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Dear Convener,

Thank you for your letter of 15 May 2024, which sets out the Committee's findings following their Inquiry into Additional Support for Learning (ASL). I welcome the work carried out by the Committee and have given serious consideration to all the asks, urges and recommendations made by the Committee, which covers a wide range of important issues relating to additional support for learning.

The Scottish Government is fully committed to ensuring that all of Scotland's citizens, including those with additional support needs, are supported to live their lives to their fullest. It is critical that that we embed support at the earliest opportunity. That is why we have a highly inclusive legislative framework in place, which enables early learning, childcare and school settings to address any barriers to learning.

Although many of the recommendations that I have responded to below are steered towards the Scottish Government for action, there are also calls directed towards COSLA, ADES, Education Scotland, and other education partners. Whilst my response below speaks to the recommendations made specifically to the Scottish Government, it also addresses areas where I feel it is important to note that the Scottish Government is working with partners to enable progress and will continue to work in partnership, particularly in relation to the delivery of our ASL Action Plan.

As the Committee is aware, the Additional Support for Learning Review (Morgan Review), published in June 2020, considered the post-legislative landscape for ASL. It set a clear direction on how we can continue to build on progress, and, importantly, made recommendations on how to improve implementation of ASL. The Scottish Government published our response and associated action plan with COSLA and ADES in October 2020, setting out the measures that we will take to implement the recommendations.

We have published progress updates on our delivery of the actions within the ASL Action Plan since 2020, alongside an updated ASL Action Plan, and we are currently preparing a further progress report for publication in Autumn this year. An updated ASL Action Plan will be published alongside the progress report and will reflect the relevant recommendations of the Committee's report.

To reassure the Committee, the ASL Project Board provides oversight of delivery for the ASL Action Plan, aligned to the work of the Morgan Review. The Board has a wide stakeholder membership of partners from Education, Health, Social Care and the Third Sector, and provides accountability through discussion, challenge, and oversight of the delivery progress being made. This ensures transparency in the delivery of our work and, importantly, also allows regular scrutiny of the work plan and prioritisation of any areas of concern and progress on short, medium, and long-term actions.

It is important to highlight that our work to address the challenges in the system continues, albeit I recognise that short term improvements may not be as evident as we would all prefer. Angela Morgan was very clear that her recommendations were not a quick fix and that cultural change to deliver improvements in ASL implementation, and to ensure meaningful change for children and young people, will take time. The ASL Project Board has regular opportunities to consider emerging needs and the evolving education landscape, in the context of ASL policy and the delivery of the Action Plan. I would be happy to consider how we can provide more regular updates to the Committee, to ensure you are well sighted on our progress and the priorities that we are taking forward. We committed to delivering the recommendations of the Morgan Review by March 2026 and we will continue to work with our partners to meet this commitment.

Turning to the recommendations of the Committee specifically, and my approach to this response, I have set out my response to the recommendations in the Annex attached. Where the response to the recommendations aligns with the scope of the work of the ASL Action Plan, I have indicated that this is the case – in these circumstances, the response would be added to the ASL Action Plan and will fall within the remit of consideration by the ASL Project Board in terms of governance. There are some recommendations which do not fall within the scope of the ASL Action Plan and therefore the remit of the ASL Project Board. In those circumstances, I have set out the proposed response and how it is envisaged that these would be achieved by other means.

I trust that my response to this Inquiry is helpful, and I look forward to continuing to work with the Committee going forward on these very important matters.

Yours sincerely

JENNY GILRUTH

1. The Implementation of the presumption of mainstreaming

Principle of the presumption of mainstreaming

I welcome the Committee's finding that the principle of the presumption of mainstreaming is laudable and should be supported. Scottish education has an inclusive ethos and over the past 20 years, we have made extensive policy and legislative changes to enable those with additional support needs to thrive as part of their class, their school, and their wider community.

However, we are not complacent and recognise the evidence that the Committee heard regarding the challenges that remain in our system to ensure that our policy intent is implemented in practice. Whilst most children's and young people's needs are currently met through a universal level of support, we must continue to respond to the changing complexity of need to ensure that all of our children and young people feel included and can participate to achieve their full potential. I acknowledge the alignment between the findings of the Morgan Review and the Committee's Inquiry in terms of the experiences of children, young people, and their families.

Recommendation 1.

The Scottish Government, working alongside Education Scotland and COSLA, should act as a matter of urgency to address the issues highlighted via this inquiry to ensure that all pupils with ASN can enjoy their right to an education and have a positive experience at school. The Committee recommends that all those responsible for the delivery of education in Scotland should, at pace, outline how they will address this with clear action points and timelines.

I note this recommendation. Through our response to the Committee's recommendations which are directed towards the Scottish Government, we will set out the actions we intend to take and by when.

We are currently just over half-way through the delivery of our ASL Action Plan, which sets out a clear direction on how to address the challenges that remain in our education system and intends to improve the experiences of children and young people with additional support needs, and their parents and carers. It is important that we continue to work in partnership to deliver the recommendations of the ASL Action Plan by March 2026, and I know Committee members are supportive of this work.

In terms of the Committee's ask that all those responsible for delivery of education in Scotland should outline how they will address this with clear actions and timelines, it should be recognised that the Scottish Government response can only focus on the actions which it is taking with partners. The responsibility for the delivery of education is devolved, at a range of levels, in education authorities, schools and in the actions of individual members of staff. Partner organisations, including health boards, social work services, further and higher education and the third sector all also have a role in delivering additional support for learning, as part of delivering educational outcomes for children and young people. These organisations may wish to consider outlining their contributions in responding to the recommendations of the Inquiry, but it is not possible for the Scottish Government to garner all of these perspectives within this formal response.

Recommendation 2.

The Committee was concerned about the practice highlighted by the Tribunal, where the use of the exceptional circumstances with regards to placements in mainstream are confused and not always working well. The Committee recommends that the Scottish Government, working with Education Scotland, ADES and COSLA, should review the implementation of the grounds on which a request to be placed outwith mainstream are being used.

As Committee members will be aware, mainstreaming is a central pillar of our inclusive approach to education. The Scottish approach to inclusion is already world-leading; our legislative and policy commitments are amongst the most extensive in the world. However, we continue to strive to improve the experience of inclusion for all pupils, and being present in a mainstream school should not be the primary marker of successful inclusion.

In 2019, the Scottish Government published: Presumption to provide education in a mainstream setting: guidance - [Presumption to provide education in a mainstream setting: guidance - gov.scot \(www.gov.scot\)](http://www.gov.scot). This guidance aims to bridge the gap between legislation, policy, and day-to-day experience, ensuring that children and young people have equitable access to a quality education which meets their needs and helps them achieve their full potential.

This guidance is used by practitioners, alongside the Additional support for learning: statutory guidance 2017 - [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](http://www.gov.scot), to support decision making on the right provision for a child or young person and provides further considerations for education authority decision makers if it becomes clear that one of the exceptions might apply. Practitioners engage with the specific chapters in both documents, which set out in detail the steps that should be followed, and the considerations that should be made regarding exemptions, applying this in practice, and responding to individual children's and young person's needs.

However, I acknowledge the Committee's findings and will set out my response to this recommendation as part of my response to recommendation 9.

Identification of needs, diagnosis, and support

Recommendation 3.

The Committee was saddened to hear of the difficulties experienced by parents and carers in getting the correct support for their child and the misconception that a formal diagnosis was not only desirable, but necessary in order to obtain support. The Committee recommends that the Scottish Government provides clarity in the Code of Practice on how support should be provided to pupils with ASN whether or not they have a formal diagnosis, including from agencies other than education.

I note and accept the recommendation made.

Under the Additional Support for Learning Act 2004, an additional support need is defined broadly. It applies to children or young people who, for whatever reason, require additional support, in the long or short term, to help them make the most of their school education and to be included fully in their learning. Additional support may be required because their learning environment is not suitable for them, they are disabled or have a health condition, family circumstances are affecting their ability to learn, or they are experiencing social or emotional

problems. In addition, the legislation recognised that a child or young person's needs may also change over time, in small or big ways. Under this framework, a formal diagnosis or identification is not required for a child or young person to receive appropriate support with their learning.

