

PARENT EXPERIENCES OF THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY TRIBUNAL

“What is going on with our children is a hidden scandal”

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Introduction

The existence of the Special Educational Needs and Disability Panel is one that most parents really welcome, despite reservations, and is an invaluable institution, one that is, sadly not a feature of the justice system in many countries. It is in need of improvement if it is to be trusted to bring justice to the needs of children. This need is particularly strong in view of preparation for the changes to SEN legislation later in 2014 when the Tribunal will face new challenges posed by different assessment arrangements and the new Education, Health and Care plans.

SOS! Special Educational Needs (SOS!SEN)

SOS!SEN is a registered and independent charity dedicated to helping parents to find their way through the Special Educational Needs maze. "Our aim is to empower parents and carers, and to encourage them to become sufficiently confident to tackle for themselves the obstacles and difficulties that arise in battling for SEN rights. In turn, we hope they will use their knowledge and experience to help others." SOS!SEN website: <http://www.sossen.org.uk>

SOS!SEN operates a helpline that parents can phone for advice, and in addition to the helpline, It offers workshops on special areas of SEN, and also several free walk-in advice centres. SOS!SEN also offers free and independent advice to parents who have decided that attending the SEND Tribunal is the only way to address issues with their child's education.

"We have won both times.

I think it's important to remind people, at the end, that this is about a child, and we are just parents... having a go, working through this crazy system, trying to meet our child's needs.

And we are not desiring to have a Tribunal, and desiring to give a year of our lives, desiring to neglect our other children...

And really, they are champions, and they are surviving the system and we want to make them more than just survive.

And that, please, give a thought to that when you are going through all this paperwork, because there is a kid out there that is doing his best... You know?"

(Parent of a child with Special Educational Needs who won twice at SEND Tribunal).

Background to this research

"It was very different to our first experience...which is why it was such a shock"

SOS!SEN has helped many thousands of parents over the last eleven years. Many of these parents have been to the SEND Tribunal. While operating the helpline and running workshops and listening to parents in the free advice centres, SOS!SEN members often help and support parents on the way to the SEND First Tier Tribunal, during the Tribunal itself, and even sometimes to a

further appeal. **What has become apparent is that parents report very varied experiences of the SEND Tribunal.**

SOS!SEN decided to undertake both qualitative and quantitative research to explore parental experiences.

- a) Face to face focus groups of parents who had appealed to Tribunal in 2011 and 2012
- b) An email based focus group inviting parents who could not attend face-to-face groups, to respond in depth to the same issues raised in those groups for reasons of geographical distance and availability.
- c) An Internet use of Survey Monkey inviting parents from across England to respond to 10 questions set. At the request of some parents evidence was taken from those who had appealed to Tribunal in early 2013.

The reason for this was to explore what works well for parents, and to explore areas where there are opportunities for improvement, from the perspective of parents. Previous work undertaken in this area suggests that many parents find the SEND Tribunal very stressful. In particular the work by Katherine Brunswick-Cole makes this point. Her article in *Disability and Society* sums this point up in the title: ***“The Tribunal was the most stressful thing: more stressful than my son’s diagnosis or behaviour”***: the experiences of families who go to the Special Educational Needs and Disability Tribunal (SENDisT)” (Brunswick-Cole 2007: 315-328).

A qualitative methodology was chosen because that enabled the experiences of parents to be explored in depth and it provides the basis for the findings. Four focus groups were conducted, in which 24 parents participated. Groups met in informal settings with the researcher present to ensure all issues were addressed and to record the flow of discussion. Participants who were known to have attended SOS!SEN events and to have submitted appeals, came from the London area and the counties of Hampshire and Surrey. One focus group consisted entirely of parents who had won at Tribunal. The others included roughly 50% winners and 50% who had lost at Tribunal. Focus groups were recorded, transcribed, and the resulting transcripts were analysed using thematic analysis. The issues presented to all participants are attached to this document – Appendix A

A fifth focus group of 11 people was conducted by email and a thematic analysis also applied. No discussion took place between the participants but individual extensive views were elicited. The issues raised and responses from participants are attached to this document to provide detailed evidence of questioning and responses – Appendix B

A more quantitative methodology was used in Summer 2013 via questions set out on Survey Monkey and allowing for a wider geographical input, a longer time span of appeals and a more statistical picture, together with an approach to information gathering based not upon group discussion. The participants were invited via the Internet and a letter sent out to people on the SOS!SEN parent list but not necessarily ones who had had a significant level of help from the charity. Confidentiality of name was assured. The questions asked are attached to this document Appendix C, together with an analysis of results Appendix D. In a few cases, to preserve confidentiality references to schools and individuals have been removed and replaced by a letter. There were 48 respondents to this approach.

Executive Summary

Issue 1: Is there an appropriate balance at Tribunal between legal concerns and the education of the child.

- * Parents find the process extremely stressful
- * The process is not seen to be centred on the child's needs
- * The SEND process is much more confrontational than the information suggests

Issue 2: The cost and funding of appeals to the Tribunal

- * The LA have their own lawyers and so if parents do not have their own lawyers they are at a disadvantage
- * The Cost (if not entitled to Legal Aid).
- * Restrictions on legal aid.
- * Costs of the placements rather than the needs of child increasingly paramount with many panels and vague assurances not checked on properly.
- * Some parents felt let down by lawyers if they lost the case
- * Parents commented that the help from charities was invaluable.
- * However some said they should not be seen to shop around for advice!

Issue 3: The behaviour and tactics of some Local Authorities once an appeal is registered and whether Tribunal panels take into account in their decisions the 'suffering' a child has experienced as a result of Local Authority failings

- * Access to child to observe/write reports was a very big issue for some parents
- * LAs at times forcibly sending in their own experts through obtaining Tribunal orders and even though they had had months to carry out assessments and do them properly.
- * LA reports based on short period of observation and/or assessment
- * LA denying access to independent experts by persuading schools not to cooperate fully.
- * Some parents went to great lengths to pressurise a reluctant LA to mediate
- * Distrust of motives of LA in agreeing to mediate
- * The mediator must be independent of the LA

- * It helps if the mediator is a parent of a child with SEN
- * There are concerns about whether the resulting document from mediation is legally complex enough if the mediator is not legally trained
- * Mediation a waste of time when parties far apart (e.g. re placements) and effectively parents giving away their case to the LA officers so they can then manipulate rest of evidence to their advantage..
- * Timing of the mediation is crucial

Issue 4: Is the Tribunal administration too willing too often to allow Local Authorities to flout deliberately the Tribunal’s own regulations

- * There is great dislike of the conduct of the LAs who ignore case directions, use delaying tactics in order to beat down parents, and are ill prepared for Tribunal.
- * Tribunal panels too willing to accept oral evidence on the day from “plausible” maintained school management,that their school can meet needs.

Issue 5: How parent-friendly is the Tribunal process, how could it be improved, and can parents’ views alone ever be enough for them to succeed in an appeal

- * Not all judges are parent friendly
- * Possible improvement if wing members are parents of children with SEN
- * An oath before proceedings would give confidence in proceedings

Issue 6: Are Tribunal panels constituted and trained in a manner which inspires trust in parents

- * Lack of standardisation of procedures and of training for many panels. A case may be lost or won on the “chemistry” of the panel on the day.
- * Not all judges seem versed in issues of SEN and education.Training in education issues is needed for judges coming new to the Tribunal.
- * Not all judges are fully prepared for the case.
- * Questions over the independence and up to date knowledge of wing members with LA backgrounds
- * Pre-existing politics between Tribunal members may be an issue

- * Greater transparency over the background of wing members would help create climate of greater trust.
- * A digital record of the proceedings would be an improvement

Issue 7: The need for Tribunal panel members to be made aware of the long-term consequences of their decisions

- * Failure to obtain the right placement at Tribunal leaves many children highly vulnerable, regressing academically and with increasing levels of anxiety.
- * Deciding without great care and scepticism on a cheap option may be condemning a child for the future – and the panel may never know!
- * The wrong Tribunal decision can destroy the lives of entire families.
- * Even if Tribunalis won the “merry go round” starts again at various stages (e.g. 11+ or 16+)

SECTION ONE:

1. What are Special Educational Needs?

Special Educational Needs are currently defined by the “Special Educational Needs: Code of Practice”, the government publication that became effective in 2002. However, this report comes at a time of great change in the area of legislation concerned with Special Educational Needs. The Children and Families Act will bring changes to legislation and the assessment and provision for children with SEN and Disabilities. However, the current definition of Special Educational Needs from the Code of Practice is as follows:

a) Definition of Special Educational Needs

“Children have special educational needs if they have a learning difficulty

which calls for special educational provision to be made for them.

Children have a learning difficulty if they:

- i. have a significantly greater difficulty in learning than the majority of children of the same age; or
- ii. have a disability, which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local education authority
- iii. are under compulsory school age and fall within the definition at (i) or (ii) above or would so do if special educational provision was not made for them”.

Other relevant legislation for some children with Special Educational Needs includes Disability Discrimination legislation as contained in the Children Act 1989, Disability Discrimination Act 1995, and the Equality Act 2010. The Equality Act 2010 has strengthened the rights of children with disabilities. Schools must not discriminate and they must make “reasonable adjustments” for disabled children and young people. Public bodies are also under wider duties to promote equality of opportunity.

Many common Special Educational Needs, such as Dyslexia, are also Hidden Disabilities, and thus such children are protected by both the SEN legislation and the Disability Discrimination legislation.

SEN legislation is currently being amended in the Children and Families Bill expected to be enacted in September 2014. There will be a new Code of Practice. Changes will include the extension of SEN legislation to cover up to the age of 25, and will also cover post-16 institutions.

b) Statementing, or “The Statement” of Special Educational Needs.

The exact number of children with SEN is subject to debate due to variations in reporting and diagnoses. However, a figure of about twenty percent of the school population has been cited. (Kelsair and McNally 2009:1). Of this 20%, approximately 2% may have needs that are serious enough to require at Statement of Special Educational Need. If a child is not making expected educational progress in school a “Statement of Special Needs” may be requested by a parent and drawn up by the Local Authority. It sets out both the exact nature of the child’s Special

Educational Needs, and the exact nature of the provision that must be put in place. This statement has six parts. Part One relates to the general information about the child, such as name and address. Part Two gives details of the child's particular needs. Part Three gives details of the provision that will be provided. Part Four names the school that the child will go to, and the school must be capable of providing this support. Part Five names non-educational needs, and Part Six describes the non-educational help that the child will be given. Appeals to the SEND Tribunal relate to sections Two, Three and Four only.

2. What is the SEND Tribunal?

The SEND Tribunal is an independent body. Its purpose is to provide resolution in cases of disagreement between parents and the LA over Statementing matters and to hear claims of disability discrimination in education. The SEND Tribunal is independent of the Local Education Authority, although some Tribunal wing members are reported to be ex or even still practising LA employees.

The Tribunals website explains that the SEND Tribunal is now part of a two-tier structure; the First-tier Tribunal and the Upper Tribunal.

“The two new Tribunals consist of chambers that group together jurisdictions dealing with similar work or requiring similar skills.” <http://www.justice.gov.uk/tribunals/send> The SEND Tribunal is now part of the Health, Education and Social Care (HESC) Chamber.

The methodologies used in this research attempt to explore the following areas. Extracts from responses are included. Where they are taken from the Internet based questionnaire (Survey Monkey) they are indicated by a*.

a) Why go to SEND?

There are two types of claim that can be heard at SEND. Firstly, appeals against LA decisions regarding children with Special Educational Needs. Secondly, claims can be heard against both schools and local Authorities where there has been Disability Discrimination in a child's Education.

b) Triggers for going to SEND

There are many reasons why a parent may appeal to the SEND Tribunal. These reasons include refusal to carry out a Statutory assessment, refusal by the LA to make a statement after the assessment, refusal to reassess, (if the LA has not made a new assessment for at least six months), if the LA ceases to maintain a statement and if the LA does not amend the statement following an annual review. In addition the school named in Part 4 of the statement may be disputed.

“What we were offered was totally inappropriate...condemning a child...they didn't look at the paperwork in depth. They chose the school and then worked backwards” (Parent).

Ultimately, however, all appeals to the Tribunal come down to what may happen to a child in a setting with inadequate support, or in the wrong placement. These quotes from parents eloquently demonstrate this point:

c) Child with inadequate support or in the wrong placement

“(Child) is not in school. We sent (Child) to the place where (LEA) named. (Child) put on a stone in weight in the first term. (Child) was diagnosed with depression. The doctor signed (Child) off from going to that school. (Child) was falling apart.” (Parent).

“(Child) went into mainstream secondary school and lasted ten days.” (Parent).

d) Child with right support in right placement

“Well (child) is very happy, very settled, (child) is getting the most brilliant care and the most brilliant therapy and the most fantastic teaching. There isn't a day that goes by when we don't say: “We've done the right thing!” (Parent)

SECTION TWO: PREPARING FOR TRIBUNAL

“Be prepared to go through hell!” (Parent).

1. First get into the right frame of mind

Parents were adamant that getting into the right mind-set was crucial to reducing stress and surviving the process

a) **Understand that the child will not be at the centre of the process.** In particular parents found that the lack of focus on the child’s needs during the SEND process is hard to come to terms with.

“The whole process...the child is...forgotten...It’s hard to get through to new parents who have not been through the mill a few times...It’s sometimes hard to convince them... They go in with these rose-tinted glasses thinking that because we are having cups of tea with the LA that we are all trying to help the child...You need to prepare as if you’re going to court, they are not in it to facilitate helping your child...it is not us being vindictive .. It is just plainly the way it works....” (Parent who won at Tribunal).

b) **The process is much more confrontational than the videos and other information suggests.**

Parents discussed the information materials available to parents to make them familiar with the process. They agreed that the videos and other materials available do not give an accurate perspective of how confrontational the process can be.

The video:

“...conveys a relaxed hearing venue...informal... Well it isn’t touchy feely...with the Judge saying ‘There, there, dear, if you want more time’...It isn’t like that” (Parent).

“There was no friendliness about... anything...it was very adversarial...No, friendly was not a word that would come to mind! It was very...very...it was very confrontational” (Parent).

2. Gathering evidence and preparing documents

Access to the child in order to assess and observe was a very big issue. **Parents reported that some LAs were denying access to independent experts chosen by the parents.**

“(LEA) now not allowing the school to speak to independent experts” (Parent).

A related issue was that the **LA would forcibly send in their own experts to assess the child,** often against the wishes of the parent, as in the following case:

“There was a big issue. It might have made the difference to us winning or losing the case. We had a big battle with (lawyer)on the issue of whether (school proposed by LEA) should be allowed to come and observe (child) at (current school). There is a new law to say you got to let them in. I was against it. There were numerous letters from the lawyer. I agreed in the end they could observe but not assess. . Nonetheless they wrote it as a report, and that report went to the tribunal, which was key. The report was key because the school then said “Of course we can give (child) whatever (child) needs! And that was what

persuaded the Judge! They came and did an observation in class and spoke to the professionals...They were probably in class for about an hour or so”(Parent).

The LA also often based their evidence on very short visits to the child in question, as the following parents discuss...

