be accessed by telephone, e-mail, fax or text-phone (minicom). 82% of education law enquiries are made by telephone, with 18% made by e-mail. In addition to the numerous general enquiries received, a total of 724 requests for detailed legal advice were made and answered to March 2004. Of these, the enquiries concerned:

Special Educational Needs (generally)	<b>17 %</b>
Placing Requests / Choice of School	<b>17 %</b>
Record of Needs	<b>13 %</b>
Pupil Welfare	<b>13 %</b>
Exclusion from School	<b>11 %</b>
Transport to School	<b>8 %</b>
Bullying at School	<b>7 %</b>
Disability Discrimination	<b>7 %</b>
Pre-School / Nursery Education	<b>3 %</b>
Administration of Medicines	<b>2 %</b>
Accessibility Strategies	<b>1 %</b>
Additional Support for Learning	<b>1 %</b>
Other / Miscellaneous	<b>2 %</b>

Enquiries were made in relation to and on behalf of children and young people with a wide spectrum of needs:

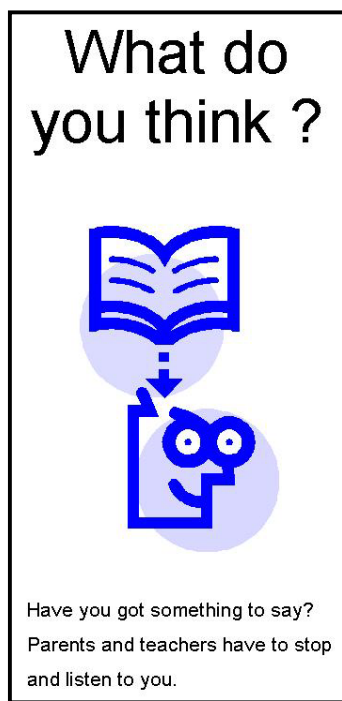
Autistic Spectrum Disorders	<b>19 %</b>
Social, Emotional or Behavioural Needs	<b>12 %</b>
Learning Difficulties	<b>11 %</b>
Physical Disability	<b>7 %</b>
Communication Difficulties	<b>4 %</b>
Sensory Impairment	<b>4 %</b>
Medical Condition / Illness	<b>3 %</b>
Mental Ill-Health	<b>*</b>
Other / Not Specified	<b>38 %</b>

\* indicates the figure is too low to register statistically, but is not zero.

A sample of user organisations were asked for feedback on the helpline. While the number of responses was too low to allow for statistical analysis, but the feedback received indicated that the helpline was thought of as "good" overall; that advice was given promptly and accurately; and was both useful and understandable. Concerns raised about the lack of cover for staff manning the Education Law Helpline have been addressed in future funding applications.

## Education Law Information

### Leaflets: for children with special educational needs



At the request of our funders, the Education Law Unit agreed to produce a series of eight leaflets on various education law topics. The leaflets were to be written in a way which would be understandable for children and young people with special educational needs.

The eight topics finally selected for leaflets were:

- Disabled and at school. \*
- Do I have to go to school?
- Getting extra help at school.
- Getting to school.
- Help! I'm being bullied. \*
- Help! I've been excluded.
- Human rights at school. \*
- What do you think? \*

Each of these titles is now available in alternative formats and community languages. The leaflets are available in Arabic, Braille, Chinese, English, Gaelic, Hindi, Punjabi and Urdu. They are also available in audio format, and those marked with a \*, in BSL video. These alternative formats are available to download for free from the Education Law Unit's website ([www.edlaw.org.uk](http://www.edlaw.org.uk)).

Well over 250,000 leaflets have been distributed to schools, voluntary agencies and individuals across Scotland.

A consultation exercise was carried out with a "focus group" of seven children from Knox Academy, Haddington. The children, aged 12-17, were asked for their opinions on the leaflets. All seven said they liked the leaflets. Their comments are listed below:

**The leaflets are informative and tell you exactly what should be happening.**

**I have learned that disabled children have more rights and there are people in school to help them.**

**Easy to read.**

You can tell the school about bullying .. the school must listen to what you have to say about your education.