The most recent revision of the Code of Practice, the third edition, was published in 2017 and took account of the amendments in the Education (Scotland) Act 2016 which extended certain rights to children aged 12 and over. The Additional Support for Learning Code of Practice is statutory guidance which explains the duties on education authorities and other agencies to support children's and young people's learning. It provides guidance on the provisions of the Education (Additional Support for Learning) (Scotland) Act as well as on the supporting framework of secondary legislation. The code is intended to explain the principles of the legislation and to illustrate how the law might apply in certain situations.

The Code of Practice sets out in some detail the arrangements for the identification of, planning for and review of a pupil's additional support needs. The Code of Practice is specific that most children's and young people's additional support needs will be identified via assessment, an ongoing process of gathering, structuring, and making sense of information about a child or young person, and his/her circumstances. The purpose of assessment under the Act ultimately is to help identify the actions required to maximise development and learning. The code also makes clear that there are specific arrangements for the identification of additional support needs, where the support of other agencies and partners is required. I would draw the Committee's attention specifically to Chapters 2 and 3 of the Code of Practice and in particular paragraph 25 of Chapter 2 and 63 of Chapter 3, which confirm that the arrangements for the identification of additional support needs do not rely on the need for diagnosis of needs (the Act does not use the term diagnosis within its provisions), which I hope is reassuring to the Committee.

Regardless, to ensure that it continues to fully support schools and local authorities to fulfil their duties under the ASL Act, we have committed to a refresh of the Supporting Children's Learning Code of Practice during this parliamentary term. Through our Code of Practice Working Group, we are working collaboratively with a range of education partners and policy areas, adopting a pragmatic approach to ensure that the guidance supports practitioners in meeting the needs of children and young people in Scotland's schools. As part of this consideration, the working group will consider how to provide further clarity that a diagnosis is not required in order to secure additional support for learning. A public consultation will be undertaken, which will provide further opportunities for wider stakeholders who have an interest in the Code of Practice, to provide feedback. The date of this consultation has yet to be confirmed; I would be happy to write to the Committee with an update once this has been agreed.

Further, as the Committee has noted, this is an area of concern for parents and carers. The Code of Practice is the statutory guidance to education authorities and other agencies who have duties under the Act. Whilst parents and carers may, of course, wish to access the Code of Practice, the Scottish Government's approach has been to present the equivalent information to that in the Code of Practice within the Additional Support for Learning: A Guide for Parents and Carers: [Additional support for learning: A guide for parents and carers – Enquire](#). This guide has been developed by Enquire, the National Advice and Information Services, as part of our support for parents and carers, to understand and access their rights under the Additional Support for Learning Act. This work is funded by the Scottish Government as part of our work to support the implementation of the Act. It would also be my intention that similar content is therefore included within the information for parents and carers, and indeed, for materials for children and young people on the Act.

Masking

Recommendation 4.

The Committee recommends that the Scottish Government and COSLA undertake targeted research to understand the impacts of masking more fully and that the findings of this should be incorporated into the Scottish Government's updated Code of Practice.

The existing Additional Support for Learning Code of Practice is statutory guidance which explains the duties on education authorities and other agencies to support children's and young people's learning. It provides guidance on the provisions of the Education (Additional Support for Learning) (Scotland) Act as well as on the supporting framework of secondary legislation. The code does not provide general advice and guidance, it is intended to explain the principles of the legislation and to illustrate how the law might apply in certain situations.

The Code of Practice does set out information on the way in which the assessment of children and young people's additional support needs should be undertaken and is clear that this is a dynamic process, which is based in the ongoing understanding of children and young people's needs, including information from a range of sources, such as, in class work and relationships and behaviour, information from partners and other agencies and information from the young person's family. This holistic approach to assessment is intended to provide understanding of the young person in the round, and therefore any concerns about masking are likely to be identified.

In addition to this, the approach adopted by Educational Psychology services in our schools emphasises that assessing a child's needs should adhere to the values and principles of GIRFEC, using the national practice model to guide this process. Assessment of a child's needs should be contextual, collaborative and carried out in partnership with the child and parents/carers. Information about a child's presenting needs should always be considered across their home, community and school settings, and detailed assessment processes should include gathering information from those who know the child best across those settings. Such a process would then allow for an analysis of the child's presentation to help identify if or when masking may be evident, and if it is, what can then be advised in order to support the child. Educational Psychologists also support and encourage colleagues in schools and partner services, to adopt similar models of assessment.

That said, Scottish Ministers recognise that for some children and young people (and their families) masking can be an extremely stressful and distressing experience. Therefore, I note the recommendation and intend to respond positively to it, but do not agree that this piece of work sits appropriately within the refresh of the ASL Code of Practice. Whilst we understand that masking is a strategy used by some children and young people to help them feel comfortable at school we require to better understand the impact it can have in relation to mental health, sense of self, how it impacts on the need for support and how the need for support is assessed.

We therefore propose to undertake a literature review to ascertain the current knowledge on masking for children and young people with additional support needs, which will allow us to identify relevant theories, methods, and gaps in existing knowledge. This review will enable us to inform practice through a strong evidence base, and strengthen the existing resources provided through Enquire: The Scottish Advice Service for Additional Support for Learning, Education Scotland, the National Autism Implementation Team (NAIT), the National Autism Toolbox and our approach to communications through the delivery of the ASL Action Plan.

Special Schools, units and support

Urge 1.

The Committee was concerned to hear that pupils with ASN do not always have access to adequate specialist school provision near them. Pupils with ASN should be able to obtain appropriate support, ideally in their local area, without the need to travel long distances to and from school each day. The Committee urges local authorities to assess what specialist provision is currently in place and to address any gaps in provision as a matter of urgency. This will ensure that the needs of all pupils can be met.

I acknowledge the Committee's concern. The Standards in Scotland's Schools etc. Act 2000 places a duty on education authorities to provide education in a mainstream school unless specific exceptions apply. I therefore suggest it would be appropriate that Local Authorities respond to this point.

Specialist support within mainstream settings

Recommendation 5.

The Committee was concerned to hear of long delays some pupils were experiencing when attempting to access specialist provision within a mainstream setting. This included, for example, accessing CAMHS support and/or speech and language therapy. The Committee considers that such delays are unacceptable. The Committee recommends that the Scottish Government work closely with bodies such as NHS Scotland, the Royal College of Speech & Language Therapists, CAMHS and COSLA, to identify the causes of such lengthy delays and ensure that a more joined up approach to providing specialist support within mainstream settings is adopted in future.

I note the Committee's concerns.

Scottish Ministers are clear that long waits are unacceptable, which is why we continually monitor CAMHS waiting times performance and engage with all Health Boards, directing tailored support to those with the longest waits, and where to access professional advice.

As well as providing £55.5 million to Health Boards last year to improve the quality and delivery of mental health and neurodevelopmental services for children and young people, we have invested over £1 million in recent years to fund five neurodevelopmental tests of change. These are focused on implementing various aspects of the National Neurodevelopmental Specification including delivery of GIRFEC and multi-agency working. We will continue to support Health Boards and Local Authorities to work together and, in line with the Specification, ensure that support is there for children who need it, regardless of whether they have a diagnosis or not.

Whilst we are taking this action, I acknowledge the concerns raised by the Committee are wider than children and young people with neurodevelopmental difficulties. As noted in my evidence to the Committee, supporting children and young people with additional support needs is a joint endeavour. Our partnerships with COSLA, ADES, Education Scotland and a wide range of other key stakeholders are crucial, and we are keen to strengthen these wherever we can. I therefore accept the recommendation to engage with our partners to consider this issue further and I will provide an update to the Committee on the outcome of these considerations in due course.

Ask

The Committee acknowledges challenges around the recruitment of pupil support workers, teachers and other specialist staff and asks the Scottish Government what actions are being taken to address this.