Parent 1: *“Their (LEA) EP went and looked at my daughter for 20 mins in assembly...that was the only time their EP saw my daughter...two years before the tribunal... Well, we had this independent EP, who specialises in (names SEN) and had spent a whole day with my daughter...”*

Parent 2: *“We had the same thing with our OT....exactly the same.”*

3. Getting help with the SEND Process

a) Advice from lawyers

The subject of lawyers produced some very emotional discussions among parents. This was partly due to the phenomenal and sometimes crushing costs that some parents had incurred in payments to lawyers in the hope of winning their case. Some parents also felt that there were issues of variable quality among lawyers. However, parents were also very keen to point out that the process is not actually accessible to parents without lawyers, as the LA will have lawyers to guide them. As one parent eloquently explained:

“It is supposed to be a process that we are able to access ourselves...And can we really? Not when the other side have got barristers...and solicitors working for them on their payroll, and we are doing it first time...They are doing it for the umpteenth time... We’ve got a child...we’ve got the emotional investment...and they are doing a process they do day in and day out... It’s not accessible for parents...” (Parent).

Seeking help from the Parent Partnership raised the issue of questionable independence from the LEA. The following exchange between parents makes this point clearly.

Parent 1. *“I went to my Parent Partnership Solicitor...”*

(Lots of laughter from other parents)

Parent 2. *“That was trusting!!”*

Parent 1. *“No, we thought we have so much evidence...we thought we had a good case.. they adopted all the bits in the statement that we wanted, then named a school that could not deliver! It was one size fits all provision....She was great all along, attended meetings with me.. but once the final school was named...that was it...I had to get a lawyer!... I hadn’t heard of SOS!SEN then...”*

*“The Solicitor was helpful and I could not have done it without him. He tried to negotiate a settlement before the day, but the LA would not budge, they were not interested in negotiating.

In addition, parents mentioned:

“Talking every night to a friend who had been through it.”
“Attending the SOS!SEN day course.”

“Pre-warning of the underhand tactics used by the school/LA to make out that he could cope with a mainstream school.”

“Looking at Freedom of Information Act requests on the internet to find out the LA's costs of SaLT and OT and cost of dyslexic unit placement, so that I could compare costs of the LA provision and an Independent School provision as the total costs ended up being very similar. Had they not been, we would have lost the case and my son would be at home with me now all day every day, and I would be out of work and then we would have lost our home.”

b) Advice from charities

Parents commented that the help from charities was invaluable. However, some said they should not be seen to shop around for advice!

“I got advice from IPSEA and SOS!SEN...IPSEA were very cross when I said that I had taken advice from SOS!SEN... “Oh wasn't it good enough?” they said!! “Oh Yes, but I am checking against somebody else's advice”...If people ask me I say “Ask these....and these... but don't tell them that you spoke to these!!”

**“Preparation for tribunal by educational experts at NBCS, IPSEA and SOS!SEN. Being told what to expect as I expected to present the case on my own so needed good advice and was given good advice”.*

c) Mediation

“Well to save people from having to go through a Tribunal...That would be...a miracle! If it's going to be done properly its worthwhile...if it's really done properly and independently...”(Parent).

There was considerable discussion about mediation in our focus groups. While many parents were enthusiastic about the possibility of avoiding tribunal through mediation, the key theme of mistrust of the motives of the LA came up again. The suggestion was raised again that the LA has other more pressing issues than addressing the child's needs saving money. This is significant as mediation is expected to become a compulsory part of the SEND process. This report suggests that the Mediator will have to be carefully selected if their independence from the LA is to be taken seriously. Further, choosing mediators who have children with Special Educational Needs would strengthen parental confidence in the Mediation system.

“Mediation would work if what they were interested in was your child....

THE WHOLE THING would be better if what they were interested in was your child!!!”
(Parent).

“Well, mediation relies on both sides having good faith...if it's an amicable divorce or an amicable child custody.. and the other person has a different opinion but they are being genuine about it.. The problem is that the LAs are not being genuine.. It's all about money...They are pretending it's about your child...and if you can't trust that they are coming from a genuine different position then...” (Parent).

Again on the theme of mistrust, one parent commented that going to mediation was useful because it was possible to see what the arguments of the LA actually were.

Parent1: *“It was good to see what their arguments were”*

Parent 2: *“Yes, good if you go and talk little.”*

Interestingly, some parents reported going to great lengths to get the LA to agree to mediation.

“I tried to get them to go to mediation. They flatly refused and said they would only go if I didn’t discuss part 4....I went to our MP, I went to our county councillor.. I went to every source I could...” (Parent).

Experiences of the conduct of mediation were variable, as shown in the following exchange between parents.

Parent 1: *“Our mediator was fantastic...separated both sides and sent the LEA into another room. He said “Wow you two are being so reasonable! Most parents would be shouting and swearing by now!”*

Parent 2: *“My mediator did not interfere with the proceedings, with what was on the table...It’s your turn to talk.It’s your turn to talk.. They did not interfere with the proceedings, with what was on the table.”*

Parent 3: *“We probably had the funniest mediation experience. We wanted an assessment...we had the mediation on the (date). On the (day before) their EP came to see my son and said he should be assessed....so by the time we got there we were all in agreement anyway...”* (Laughter)

Some parents reported very positive experiences of mediation.

“In one hour we had an agreement...” (Parent).

Some positive suggestions from parents regarding mediation included the importance of having a mediator with experience of having a child with SEN.

“Well she has got.. a child with special needs , so she understands... everything..” (Parent).

Bringing the child to mediation was also considered a useful suggestion.

“I think mediation would be useful if you could bring your child...so these people meet your children” (Parent).

The timing of mediation was also raised as an issue.

“The problem is that if you go to mediation, don’t you need the reports? From a parent’s point of view when are you going to do the mediation.... It’s complicated... you got to get the reports done first.. they take months and months to do...” (Parent).

There are also concerns about whether the resulting document from mediation, often just a couple of pages, is legally complex enough, particularly if the mediator is not legally trained.

“In terms of the agreement we got...two pages.. (Lawyer) did say that she can do a 20 page document and it still won't be watertight, so we stuck with the two page agreement...” (Parent).

**“We did, it was pointless, the LA representative was rude and intimidating. We gained nothing using this process.”*

“We tried to mediate the LA did not want to”

“No - there was no point. Mediation is only useful if the process is two way and the LA are prepared to listen and accept the child's difficulties”

“No; waste of our time in our opinion”

“We tried but the LA did not engage & dismissed the mediation service”

“Yes, I attended mediation. However, the LEA did not take any action. Therefore, mediation, is used by LEA as another excuse to delay intervention”

SECTION THREE: THE DAY OF THE HEARING

A key theme for parents on the day of the hearing was the variability of experiences of the Tribunal. Attending the SEND Tribunal is not only stressful, for many parents it is extremely costly financially, in terms of time and also in terms of the emotional strains put on parents, the child, and the rest of the family. In addition many parents reported variability of SEND Tribunal experience. Some of this variability can be addressed or explained fairly simply, such as by improving the quality of information beforehand, or the availability of catering facilities. A deeper issue, however, is the pervasive sense that the LA is, firstly, not appropriately focussed on the needs of the child, and secondly, that certain tactics to save money are being deployed by the LA. The distrust of the motives and tactics of the LA is apparent through much of the discussion with parents. **This distrust is fuelled by the suspicion that the services offered by the SEND Tribunal may not be independent enough of the LA to act fully to support the Special Educational Needs of the child.** Experiences varied according to the location of the Tribunal, according to whom the judges and the panel members were on the day, and according to which expert witnesses were present. Parents with experience of more than one Tribunal were particularly aware of this variability.

1. Variability: Location and accommodation

Parents reported great variability in terms of the notice given in terms of the location of the Tribunal, the size and organisation of the venue, whether there was food available, and other such practical issues.

2. Variability: Judges

Parents reported **variable experiences of judges in terms of how well they were prepared for the case, how much they know about SEN and how parent-friendly they are.** Some judges have the reputation among parents of being less supportive than others towards parents. One, mentioned by 3 parents from the focus groups was regarded as clearly incompetent.

**“There was no knowledge or apparent preparation from the LA.They were disinterested in our concerns, as was the tribunal panel.”*

“During the procedure it became quite clear that the LA did not know the complexities of (child’s)case and the school where she was at that time, it transpired that her form tutor hadn’t even been told that she had epilepsy. The judges were very professional and seemed to know more about (child’s) case than any of the LA’s side”.

“The panel had read the notes but let the HT speak for 2 hours about nothing more than the national Curriculum seven stages of learning..... She spoke slowly and went into detail about exactly what they were doing and learning, The judge appeared to hear about what is standard in schools as if it was a special approach of this school and was visibly impressed.”

“The level of presentation was very poor - the LA case was full of inaccuracies and deliberately misleading comments. There was no opportunity to take up these point by point. The panel seemed to have a very poor knowledge of our son’s disability, to ignore hours of strong evidence from our representative and witnesses, and to have a prejudice about private education. Despite hearing that he had been failed in a state primary school, one panel member said something about our simply wanting a ‘Rolls Royce education’ for him. Because he is doing well in his current setting, this was taken to mean that, despite all

evidence to the contrary, he would do equally well in a large comprehensive school. The was little or no understanding of FASD and its long-term and persistent effects on the brain and on behaviour.”

“There were over 700 pages in total of evidence submitted - it was evident that the panel had read and understood many of the issues which were in contention”

“Panel were very knowledgeable. Authority had not prepared their case very thoroughly”

“no knowledge what so ever. Then denied my son had problems”

“The panel at the tribunal did not listen to me his mother, just the. LA, felt I should not of been because they were not interested in our side”

Not all judges were equally well prepared for the case. However, in the following example it is clear that the judge had not been given the bundle in time.

Parent 1: *“We got there at 9.00 in the morning and it was due to start at 10.00. At five to ten the judge much came out and said:*

“I don’t have any of your paperwork. We are going to have to adjourn it!”

Other parents: (Gasps and Sounds of shock and horror)

Parent 1: *“We had an extra copy of our paper work as my husband had a copy for each of us...”*

We said: “You can have this one..”

She said: “OK, I will read it through and come back at 11.00.”

“She read it through on the day from ten o’clock till eleven o’clock...”

Other parents: (Gasps of horror)

Parent 2: *“You CANNOT read through 500 sheets of paper in an hour... and absorb it...”*

Parent 3: *“Is that why you appealed?”*

Parent 1: *“No we appealed because (LEA) lied.”*

However in other cases the Judges seemed not to have become familiar enough with the case in the time before the Tribunal.

“They were asking questions that should have been apparent from the paperwork”. (Parent).

“The judge summed up the costs in the end and got all mixed up!!” (Parent).

What was clear from discussion with parents, however, was that parents were clear that some judges could behave in a manner that was considered not to be parent-friendly. This agreement among parents as to the issues with certain judges is evident from the following exchange.

Parent 1: *“At Tribunal, (Judge) said some things.”*

Other parents: (Other parents react with shock at the mention of (Judge’s name), and they start to all talk at once...)

Parent 2: *“(Same Judge) told us off before we even started...(Same Judge) said it’s absolutely ridiculous what you’re asking for in a mainstream school. And if you wanted all that you should have gone for a special school and there is absolutely NO WAY that you are getting all this!...”*

The judge “controlled from the start where (Judge) attacked the parents.. sort of says right off.. “Tell us why you are here!”... in quite a...we felt we were attacked as soon as we sat down.. the barristers sat down, and then (Judge) attacked the parents.. We had prepared bit about our (child) to say and (Judge) cut us off half way through..” (Parent).

Some parents reported variable knowledge among judges of issues of Special Educational needs.

“Well they probably have the same levels of understanding as we did at first... “Oh (child) is Autistic... Oh well the system will look after (child) then!” But they have no in-depth understanding of the details” (Parent).

Parent 1: *“I was impressed with our judge. They had the paperwork, they had read it. They knew where everything was...”*

Parent 2: *“Our Judge worried us a bit...he started questioning the OT (Occupational Therapist) about the whole validity of sensory integration...”*

“We were fixing something at Upper Tier that had not been done properly by the judge at the first tribunal... the judge plainly got it wrong on several levels... they disagreed with the first judge at the Upper Tier.” (Parent).

3. Variability: Panel members and their background

The SEND Tribunal will consist of a Judge and two panel members, also referred to as specialist members, or wing members. The SEND Tribunal description of wing members and how they are chosen is on their website:

“To qualify as members they must have knowledge and experience of children with special educational needs and be ineligible for appointment as Tribunal Judges.” <http://www.justice.gov.uk/tribunals/send/members> (18/11/13)

“ A person is eligible if they have substantial experience of special educational needs or disabilities depending on the role of the member. Any new members will be appointed by the Lord Chancellor on advice from the Judicial Appointments Commission (JAC).

Specialist members of the Tribunal are recruited on 5 year, renewable contracts. The last recruitment exercise was in 2010. When SEND needs new specialist members the JAC will invite applications via the national press.” <http://www.justice.gov.uk/tribunals/send/members> (18/11/13)

Thus while wing members must have experience of Special Educational Needs or disabilities, there is not an explicit reference to the point that they must be independent of the LA or that they will be chosen for a particular appeal hearing because they have specialist and up to date

knowledge of the child's particular range of needs. Over a decade ago concerns were voiced regarding the background of panel members as possibly compromising the independence of the SEND Tribunal. "If you appeal, your case will be heard by a panel consisting of a lawyer chair and two lay members who have experience of special educational needs and/or local government. Many of the lay members work for LAs and most have no personal experience of disability, in contrast with the composition of disability appeal tribunals" (Gravell: 2000).

The background of these wing members was the subject of considerable debate on the part of parents, who complained that the wing members were meant to be "independent", yet when their backgrounds were checked, they were found to be current or ex-LA employees. **This was considered to compromise the "independent" status of the SEND Tribunal, and introduce an area of possible bias to proceedings.**

"We discovered that the two lay members were Educational Psychologists. So two EPs...I did a bit of a check... one was Ex -LA for sure... and one had gone into private practice...so we had a biased...very biased panel..."(Parent).

Parent 1: *"So many wing members are ex-employees of the LEA....some are actually still employed by the LEA"*

Parent 2: *"I would like to see where they are coming from"*

Parent 3: *"Yes"*

Parent 4: *"Yes"*

Parent 2: *"CV.. personal histories..."*

Parent 3: *"Yes"*

Parent 4: *"Yes"*

Parent 2: *"And are they recruiting parents? Parent advocates? There is no balance... there is no parent representation"* (Parent).

Apart from the possible LA associations of some panel members, **there were concerns that the background of the panel members might mean that they either had a set viewpoint, or that they were simply not knowledgeable enough about particular Special Educational Needs to make an informed decision.**

"One wrote a lot of notes. It did seem to us that right from the beginning they had already made up their minds... They would not listen to the main reasons...the whole question of therapy. All the details... they refused to listen to any of it.. It was a big shock to us!!" (Parent).

"They were not as specialist as they should have been. ...their backgrounds...whatever they were... they did not know enough...in the first tribunal when (child) was small they had a complete grasp, they had read everything" (Parent).

4. Variability: Pre-existing politics

It was apparent to parents that **at times the judges, panel members, expert witnesses and head teachers already knew each other.** Both positive and negative pre-existing relationships were reported to be problematic.