There are lots of people / organisations to help.

**Website:** online education law resources

The Education Law Unit's website, [www.edlaw.org.uk](http://www.edlaw.org.uk) has proved to be very popular, with over 7,000 pages viewed since its launch early in 2003.

The website includes the following innovative features:

- up-to-date education news and the latest developments in education law at our "News Centre";
- access to our full range of leaflets in English and community languages by PDF download, and to listen and view in Real Player and Microsoft Media Player formats;
- various articles on matters pertinent to education law;
- a unique, automated "e-mail me back" FAQ function;
- full information of the Education Law Unit, its staff and day-to-day work;
- access to the Education Law Helpline through interactive "Ask ELU a Question" section; and
- online registration for the Education Law Helpline and application for the User Advisory Committee.



As well as attracting a large number of visitors, the website has seen over 1,700 downloads of PDF files (principally leaflets) and around 250 multi-media files (leaflets in spoken word or BSL video formats).

## **Additional Support Needs Mediation**

### **Highlights: a new system of ASN Mediation for Scotland**

- Following a national consultation event on mediation system for SEN in Scotland (attended by 48 delegates from the voluntary sector and education authorities) a system of mediation tailored to the Scottish education system has been developed and is ready to be put into practice.
- Training in mediation skills was provided for a total of 39 mediators from across Scotland, and from each of the mediation pilot schemes.
- One mediation case conducted and agreement successfully reached.
- Seven mediation referrals refused by education authorities.
- Jointly organised & presented national conference on mediation with ENQUIRE for over 100 delegates.
- Launched a written resource on ASN Mediation in Scotland which is set to become the benchmark for the field.

Govan Law Centre are fortunate to have recruited a large team of exceptionally experienced mediators, and even more fortunate that they are so committed to driving forward the development of the emerging practice area of ASN mediation.

Our sessional mediators have undergone an intensive period of training which has familiarised them with the current and proposed new systems of SEN and ASN in Scotland, and with the types of conflict which typically arise in these fields.

At their own request, they have continued to meet to keep up-to-date with developments and to develop procedures and policies for additional support needs mediation in order to ensure that children and young people with additional support needs benefit from a service of the highest possible quality and integrity.

Our mediators have developed, in partnership with Morag Steven, Govan Law Centre's mediation consultant, a Code of Conduct for ASN Mediation in Scotland (the first such document of its kind anywhere in Scotland) and a complaints procedure which will ensure the highest quality service possible. Those who did not already have valid Disclosure certificates have been (or are being) put through that system. This is a requirement for any mediator prior to being

allowed to mediate a case, underlining Govan Law Centre's commitment to child protection.

Govan Law Centre has also been involved in the continuing push to sell the benefits of mediation to a wary education system. While the lack of appetite for mediation from education authorities has been disappointing, we are now ready to agree terms for the supply of mediation services to one local authority and are optimistic about future progress with other authorities.

The Govan Law Centre pilot mediation scheme has delivered a written resource for ASN mediation of the highest quality, which will be the basis of developing national standards in this area. It has delivered training in mediation skills to every agency offering mediation in this field in Scotland. Everyone practising ASN mediation in Scotland is now doing so with the benefit of input from the Govan Law Centre.

For more information on the Govan Law Centre's mediation services, see our accompanying document "Additional Support Needs Mediation".



### Additional Support Needs Mediation

Setting up and delivering mediation services  
in the Scottish education system

## **User Advisory Committee**

As part of the Education Law Unit's commitment to quality and accountability, we liaise regularly with our User Advisory Committee. The User Advisory Committee (or UAC) is a body consisting of representatives from the voluntary sector and education authorities. It is the role of the UAC to monitor the activities and performance of the Education Law Unit and to provide advice, seeking to ensure that the Unit's aims are met in a way which is consistent with the needs of its service users.

Membership of the User Advisory Committee has been selected carefully to reflect the wide range of organisations using the Education Law Unit's services. The Committee meets approximately three to four times a year.