In 2021, we committed to increasing teacher numbers and that commitment was given in good faith. Scottish Ministers remain committed to sustained investment to strengthen the provision of education in Scotland. The approach that we take is, of course, in large part dependent on the resources that we have available. We are committed to delivering maximum value for money during an era where budgets continue to be under pressure as a result of UK Government austerity measures.

We have 17,330 pupil support staff in Scotland – the highest level on record and an increase of more than 2,000 since 2020. The number of hours per week Pupil Support Staff spent supporting learners in 2023 was 490,750. This has increased by 58,400 since 2020. This is a direct result of our continued investment of £15m each year to help them respond to the individual needs of children and young people and maintains our record levels of investment in these staff.

The Strategic Board for Teacher Education (SBTE) is considering issues around the recruitment and retention of teachers in Scotland in detail, including tackling geographical and subject-specific challenges. SBTE is also working to improve the promotion of teaching as a valued career. The Headteacher Recruitment and Retention Working group (HTRRWG) are currently in the process of developing a new workplan. As this group is a sub-group of SBTE, members have agreed that the HTRRWG workplan should align with and complement the overarching aim and outcomes of the SBTE workplan. This work is ongoing.

Whilst I recognise that the education workforce is the responsibility of Local Authorities, it is something that the Scottish Government also considers on an on-going basis. This is evidenced by the work that we are delivering through the ASL Action Plan and our clear focus on improving the support, development, and training for both teaching and support staff. We are also mindful of specialist support and the vital role that this can play in supporting some of our most vulnerable children. A good example is our joint investment with COSLA in the training of educational psychologists since 2018. This has resulted in 29 students joining the workforce in 2022 following completion of the MSc, and a further 30 students in 2020 and 2021 respectively. This compares to 12 in 2019. Our continued commitment to invest £1.35m each year, in partnership with COSLA, has helped to ensure that there is a sustainable educational psychology workforce in Scotland.

Placing requests

Recommendation 6.

The Committee notes the lack of clarity in relation to placement requests to specialist schools and specialist units within mainstream schools and recommends that the Scottish Government works with COSLA to update the Code of Practice and ASL Action Plan to provide greater clarity on the support available to families.

The Additional Support for Learning Code of Practice is statutory guidance which explains the duties on education authorities and other agencies to support children's and young people's learning. It provides guidance on the provisions of the Education (Additional Support for Learning) (Scotland) Act as well as on the supporting framework of secondary legislation. The

code is intended to explain the principles of the legislation and to illustrate how the law might apply in certain situations. Scottish Ministers note and accept the recommendation made.

I note the recommendation but do not agree that this piece of work sits appropriately within the refresh of the ASL Code of Practice, as the recommendation is focussed on ensuring greater clarity for families and the statutory guidance is aimed primarily at education authorities and others with duties under the ASL Act.

I would also like to acknowledge that there is a range of information already available for parents and carers from Enquire, the national advice and information service in relation to placing requests. These materials have been developed as part of our approach to implementing the ASL Act and have been developed as part of the services which the Scottish Government fund.

By way of example, I attach links to the following information which support parents and carers understanding of support [Understanding my child's rights to support - Enquire](#), [Getting the right support in place for my child - Enquire](#), [Choosing a school or moving school - Enquire](#). These resources are a small example of the breadth of material which Enquire has publicly available.

The ASL Action Plan has communication at its core, and there are multiple actions in place to address a range of different communication concerns, some of which are currently underway, and others that are planned. The ASL Project Board considers the opportunities to improve communication at each Project Board, and a sub-group has been created specifically to focus on enhancing the quality, consistency and reach of communications on additional support for learning across Scotland.

In light of the Committee's findings, the ASL Project Board will consider how to strengthen the ways that the ASL Action Plan is addressing the different communication strands and will provide further clarity on how this recommendation will be addressed in the updated ASL Action Plan which is due to be published in Autumn this year. Further, the Scottish Government will consider how the materials which are currently available, including for example those available from Enquire, can be further highlighted to parents and carers as part of this approach to communication.

Recommendation 7.

In addition, the Committee recommends that the Code of Practice states that local authorities should clearly set out to parents and carers the grounds for refusal of placing requests and that information on how to appeal any decision must be signposted.

The Committee will recognise that depending on the circumstances of the placing request, the placing request may be considered either under the provisions of the Education (Scotland) Act 1980 and in some circumstances, under the Education (Additional Support for Learning) (Scotland) Act 2004). There are legal duties under both pathways for parents and carers to be informed of the decision in relation to the placing requests, including arrangements for circumstances where a placing request decision would be deemed to have been made, and for parents and carers to be informed of their rights of appeal.

The Code of Practice already makes clear that the education authority must inform parents in writing of their decision on making a placing request (paragraph 16 of Chapter 2 refers). I accept the Committee's recommendation on this point and will commit to adding further text

to the Code of Practice to put beyond doubt education authorities' duties in relation also to confirming the reasons for their decision and their right to appeal.

As I have indicated previously, Enquire, the national advice and information service, provides information to parents and carers on placing requests both within [the parents' guide to additional support for learning](#) and via specific information on [choosing a school](#). We will also consider how to ensure that this information is more readily brought to parents' and carers' attention as part of our work on improving communication.

The Additional Support for Learning Code of Practice is statutory guidance which explains the duties on education authorities and other agencies to support children's and young people's learning. It provides guidance on the provisions of the Education (Additional Support for Learning) (Scotland) Act as well as on the supporting framework of secondary legislation. The code does not provide general advice and guidance, it is intended to explain the principles of the legislation and to illustrate how the law might apply in certain situations. I accept this recommendation and can advise that the refresh of the Code of Practice, due to be published by the end of this Parliamentary term, will clearly set out the grounds for refusal of placing requests.

However, the duty to signpost a parent to information on how to appeal any decision regarding a placing request fall under Section 28A (4) of the Education Scotland 1980 Act. This is because not all placing requests will be relevant to the duties under the Education (Additional Support for Learning) (Scotland) Act. Consequently, the refresh of the Code of Practice cannot reflect this information. As stated above, the Code of Practice is in place to provide guidance on the provisions of the Education (Additional Support for Learning) (Scotland) Act, as well as on the supporting framework of secondary legislation only.

I will consider what more can be done on signposting specifically and will update the Committee in due course.

Recommendation 8.

The Committee is concerned that there is not clarity for parents and carers in relation to ASL provision and what is available for their children both within mainstream and specialist settings. The Committee recommends that the Scottish Government and COSLA update the ASL Action Plan to address these communication issues, to ensure that pupils, parents and carers are able to fully understand what support is being made available to their child, ahead of any placing request for specialist provision being made and that local authorities provide information to families in an accessible format.

Scottish Ministers note and accept the recommendation made. The Committee may be aware that education authorities are required under the Education (Additional Support for Learning) (Scotland) Act to publish information about certain specified matters, below:

- the authority's policy in relation to provision for additional support needs
- the authority's arrangements for identifying children and young people with additional support needs and those who may require a co-ordinated support plan together with the particular additional support needs of those so identified.
- the role of parents, children and young people in any of these arrangements
- the arrangements for monitoring and reviewing the additional support needs of, and the adequacy of additional support provided for, each child and young people with additional support needs.

- arrangements for independent mediation services, including details of the service and how to access it.
- procedures for dispute resolution, including details of the service and how to access it.
- the officer(s) in the authority from whom parents of children having additional support needs, eligible children, or young people who have these needs, can obtain further information and advice.
- information about any NHS Board in their area or part of the area from whom parents of children having additional support needs, or young people who have these needs, can obtain further information and advice.
- such other recognised agencies or organisations that can provide further support, information and advice to parents and young people that it considers appropriate, including information about support and advocacy.
- any other persons specified in an order made by the Scottish Ministers from whom parents and young people can obtain further advice, information and support in relation to the provision for additional support needs, including information about support and advocacy.

The Code of Practice also makes clear that the information must be provided in accessible formats.

The ASL Action Plan has communication at its core, and there are multiple actions in place to address a range of different communication concerns, some of which are currently underway, and others that are planned. The ASL Project Board considers the opportunities to improve communication at each Project Board, and a sub-group has been created specifically to focus on enhancing the quality, consistency and reach of communications on additional support for learning across Scotland.