Parent 1: *“You know there is an issue when you are sat in a coffee shop with your experts before the tribunal...This woman walks past and everybody goes “OH NO!!”*

Other parents: (laugh)

Parent 1: *That was the wing member...*

Parent 1: *“Our barrister was absolutely loathed by the tribunal...We felt completely punished and completely ostracised and completely out of the whole process.”*

Parent 2: *“I felt exactly the same as you. Our judge did not like who we had as an EP.... She specialises in children with (names syndrome), and they shot her down in flames...*

” .They obviously knew (Head teacher) well because (Head teacher) has been to so many tribunals...because nobody wants that school! Did nobody question that?”(Parent).

5.Variability: Expert witnesses

The witnesses are meant to be there for the child!!!”

The lack of independence of the LAwitnesses in tribunal was commented on by parents. In several cases, LA witnesses privately said to parents that they supported their position, but in the Tribunal supported the LA's position. Parental suspicions of the motives of the LA are not reduced by instances such as the case outlined below where an expert witness was told not to come to the tribunal by the LA ten days before the Tribunal. While parents did seem to understand that witnesses are in a difficult position, the point was made that this all contributes to undermine the educational prospects of a child with Special Educational Needs.

Parent 1: *“(LEA) EP was tracking my son. Came to every annual review, and said, “You know, if I could put that name for you in part four I would”. ... But when it came to the tribunal he just followed their line”.*

Parent 2: *“Our EP was.... Ten days before (the tribunal) they asked (EP) to bail!! They asked (EP) not to show up!! I already sourced a private one, cos I knew this might happen... Anyway, so the LA EP, rings me and said “They asked me not to come!” ... (EP) does not work for the LEA any more...Too many gagging orders...”*

Parent 3: *My SLT lied at the tribunal.*

Parent 4:*The witnesses are meant to be there for the child!!!”*

The Day of The Tribunal: Keeping a record

Parent who took child to Tribunal: *“(Child) has developed a stammer since being teased at school. They were nice to him, and he sat there and he went (imitates child stammering)...And in*

the Judgement the issue of whether he has a stammer was disputed by the LEA!! In spite of witnessing him stammering!! (Parent).

As is clear from the above examples, and from further examples below, **parents have a number of concerns about the conduct of the Tribunal on the day itself.** Parents are concerned that the independence of the Tribunal may be undermined by the presence of Panel members whose relationship with the LA is not clear. Parents are concerned that panel members are not expert enough in particular types of Special Educational Needs. Parents are concerned that the LA witnesses are not freely able to express their opinions in the Tribunal. In some cases parents said that witnesses have simply lied. Other complaints include parent speeches being cut short during the hearing, and the LA having much more time to talk than the parents. It is clear that there are issues of deep mistrust for the LA on the part of parents. **There are two suggestions from parents to improve this situation:**

A. Keeping an accurate digital record of the Tribunal Proceedings.

B. Having witnesses take an Oath before the Tribunal

The Authority lied, and we proved that they lied” (Parent).

“Our LEA in the opening statement said that that they had been endeavouring to contact Mrs... all this year... They tried to contact us once!! And they opened with that statement!!” (Parent).

“They lied so much...the judge was really sharp and disregarded everything they said!” (Parent).

“...and also there should be a proper record...when you go to the appeal court there is a stenographer writing everything down... I don’t see why there is not a proper record. Things can be recorded now, automatically. There must be a way of getting this verbatim. I think there should be a proper record of what happens at SENDIST..I don’t think it would add very much to the costs” (Parent).

Parent 1: “There’s no Oath.. I think it’s absolutely essential...

Parent 2: “Yes”

Parent 3: “Yes”

Parent 4: “We were under the impression that it was going to be under Oath..”

SECTION FOUR: AFTER THE TRIBUNAL

Losing at Tribunal

“There is no path for us to go on and say “Look, you have got it wrong, and look what you have done to the child...(sobs)...” (Parent).

Parents who lose at Tribunal report feeling crushed and hopeless, fearful for their child’s future and often having lost large sums of money in the process. Parents suggested that a system that enabled them to report back to the Tribunal after a period of time would be extremely valuable. **That would ensure that the Tribunal were aware of what impact, both positive and negative, their decisions make on the lives of children.**

**“My child is still learning and growing due to the education he is receiving from US! All faith has been lost in the tribunal system, the education system and particularly the SEN system”*

Account 1*

“My child ended up needing to have an operation to deal with toileting issues that the LA led the tribunal to believe had improved. The LA lied, made up evidence, made accusations about us that were not true, and were allowed late evidence, change of witnesses and so on. They were and have not been held accountable for any of this. The tribunal decision was very biased towards the LA, it was unjust and did not take account of costs or whether the school could meet needs. My child and our whole family have suffered as a result of this. My child is now in care. His needs are not being met and the outcome of this tribunal was not based on the best interests of our child. We believed this was the purpose of going to tribunal - clearly this was not the case where we were concerned. We did everything we possibly could to help our child and it wasn't enough. The outcome was devastating. Our child is now in care and not where they should be. No one has gained from this outcome - least of all our child who has been harmed by the fact they were told that their parents could not look after them. The alternative was that he would have a residential placement with a waking hours curriculum and we could have respite while he was there and we could all work together to get what is best for him, with no need to tell him we couldn't care for him, but simply the school was far away and he would have to live there and we would see him in the holidays. the outcome is not what we wanted and neither was it in the best interests of our child. I thought tribunals were supposed to be a fair process based on the law and on justice. In this case the tribunal wasn't.”

Account 2*

“The tribunal decision completely failed our child. He has regressed after the tribunal. The transition programme that the tribunal ordered was vague and not enforceable, so did not take place. As a result our child regressed for a 1.5 years before we moved him out of the school. Considering we were only asking for a mainstream school and there were no difference in cost we do not understand why and how the Tribunal has reached this decision. We were advised by our lawyer to appeal, but we chose not to as we lost all faith in SEND to make decision in the best interest in the child and their family. Parental choice should and must be respected by SEND if there is no difference in cost. We also wrote to SEND after our tribunal asking for clarification in their decision with regards to the transition, sadly to this day we still have not received a reply. We would like SEND to know that the decision they made like this has destroyed a family.”

Account 3*

“Six months after the tribunal decision, the mainstream school our son attended had not met ANY of the provision in our sons statement. The first thing the school did was call a review as there was things on the statement they did not like and could not do, so we had to obtain more legal advice, and then had to start the JR process to prevent this from happening.”

Telephone contact in December 2013 with 4 parents who had attended the focus groups after losing at Tribunal in 2011 or 2012 revealed the following-

a) one child had within 5 months been placed in the specialist school originally requested because of the recognition by his mainstream school that they could not really meet his very significant language and sensory needs. This was after he had been bullied, his arm broken and the safeguarding officer brought in to his mainstream school. He is now making excellent progress in his specialist school.

b) another had been out of mainstream school for nearly a year because of emotional and physical health issues aggravated by his severe dyslexia difficulties. Appeal after Annual Review supported this time by expert witness reports has now led to placement in the school originally requested by the parents. He is slowly gaining confidence and returning to a full school timetable.

c) a third has with a high level of provision been able to see his last year at primary mainstream through to the end but the LA has now conceded a specialist placement for secondary. Parents feel this may be because an appeal would have been inevitable.

d) a student refused a place in a specialist school offering a waking day curriculum lost a further year of education whilst appeals dragged on. The Tribunal ordered placement was found to have been less than transparent about its staffing numbers and turnover. Finally parents in desperation remortgaged their home in order to pay for the appropriate placement and the provision has helped significantly prepare this young person for the world of work.

In addition **the phenomenal cost** of attending the Tribunal meant that for many parents this is a battle that can be fought only once. The cost of attending the Tribunal was referred to by many parents. This cost was emotional, financial, and also in terms of time spent on the case. In many cases this was seen to be time that was taken not only from the child with Special Educational Needs, but also the other children in the family. **Attending the Tribunal has hidden costs to entire families.**

These points are outlined in the following quotes:

“Emotionally we could not have gone through another Tribunal...never mind financially, but emotionally it was too much...” (Parent).

“We can’t get Legal Aid. In the end as we approached the tribunal date I was falling apart...trying to cope with my son, who was at home, and all the paperwork, and the LEA absolute intransigence in the face of overwhelming evidence...I took on a solicitor...I asked my in-laws and I said “I am really sorry but I need a solicitor.” It cost £11,000 to get everything that we needed for the tribunal” (Parent).

“I never seem to see my daughter because I am always doing things for my son” (Parent).

Winning at Tribunal

Winning at Tribunal, however, is not always the end of the battle. **Various problems were reported by parents that won. These included the schools not actioning the statement, the training of teaching assistants being inadequate, intransigent head teachers, being labelled as a difficult parent.**

“On paper we won...but because we had been to Tribunal before we knew what the Tribunal could do with all these lovely open loops and things...so we were granted an appeal to the Upper Tier(Parent).

Parent 1: *“We had a good statement. Our child went into the LEA school. About a term in we realised it was a catastrophic disaster. Our child started to suffer major psychological problems but we still had to keep him there.. we started to try to defend the statement, and this went on for six years...”*

Parent 2: *“You mean they were not actioning what was in it?”*

Parent 1: *“They weren’t actioning it...erm...the LA was not doing speech therapy, or they would put speech therapy on days when they were going out...we had a horrific headmistress who was totally in the pocket of the LEA and totally ambitious for herself...”*

**“She was ecstatic that she didn't have to attend that particular school anymore, she was very intimidated when she attended her new school as she had suffered so much before she took a long time to come out of herself, she needed some counselling to help her, but now she is flying, loves school is coming on in leaps”*

“My son is a different child. He loves his new school, he loves the lessons, he enjoys the work, it is tailored for him, the stress is off, loves the boarding, and has made progress. School is no longer stressful for him and the bedwetting has now stopped as has the headaches, stomach cramps, not wanting to get up in the morning to go to school.”

“No difference. Be highly firm with the LEA's and refuse to allow the LEA to bring more witnesses than already announced in advance, also there should be an even amount of witnesses for each side. Also, it is highly dodgy if a witness produces evidence on the day - it might be dodgy and nobody has time to verify its source or date and there might be a huge body of evidence to counter it.”

The battle continues

The battle, then, continues in the struggle to gain educational rights for children with Special Educational Needs. **Perhaps one of the reasons that this battle is a hidden scandal is precisely because it is about children with Special Educational Needs.** This point was made by parents.

Parent 1: *“They go on about the MP expenses scandal...That is nothing!! What’s going on with our children...it’s a hidden scandal, that’s what it is!!”*

Parent 2: *“It’s criminal! I just don’t understand why it’s not in the media more...”*

Parent 3: *“I went to every newspaper...Radio Station...BBC...Channel 4...Nobody’s interested...Never heard from anybody...”*

Children with Special Educational Needs, then, do not attract a lot of media coverage! This lack of general interest in Children with SEN and Disabilities means that the work of parent advocates and Charities such as SOS!SEN is even more vital to the well-being of children with Special Educational needs. The child that is at times lost from sight behind the edifice of paperwork, adult politics and legislation that are, in essence, supposed to be there to support their needs and further their education.

“It’s the unspoken rule that we all know that if you want something remotely adequate then you need to get ready for the next fight and the next cost”

SECTION FIVE: KEY ISSUES AND SUMMARY

The Executive Summary lists the many concerns raised by parents/carers. Clearly these are based upon perceptions. But these perceptions are backed by the frequency with which they appear across both the focus groups and the electronic responses and by the quality of observation and expression of so many contributors. Indeed it would be hard to argue that all data concerning the treatment of the needs of a child with SEN and his carers could ever or should ever be regarded as totally objective. Whilst methodology may be applied it is inevitable that it will need to accept that educational needs fall within the study of social science and cannot ever be exact. In listening and determining a child's future the SEND Tribunal is involved not only in the very important legal framework but also in the educational understanding of the child and his needs as assessed and observed by parents and by experts in the social and medical sciences.

Key issue 1: Is the balance right? The balance at Tribunal between legal matters and the education of a child.

From the evidence obtained from the research undertaken it is clear that most respondents were **more concerned about the lack of understanding of or concern for the educational issues rather than arguments about the law**. Whilst there are many cases that do relate to important case law or to current legislation most parents do not get involved in such cases and it is probably true to say that parents trust the panel to get the law right but not to understand the child and his needs. Despite the concerns about educational "facts" appeals against Lower Tier Tribunal decisions are limited to points of law leaving little a parent can do if the panel has failed to understand the views of expert witnesses or check on the accuracy of assurances that a particular placement can provide for the particular child.

Linked to the above is the increasingly **important issue of funding**. The economic climate of the past few years has inevitably placed pressures upon panels to ensure that in the pursuit of "adequate" provision for a child public resources are used in an efficient manner. Indeed this falls within the legal framework but parents do increasingly record concerns about panels being interested only in costs and not really what the child needs. **For this reason, in the view of parents children are placed too readily in inappropriate placements, because representatives from some schools claim they can do so much at so little cost – panels "fall" for this too readily because of the costs issue and are satisfied that they have saved public money.**

Key Issue 2: is the behaviour and tactics of LAs

Once an appeal is registered and **whether Tribunal panels should take into account in their decisions the "suffering" the child has experienced as the result of LA failings.**

Many parents going to appeal believe that because the LA has failed their child for so long the final decision of the Tribunal will take this into account and compensation or reparation be part of the final decision. When they find this is not the case they are surprised and disappointed.

Parents have raised their concerns about LAs that, having failed to carry out assessments of a child at the appropriate time, they then succeed in obtaining orders from Tribunal for the child to be assessed even though the parents may have had independent assessments undertaken and sent in as evidence. This "leniency" is regarded as unfair and an invitation to authorities to do nothing until they have seen parental evidence.

The above is coupled with **the view that too often the Tribunal administration allows the authorities to flout deliberately the Tribunal regulations by allowing in without clear**

justification unnecessarily late evidence, or permitting ridiculously long delays in responding to Tribunal madecase directions. Allowing this does nothing to assure parents that they are appealing within a framework of justice and that no matter how badly their child has been treated the LA gets away with its unfair strategies.

It may be argued that parents also fail to meet all Tribunal case directions but the ability of the parent running his/her own appeal should be considered in the light of very limited or no access to secretarial and legal help v that of the LA officers concerned.

The case for evidence on oath may usefully be considered in that it may reduce the willingness of school witnesses to make vague and unsubstantiated claims about what their schools provide. Equally digital recording of hearings would strengthen confidence in the accuracy of Tribunal decisions.

Key Issue 3How “parent friendly” is the Tribunal process

This concerns just how “parent friendly” is the Tribunal process, how it could be improved and whether parents’ views alone can ever be enough for them to succeed at Tribunal.

It arises from the concerns expressed by parents that they found **the whole process stressful, much more legalistic than expected** from the information sent out and **that panels had not listened to parental views because they were not backed by expert evidence.** It may also be questioned **whether enough is done by the Tribunal service to reach out to those parents whose ability to access the appeals system is limited by matters of culture, literacy or language.** Clearly the responsibilities in these areas reach far beyond those of the Tribunal to the Government, the LAs and the support charities but Tribunal might well look again at the clarity of the information provided.