The membership of the User Advisory Committee over the period 2002 to 2004 has been as follows:

Tommy McMahon (Chair) – Govan Law Centre

Jo Stewart - Drumchapel Citizens Advice Bureau

Dinah Aitken – ENQUIRE

David Gray - One Plus

Alison Preuss – Schoolhouse

Joy Bishop – CHESS

Derek Todd - Deaf Connections

Nicola Smith – ENABLE

Lynn Gaffney – KITES

Lorraine Dilworth - ISEA Scotland

Katy McFarlane - Scottish Child Law Centre

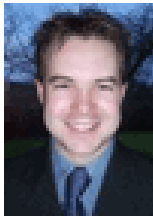
Margaret Orr - Glasgow City Council

Shona Pitillo - Scottish Executive Education Department

Our thanks go to all of those involved in the UAC for their valuable input to the work of the Law Centre's Education Law Unit, and in particular to Glasgow City Council's education services who provide the venue for meetings.

## The Education Law Unit Team

The Education Law Unit team are fortunate to be part of and supported by the solicitors and other staff of the Govan Law Centre. Our thanks must go to them, to the trustees of the Govan Law Centre and to the volunteers who have assisted with our work.



### **Iain Nisbet**

Co-ordinator of the Education Law Unit  
[advice@edlaw.org.uk](mailto:advice@edlaw.org.uk)

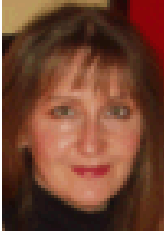
Iain is fast developing a reputation as one of Scotland's leading practitioners in education law. He is the author of the textbooks "Bullying and the Law" and "A-Z of Scots Education Law". He was the legal adviser to the Disability Rights Commission on the statutory Code of Practice on Disability Discrimination in Schools. Particular areas of expertise include: exclusion from school; records of need; disability discrimination and transport to school issues. He has represented pupils and parents in a number of important cases, including *Proudfoot v. Glasgow City Council* in 2002 and *Glasgow City Council v. Fox-Flynn* in 2004.



### **Morag Steven**

Mediation Consultant  
[mediation@edlaw.org.uk](mailto:mediation@edlaw.org.uk)

Morag has worked as a mediator since 1999. She set up and developed Scotland's first special educational needs mediation project operating in 5 education authorities nationally. Nobody knows more about SEN mediation in Scotland than Morag. She is a volunteer mediator with SACRO's mediation and reparation service and a sessional conciliator with the Disability Conciliation Service.



**Anne Taylor**

Information and Clerical Officer  
[advice@edlaw.org.uk](mailto:advice@edlaw.org.uk)

Anne has moved to the education law unit from a successful career within the financial and banking sector, five years of which she spent seconded to the trade union Unify. Responsible for the unit's many statistical and administrative needs, Anne is especially adept in the use of databases and conference management.



**Tommy McMahon**

Chair of User Advisory Committee  
[mail@govanlc.com](mailto:mail@govanlc.com)

Tommy is the Chair of the Govan Law Centre Trust and of Elderpark Primary School Board, as well as being the Secretary of the Govan Youth Information Project. He chairs the meetings of the Education Law Unit's User Advisory Committee which advises the Unit on matters of policy and strategy.

## **Aims and Objectives Summary**

### **Training Objectives**

320 Education Authority Staff  
25 Parent Groups  
100 Advisers (Certified Course)

### **Output Achieved**

4,800 Education Authority Staff  
29 Parent Groups  
125 Advisers (Certified Course)

### **Advice Objectives**

1,000 Advice Calls

724 Advice Calls \*

### **Information Objectives**

Leaflets produced & distributed  
Website launched

Leaflets produced & distributed  
Website launched

### **Mediation Objectives**

See separate report on ASN Mediation

\* Advice calls output lower than expected due to delay in commencement of project; raising awareness of Helpline taking longer than expected; and the massive drop in calls over school holiday periods not adequately taken into account in estimating figures.