In light of the Committee's findings, the ASL Project Board will consider how to enhance the information that is currently available for pupils, parents and carers in regard to ASL provision within both a mainstream and specialist setting, for delivery through the ASL Action Plan, and informed by the legislative requirements. Further clarity on how this recommendation will be addressed will be set out in the up-dated ASL Action Plan, which is due to be published in Autumn this year.

Recommendation 9.

Given the increase in the number of ASL bases and units within schools in the 20 years since the 2004 Act was passed, the Committee recommends that the Scottish Government undertakes a full review of placing requests to specialist services to consider how the current regime is working in practice, which would include reviewing the grounds for refusal for placing requests to specialist services.

I note the recommendation and acknowledge the need to address placing requests to specialist provision more widely to take account of both this recommendation and **Recommendation 2** which are very closely linked.

I agree that working with our partners to review how the practice of placing requests to specialist provision is currently working in practice would be beneficial. This will allow us to establish if the actions currently being undertaken or planned as part of the ASL Action Plan, as set out in my answers to **Recommendations 6 and 8**, and our wider existing policies, are working. I therefore commit to engaging with our partners COSLA, ADES and Education Scotland, to explore current placing request practice in relation to specialist provision, whilst

also considering as part of this the grounds for refusal of these requests by local authorities and the Additional Support Needs Tribunals for Scotland.

I will update the committee further in due course.

Physical Environment

In recognition of the discussion at Committee in relation to the physical environment, it may be helpful if I provide some additional information. I acknowledge the Committee's concerns regarding the physical school environment and take the issue of ensuring that the school estate is fit for purpose for pupils with Additional Support Needs (ASN) very seriously. It is the statutory duty of all local authorities to manage and maintain their school estate. However, the Scottish Government's Learning Estate Strategy (LES) was produced in collaboration with COSLA and sets out our strategic approach for managing the learning estate. The LES makes clear that learning environments should support the wellbeing of all learners and that good consultation, direct engagement with learners about their needs and an involvement in decision making processes should lead to better outcomes for all.

The provision of appropriate space and facilities is essential to support the needs of every learner and there is a very wide range of need depending on factors specific to every person. The Scottish Government are working continuously and collaboratively with schools, local authorities and the designers of learning spaces to understand these needs and ensure that spaces are created to respond to these broad needs in the most appropriate way. For some learners this may mean being included alongside their peers, while others may require nurture or retreat spaces, and for some separated environments may be best.

Recommendation 10.

The Committee was disappointed to hear in evidence that many recently built schools have been designed in a way that is not accessible to all. Current open plan designs can act as a barrier to learning for pupils with ASN, and in particular for pupils who are neurodivergent. The Committee recommends that the Scottish Government and the Scottish Futures Trust should reassess the support and advice provided to local authorities to ensure that schools are designed as accessible and welcoming environments for all, and that the Scottish Government should also give consideration to whether further regulation in this area is required. The Committee understands that this work will take time; however, it expects a full response to these two recommendations by the end of 2024.

Recommendation 11.

The Committee recognises that much of the existing school estate will continue to be in use for many years to come. The Committee notes the evidence in relation to effective and relatively inexpensive adaptations which can be made to improve accessibility for pupils with ASN and considers that these low-cost options should be collated and shared across local authorities. The Committee therefore recommends that the Scottish Government work with colleagues in local government, and relevant third sector organisations, and pupils themselves, to develop a suite of guidance to make existing schools as accessible as possible to those with sensory needs. Given the urgency, the Committee recommends that this guidance be published by the end of the year and that implementation of this guidance should appear in National and Local Improvement Plans as soon as possible thereafter.

I accept recommendations 10 and 11 and provide a joint response to both recommendations as the information supplied pertains to both.

The underlying knowledge required to fundamentally understand how building users experience physical learning environments will be common to both existing and future schools. It is also expected that the stakeholders involved in existing and new environments will largely overlap. Therefore, our response plan proposes that the early stages of our approach cover both recommendations, with potential divergence into two forms of support later in the process. This will provide consistency of understanding, develop stakeholder relationships, and provide efficiency to aid delivery as promptly as possible.

Our consideration of this work will take account of the existing national guidance on [Planning Improvements for Disabled Pupils' Access to Education - Guidance for Education Authorities, Independent and Grant-Aided Schools \(www.gov.scot\)](http://www.gov.scot/Resource/0045/0045_0001_0000.pdf)

Officials will start this work immediately and intend to conclude it by end of this year.

Recommendation response plan

We are already committed to improving the physical environment. For example, our Learning Estate Strategy, which was co-produced with COSLA, makes clear that learning environments should support the wellbeing of all learners and meet varying needs to support inclusion. In addition, our Suitability Core Facts document states that assessments of ASN accommodation will take account of the range of environments and more specialist facilities and equipment required to suit the diverse needs of pupils, and this may include areas where children with autism spectrum disorder/sensory issues can avoid overstimulation. However, I know that there is more to be done.

To address the recommendations related to the physical environment, Scottish Government and Scottish Futures Trust (SFT) have developed the following proposed 10-step plan and would lead this element of the work with input from stakeholders.

Step 1. Identify strands of similar related activity

From ongoing current discussions, we are aware of other strands of activity in addition to those undertaken during the Additional Support for Learning (ASL) Inquiry, reflecting the increasing importance of this issue. For example, through the Learning Estate Investment Programme (LEIP) there are discussions with local authorities, designers, schools and building users to inform the design of a wide range of projects. We are also in correspondence with the Scottish Parliament Cross Party Autism Group who have expressed concern about physical learning environments, with the aim of commencing engagement over the summer. In addition, the Scottish Government and SFT recently participated in a UK and Ireland Forum, specifically on the topic of “special educational needs” environments. Furthermore, SFT has participated in the Inclusive Learning Environments Conference where additional connections were established. Discussion with these known stakeholders may also link to wider activity, which we are currently unaware of, and could usefully participate.

A review of currently available support and guidance will also be undertaken as part this phase of stakeholder identification. In addition, we committed to considering how this could be strengthened through the refresh of the Code of Practice.

Action for step 1: Scottish Government and SFT will identify strands of similar related activity.

Step 2. Identify stakeholders.

Having established the related strands of activity, the stakeholders involved can be identified to potentially participate in the work to produce guidance to assist with making schools as accessible as possible to those with sensory needs. There may be some stakeholders who are involved in multiple strands already - such as local authority networks and organisations who support those with ASN - and this would potentially help to streamline progress towards the required outputs.

Action for step 2: Scottish Government and SFT will identify stakeholders and collate a potential list of participants to assist with the producing guidance.

Step 3. Stakeholder introduction session

A strong sense of shared purpose and resilient relationships are at the heart of the work carried out in the LEIP, and many of these relationships and networks were further strengthened through the collaborative response to the COVID pandemic, for example. Adopting this ethos, before any information is gathered or the plan implemented, we would propose to hold an introductory session for all stakeholders. This would ideally be an in-person event as some of the participants may not have any previous working relationship.

Action for step 3: Scottish Government and SFT will co-ordinate an in-person stakeholder launch event.

Step 4. Request background information from stakeholders.

The ASL Inquiry's report includes feedback on the experiences which users have had in existing buildings. The other strands of activity noted above will also potentially have experiences to share which others could learn from. Using the stakeholder group identified in Step 3, information would be requested which illustrates the perspective of each stakeholder. For consistency of response and efficiency of collating the feedback, a template would be utilised. This has been the approach adopted in previous wide-ranging data collection initiatives in the learning estate and has proven to be beneficial. This step would also assist stakeholders to review their experience and describe this in a concise manner for distribution to others and inform subsequent discussions.

Action for step 4: Scottish Government and SFT to develop an information request template, in conjunction with stakeholders.