Key Issue 4Constitution and training of panel members

Relating to **whether the Tribunal panels are really constituted and trained in a manner that parents can trust.**

Evidence accumulated demonstrates that parents have considerable concerns about the chances of a fair hearing on the day as there is a view that a kind of panel “lottery” exists. The concerns about who will be the judge and panel on the day are enormous and **the sense of injustice when a panel consisting of a new judge who has come in from other Tribunals and/ or wing members who take little informed part in proceedings is frequently mentioned by parents.** Parental references to rudeness from some judges, lack of real interest in their child’s case, and failure to understand such parental rights as those under Section 316 of the 1996 Education Act receive frequent mention. Related to this are issues such as whether there should not be much more SEN training for judges and, indeed wing members and more careful consideration of parent or parent representative complaints about professional conduct.

Key Issue 5:Long term consequences of Panels’ decisions.

This concerns the need for Tribunal panel members to be kept aware of the long term consequences of their decisions.

Evidence relating to **the consequences of decisions** has been given above and the value of feedback to be obtained from parents of children who have gone through the appeal process may

usefully be obtained for both training and consistency purposes. Tribunal holds the data needed and sampling of decisions and their consequences should not be difficult to take on a regular basis.

Summary

The information provided above and the views expressed are not limited to 80 respondents. SOS!SEN takes some 3,000 plus Helpline calls each year and receives some 500 parents at its monthly advice centres. **The above messages are repeated again and again. We are confident that our findings are accurate and can be generalised into a broader picture of concerns.**

This survey was not designed to either challenge Government legislation or undermine the much valued Tribunal. **It was undertaken in the hope that the very real concerns of parents shall be taken seriously by those who lead the system and that there shall be clear evidence of improvements that will provide the reassurance that parents need now and for the future.**

This survey does not set out to propose massive changes to the structure of the existing system but to highlight genuine concerns about its functioning. It is our hope that it will be considered at all levels within the Tribunal system and particularly by all judges and wing members. We hope that it will bring to the attention of those who carry so much responsibility for the future of children with SEN just how important it is that education,law, and administrationshall work together in an **informed and compassionate** way to achieve what is needed for each child.

* * * * *

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Above all we thank all those parents who responded to the survey and do hope that their views will receive the consideration that they so clearly merit.

Marion Strudwick, Coordinator

Martin Dean,Trustee

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APPENDICES

APPENDIX A

SOS!SEN SEND TRIBUNAL RESEARCH

Focus Group Areas for Discussion

1. Why go to Tribunal?

SEN History, school experiences, or particular range of needs that lead to Tribunal: refusal to assess (possible new legislation**) refusal to amend after annual review etc.

2. Help and support on the way to Tribunal.

Who, what helped you?(e.g. other parents, mediation, charities, family support legal assistance, legal aid etc, etc

Who, what did NOT help? Anything that might have avoided the Tribunal?
Thoughts on mediation?

3. The Tribunal

Final Preparations

How did that go? (How much modification of time and place of Tribunal, was the bundle complete etc.

Place

Was it easy to find? Was it quiet/did you get a private room/how was the temperature, size of the room etc.

People there

Was it explained to you who everyone was? Who was there? Was everybody you expected there? Was anybody you did not expect there?.

Knowledge and Preparation of professionals

Did they seem to know your case well enough? Did they seem to know enough about your child's need? Did they seem to have a particular perspective? Did they work through the working document?

Thoughts at the end of the day.....describe in one sentence!

4. Aftermath of Tribunal

What was the decision?

How long did you have to wait?

Was the decision as expected?

Any thoughts on the general fairness and justice of the process?

What advice would you give to another parent?

If you could change the process what would you choose?

What happened next ? (appeal on decision.....)

We have finished, anything you would like to add?

THANK YOU!

APPENDIX B

SOS!SEN TRIBUNAL RESEARCH

Email-based Focus Group:

areas for discussion and responses received.

We have decided to print the responses in full as they give a detailed powerful but balanced account of parental views.

1. Why go to Tribunal?

In this section we would like you to tell us anything that you think is important about the reasons why you went to Tribunal. This could include, for example, the SEN history of your child, school experiences, refusal to assess, or refusal to amend after annual review, and/or anything else that you feel is relevant.

Parent A

“My child was in a mainstream voluntary aided out of borough school with Autism. Our Local Authority(LA) would not send any professionals in as claimed school were responsible nor would the school’s LA because they claimed it tor home LA’s responsibility. Coupled with inexperienced TAs, no Autism training or awareness, often asked not to come to school or kept out of classroom. Specialist therapies as required refused and not in statement, outreach who were unable to implement or design an individualised effective curriculum.

Finally LA changed part 4 of statement, removing him from his school’s roll, refusing to allow him to return and putting him on roll at a specialist school.”

Parent B

“My son’s statement was not quantified and specified in line with the SEN Code of Practice and I felt that the LA were simply trying to give flexibility to the school (he was about to move to a secondary school). I felt the school were not listening to my concerns and were simply considering my son as all other SEN children and it was a case of ‘this is how we do it here’. I realised the only way I could avoid their complacent attitude was to tighten up the statement. In hindsight his statement had been very vague for the previous six years but if you have a supportive and understanding school, a vague statement was never a problem.”

Parent C

“My son, who is now x, was diagnosed with Delayed Speech and Developmental Verbal Dyspraxia at four years old. He started school unable to communicate and in Year 1 was bullied and socially isolated. The school did not understand the devastating effect of not being able to communicate and because he was a ‘well-behaved’ boy he ‘passed under the radar’. When he was 8 years old he was formally assessed as being dyslexic. Although he was on School Action Plus he had no

specialist teaching and made little progress. His self-esteem was rock bottom and at the age of 8 he told us that his life wasn't worth living. In just three years at school without adequate support my son had transformed from being a lively, confident and happy boy to someone who was desperately unhappy and had no self-esteem. His speech improved and he had a good group of friends but at age 10, still years behind his peers in terms of reading and writing, he was referred to CAMHS due to his unhappiness at school/low self-esteem and because he threatened self-harm and refused to go to school. The SENCo always told us he wouldn't "get a statement" but, with an acknowledgement by the school that his needs were complex (we had our own assessment done which said he was severely dyslexic, he had residual speech difficulties - Developmental Verbal Dyspraxia - and some OT and emotional issues), we requested a statutory assessment ourselves. We got the statement but then disputed the local authority's choice of secondary school for our son. This was when we went to Tribunal."

Parent D

"Our son has Down Syndrome and is in Reception Year at school. We went to Tribunal for two key reasons:

To get the LA to increase TA support from their basic offer of 15 hours a week (they capitulated on this the week prior to the Tribunal and increased the hours to the full 32.5 hours a week)

To get the LA to increase their offering on speech therapy: they refused to offer more than 10 sessions a year of 1.5 hours plus 2 sessions a year for annual report and review—which works out as one visit per month from a speech therapist with the onus on an unqualified TA to conduct a daily SALT programme. We felt this was completely inadequate and we had evidence from Symbol UK, a specialist speech therapy organisation, that said our child required 9 sessions per term of 45 minutes direct therapy, plus 15 mins per session liaison with TA and staff, plus 3 hours a year for annual report and review, plus a daily programme devised by a SALT (with experience, training and knowledge of working with children with DS) and implemented by the TA. Despite the fact that the difference in hours per year between what we wanted and what the LA offered was just 12 hours a year, and we had primary evidence to back it up, the LA refused to budge, so we went to Tribunal. We were fully aware we would probably need to do so as our LA essentially has a blanket policy not to offer more than a standard 10 sessions a term plus 2 for children with DS- although we have found this rather hard to prove."

Parent E

"Primarily, there was a refusal to amend significant needs after annual review and a lack of any LEA input to our child's needs. At 8, our child was becoming more marginalised in a supported place with provision. The schools only experience of his needs was with him. It seemed they were learning from him whilst offering little hope or real structure for him.

As parents we were becoming more frustrated with the lack of any dynamism from local sources. This felt tough because there were a lot of well intentioned but inexperienced people along the way.

Having had our doubts as to our son's progress and subsequently obtaining independant specialist reports about him, we were convinced that the school and local education authority had limited knowledge of what was or could potentially be the best educational environment for our son.

We therefore felt duty bound to find our own pathway towards finding adequate educational provision for our son."

Parent F

"Whilst we support main stream education we felt that our visually impaired daughter needed different support for post 16.. LEA proposed total learning support assistance whilst we felt that guidance to learning independently was more important. Local school privately admitted they could not offer this but LEA insisted they could."

Parent G

"As parents of a SEN child, there is little choice in how we can help, when teaching in mainstream fails. We took legal advice, we had independent reports undertaken, all of which the LEA were not interested in. My son has been on a statement of educational needs since 2008 – he is dyslexic, he left primary unable to read and write despite having a 25 hour statement with TA support. We found out from legal advice that our statement was badly written by the LEA and meant that they did not have to do much of anything, just manage him, NOT TEACH!!!!. We used the Appeal system to re-write his entire statement and name a specialist school of our choosing as we no longer had any confidence in the LEA to deliver a minimum standard of education to our son, who is very able to learn but does need specific help to work around his severe dyslexia. We had a Tribunal Hearing in 2012 and won."

Parent H

"The only reason to go to tribunal is because agreement can't otherwise be reached. Our LEA wouldn't agree that the current mainstream setting wasn't meeting our son's needs ,so we had to obtain the evidence (reports from EP, SALT and OT)and take them to tribunal."

Parent I

"I have 2 SEN children and my County have been particularly obstructive in their dealings with us, we have had to prepare for 5 tribunals. My eldest – they refused to assess initially so had to start tribunal proceedings, they gave in 1 week before we were due. The next was lack of SLT provision and a woeful statement. Once again they gave in the week before only when the Head and EP were called into County offices and confirmed that they agreed with us. The third for my eldest was Secondary transfer. Once again the EP and middle school backed us but County refused to listen. This time they gave in 6 weeks before tribunal.

My youngest needed SLT as part of his statement, County refused to accept this and we had to visit an NHS SLT who agreed with the School's SLT. A week before County called us in to the offices to say we had not compiled and that they would be taking it to full tribunal. When I pointed out that the report from the NHS SLT was within the tribunal package and directed them to the page – they then backed down and gave in. The final one was the most acrimonious. My youngest had been misdiagnosed and it took a great deal of time and effort for County to accept the findings of our experts, who were highly qualified above the person who initially gave the diagnosis. We had to remove our child from his school and I taught him at home for virtually a year. We had home visits from Home Education and the EP, both supportive of our positions, however, County carried on saying that his original school was still appropriate and that he would not be going to Panel as that was their decision. I took my EP to that school and it was obvious that they could not fulfil his needs. One week later the statement was due at tribunal and in this letter, County stated that they had changed their mind and that they wanted to send him to another school.

We then spent a great deal of time arranging to visit this new school and to take in our experts. From a previous visit, I knew this school was inappropriate too. When we arrived the Head talked us through numbers and the school's successes. Our specialists raised questions and then left to visit a class. I picked up on one of the answers the Head had given regarding numbers in the school and that if our son joined she would be even higher than her allotted numbers. It came to light that County had sent our son to panel and that this 'new' school had selected him to come to them for secondary transfer and not his original school. I explained that County

-had categorically said he was to remain at his original school

- had not changed their stance until the tribunal statement had been submitted at the last possible moment they could on a Friday afternoon. We rang the 'new school' on the Monday morning.

- we had not received any Panel letter naming her school

- showed her the statement sent by County to the tribunal which was dated.

- she wondered why we had left it so late to visit if we had misgivings – she then realised why.

- Luckily I had taken the tribunal statement paperwork with me and dates were on the top of the letters to back up what we were saying.

The Head teacher was horrified that this had taken place and refused to be part of the Tribunal and with that Surrey withdrew and my youngest started at our preferred school on the date that his tribunal should have taken place.”

Parent J

“We did not get as far as Tribunal as the council decided to give our son the School we wanted approx a month prior to the case being heard. The reason we went to Tribunal is that we wanted a different School to where the Council wanted us to go.”

Parent K

- *“Went to tribunal before and were not properly represented and didn't know what we were doing. We have a very needy child with complex needs and we lost. What we learned from this is that it is legal process and you need to know what you are doing – we didn't and lost as a result. We still needed to fight for our son and our family. However we were advised to try the secondary school that had been ordered and see what happened.*
- *Within the first week, things started to fall apart. Our son's transport to school was irregular, didn't turn up, 5 escorts in one week, three taxis and three different drivers in another week. Frequently late. He had become very distressed, screaming, complaining and too frightened to get in the taxi. I also had another child to get to school at the same time and the LA wouldn't offer an earlier pick up time. It was a case of put up and shut up or do it yourself. He couldn't cope with being late for school either so that wasn't an option.*
- *We videoed his distress that went on for months and sent it to the LA with our complaints about the various things that were going on. They lied over and over again. They threatened court action because he wasn't at school. He was more and more distressed because of the carry on with the taxi. We put up with it for months: I would wake in the morning with a lump in my stomach not knowing what my son would be like today and not sure whether the taxi would come or not.*
- *They wouldn't listen to us. We asked for an 8.30 pick up so that I could get both both my children to school on time and they refused saying that the taxi was discretionary. We went all the way with our complaint, eventually taking it to the local government ombudsman, who favoured the LA. We then asked for legal aid as we were advised that we could go to judicial review with this. However, we couldn't afford to do so.*
- *We were bullied, intimidated and lied to and the LA made every excuse they could to not get a taxi that would get our son to school.*
- *In the end he missed a whole year of school (on and off at the start). I was exhausted. His behaviour had deteriorated significantly within the first 6 weeks of being at secondary school – obsessions had escalated, emotional meltdowns several times a day, became so withdrawn I couldn't take him out – bizarre behaviour, plus puberty and a lack of awareness of what was and was not appropriate. Massive impact on his younger sister.”*
- *I became severely depressed. My daughter was crying on a daily basis at home and at school. My son was taking up all the energy I had and I had none left for my daughter. 12 years of looking after a child with very complex needs had taken its toll.*
- *In the end, we decided to ask for our son to be accommodated under section 20 as we just couldn't manage him anymore.*
- *Our tribunal took a long time. The first day, went over into a second day and the second day went over into written submissions.”*

2. Help and support on the way to Tribunal.

Who or what helped you?

In this section we would like you to tell us about what happened before going to Tribunal – for example, other parents, pathfinders, SENCo, mediation, a charity, legal assistance, legal aid or help with the Working Document. We would like to hear about anything that you found helpful!

Parent A

"I had a legal aid solicitor but they left the firm and I was stuck doing it myself and had some help from an IPSEA rep at the first date.

I then happened to find a leaflet I had for about 2 or 3 years prior a speaker from the SOS!SEN charity attended our local NAS group and advised us about SEN, our rights and the Law."

"This was my saving grace and would not have been able to do it without them. We got my child an updated assessment, the process was explained to me in lay man's terms for me to understand. They also represented me in the Tribunal proceedings whereas conventional solicitors do the paperwork and others represent you not the same body doing the paperwork and representation as was in my case."