Step 5. Stakeholder workshop

SFT have utilised both virtual and in-person workshops and shared learning events to share knowledge and experiences across both LEIP projects and the wider learning estate. This shared understanding and collective ownership of issues has been an effective force for change, and we would plan to replicate this approach in this work. A stakeholder workshop would be held based on feedback from the returned information templates. This would be an

opportunity for different groups of stakeholders to share their perspectives and potentially identify areas of commonality and areas to improve understanding.

Action for step 5: Scottish Government and SFT to facilitate shared learning workshop.

Step 6. Learning environments visits

This work is related to physical learning environments and the opportunities and challenges which arise for different users in spaces with different sensory characteristics. In order to develop appreciation of these issues, the stakeholder group would visit a range of learning environments. These would be selected in response to the returned information templates to illustrate issues which emerge from that data. They could include projects recently completed within the LEIP, which will all undergo post occupancy evaluation as part of the programme. These visits would intentionally be planned during normal term-time to experience the issues when operating as normal. Positive and negative aspects would be identified and assessed to understand the reasons for user reactions.

Action for step 6: Scottish Government and SFT to facilitate appropriate building visits in response to stakeholder issues.

Step 7. Information collation

Following on from the launch event, information request, stakeholder workshop and learning environment visits, the feedback would be collated to distil lessons learned. This would include identifying positive points which could be replicated, and areas for improvement or to be avoided. This assessment of feedback would be drafted by Scottish Government and SFT for review by the wider stakeholder group. As the nature of the lessons learned develops, there will be consideration of the most appropriate way to disseminate this information. At this point, issues such as primary/secondary schools or existing/newbuild could be considered. Where possible it may be appropriate to provide support/guidance which could be applied universally to simplify the application for stakeholders. Likewise, where particular issues address specific needs or scenarios then these could be developed separately.

Action for step 7: Scottish Government and SFT to lead the assessment of stakeholder feedback and lessons learned for review by stakeholders. There would also be consideration of format for disseminating output.

Step 8: Information Dissemination

In agreement with the stakeholder group, lessons learned would be selected and formatted to best suit the outcome of the exercise and be most useful to wider users and operators of schools. This step may require input from others out-with the stakeholder group, for example, to produce text, graphics, images etc. At this stage when the extent of lessons learned is known, consideration would be given as to whether any changes should be made to regulations or statutory guidance, for example, the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 which will be subject to a public consultation, this year, regarding refreshing them.

Action for step 8: Scottish Government and SFT to lead production of appropriate guidance/advice/lessons learned in formats which efficiently and effectively communicate with wider audience - including local authorities, schools and organisations who support those with ASN. Also, give consideration regarding the updating of relevant regulations.

Step 9: Application

The LEIP is expected to still have projects in design development at the start of 2025, including a sample from mainstream, specialist support in mainstream and standalone special schools. If deemed appropriate, the output of the ASL Inquiry recommendation could be applied to the design development of these projects. This would be in line with the ethos of the LEIP which is to innovate and pioneer initiatives which can influence the wider learning estate. Guidance for existing buildings could also be trialled, potentially also within LEIP projects to maximise the opportunities for shared learning and influence of future projects.

Action for step 9: Scottish Government and SFT to work with stakeholders to identify appropriate pilot projects which could benefit at the design stage or operational stage from the output of this exercise.

Step 10: Follow up

Following the guidance through into completed projects or adaptations would provide an opportunity to refine the guidance and also to validate the effectiveness of any interventions. This may become a longer-term stage as some of the LEIP projects will require to be constructed and put into operation before any feedback could be provided. As the LEIP is intentionally a programme which tracks aspects of the projects in operation, it may be an appropriate vehicle to utilise. Other projects could also be used as appropriate.

Action for step 10: Scottish Government and SFT work with stakeholders to identify appropriate pilot projects for in-use evaluation.

I would be happy to keep the Committee informed of developments and will provide a full update in early 2025, once this work is concluded.

Training

Ask.

The Committee asks the Scottish Government to work with the Scottish Council of Deans of Education to ensure that ITE programmes capture the embedded ways of working that support the inclusion of all children and that issues raised by witnesses in relation to ITE programmes are addressed. The Committee further asks that they also consider ways to ensure exposure to ASN settings, including ASN bases or in special schools, is strengthened in the placements offered for teachers in training.

I note the ask regarding ITE programmes.

The Scottish Government will continue to work with universities and the General Teaching Council for Scotland (GTCS) to ensure ITE programmes, which are subject to regular re-

accreditation by the GTCS, continue to use best practice and the most up-to-date research in the areas of inclusion and ASN.

The content of ITE programmes requires development of practice in areas such as ASN and inclusion. With regard to placements, student teachers currently get exposure to pupils with ASN in mainstream schools and some students will be provided with opportunities to gain experience/link with staff in special provisions and units within a mainstream school. Students are generally not placed in special schools as it is considered too early in their learning journey. Many pupils in special schools have complex needs, which impacts on the amount of teaching the student can engage in.

I would particularly wish to draw attention to the [National Framework for Inclusion](#). The National Framework for Inclusion 3rd edition was produced under the auspices of the Scottish Universities Inclusion Group (SUIG). SUIG is a working group of the Scottish Council of Deans of Education.

Recommendation 12.

The Committee notes that there was no clear consensus as to whether ASN training for staff should be mandatory. The Committee further notes though that, whether mandatory or not, making training available for support staff was considered crucial. The Committee recommends that this issue be explored in more detail via direct dialogue with teachers, support staff, and teaching unions. This should be carried out by the Scottish Government and/or COSLA, as appropriate.

Ensuring all educators have equitable access to free, high quality relevant professional learning set within the inclusive Scottish context is a key component in understanding and supporting the needs of all children and young people. Requirements and expectations for The General Teaching Council for Scotland registered teachers to actively participate in their own 35 hours of continual professional learning and development has been agreed with the profession through the McCrone agreement.

A wide range of professional learning opportunities for teachers and other educators to deepen their understanding of ASN, inclusion, wellbeing and equalities continue to be available through a range of approaches:

- Local authority and Early Learning & Childcare (ELC) establishment in-service days
- Local authority professional learning offers.
- Education Scotland's website and incremental [online modules](#) hosted on the Open University website.
- Scottish Government funded central resources, for example the [Addressing Dyslexia Toolkit](#) and the [Autism Toolbox](#).
- Through partners – for example, the NHS and the Third Sector.

The [Inclusion, Wellbeing and Equalities \(IWE\) Professional Learning Framework](#) aims to support anyone working with, and supporting, children and young people in an educational context, including early years, schools, Community Learning and Development (CLD) 3rd sector and social work. The framework was developed in collaboration with all 32 local authorities and establishments in 2023. The first phase – Level 1 was published in December 2023.

Pupil Support Staff (PSS) are employed by local authorities and therefore their terms and conditions, including access to appropriate induction and professional learning opportunities

are set by local authorities. To help improve equitable access to appropriate professional learning and information across Scotland, in 2021 the [Pupils Support Staff Professional Learning Framework](#) was developed and published by Education Scotland. This has formed part of the ongoing national work led by the Scottish Government to support Pupil Support Staff which included the [Pupil Support Staff Engagement Programme](#). This Framework is being refreshed to link with the IWE Professional Learning Framework.

The Inclusion, Wellbeing and Equalities Professional Learning Framework and Pupil Support Staff Professional Learning Framework, currently provide a national provision for all educators and can be used and adapted for context by ITE universities, local authorities and ELC establishments.

Teachers and Pupil Support Workers

Recommendation 13.

The Committee notes the valuable role that support for pupil support workers play in supporting pupils with additional support needs. However, the Committee is concerned that these staff members have very limited opportunities to undertake training. This is due to a lack of non-contact time. Given the Scottish Government's commitment to accreditation and qualifications for support for learning assistants, the evidence heard as part of this inquiry should be fully factored into planning for this. The Committee would appreciate regular updates on progress in this area.

We acknowledge the critical role that Pupil Support Staff play in schools and the need for accessible training opportunities. Pupil Support Staff are employed by local authorities and therefore their terms and conditions, including access to appropriate induction and professional learning opportunities, are set by local authorities.

As highlighted above in response to recommendation 12, Education Scotland has developed the [Pupils Support Staff Professional Learning Framework](#), as part of improving equitable access to appropriate professional learning and information across Scotland. This work is part of the ongoing national work led by the Scottish Government to support Pupil Support Staff which included the [Pupil Support Staff Engagement Programme](#). [This work is designed to support education authorities in this.](#)

In relation to the SG commitment to *explore options for the development of an accredited qualification and registration programme for Additional Support Needs assistants*; I am currently considering the outcome of this work and would be happy to write to the Committee with an update in due course.

Resources

Recommendation 14.

The Committee notes the complexity in understanding actual spend on ASL given the range of areas and budget streams involved and recommends that further work be undertaken by the Scottish Government on how this spend can be quantified. The Committee also asks Audit Scotland to consider undertaking audit work on this crosscutting spend.

I note the recommendation and acknowledge the complexity involved. As I have noted in my evidence to the Committee and my responses to the recommendations, supporting children

and young people with additional support needs is a joint endeavour. Our partnerships with COSLA, ADES, Education Scotland and a wide range of other key stakeholders are crucial. I am, however, clear that funding of additional support for learning requires Scottish Ministers to work in partnership across budget lines too and public sector reform offers this opportunity. The fiscal framework is jointly owned by the Scottish Government and Local Government. Its implementation is overseen by the Cabinet Secretary for Finance and Local Government and the COSLA Presidential Team. Consideration of the implementation of the fiscal framework and whether it remains fit for purpose features on the agenda of at least one high level meeting between the parties per annum. With this in mind, I am committed to exploring the issue of how spend on additional support for learning can be further quantified.

I note the ask regarding audit work on crosscutting spend and recognise that it is for Audit Scotland to respond specifically to this point, as I cannot commit Audit Scotland to undertake work on their behalf.

Recommendation 15.

The Committee notes that one of the 2011 Christie Principles was that “Public service providers must be required to work much more closely in partnership, to integrate service provision and thus improve the outcomes they achieve.” The Committee is aware that the challenge of integrating services is longstanding. However, the Committee is disappointed that in 2024 this continues to be the case. The Committee recommends that the Scottish Government provides leadership in this area and works across portfolios and with other bodies including COSLA and NHS Scotland to develop a more inclusive approach to resourcing ASL provision in Scotland's schools. The Committee expects the updated ASL Action Plan to include a clear, measurable plan on how this will be improved in the short medium and long term.

Scottish Ministers welcome the sentiment to develop a more inclusive approach to resourcing for additional support for learning provision in Scotland's schools. As stated in my response to **Recommendation 14**, our partnerships are crucial, and I am of the view that funding of additional support for learning requires Scottish Ministers to work in partnership across budget lines.

The Additional Support for Learning review in June 2020 (Morgan Review) set a clear direction in how we can continue to build on progress, making recommendations on how to improve implementation of ASL. We published our ASL Action Plan, in partnership with COSLA, ADES, Education Scotland and wider Education partners, setting out the measures we will take to implement the recommendations.

We therefore consider that the ASL Action Plan is not a suitable vehicle to achieve the outcome of this recommendation. The recommendation specifically focuses on the distribution of resources across a range of different sectors, which go beyond Education, and therefore, aims to address a broader challenge across multiple sectors and bodies.

In my evidence to Committee on 20 March, I indicated that I was mindful of the issue of budgetary requirements and am cognisant of the need to be more holistic in the consideration of the issue raised. I am committed to giving this recommendation due consideration and have asked my officials to begin to think about this issue. Any commitments I make will require consensus and support from across the Scottish Government's Cabinet prior to taking any action and will be required to be considered within the context of wider Scottish Government budgetary discussions.

Transitions

Ask.

The Committee asks the Scottish Government for an update in relation to the National Transitions to Adulthood Strategy and an indication of when it will be published.

I hope that the Committee found the recent update on 31 May 2024 helpful, in which the Minister for Children, Young People and the Promise notified you of the publication of the analysis of engagement responses to the Statement of Intent for the strategy.

This was an important step to sense check what we have heard so far, and to gather wider views on whether the draft vision and priorities are the right ones, ultimately for inclusion in the strategy. This feedback will be used to further develop the strategy.

As the Committee are aware, we know that the current situation in respect of disabled young people's transitions must improve, and we are deeply committed to developing a strategy which recognises the urgency of the improvements required, whilst also allowing sufficient time to support the meaningful engagement and participation of those the strategy will affect.

That is why we are engaging more widely on the strategy during Spring and Summer 2024, taking a solution-focussed approach to understand what is currently working well and what would be even better, to consider possible actions for the strategy, before aiming to publish it by the end of 2024.

Recommendation 16.

The Committee recommends that the next update to the ASL Action plan includes details of how it intends to address the concerns raised in relation to poor transition experiences of pupils with ASN from primary to secondary school.

The Scottish Government continues to engage, as appropriate, across Portfolios at the earliest stage, to ensure that children and young people with additional support needs are actively considered in policy making and development. Positive transitions are a key focus of this engagement.

The Education (Additional Support for Learning) (Scotland) Act and associated Regulations sets out the legislative duties in relation to the requirements to plan for transitions throughout a pupil's school life, including into early learning and childcare, primary and secondary school. These are reflected within the Supporting Learners Code of Practice which dedicates Chapter 6 to Transitions.

It is clear, whatever form of change and transition is required, all children and young people are entitled to support to enable them to gain as much as possible from the opportunities which Curriculum for Excellence can provide, and support in moving into positive and sustained destinations beyond school. It recognises that some may experience changes in their school education at other times with a transfer to another school or a break in their school education. Early or timely planning is required to ensure continuity and progression between stages or breaks in education as well as effective collaboration and liaison between schools. The Chapter clearly sets out the requirements on education authorities, and others under the Act, in relation to transitions at all stages of the school journey.

In addition, the Association for Real Change Scotland (ARC Scotland) have developed a third edition of their 'Principles of Good Transitions' to support this approach to improvement. This provides a framework to inform, structure and encourage the continual improvement of support for young people with additional needs between the ages of 14 and 25 who are making the transition to young adult life. The seven principles that are set out have been endorsed by many organisations that provide support for young people with additional support needs, the Scottish Government, and national bodies. They are already being used to shape improvements within organisations, local authorities and at a national level.

I also wish to draw the Committee's attention to the work published by Education Scotland in relation to support for transition. This includes a range of resources in differing formats, such as:

- [Additional Support Needs: Effective planning to support post-school transitions | Resources | Education Scotland](#)
- [Transitions | BSL | Parentzone Scotland | Education Scotland](#)
- [Making the Leap – a P7-S1 family transition project – Peebles High School | Resources | National Improvement Hub \(education.gov.scot\)](#)
- [Sketchnote - Green Acres Private Nursery - Transition processes at all stages - March 2019 | Resources | Education Scotland](#)
- [Bridging the gap at Bannockburn High School | Sharing ideas | Getting involved | Parentzone Scotland | Parentzone Scotland \(education.gov.scot\)](#)

I am aware that education authorities and schools have a wide range of approaches to support transition of their pupils, particularly from primary to secondary schools. For pupils with additional support needs, these arrangements are usually extended, begin earlier and are referred to as enhanced transition. I should also acknowledge that I recognise that in recent years, in particular during the period of school closures due to COVID-19, children and young people's experiences of transition will have been very different to those in previous years and more recently. I recognise that schools and school staff utilised very creative approaches in order to familiarise pupils with new school buildings and school staff at that time, and also that despite these approaches, pupils' experiences will not have been the usual or expected experience.

I accept the recommendation. However, I do not believe that the ASL Action Plan is the correct vehicle to address the issue highlighted. Instead, as part of the refresh of the Code of Practice, we will consider how the Chapter on Transitions can be strengthened to reflect the concerns regarding transitions between primary and secondary school settings.