Parent B

"I spoke to masses of organisations, other parents, the school, the LA, Parent Partnership and each one gave me something a little different. I found Parent Partnership very supportive but I do think it rests with the individual. I've also found other representatives of Parent Partnership appear more 'in cahoots' with the LIO. I rang SOS!SEN's helpline and found the lady there very helpful. I also rang IPSEA several times and was met with the same informed and calm approach. I attended a workshop on tribunals with SOS!SEN and I found this extremely useful and took away a number of handy tips. I did manage to sort out some things as part of mediation although I found the mediator somewhat biased. She asked why by writing something into a statement would it mean it would happen. I found this rather intimidating. She must have known, as well as I did, that it was my very best chance of it happening so why wouldn't I insist it's added to my son's statement. I gave this as feedback to the mediator after the session as part of a questionnaire. Unsurprisingly I didn't hear anything back. I commissioned an independent speech and language assessment and found the therapist very helpful. She had tribunal experience (my recommendation to others is don't pick one who hasn't) and she was very informed about the whole process. I did, however, question her approach when she would say things like 'I don't think you should put that in the statement as you won't get it. I know the difficulties your SLT will be up against with resources'. I found this rather confusing as I had paid for an independent assessment. I wasn't interested in what my SLT was likely to be able to do or not, I simply wanted to understand what my son needed. I spent a lot of time with parent support groups, sharing experiences and picking up on tips. I spent hours trawling the internet for

information which I felt could maybe give me the upper hand. I asked the tribunal office to send me a copy of their DVD which they promote on their website – this was useful too”.

Parent C

“We spoke to other parents who had been through a similar process. We decided that the stakes were too high for us to have any risk of losing our case (our son was so unhappy) so we employed a solicitor and barrister to help us through everything leading up to the Tribunal. We had to take out a second mortgage to do this. CAHMS were helpful. The Psychologist wrote a letter stating that our son’s unhappiness was due to his lack of support at school and said that he needed to go to a specialist dyslexia school in Year 7.”

Parent D

*“Attending Jane McConnell’s (IPSEA Chief Exec) statement training sessions through the DSA was invaluable.
Info from the IPSEA website was absolutely invaluable- it provided me with accurate info on case law which I merrily quoted to the LA in many, many letters
A friend sharing their experiences of fighting our LA was also very helpful- she also kindly shared her documentation as examples and discussed them with me
We consulted a friend who is a specialist solicitor to help us with final changes to the working document which was very reassuring that we were on the right path
And I must also say, what started me on the road to preparing for Tribunal was attending a session run by SOS! SEN; when my son was just 6 months old - this opened my eyes to the accuracy and specificity of the wording required in a statement to ensure it is worth anything”*

Parent E

*“SOS!SEN were the greatest help with clear guidance and a methodical approach to achieving more. Other parents on SOS!SEN courses became a source of useful information.
SOS!SEN had a wealth of knowledge regarding all SEN schools nationally and were able to provide a picture of schools that could possibly provide the appropriate type of support for our son”.*

Parent F

*“Attended a SOS!SEN day about working documents that was helpful.
Had some contact with IPSEA by telephone which was helpful.
LOOK was very helpful along with their educational support advisor”*

Parent G

“We felt the need to instruct Solicitors because of the type of setting we required and the fact that the Statement we held written by the LEA was so bad. We felt we did not have the legal expertise to do this ourselves, other than that we knew nobody going through the process and had no other advice from anyone. We were told that any fees pertaining to the Tribunal would be payable by ourselves and we would not be entitled to Legal Aid, and all fees even if we won would not be recoverable. We didn’t know what else to do”

Parent H

"I was lucky enough to work at a law firm with an education dept but the important matter in my view isn't legal help so much as good experts' reports."

Parent I

"Eldest son

With the first one – Partnership with Parents

Second – IPSEA, SNA, Headteacher, Partnership with Parents

Third – SEN Legal, SENCo

Youngest Son

First – SENCo

Second – SEN Legal"

Parent J

"Other parents help was very useful. It is an extremely stressful time and it was great being able to talk to other parents who were going through or had been through the same experience. We were lucky that we could afford a good lawyer, which I am sure reduced stress levels considerably.

I think one of the biggest help was also that I had very good expert reports when I first applied for the statement. Made our case very clear. Also the school that was recommended for my son (by the Council), the Specialist teacher told the council that it was not suitable for my son. Even with this information they left it until the very last month to agree for us not to go to Tribunal."

Parent K

"Legal assistance was sought. We lost before (despite asking the LA for SALT to be specified and quantified and highlighting concerns that we'd had, the LA had ignored us)"

Who or what did not help?**Parent A**

"The LA deliberately misleading me upon discovering I had no legal representation, re-writing working document without adding newly acquired independent expert reports, attempting to blackmail me by withdrawing other services and trying to bribe me with the promise of an increase in services if I put my child in the school they had unlawfully enrolled him in. These things most certainly did not help matters"

Parent B

"I found our LIO extremely obstreperous. I found her manner abrupt and aggressive. I have worked with previous LIOs who seem to have far better people skills. I turned to our local MP. I even wrote to David Cameron who passed it on to Sarah Teather. None of these were helpful and simply seemed to toe the line."

Parent C

"The school and SENCo were helpful in getting the statement but as soon as we were disputing the local authority's choice of secondary school they went very quiet because they were clearly under pressure from the local authority not to say anything that would look as though they supported us. Despite seeing his unhappiness on a daily basis and acknowledging they this was due to his difficulties they were unable to admit publicly that he needed to go to a specialist school."

Parent D

"Attending Jane McConnell's (IPSEA Chief Exec) statement training sessions through the DSA was invaluable.

Info from the IPSEA website was absolutely invaluable- it provided me with accurate info on case law which I merrily quoted to the LA in many, many letters

A friend sharing their experiences of fighting our LA was also very helpful- she also kindly shared her documentation as examples and discussed them with me

We consulted a friend who is a specialist solicitor to help us with final changes to the working document which was very reassuring that we were on the right path

And I must also say, what started me on the road to preparing for Tribunal was attending a session run by SOS! SEN; when my son was just 6 months old - this opened my eyes to the accuracy and specificity of the wording required in a statement to ensure it is worth anything"

Parent E

N/A

Parent F

"LEA"

Parent G

"Parent Partnership listened but could not really offer any help; they are not likely to give helpful advice against their employer. SOS SEN did give advice but very hard to get hold of and once you are embedded into this system it is very difficult to get good independent advice, without having to relay the whole case to someone. You need advice almost daily as circumstances change, letters are written, you have to respond. Solicitors are good but expensive and cost per phone call etc. There was nobody else we could talk to as nobody really believes or understands how hard the system is and wants to talk about the magnitude of what you have taken on. We found the entire process to be very emotionally charged as we had to deal with expert report findings etc on our own and they are not always easy to read, because they are talking about and giving the worst case scenario about your child. Friends, got fed up with listening, as we constantly had to keep explaining that yes LEA do and will do this and no we can't get advice from the, if we are taking them to Tribunal. Student Assessment work for the LEA, so only quoted policy at us. School teachers stopped talking to us and took it personally that you questioned anything. We didn't know where else to get advice from."

Parent H

"The lea helped by preparing so badly for the tribunal, their EP didn't even assess our son, she just criticised our EP report and this lack of effort really helped us on the day.

Is there anything that could have helped to avoid the tribunal? No, when you're dealing with an LEA who won't budge and a mainstream school that won't demur from what the lea want them to say, despite the evidence."

Parent I

"With the first 3 there was a clerk appointed to you and that was excellent as you had a direct contact into the tribunal. That no longer seems to be there."

Parent J

"It felt a bit like you were waiting for something bad to happen. You hear of so many stories where the Council purposefully wait until the night before the tribunal until they give a decision. This in my mind is irresponsible, purposefully pushing up the legal costs on Parents when they know very well that they are unlikely to win the case. Also many stories of how they changed the named school at the last minute. In the scheme of what I have heard of other parents, our case went relatively smoothly. I think there needs to be some kind of review done by the Tribunal of cases that are being decided on at the last minute. Is this burdening parents with disabled children with unnecessary stress and costs?"

Parent K

"The LA"

Is there anything that could have helped to avoid the Tribunal?

Parent A

"Had the LA come in earlier to support both the school and I support my child with, given the requested interventions and ensured that my claims of Discrimination were thoroughly taken on board and investigated as there were other parents with similar stories of which the LA were aware."

Parent B

"If the LEA had followed the SEN Code of Practice I wouldn't have needed to lodge an appeal against Parts 2 and 3 of his statement which had not in any way been quantified or specified."

Parent C

"Greater honesty from the school and the experts from the local authority who assessed our son. All of them were employed by the local authority therefore they had to 'tow the party line' which was that my son did not need to go to a specialist dyslexia school.

The local authority and the proposed secondary school were extremely obstructive. When a mistake was made by our Ed Psych regarding the date of the appointment the school then refused to allow him entry before the tribunal date (even though we knew they could have made time to see him). Consequently we went to tribunal and immediately had to adjourn so that the appointment could be rearranged. When we appointed another Ed Psych, who had to assess my son and make a visit to the

school, the local authority tried to stop her gaining entry to the school, saying that another assessment wasn't in our son's best interests (we had already done the assessment!). We had to get our barrister to appeal this decision and eventually it was overturned and she had access to the school. This appeal plus the adjourned tribunal ended up costing us even more money – all thanks to the local authority being obstructive."

Parent D

"No, I honestly don't think so- the county I live in (which will be very familiar to you) is notorious for pushing parents all the way to Tribunal"

Parent E

"No".

Parent F

"LEA should have been more open to discussing options and how to provide support instead of adapting a "one size fits all" and "we don't fund out of county placements" attitude. They were negative from the very outset of the request and did not consider our views in any way."

Parent G

"Yes, The LEA accepting mediation in enough time, not 24 hours before, it is due to be heard. What is not realised by the public, is that yes you can fight these cases without solicitors but it does very much depend on the LEA you are dealing with because LEA's instruct Barristers as well and they will prolong, stretch and not adhere to timelines which all adds cost to the parental side, who have to instruct expert witnesses / their own Barrister in enough time to be able to attend a Hearing Date, which ultimately the LEA's Barrister ignores until the last minute and drags the opposing parent to the Hearing, knowing how much it is costing and really doesn't care, if you have instructed people to be there you pay for their time, Hearing or not. This is a tactic LEA's use to hope parents fold and take what they can get which again is dictated by the LEA and therefore NOT independent, it is all very hard to understand the legalities, your rights - when all you are trying to do is get help for your child in school, even though you can do this on your own, I really did not experience this, without solicitors I would not have had a clue as any advice you get is not independent if you are talking to the very LEA you are opposing. Unfortunately there is no one to turn to but yourselves and then expensive legal advice. Mediation forced to take place within 2 weeks prior to Hearing would have been very beneficial, as we were forced to mediate on the Hearing date, but had already had to book our witnesses/Barrister and therefore pay for their time, the LEA solicitor was very aware of this and only started mediation the day before the Hearing!!! Too late."

Parent H

N/A

Parent I

"We offered throughout the whole of this processes, to meet with County to talk it through and they declined to talk to us. The Case Officer was of little help and it seems they just want to push you as far as they can in order for you to give in and in our case lying. In some of the cases I don't even think they had read the paperwork thoroughly."

Parent J

N/A

Parent K

N/A

Did you attend or consider mediation? If so please could you tell us about your experience?

Parent A

"No, it was too far gone for this."

Parent B

"Yes, I did attend mediation. I found it a reasonably good process although as mentioned previously I did find the mediator a little intimidating at times with her questions. I asked for mediation twice before it was actually agreed. We did manage to agree a number of points during mediation."

Parent C

"We did not consider it, probably because the solicitor/barrister did not recommend we do it. If they had thought it to be a good idea we would have done it."

Parent D

"No- so I can't comment on this. I would imagine that mediation would very much depend on who is doing the mediating- I would have zero confidence in anyone associated with my LA doing the mediating!"

Parent E

"No, despite advice from the paediatrician, so little LEA/ SENCO interaction and involvement to date we felt this to be a pointless and futile exercise."

Parent F

"Mediation was not suggested."

Parent G

"We were, as above, forced to mediate at the Hearing, again, this could have happened a lot sooner and saved a lot of time and expense on both sides. The mediation was between Barristers, I am not sure how we would have faired on our own."

Parent H

"It wasn't offered and wouldn't have been relevant."

Parent I*"No. Had spoken to many other parents who had tried mediation in our area and said it was of no use at all. Only 1 family had had a success. We had offered compromises to County via the Case Officer and these were ignored."*

Parent J

N/A

Parent K

“Mediation relies on trust and people being open and honest with each other. I had no trust left in our LA – they had failed my son, not delivered what was in his statement and every complaint that we had raised was met with lies and deceit. We had been threatened, ignored, hurt and there was no concern whatsoever for the needs of our son or what he had gone through.

Mediation also requires the LA to listen to your real concerns. It is my opinion that they have their own agenda and are working to their policies with no concern for how they tear down in the process.

The complaints procedure has been in my experience just a process that is there for the LA to protect themselves rather than any real way of making changes to better their system.

It is corrupt.”

3. The Tribunal

Final Preparations for tribunal.

In this section we would like to hear about your experiences of the final preparations for the Tribunal, such as how much notification you had of the time and place of the actual Tribunal, was the bundle as you expected etc.

Parent A

“To be fair I was sheltered at this point as it was all delivered to my SOS!SEN rep but I was surprised at the sheer volume of the bundle.

The LA submitted more documentation after 5pm on Friday and Tribunal was on Monday morning.”

Parent B

“I was given ample time of notification of date/time/venue. I requested for some evidence to be given by my expert witness by phone. The SEND offices changed the venue so that this could be given by phone. They then told me that it was at the discretion of the judge on the day as to whether my expert witness would be able to give his evidence by phone. This was never made clear to me at the outset when I made the initial request. I think they should either agree at the outset that the evidence can be given by phone or it can't – a halfway house is not helpful.

The bundle was as expected. I found it a little confusing what to do should I have further emails between me and the LEA and whether I needed to copy these to the SEND offices. I called them but they told me it wasn't necessary but to bring them on the day. I continued to negotiate with the LEA after the bundle was received, even the day before, although some of the assistance helplines (mainly IPSEA) advised me that I shouldn't be negotiating at that late stage. I found this confusing.”

Parent C

“All good.”

Parent D

*"I can't recall exactly how much notification we had on the time and location- it felt quite short notice and could probably have been longer- I know our SENCO and head were very surprised at having to trek to South London to attend a meeting which required them both to be out of school for over half a day.
The bundle was as expected."*

Parent E

*"The bundle (500 pages) was larger than expected and arrived approximately two weeks before tribunal. You must have a good understanding of the document layout and the methodical way in which the evidence is laid out. Done again, I would book a few days off work before the hearing to go through the papers.
Do not play the emotional card too hard. Focus on the details of your case and the shortfall in provision. Accurately estimate what the current provision really costs (don't trust LEA figures) and the difference between that and what you actually want. Good independent assessments of your child need to be arranged and set up early. Good details were given of location, times and attendees.
Our barrister ensured that all our witnesses, ourselves and herself met for 30 minutes before the tribunal to bash out the poignant issues of the case and to ensure we were united in our approach to the arguments laid out."*

Parent F

"Bundle was poorly presented but some of this was due to documents being submitted to tribunal service at different timescales. I checked all the bundles very carefully and asked for reissue of missing documents. An index to documents would have been helpful."

Parent G

"The bundle came via our solicitors, so we did not need to understand it too much, it was a huge bundle, the wording was typical of legal documents and I think for some parents may find this very daunting and scary but that aside, we, the parents, do usually understand why we are at this point and do have the clarity of mind to understand our own child's needs, and are at this point because we have understood one thing and one thing only, 'unless you are prepared to stand up and fight for your child's right to a minimum standard of education without discrimination, and have them taught to a standard that meets their needs, you would not be at the Tribunal, parents at least can help by taking their case to an independent, and qualified panel who do understand the Law and adhere to it. Where LEA's fail there will always be parents to stand up for their child's rights"

Parent H

"Colleague at the law firm handled this but mostly admin, one thing we did do late on was serve an example of our son's handwriting in response to a story that the school submitted which purported to be our son's work, it was more the work of the"

teaching assistant. This was important, to respond to any attempts ,however late, from the lea to enter evidence ,however dodgy, to sway the decision their way.”

Parent I

“We have never actually got to tribunal, but the papers arrived in good time, we were allowed to listen in to the directives of the Judge on the pre tribunal conference call. In the earlier cases we had a good notification of place and time. Later ones this got closer to the tribunal date and this was worrying, added to the stress of the whole process.”

Parent J

N/A

Parent K

*“Our solicitor dealt with this. The only issues we had were that the LA was late with their evidence all the way through. They put in to have the appeal stayed accusing us of deliberately forcing our son into a distressed state so that we could manipulate evidence for the tribunal! I am still shocked by the things they did
Our first day of the tribunal was postponed and went part heard. We then had to wait THREE months for the second part of the tribunal (with a child who had been out of school for over a year and a parent on the edge).
THEN the judge and the witnesses having decided on a date, decided last minute that THEY would give a different date
THEN the LA tried to have the tribunal stayed – giving the reason that the parents (us) were maltreating our child and they were carrying out a section 47 investigation – this was the first we'd heard of this, so we were quite shocked!”*

The Tribunal Venue

In this section we would like you to tell us about your experiences of the Tribunal venue. For example, was the place easy to find? Was the room quiet enough, warm enough, big enough?

Parent A

“The only draw-back was the venue was not easy to find at all and took several minutes once we are actually in Holborn to arrive at it.”

Parent B

“I was able to come to an agreement with the LEA the day before the tribunal and so I didn't have to attend.”

Parent C

“All good.”

Parent D

“Yes, venue was easy to find. Room was quite big and it was rather intimidating to have the panel on a raised platform, effectively looking down on us.”

Parent E

"All good, no complaints."

Parent F

"Venue was fine but location was very last minute (partially due to pressures of pending Olympic Games)."

Parent G

"We only knew where the Tribunal would be held a few days before the actual hearing date, which was concerning, as our expert witnesses had to travel at our expense, we had to get to the Tribunal at our expense – it was 20 miles from our location, a lot further for our witnesses/barrister. It was easy to find and expensive to park as was in a city centre. It should, in our opinion have been held in a location near to where our child lived, or where our local Student Assessment is situated, you do not have a choice of location, it is imposed by the LEA and for their convenience, in our opinion."

Parent H

"ALL GOOD, hard to be in a room with the opposition but you do what you have to."

Parent I

N/A

Parent J

N/A

Parent K

"This was OK. We had no issues with it."

People at the Tribunal

Was it explained who everybody was on the day? Was everybody that you expected to be there actually there? Was anybody that you did not expect there? Do you remember who was there that day?

Parent A

"The LA brought some last minute individuals whom had given them reports to submit three days prior, they were not expected or listed on attendance forms. The Tribunal allowed their reports but not the individuals and determined that the reports were of no consequence as neither one of them had had any contact with my son for months so how had they made these new reports/assessments."

Parent B

N/A

Parent C

"The local authority had a barrister, OT, Ed Psych, Speech and Language Therapist plus they had one of their solicitors observing (we had agreed to this in advance). We had the same (barrister, OT, Ed Psych, Speech and Language Therapist)."

Parent D

"Judge xxxxx, yyy and zzz were on the panel- they introduced themselves but I don't recall being told their background or experience which would have been helpful."

There were no unexpected attendees (I don't think they can do that can they?) and everyone attended who we expected to attend."

Parent E

"One judge and two experienced SEN educationalists. The LEA attended with a poorly prepared evidence base."

Parent F

"Yes everyone was introduced and all were as expected."

Parent G

"We again were advised by our solicitor whom, would attend from the LEA and each person was there, no surprises.

The LEA witnesses were their EP/SALT/OT/Secondary School SENco, (from the School we were opposing placement in (secondary transition year 6 to 7) they had not taught our child. LEA Barrister

Our witnesses – Independent EP/SALT/OT and our Barrister/myself and my husband."

Parent H

"The panel were magnificent ,and they controlled the hearing, this is why legal help isn't essential but the right experts certainly are, I've never been in a room with so much expertise!"

Parent I

N/A

Parent J

N/A

Parent K

"The LA appealed for a change of their EP and this was allowed by the judge"

Knowledge and Preparation of Professionals

Did the professionals there seem to know enough about your child's case? Did they seem to know enough about your child's specific needs? Did they work through the Working Document?

Parent A

"The Panel read every single piece of information on my son and this was reflected in the questions they asked all of us involved in the proceedings. We also worked through all the areas of dispute as well as those agreed within the proceedings."

Parent B

N/A

Parent C

"First tribunal was adjourned and second tribunal only involved a discussion about OT (local authority had already backed down a week before the tribunal and we met to try and agree on the OT aspect of the statement). The professionals seemed to have a reasonable understanding but would not go beyond what the local authority had told them to say."

Parent D

"I was very impressed by our panel. They seemed to be fully aware of the case, they asked about our son, the person, and not just 'the case', which was great but almost made me cry at the start - it threw me off kilter a bit. They seemed very aware of the evidence that had been submitted. I was very happy with our panel."

Parent E

"The LEA were poorly aware of our son and his needs. This came across to our advantage. Our witnesses were well rehearsed and clear with factual information. Did they seem to know enough about your child's specific needs? LEA - No Did they work through the Working Document? Yes, reliably."

Parent F

"Tribunal representatives were very professional and knowledgeable. It was clear they had read all the documentation and fully understood both sides' views. Their questions were well thought out and insightful. It was also clear the LEA representatives were not familiar with the case and had not read the documents"

Parent G

"It did not get to Hearing, as the Judge basically told the LEA Barrister it should never have reached a hearing as the paperwork alone was clear enough to indicate that the child indeed required a different approach. The LEA were questioned why they were there on cost as there was no evidence to reasonable oppose costs as the costs were too insignificant to argue over placement and would indeed cost the state the same in parental placement as would in a maintained school and that he should get out and mediate with us."

Parent H

"The panel could assess quickly our son's difficulties and they rigorously questioned the school as to how they were teaching literacy, a key point."

Parent I

"Before the Tribunal with all the visits my professionals had to do and the reports they had to write – they were excellent. They got me through, especially the last one. Without their support and knowledge of my child I feel I would have been in a much worse place than I was {and the one I was in wasn't good!}"

Parent J

N/A

Parent K

"I think so. One of the witnesses on the panel was very rude."

Thoughts at the end of the day. Please could you describe in one sentence your thoughts at the end of the day?

Parent A

"I was relieved it was over and elated as I received my decision this very day."

Parent B

“The most stressful period of my life to fight for something which, had the organisations involved (the LEA and school) followed the SEN Code of Practice, should not have been necessary. What a complete waste of public money. Why should I be put into such a situation to prove that trusted bodies (LEA) had broken the law?”

Although I felt at the time that the decision I made to drop the tribunal the day before was the right one, in hindsight I believe I should have gone ahead with it. I trusted the speech and language therapist who told me she didn’t want the statement to be too ‘prescriptive’ for fear of missing out on other programmes/provision which may be even more beneficial than those recommended by the independent SLT in her report. I believed that the statement was being written for the flexibility of my son and not for the flexibility of the service provider. I feel like I’ve had my fingers burnt and won’t allow this to happen again as in actual fact certain provision has not been delivered as it was left too vague in the statement.”

Parent C

“At the end of the adjourned tribunal we felt frustrated and very stressed. We knew that going to another Tribunal was going to cost us even more money and the uncertainty of where our son was going to go to school, was very difficult for us. At the end of the second tribunal we felt relieved that we had won but angry that we’d had to go to a second tribunal as it cost us a lot of money in barrister and solicitor fees. If the local authority had not been as obstructive all along we would not have had to adjourn the first tribunal and have a second.”

Parent D

“We were quietly confident that we had won by the end of the Tribunal, and we went away feeling happy that we had done our best for our son.”

Parent E

“We were both exhausted, as the case was adjourned to another day due to lack of LEA information. The legal wrangling over semantics was extremely fatiguing.”

Parent F

“Exhausted and emotionally drained.”

Parent G

“Annoyance! We won our case, but will never understand the LEA’s inability to mediate and the fact that this is the way they chose to play it, rather than help our child. What a waste of public money, and playing with children’s clear needs because they can!”

Parent H

“Exhausted but quietly confident that it had gone our way.”

Parent I

“Angry that such deceit is acceptable when SEN children and their parents have enough of a struggle and there seems to be no retribution on immoral practises.”

Parent J

"The most stressful experience I have ever been through."

Parent K

"I felt that it had gone well and that we had been well represented. I had hoped that we would have justice and that our son would get what he needed and that we as a family could move on."

4. Aftermath of Tribunal

The Decision.

In this section we would like you to let us know about the decision. What was the decision? Was the decision as expected? How long did you have to wait for the decision after the Tribunal?

Parent A

"The decision was delivered the same day and was the one I had been praying for. He was restored back to his mainstream school but now with the full package of specialist therapies quantified and responsibility of deliverer identified."

Parent B

N/A

Parent C

"The local authority's case collapsed a week before the second tribunal. At the second tribunal the OT content of the statement was discussed and we got everything we wanted."

Parent D

"We received the judgement and the edited working document 2 full weeks and 2 days after the Tribunal- it was a long wait. The judgement was very clear that the panel had found in our favour on all counts (speech therapy, OT and physio). However, there was a major problem with the edited working document that we received: specifically, all of the edits were supported with comments marked as deletions, whereas in fact we believed that most of the edits should be text additions- and the deletions directly contradicted the actual judgement, taking the provision back to what it had been PRIOR to the Tribunal. Which of course made no sense at all given that the actual judgement was so clearly in our favour."

(Paragraphs not included since it could breach the confidentiality of the respondent.)

"As a result of the Tribunal service mistakes I felt very threatened and intimidated by the LA, all of which was completely avoidable.. What I want to achieve is to ensure that the Tribunal service incorporates a thorough 'sense check' step such that someone has to sign off to say that the edited working document actually matches the judgement before it gets sent out."

Parent E

"The decision was in our favour but it felt tight all the way with LEA representation taken up by a capable, aggressive barrister. When they felt they may lose they pulled out all the stops to rubbish our evidence. Luckily all our witnesses were experienced and stayed calm even under extreme questioning. The court took the full two weeks to let us know the outcome.

Parent F

"Decision was delivered within the advised timescale. Decision was for out of county placement at specialist school."

Parent G

"The decision was mediated, we won our placement, and the statement wording was changed, we knew the same day but had to play off therapies against travel costs.

The LEA did not want to give the placement and the therapies our son clearly needed so a mediation took place between the LEA barrister and our barrister, in and out of rooms, we were put under extreme pressure not to be back into a Hearing as it would cost so much and we would again have to foot those costs.

So the LEA let us keep the therapies as long as we stood travel costs, and 1st term costs for 1-1 help for our son during transition, (as it was a boarding school placement) the LEA did not have any school suitable within driving distance- they didn't even come up with anything (despite our sons clear needs) that was in County, we had to find a school, so they could disagree with it!

This decision cost us an extra circa £10,000.00 on top of what we had already paid. The school we wanted him placed at, on the hearing date, refused on the phone to take our child unless he came in on the banding they had stipulated (including therapies) and so we felt devastated and had to make very quick decisions there and then or be back to face another Hearing, no-where to send our son in September and mounting costs. So stupidly we agreed to stand the travel costs and pay the first term 1-1 transition and have it reviewed in January."

Parent H

"Less than a fortnight, yes it went our way."

Parent I

N/A

Parent J

"The decision was made a month before the tribunal. Obviously a fairly clear cut case. In these situations and also where their own staff are telling them that the recommended school is not suitable, I would have thought a decision could have been made earlier."

Parent K

“Having waited a long time anyway. We waited 5 weeks. Our son was distressed and extremely anxious as he didn't know what was happening. By this stage he was in a care home and was having to cope with this.”

General Comments.

In this section we would like you to let us know any thoughts that you have about:

The fairness and justice of the process.

Parent A

“It was very just in that they question both sides on areas that lack clarity and it was often difficult to read their positions or understanding using emotional intelligence techniques.

They allowed all involved time to speak and express their opinions regardless.

But more importantly they took into account that parents of SEN children have a difficult task beyond education and that I felt that every day for me is a day on the campaign trail.”

Parent B

“I find it hard to believe that in order for the process to be ‘casual’ not one person within a SEND tribunal is asked to swear on oath. I think this makes a mockery of the process.”

Parent C

“Justice was achieved in the end but only after a great financial and emotional cost to my family. The local authority were obstructive and vindictive throughout the whole process. It has crippled us financially and both my husband and I have experienced depression throughout the process and afterwards.

I also think that the system is stacked against families on lower incomes and those who find form filling etc difficult. Any kind of legal assistance is extremely expensive plus there is the cost of assessments to be considered. We found it a very stressful experience even with a barrister. I don't think we could have coped doing it all ourselves.”

Parent D

“I was extremely pleased to find the Tribunal process fair- we certainly felt that we got justice.”

Parent E

“Reasonably fair. I felt there had been a waste of the public purse in allowing the LEA to turn up so ill prepared and provide such poor records. In any other sector, this incompetence would be severely dealt with and criticised! I can only think it was a battle tactic.

Our first tribunal day was pushed to a further day due to the LEA's complete lack of evidence and knowledge of the case. The case should have been dismissed but the Judge gave the LEA the benefit of the doubt, stating that they should be given the opportunity to represent themselves given the costs at stake.”

Parent F

“The process was fair and just but unnecessary. We felt the LEA was “covering their backs” by referring to tribunal instead of discussing and considering the case themselves on its merits.”

Parent G

“We will never recover our costs and now 6 months later have to go through the whole process again, this time without solicitors as we can no longer afford them, because the LEA are ceasing to maintain our child’s statement, so once again we face a SEND Tribunal Hearing!! And all because the LEA can and have the power to do what they like at the cost of our child’s education. They do not want to mediate with us unless it is in their favour, that is not a fair system.

The Tribunal is a good system, and we as parents need something independent and qualified to make decisions about educational needs.

The LEA’s are not fair, one sided and are public servants – they do not play fairly, they use their power and public money to get out of giving a child a minimum education to meet their needs and don’t like being proved that their system has not worked for a child for whatever reason. They will no doubt continue to do so unless you stand up and say No and prove your case, which is what we thought we had done, but as usual there is always a get out clause in the LEA’s favour.

The ruling should be around the child’s educational needs not which LEA will have to pay or not. The ruling should be nationally complying as long as the child has a statement and the provision is needed, proved and ruled by Tribunal, no LEA should have the power to take it away.”

Parent H

“A fine process, lawyers are unnecessary, experts very necessary.”