2. The Impact of COVID-19 on additional support for learning

I wish to acknowledge from the outset in my response that I recognise that there is a significant impact on our learners as a result of their experiences during COVID-19. It is necessary that we recognise that behaviour and relationships in our schools have changed since the pandemic and that children's and young people's mental health is also likely to have been affected, and that this may have an impact on behaviour. It is also acknowledged that families' relationships with schools have changed during lockdown. Wider impacts, such as the ongoing cost of living crisis, are also playing a part and the situation is complex. I announced in November 2023, at the time of the publication of the Behaviour in Scottish Schools Research, my intention to bring forward a joint action plan as part of my five-part approach to responding to the findings of the research, which indicated the impact that COVID-19 has had on our pupils. Research emphasises that there are unlikely to be quick, easy fixes to addressing the

challenges, nor can – nor should – they be addressed by schools alone. It will take sustained effort, by everyone who has a role to play, to improve this situation.

I have also consistently expressed my concerns about the impact of COVID-19 on attendance. This is why I commissioned Education Scotland's report "Improving Attendance: Understanding the Issues," which suggests actions to prevent missed learning opportunities in our schools. As part of our response to this report, I have tasked the Interim Chief Executive of Education Scotland to work directly with Directors of Education to take forward improvement on attendance as a matter of priority. This includes ensuring persistent absence is addressed in every school inspection, and to identify successful approaches which can be shared more widely. I can confirm that every local authority in Scotland is working to improve attendance and reduce absence as part of the stretch aims aligned to the Scottish Attainment Challenge.

We are also considering the findings on attendance within the Behaviour in Scottish Schools Research and Education Scotland's work as part of the joint Scottish Government and COSLA action plan on relationships and behaviour. I recently confirmed to Committee that as is standard practice during a UK pre-election period, the Scottish Government takes particular care regarding the announcement of decisions which could have a bearing on the UK general election.

Therefore, in line with the pre-election guidance, the joint Behaviour Action Plan and Mobile Phones Guidance which had been planned for publication during the pre-election period, will now be published as soon as feasible in the new school year.

Flexibility

Recommendation 17.

The Committee notes the call for greater flexibility of learning for pupils with ASN and the suggestion that a more structured approach to part time timetables and curriculum provision could be adopted, including hybrid options, where this is in the best interests of the child. The Committee recommends that the ongoing curriculum review considers the issues heard on increased flexibility during this inquiry to ensure it is accessible to all pupils.

I agree with this recommendation in principle. I should be absolutely clear, however, that there is a clear legal distinction between pupils who are home educated, and pupils who are in attendance at a school. This is important, as there are legal and practical implications associated with responsibility for pupils' education in these different circumstances, and I would not seek to inadvertently interfere with those roles, either in relation to the duty upon parents to secure their child's education either through home education or by securing the child's regular attendance at school, or in relation to wider educational duties which follow whether or not the child's education is or is not the responsibility of the education authority.

That said, under the Curriculum for Excellence framework, local authorities, schools and education practitioners in schools, may explore flexibility within their timetabling and curriculum offer, including part-time and hybrid learning, to best meet the needs of their learners, including those with additional support needs. Virtual learning offers can support this, whether through local initiatives or the Scottish Government funded National e-Learning Offer/e-Sgoil. E-Sgoil has undertaken some preliminary work on timetabling that indicates that there is some harmonisation across groups of local authorities which could support more structure and augmentation of local offers. Options are currently being explored around a National Digital Academy to widen access to courses and improve progression pathways. Different pupils will

have different learning styles and needs, and the interests of individual young people should be taken into account in any decisions on implementing the various options available to support them.

Attendance

Recommendation 18.

The Committee recommends that further work be undertaken by the Scottish Government and COSLA, as appropriate, to understand a) the number of pupils with ASN currently being excluded; b) the number of pupils with ASN currently on a part-time timetable; c) the reasons for this; d) any trends emerging over time; and possible areas where children and young people can be encouraged to improve attendance at school.

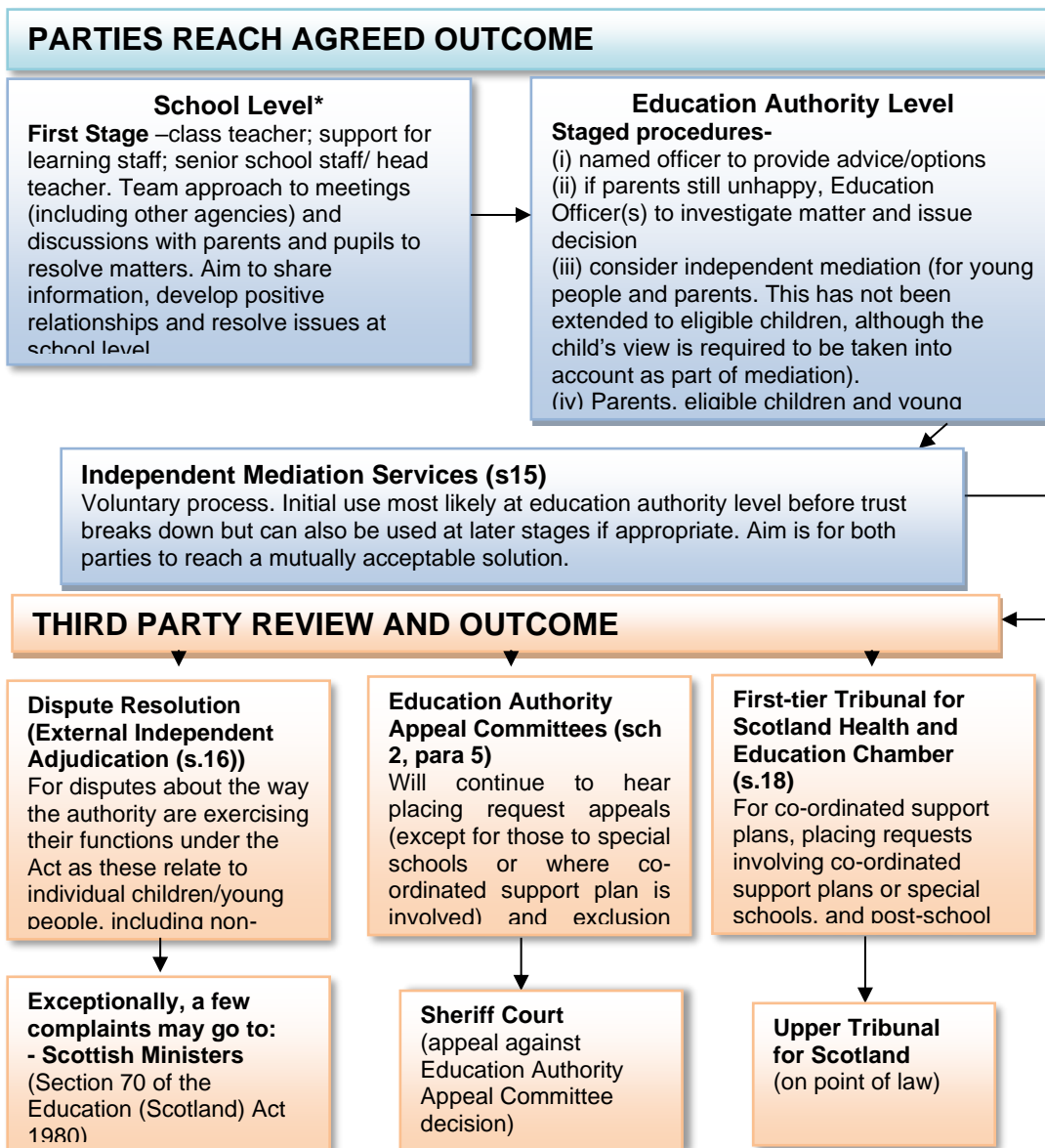
Scottish Ministers accept this recommendation. We are currently engaging with our partners COSLA, ADES and Education Scotland, to consider this recommendation in detail and will provide further details to Committee of our approach in due course.

In the meantime, I confirm that information on exclusion from schools, attendance and absence data all contain information on pupils with additional support needs. For ease of reference, I include a link to the information on [attendance and absence](#) and [exclusion from schools](#).