Parent I

“It seems that the process that runs up to the tribunal is – anything goes as far as County is concerned. If they can drag it out and make life as unpleasant as possible they will, as you are more likely to give up or tell others that it is very hard and may discourage them from participating.

In time and money it is incredibly expensive. Maybe as I had 2, it seems worse, but I had to give up working to make sure I gave enough time and energy to this process over the last 10 years. And we are about to start again – maybe!!”

Parent J

“We are very lucky to live in a country where Disabled Children have a right to fight for the education they deserve. I do not take this for granted!”

Parent K

“Our descision was neither fair or just. The jusge looked only at the waking hours curriculum and did not look at whether the school could meet needs and the costings.

The LA lied in their evidence and during the tribunal itself: they produced written info saying that they were undegoing autism accreditation and they weren't.

The head from the LA school lied on several counts during the hearing.

The LA neither delivered SALT or OT

There were lots of things – however, the still won in the end. To me this is just a liscence for them to continue doing what they were doing. They have not been held accountable for any of their actions.

The descision that was made appears to be based on bias towards the LA rather than on the evidence that was put before them. They don't even seem to have READ the written submissions

It is appalling.”

Any advice you would like to give to another parent.

Parent A

“The prospect of this process is daunting but it is set informally so try not to panic, remember why you are there, you know your child best as everyone else is episodic but you are constant. Ensure you understand the documented information as best as possible and prepare some questions in advance as well as your summary. Please obtain and read the SEN guidelines book and infuse where you can in your addressing of others in the proceedings.”

Parent B

“Talk to as many different people as you can – they will all give you something different to ponder on, something you hadn’t thought of. Trust your inner feelings and try not to be swayed by others who will have a different agenda to you. You know your child better than anyone else. Try and retain a good relationship with your school. A good, trusted and supportive school is priceless when you have a child with SEN.”

Parent C

“Don’t trust the local authority. They do not have the best interests of your child at heart. They are looking to save money at the expense of your child.”

Parent D

“Go for it! You really do NOT need to have legal support unless you are going for a residential school placement and big money is involved. But you DO need solid primary evidence and a good relationship with your school so that they support what you are aiming for. And you need to gird you loins for the stress of the whole process.”

Parent E

“Stay balanced and maintain perspective. Emotional tactics and long speeches will not help. Stay with facts. Know the documents. Be totally honest. Yours is not the only child with needs and the court will need to balance out all judgements and be seen as transparent. Stay healthy during the process, it is long and drawn out and stressful. Get the required sleep if possible and eat well and make provision for childcare if needed to get a good run at the proceedings around the tribunal.”
Maintain communications between barrister and witnesses as much as possible. Keep witnesses up to date of different professionals opinions relating to your child so that they can form a holistic opinion of the case before the day,”

Parent F

“Keep careful track of your paperwork. Read the full bundle when it arrives and chase up any documents in your favour that are missing. Admin staff at the tribunal cannot possibly understand all the documents submitted and if something is missed in copying they won’t know. Create your own alphabetic index when you submit documents (Tribunal documents are numerically ordered so alphabetic helps you easily locate your own documents).

Sticky flags and highlighters are essential.

I was used to meetings and presentations in my work but was not prepared for how emotionally draining it was on a personal level. It was suggested we take a photograph of our child so the tribunal could see who was being discussed but as our child was 15 at the time she chose to attend with us. It was very helpful because she was able to present her own views. This was her decision and she understood that she could leave at any time if she found it difficult.”

Parent G

“Don’t give up, you do have to prove your case and it can be financially costly, depending on which LEA and what provision you are requesting. It is emotionally draining, and very very frustrating. Depending on why you are at SEND Tribunal will dictate whether you will need solicitors or not. In our case we did, because of the type of setting and statement wording, (making a badly worded statement, as watertight as possible-or LEA wriggling out of proof).”

Parent H

“Find the right experts who can comment on your child’s difficulties and who can compare the schools offered.”

Parent I

- *Do your homework thoroughly.*
- *Visit every school that County could throw at you and make comprehensive notes as to why that school could not meet your child’s needs*
- *Speak to others who have gone through the system*
- *Don’t be put off, you know your child best, not the Case Officer or County*
- *Make notes of any telephone conversations and keep emails/copies of letters.*
- *Be methodical – it will pay off in the long run as this is a stressful process and anything to alleviate helps.*
- *Take all relevant paperwork with you, you never know when you will need it to prove a point.”*

Parent J

“Make sure they have good expert reports. Talk to other parents.”

Parent K

“It is costly, immensely draining emotionally and financially. Get good representation from people who know what they are doing. Don't trust the LA they are corrupt. It's hit and miss, even with good legal representation

Even when you have child with significant needs as we do, they will not necessarily get what they need because it seems more like a political agenda than a process that looks out for the child. It is not what it says on the packet!!!

Sorry, after my experience, I am very cynical and just think it is all corrupt.

My son is in a children's home because we do not have the resources to give him what he needs, the LA fail to recognise his needs, we have been put in a position as parents of telling our son that we are unable to look after him. We do not want rid of him, we do love and care for him, we just can't manage him.

The whole thing stinks – this needn't have happened and it doesn't have the child or families best interests at the centre of it. It is about an over-riding policy by the LA to keep children in county even though in our case, the costs are equivalent. It is a cruel pen pushing decision with no heart or soul in it.”

If you could change the process what would you change?

Parent A

N/A

Parent B

“I would insist on all witnesses, and parent, to swear on oath during the tribunal itself. There needs to be far more accountability on the LEA to adhere to the law. It seems that those parents who do not make themselves SEN-savvy will be left behind and ridden over roughshod. Parents should be given far more information when their child is first diagnosed with a disability. Parents have to go and search it out. They have enough to contend with without having to look for information which will help them to realise their child may not be supported sufficiently.”

Parent C

“The local authority should be forced to use only independent professionals (OTs, Ed Psychs, Speech and Language Therapists etc) when they are making their assessments of the child. This would mean that parents could trust the findings of the assessments, they would not be tainted by the local authority view and parents would not have to pay for their own independent assessments. I also think that schools should be allowed to disagree with the local authority without fearing for their own jobs.”

Parent D

“Yes- I would make the Tribunal service incorporate a thorough 'sense check' step such that someone has to sign off to say that the edited working document actually matches the judgement before it gets sent out following the Tribunal. This way, the Tribunal service can pick up any problems quickly, and go back to the judge for clarification before anything gets sent out to parents.

Secondly, I would make the Tribunal service complaints process more transparent- I found it very hard indeed to get to the right person to take action on my complaint.

Altogether I think I spoke to about 6 different people during the attempt to rectify the incorrect statement and deal with my complaint- that's not good enough."

Parent E

"Offer part funded places?

That parents be given some assurance that the LEA is in some part fulfilling their obligation in relation to the tribunal process and making some effort to form a valid, truthful, up-to-date opinion about your child."

Parent F

"There should be an independent board within the LEA that can look at the merits of requests to prevent the need for tribunal intervention. We felt the initial decision by the LEA was solely based on finance and the outcome was decided before the request was even made."

Parent G

"I would wish to make it Law that once you have been through the proving your case and winning process, the LEA has no further power to change at will statements of educational needs or indeed cease to maintain. Parents who have been through this process to try and make adequate provision and change should be given power not the LEA to make decisions about how their child is educated, if it has been proved that this need is there the LEA should adhere to those decisions until such a time that the parent or child (depending on age) is meeting the requirement. It should be parent lead not enforced by an LEA who are neither interested in the outcome or sufficiently qualified to make closed door decisions without even involving parents about their child's education. If a parent has gone through this process, on behalf of their child, if they win or lose, the parent should have equal right of power as the LEA to make decisions not requests about their child's education.

My child attended a specialist dyslexic boarding provision 180 miles away from our home from September to January.

The school day was absolutely fantastic and he fitted in and progressed quickly for the first time in six years of primary statement assisted schooling in a maintained school.

He clearly showed he was very capable of learning and definitely required specialist teaching in dyslexia to help him read/write. Because of how these specialist schools are set up, they have the core skills required tailored and embedded to your child throughout the curriculum, so even though they have severe difficulty in understanding words, spellings, reading, writing, they can still access the curriculum, and do the mainstream national curriculum secondary school subjects at their level and attain. We learnt that with the correct help where he needed it, our child would be able to very definitely be able to take GCSE courses.

Sadly for our child the emotional side of boarding did not suit him, and through best endeavours from all parties (the school, ourselves and our child) he could not cope with the boarding. We had to make a very hard decision due to the distance of taking him out of school as we were unable to afford the weekly trips, the school could no longer sustain him boarding without 1-1 provision they had requested on

their banding that we had paid for the 1st term, the school required this banding to be put in place and paid for to keep his boarding placement; Therefore at the annual review in January this year, we found a similar crested school 60 miles away from our location and requested, went through the trialling etc again, our child got accepted and we requested that the LEA allow us to replace him into this school including travel costs, (which all together worked our cheaper than the first placement).

If you win a Tribunal in your county this should be a ruling nationally and allow you the move county if needed as part of the ruling (not at cost to the LEA) but at least enable you make a decision without the worry of changing county and having to Appeal and go through the system again, what a waste of time and money on all parties.

Unless you can afford to home-school, or privately fund a school, you don't have a lot of say in how your child is educated when they have SEN. Again, if you go through a lawful, process, to help identify and quantify needs and provision, the system ought to recognise that you are acting on your child's behalf and award subsequent power to enable you to carry on doing so.>

Parent H

"That the lea school could be more honest and not simply dance to the tune of the LEA"

Parent I

"Like County representatives to actually meet with parents to discuss before the whole process gets under way. You talk to Case Officer on phone but it ends up with us versus them and anything where a face is seen could take away some of this tension. You feel as though you are not being listened to. Need a neutral body to oversee.

If a County has been inappropriate in its dealings with parents it should be held to account. We were told we couldn't do anything about the way the County had behaved in our case – but we should be able to bring this to a higher body's attention – what will stop them doing this to another family?"

Parent J

"Faster feedback on a decision."

Parent K

"I wish the LA could be held accountable. They should take our children home themselves and look after them for a month without no help or resources and perhaps they might understand what parents put up with for years. No wonder we get to breaking point.

I would say put them under oath so that there may be some sort of comeback for the lies that they spout off in tribunal.

Tribunals to be minuted or recorded. However, that may make it even more long winded that it already was in our case.

Some descisions surely could be made without getting there

*Other than that **** * them all”*

What happened next?

In this section we would like to know what happened next, for example, did you appeal the decision, did your child go to a different school, or remain at the same school?

Parent A

N/A

Parent B

“The statement was finalised and my child attended the school in Part 4 which I was happy with.”

Parent C

“Our son went to the specialist school of our choice.”

Parent D

N/A

Parent E

“Place awarded and place taken up at earliest junction. Successful transfer and provision with weekly border.”

Parent F

N/A

Parent G

N/A

Parent H

N/A

Parent I

“Both my boys got the school that was most appropriate for their needs.”

Parent J

“We won our case or the council agreed that our son could go to the school we had selected”.

Parent K

N/A

How did your child get on in the months following tribunal, either in a new school, or the same school?

Parent A

“My child continued to progress but school still continued with manipulations on non-Autism trained TA’s and instead of Judicial Review, I changed schools to help with Speech but made him worse overall so to go back to tribunal ordered school.”

Parent B

“He has fitted in very well and it has been acknowledged by the school that he is progressing well. He is supported exceptionally well as I fought for his teaching assistant to move with him from primary. He has a rare condition and signs he may becoming ill are subtle. His support worker needs to be able to recognise these signs. All written in his healthcare plan and initially all ignored by the school and the LEA.”

Parent C

“He got on very well, although still has to have counselling to help him get over the terrible time he had a primary school where he received barely any support (we only got a Statement of Educational Need in Year 6, just months before we went to Tribunal)”.

Parent D

“We only finally got an accurate statement in mid-Feb, and we are about to do the statement review meeting, in which we will be pushing for full implementation of some of the objectives. But our son is happy at school and is making good progress with his current level of support- so the fight has been exhausting and stressful but well worthwhile!”

Parent E

“We have been supported in our decision making and for the first time, we feel some hope has been given to our son’s future, progress and place in society. We have been supported in re-introducing Ritalin successfully and benefit from the wealth of experience within his current provision.”

Parent F

“Our child is now at specialist college for sixth form and we have just had a successful review meeting. She is thriving.”

Parent G

“We are back into Appeal and perhaps even a Judicial Review as the LEA denied behind closed doors without us able to be present for their 3 weekly panel meetings to allow our child to go to the new placement, have written to the existing school provision to terminate the contract and we are told that he can be maintained in a local school, with the right provision. To date, I am home-schooling my 12 year old child as he has nowhere to go to school.

Despite the boarding placement failing, and as we could not sustain a county move, and would also mean further cost to the LEA, we chose to try and replace him in a similar setting only closer, the hearing allowed us to proceed with a specialist school provision, something which the LEA have seized the opportunity to ignore and try and replace in county although they could not come up with any such provision during the hearing

We are now in a position of knowing the placement we worked very hard to get for our son was absolutely the right provision, the fact that it was boarding has caused major problems, and although we have found a school nearer (which the LEA did know about and have children from our county placed there on a statement) they

chose not to advise us and in our opinion, waited for an opportunity to turn the tribunal decision on its head, or force us to move county – and out of their jurisdiction and therefore they no longer have to pay even though we proved he needed this type of provision. This is on-going for us, we have very little faith left but will keep pursuing.

If we had the right to move county, we would have done so, but to do so means, we again would be back into Appeal with the local EA responsible for paying for the provision, this is really floored, because it means that the LEA again have the power to remove and change the Hearing's decision and the parents and the child have to go through the whole process again with the knowledge that the oposomg LEA have all the information up-front and invariably will do their utmost to wriggle out of. Tribunal system is fairish, but what a waste of time if it can be over turned when the LEA feel like it. There is no protection and I really don't see the point of it all, especially, as in our case we fought so hard and spent so much time and money, to be back at square one, because the boarding placement (not school setting failed)."

Parent H

"Our son ,since June 2012,is now at a school that can deal with his difficulties and we will fight any attempt by the lea to remove him, one advantage of going to tribunal is that the evidence has been tested and it's far harder for an lea to try to say even years later that the tribunal decision should be reversed, you always have the judgement which will always be useful."

Parent I

"Both boys have settled in incredibly well and are happy in their school."

Parent J

Our son over the last two years has finally been given the opportunity and support that he never received in his previous seven years of schooling. The change can only be described as transformational. There is now a real chance that he will be independent and make a real contribution to society.

Whilst what has happened to my son is fantastic, I believe that the whole process has had a severe impact on my own career. I gave up work to home school for a year as there was no real alternative school to send my son whilst a decision was being made. I now work from home as I am aware of the time stress and effort I may need to go through again to fight for my son in the near future. So in total there has been a gain in what my son may be able to contribute to society in future but a definite reduction economically in terms of what I earn/contribute to society

Parent K

"My son is in care. He still ahs the same problems and the same LA to ignore him. Given that the contents of his statement were not delivered and that was when the LA were being watched, it isn't likely to be delivered.

His obsessions and rituals and behavioral difficulties are still there and still not dealt with (we had a referral to the challenging behavioural psychology service 16 months ago and are still waiting for help to arrive!)

We have had to tellhim that we are unable to look after him any more

A decision for an out of county place would have prevented this and would have prevented breaking up a family as we would have him at home for some of the time. He is in a care home with other children who have SLD – no peers.

I have been at the point of suicide on a number of occasions just from the sheer stress of what I HAVE BEEN THROUGH AND THE ANGER THAT I HAVE TOWARDS THE LA.

They have not been held accountable for the things that they have done to us.

There is no trust as this has been violated a number of times by their actions

The system is still not transparent and never will be

I am receiving no information from the school regarding my son's welfare. The whole thing stinks!!!

What has happened to us is cruel, unjust, unfair and does not have the interests of keeping a family together and looking after our son at its centre.”

Note: We have slightly edited the responses in one or two cases to ensure confidentiality. We have accepted that parents are very busy and that wording and typing should as far as possible be left unedited as they demonstrate the emotions and backgrounds of parents. Only the print has been put into italics to ensure consistency of presentation.

APPENDIX C

SURVEY MONKEY

Respondents' Questionnaire

Q1: This question is about your child's last SEND Tribunal. When was the Tribunal (month/year) and which Local Authority was involved?

Q2: Please tell us about the range of Special Educational Needs that your child has, and how old your child is.

Q3: Why did you decide to go to Tribunal?

Q4: In the time before Tribunal, what did you find most helpful, and what did not help?

Q5: Did you attend mediation? If so please tell us about this experience.

Q6: This question is about the people who attended the Tribunal. Did you know who all the people were at the Tribunal? Did anybody attend that you did not expect to come? Was everybody that you expected actually there?

Q7: This question is about the knowledge and preparation of the people at the Tribunal. Please tell us your views about how knowledgeable the people present were about your child's case, and particular Special Educational Need.

Q8: Please describe your thoughts at the end of the Tribunal.

Q9: What was the result of the Tribunal, and how long did you have to wait for the result?

Q10: Please tell us about how your child was in the six months after the Tribunal. Is there anything that you would like to let the SEND Tribunal know about?

APPENDIX D

Collation of Responses to Survey Monkey and extracts from responses.

48 respondents of whom 2 excluded as one related to another Tribunal and the other to a Tribunal held outside the date limit.

Some questions or part questions were not answered by individual respondents and thus totals for each question may differ.

Some appeals did not go through to a Hearing and were settled in advance.

Q1: This question is about your child's last SEND Tribunal. When was the Tribunal (month/year) and which Local Authority was involved?

Appeals were determined between January 2011 and July 2013.

Responses from Northumberland to Kent with

4 respondents from Northern England

7 from the Midlands

4 from the mid West of England

10 from London and Greater London

18 from S.E. England /Home Counties

LAs with more than one respondent – Gloucestershire (2), Wiltshire (2) Croydon (2), Bromley (2), Merton (2), Hertfordshire (5), Hampshire (3), Surrey (3), Brighton and Hove (2) and Kent (2)

Q2: Please tell us about the range of Special Educational Needs that your child has, and how old your child is.

30 children were on the Autistic Spectrum with 20 of these described as having a complex range of associated and other needs.

7 had Dyslexia and/or Dyspraxia as main presenting need.

7 had a range of needs including, Speech and Language Difficulties, Epilepsy. Down Syndrome, Foetal Alcohol Syndrome Severe Learning Difficulties, Physical and Medical needs.

Ages given ranged from 4 to 15

9 were in Primary education, 17 in secondary. No answers received from remaining respondents.

Q3: Why did you decide to go to tribunal?

25 to obtain an appropriate educational placement although appeals related also to improving Parts 2 and 3 – 25 respondents

3 gave Refusal to Carry out Statutory Assessment

9 improvements to Parts 2 and 3.

Others gave disability discrimination or general concerns about child's education

Q4: In the time before Tribunal, what did you find most helpful, and what did not help?

Helpful:-

15 Parent Support Services such as SOS!SEN and IPSEA

6 Lawyers

3 Parent advocate

4 Support from friends

Note – whilst few directly mentioned independent professionals it became evident across the questions and answers that their importance was recognized.

Unhelpful

18 Local Authority tactics and behaviour

8 School attitudes and behaviour

7 Tribunal attitudes to parents

2 Mediation

3 Long waiting time from appeal to Hearing.

“None of it was useful, the panels of tribunal was one sided very anti parents. Very pro LEA”

“It didn't help that the LA submitted almost no evidence until the day before and the panel accepting that”.

“Preparation for tribunal by educational experts at NBCS, IPSEA and SOS!SEN. Being told what to expect as I expected to present the case on my own so needed good advice and was given good advice”.

"The Solicitor was helpful and I could not have done it without him. He tried to negotiate a settlement before the day, but the LA would not budge, they were not interested in negotiating. Talking every night to a friend who had been through it. Attending the SOS!SEN day course. Pre-warning of the underhand tactics used by the school/LEA to make out that he could cope with a mainstream school. Looking at Freedom of Information Act requests on the internet to find out the LEA's costs of SaLT and OT and cost of dyslexic unit placement, so that I could compare costs of the LEA providing and an Independent School providing as the total costs ended up being very similar. Had they not been, we would have lost the case and my son would be at home with me now all day every day, and I would be out of work and then we would have lost our home."

Q5: Did you attend mediation? If so please tell us about this experience.

7 attended mediation

4 attempted to go to mediation but LA refused or said it was unable to go because lawyer not available

30 did not wish to go – reasons – *"Waste of time"*

"Only useful if process is 2 way"

"Not offered by LA"

"Didn't trust mediator"

"Parties too far apart"

"We did, it was pointless, the la representative was rude and intimidating. We gained nothing using this process."

"We tried to mediate the LA did not want to"

"No - there was no point. Mediation is only useful if the process is two way and the LA are prepared to listen and accept the child's difficulties"

"No; waste of our time in our opinion"

"We tried but the LA did not engage & dismissed the mediation service"

"Yes, I attended mediation. However, the LEA did not take any action. Therefore, mediation, is used by LEA as another excuse to delay intervention"

Q6: This question is about the people who attended the Tribunal. Did you know who all the people were at the Tribunal? Did anybody attend that you did not expect to come? Was everybody that you expected actually there?

9 cases resolved before the Tribunal hearing (conceded, withdrawn, or collapsed before day)

17 Knew everyone at Tribunal

15 Did not know everyone at Tribunal

Note – not expected to know the panel.

Much concern expressed about LA witnesses who did not know the child at all.

“No. the school or educational psychologist who were witnesses didn't turn up. The people there were a senco from the mainstream school to oppose why our son could not go to their school and the headteacher of the special school to confirm what their school could provide for”

“They wanted more people at last minute which was agreed by the court”

“Yes but the current SENCO who advised me was staying impartial was definitely not impartial at the hearing. The barrister was overwhelming.

Q7: This question is about the knowledge and preparation of the people at the Tribunal. Please tell us your views about how knowledgeable the people present were about your child’s case, and particular Special Educational Need.

Responses very mixed.

Some did not know how knowledgeable

Where ref. to Panel the following negative points repeated-

Members not interested in parental concerns

Had made up minds in advance

Asked right questions but swayed by oral evidence of school SENCO or Head.

Allowed LA witnesses to talk too much and take up time

Misled by LA “bluffing” and out of date evidence

Poor knowledge of child’s special needs and impact upon attainments

Prejudiced against independent placements.

Hadn’t read all the papers

Did not understand dyslexia or emotional needs of dyslexic children

Positive points from other parents

Fairly knowledgeable but biased towards LA

Panel much better prepared than LA

Judge excellent, asked right questions and listened to what parents had to say.

Preparation By LA

Almost all respondents thought that the LAs were badly prepared and inadequate. Often their professionals had seen child only briefly or not at all. School Heads seemed to sway the Panel though even though unable to offer clear proof that they could provide what the child needed.

“There was no knowledge or apparent preparation from the la. they were disinterested in our concerns, as was the tribunal panel.”

“During the procedure it became quite clear that the LA did not know the complexities of (child’s)case and the school she was at that time, it transpired that her form tutor hadn't even been told that she had epilepsy. The judges were very professional and seemed to know more about (child’s) case than any of the LA's side”.

“The panel had read the notes but let the HT speak for 2 hours about nothing more than the national Curriculum seven stages of learning..... She spoke slowly and went into detail about exactly what they were doing and learning, The judge appeared to hear about what is standard in schools as if it was a special approach of this school and was visibly impressed.”

“The level of presentation was very poor - the LEA case was full of inaccuracies and deliberately misleading comments. There was no opportunity to take up these point by point. The panel seemed to have a very poor knowledge of our son's disability, to ignore hours of strong evidence from our representative and witnesses, and to have a prejudice about private education. Despite hearing that he had been failed in a state primary school, one panel member said something about our simply wanting a 'Rolls Royce education' for him. Because he is doing well in his current setting, this was taken to mean that, despite all evidence to the contrary, he would do equally well in a large comprehensive school. There was little or no understanding of FASD and its long-term and persistent effects on the brain and on behaviour.”

“There were over 700 pages in total of evidence submitted - it was evident that the panel had read and understood many of the issues which were in contention”

“Panel were very knowledgeable. Authority had not prepared their case very thoroughly”

"no knowledge what so ever. Then denied my son had problems"

"The panel at the tribunal did not listen to me his mother, just the. Lea , felt I should not of been because they were not interested in our side"

Q8: Please describe your thoughts at the end of the Tribunal.

Frequently used words –*"Despair and relief"*

"Distressing"

"Exhausted. Sick"

Far more legalistic than expected and not a parent a friendly experience.

No concern for child – just money, policies and winning a case.

Lies from LA – impossible for unrepresented parent to deal with this.

Some parents felt they were not listened to by panel and were not given a chance to give their views.

LA given much more time than parents.

A very high correlation between appeals won and approving of the Tribunal system and losing the appeal and feeling a loss of justice but not all winners were totally approving of the Tribunal system.

"Very disappointed and let down. If the evidence had been balanced and fair we might have felt better about it, but it was distorted, dishonest and inaccurate. The evidence of our splendid witnesses who knew and had worked with our son for many years counted for less than the hypothetical statements of people who didn't know him".

"Felt that it had gone quite well and relieved it was over! Frustrated that some things could have been agreed without recourse to Tribunal."

"Disappointed. Felt the judge had already made up his mind before we even went into the room."

"I was shaking with the stress, but also very relieved that it was all over. In a way, it was a release to finally be able to tell my son's story to people that were really listening. I felt I had had my day in court, regardless of the outcome."

"Extremely frustrated, angry, desperate.....!!"

"I felt I should not of bothered, the teachers from the school and lea solicitor were listened too , we were ignored a lot"

Q9:What was the result of the Tribunal, and how long did you have wait for the result?

6 cases already settled out of Tribunal

13 lost appeal

19 won appeal

6 had mixed results with improvements to Parts 2 and 3 but not the placement hoped for..

75% of decisions received within 3 weeks of hearing.

2 consent orders issued on the day of hearings.

Remainder included adjournments spreading time and decision over several “expensive” months. Some decisions took up to 7 weeks.

Q10: Please tell us about how your child was in the six months after the Tribunal. Is there anything that you would like to let the SEND Tribunal know about?

For the respondents who had successfully appealed Parts 2, 3, and 4 the results were all very positive with references to

“now flying”

“much happier”

“leaps and bounds”

“making good progress”

“different child. Headaches have now gone”

2 respondents referred to some problems with transition to waking day curriculum but these overcome successfully.

For the 6 who had achieved partial success in form of an improved Part 2 and 3 and for the few who had requested amendments to only Parts 2 and 3 the **results were less positive with concerns about the failure of some LAs and schools to implement the orders of the Tribunal or to systematically trying to reduce provision already.**

The 13 respondents who had failed to obtain the placement requested under Part 4 recorded very negative results with **for nearly all children regression.**

Examples:-

One parent recorded that her **child had self-harmed for 4 months after decision leading to the necessity for surgery.**

Another - medical problems now and the **family “torn apart” .**

Another - her **child now taken into care.**

3 respondents – decision to **Home Educate**

1 – **forced to pay fees to a dyslexia school because child so unhappy**

1 – now **appealing to Upper Tier Tribunal**

“My child is still learning and growing due to the education he is receiving from US! All faith has been lost in the tribunal system, the education system and particularly the sen system”

“My child ended up needing to have an operation to deal with toileting issues that the LA led the tribunal to believe had improved. The LA lied, made up evidence, made accusations about us that were not true, and were allowed late evidence, change of witnesses and so on. They were and have not been held accountable for any of this. The tribunal decision was very biased towards the LA, it was unjust and did not take account of costs or whether the school could meet needs. My child and our whole family have suffered as a result of this. My child is now in care. His needs are not being met and the outcome of this tribunal was not based on the best interests of our child. We believed this was the purpose of going to tribunal - clearly this was not the case where we were concerned. We did everything we possibly could to help our child and it wasn't enough. The outcome was devastating. Our child is now in care and not where they should be. No-one has gained from this outcome - least of all our child who has been harmed by the fact that they are now in care and was told that their parents could not look after them. The alternative was that he would have a residential placement with a waking hours curriculum and we could have respite while he was there and we could all work together to get what is best for him, with no need to tell him we couldn't care for him, but simply the school was far away and he would have to live there and we would see him in the holidays. the outcome is not what we wanted and neither was it in the best interests of our child. I thought tribunals were supposed to be a fair process based on the law and on justice. In this case the tribunal wasn't.”

“The tribunal decision completely failed our child. He has regressed after the tribunal. The transition programme that the tribunal order was vague and not enforceable, so did not take place as a result our child regressed for a 1.5 years before we moved him out of the school. Considering we were only asking for a mainstream school and there were no difference in cost we do not understand why and how tribunal has reach this decision. We were advise by our lawyer to appeal, but we chose not to as we lost all faith in SEND to make decision in the best interest in the child and their family. Parental choice should and must be respected by SEND if there is no difference in cost. We also wrote to SEND after our tribunal asking for clarification in their decision with regards to the transition, sadly to this day we still have not received a reply. We would like SEND to know that the decision they made like this has destroy a family.”

“Six months after the tribunal decision, the mainstream school our son attended had not met ANY of the provision in our sons statement. The first thing the school did was call a review as there was things on the statement they did not like and could not do, so we had to obtain more legal advice, and then had to start the JR process to prevent this from happening.”

“She was ecstatic that she didn't have to attend that particular school anymore, she was very intimidated when she attended her knew school as she had suffered so much before she took a long time to come out of herself, she needed some counselling to help her, but now she is flying, loves school is coming on in leaps”

“My son is a different child. He loves his new school, he loves the lessons, he enjoys the work, it is tailored for him, the stress is off, loves the boarding, and has made progress. School is no longer stressful for him and the bedwetting his now stopped as has the headaches, stomach cramps, not wanting to get up in the morning to go to school.”

“My child suffered significant emotional difficulties as a result of the long wait for the hearing and the delay in waiting for the results. The SEND tribunal caused our child and the family untold suffering as a result of their unacceptable delays”

“No difference. Be highly firm with the LEA's and refuse to allow the LEA to bring more witnessess than already announced in advance, also there should be an even amount of witnessess for each side. Also, it is highly dodgy if a witness produces evidence on the day - it might be dodgy and nobody has time to verify its source or date and there might be a huge body of evidence to counter it.”

“What is going on with our children is a hidden scandal”