3. The use of remedies as set out in the 2004 Act.

I welcome the Committee's consideration of the range of statutory remedies open to parents, carers, and pupils in relation to additional support for learning as set out in the Education (Additional Support for Learning) (Scotland) Act and how these provisions are working in practice.

I note that the Committee focused largely on the First Tier Tribunal Health and Education Chamber and the ability of parents, carers, and pupils to access this service. As the Committee will be aware, Scottish Ministers want all concerns or disagreements in school to be resolved at as local a level as possible, where appropriate, however, there are a range of dispute resolution mechanisms available under the Education (Additional Support for Learning) (Scotland) Act, where this is not achieved. I would particularly wish to draw the Committee's attention to Chapter 8, p.134 of the Supporting Learner's Code of Practice, which sets out a Framework for the dispute resolution process, to support practitioners (see diagram below).



Whilst this framework is in place to support practitioners, Enquire, (The Scottish Advice Service for Additional Support for Learning) have created two guides for parents and carers; one which sets out how to communicate and build a good relationship with school [Working with school and solving problems - Enquire](#). The second provides further guidance on the more formal routes to resolving disagreements, in those circumstances, where the relationship between a parent or carer and their child's school breaks down [More formal routes for resolving disagreements - Enquire](#).

We are committed through the ASL Action plan to continuing to fund the Enquire advice and information service for parents and to improving communications for parents to ensure that they are informed, empowered and able to access appropriate support from relevant services.

Co-ordinated Support Plans

Recommendation 19.

The Committee considers that all children and young people should have access to remedies and that access to the Tribunal should be open to everyone. The Committee recommends that the Scottish Government, in discussion with the Tribunal, considers what amendments to the 2004 Act should be made to widen the routes of access to the Tribunal including, but not limited to, relaxing the statutory criteria for CSPs.

Recommendation 20.

The Committee recommends that the ASL Action Plan is updated to provide further clarity on the use of plans to support pupils with ASN including where certain plans are appropriate and their relative merits in each situation. It should also consider the compliance of these plans with GIRFEC and the UNCRRC.

I note recommendations 19 and 20 and provide a joint response to both recommendations as the information supplied pertains to both of the issues raised by the committee.

The Act enables the First Tier Tribunal Health and Education Chamber in Scotland to hear references from parents, eligible children and young people on matters relating to:

- co-ordinated support plans
- appeals concerning refusals of placing requests (only in relation to special schools and/or where co-ordinated support plans are involved)
- school to post-school transitions.

The Act has been designed specifically to ensure that the issues which can be considered by an independent adjudicator – [‘specified matters’](#) - are, broadly, outside the First Tier Tribunal’s ASN jurisdiction. This approach allows for expertise to be utilised in each area and reduces the risk of duplication or confusion arising from differing outcomes from each mechanism. I have concerns that widening the First Tier Tribunal’s ASN jurisdiction may result in unnecessary escalation of issues which could be otherwise resolved at a local level. It may also result in duplication of cases being considered by multiple mechanisms resulting in confusing outcomes for the parties involved.

I am confident that work being undertaken through the ASL Action Plan to raise awareness of the existing mechanisms available to parents and families of children with additional support needs on resolving disagreements, as well as the refresh of the Code of Practice, will go further in addressing the issues raised by the committee.

In May 2019, the then Cabinet Secretary for Education and Skills committed to review the use of Co-ordinated Support Plans (CSPs). It was agreed that this work would not begin until the wider review of implementation of additional support for learning had concluded. This was to allow the findings from that wider review to inform the review of CSPs. Following publication of the joint action plan in October 2020, a short life working group was established to consider this important issue.

The report from the short life working group found that the legislation and policy in relation to inclusive education in Scotland is commendable and well-intentioned. However, there was a view that a significant gap between policy and practice existed, which required to be bridged

if meaningful outcomes for children and young people with multiple and/or complex needs are to be delivered within the ASN planning process.

The Short Life Working Group considered that there was variation in awareness and understanding of the legislation, Recommendations were made to develop national professional learning resources and accessible information and guidance on CSPs for children, young people, parents and carers. These resources should be co-produced and made widely available through a range of appropriate sources.

In addition, the group recommend that the planned refresh of the Code, guidance on the staged intervention approach and appropriate elements of the refreshed policy and practice guidance on Getting it right for every child (GIRFEC), include further clarity on the relationship between the CSP and other children and young people plans within a staged intervention model. These recommendations have been included within the existing ASL Action Plan and work is ongoing to address these issues.

Through the ASL Action Plan, I am already committed to considering the compliance of the ASL legislation with UNCRC, and I accept this aspect of recommendation 20.

Independent Adjudication

Recommendation 21.

The Committee considers that the Regulations allowing access to dispute resolutions under the 2004 Act are not well designed and create a gap in access to justice for parents and carers. The Committee recommends that the Scottish Government brings forward new Regulations to ensure greater access to these remedies as set out in the 2004 Act.

I note the recommendation.

Under the Act, the dispute resolution framework is designed to support the resolution of disputes at as early and as local a stage as possible. However, where those disputes arise which cannot be resolved through engagement with the school and local authority, the Act makes provision for mechanisms to formally resolve the issues. The Code of Practice clearly sets out the types of issues which can be resolved through independent mediation, independent adjudication and through the First Tier Tribunal Health and Education Chamber.

Where parties are unable to resolve their disagreements through engagement with the school and the local authority, mediation is considered the first mechanism which should be accessed. Each education authority in Scotland is required to have independent mediation services in place to resolve disagreements which arise in relation to the exercise of the authority's functions under the Act. Whilst it may not be appropriate in every situation, mediation is valuable in supporting to build or rebuild a positive relationship, leading to co-operation in making arrangements for the child or young person involved. They can help avoid conflicts that arise out of misunderstandings or lack of shared information by helping parents, teachers, education authority officials and others involved to communicate directly with one another.

I note the Committee's view that increasing access to mediation is an issue which should be addressed by the Government. Whilst I agree with the Committee's view on the value, which is provided by mediation services, there are no barriers to what can be addressed by independent mediation under the Act. Therefore, I am not minded to accept this

recommendation as framed. I am, however, confident that more work can be done through communications to promote the availability of mediation services and work is ongoing through the ASL Action Plan to further this.

Where issues cannot be resolved through mediation services, the Act sets out two formal methods of further resolving issues – Independent Adjudication and the First Tier Tribunal Health and Education Chamber. The Additional Support for Learning Code of Practice clearly sets out the First Tier Tribunal’s ASN jurisdiction and which issues can and cannot be covered by the independent adjudication process, detailing the timescales and process involved.

As set out in my answer to Recommendations 19 and 20, the Act has been designed specifically to ensure that the issues which can be considered by an independent adjudicator – ‘specified matters’ - are, broadly, outside the First Tier Tribunal’s ASN jurisdiction. Issues relating to co-ordinated support plans for example, cannot be considered through independent adjudication as these issues fall under the First Tier Tribunal’s ASN jurisdiction. This approach allows for expertise to be utilised in each area and reduces the risk of duplication or confusion arising from differing outcomes from each mechanism. I have concerns that widening the First Tier Tribunal’s ASN jurisdiction or independent adjudication to allow each mechanism to consider similar matters, may result in unnecessary escalation of issues which could be otherwise resolved at a more local level. It may also result in duplication of cases being considered by multiple mechanisms resulting in confusing outcomes for all parties involved.

I am confident that work being undertaken through the ASL Action Plan to raise awareness of the existing mechanisms available to parents and families of children with additional support needs on resolving disagreements, as well as the refresh of the Code of Practice, will go further in addressing the issues raised by the committee.

Conclusion

In conclusion, I am very grateful to the members of the Education, Children and Young People’s Committee for their detailed and thoughtful consideration of this very important issue. I also wish to express my sincere thanks to those who gave evidence to support the Committee in their considerations. I wish to put on record, that I remain committed to continuing to improve the outcomes and experiences of children and young people with additional support needs and their families in Scotland and will continue to work with COSLA, local authorities and other partners to do this.