

Inquiry into Attendance and Behaviour

Response from SNAP Cymru – January 2013

Exclusion from School

During the last two years SNAP Cymru has worked directly with 160 cases of learners being at risk of exclusion, 91 cases of permanent exclusion, 326 cases of fixed term exclusion, 92 cases of illegal exclusion, and 26 exclusion appeals. We recognise that this is only the tip of the iceberg in the context of the national picture. Each of the 695 exclusion cases we have worked on is fully documented. To aid the inquiry, we have looked at a number of cases, concentrating on permanent and illegal exclusions. We hope the information below to be a useful snapshot about how exclusion is being used, and have based our recommendations to the inquiry on this information (*Inquiry into attendance and behaviour tor*).

- 7399 (Additional Need (AN) Behaviour – Age14) – YP permanently excluded from mainstream school. School and LA followed process correctly through to independent appeal, which was upheld. However, family felt that they were not given information/support prepare for the appeals, and did not understand the process. It also took over six months before the YP returned to full-time education.
- 7645 (AN None identified – Age15) – YP excluded for a fixed term of 10 days. Day before h/she was due to return school phoned parent to inform her that the YP would be permanently excluded unless she volunteered to take him out or find another school. Parent refused so school made the exclusion permanent. Parent asked for details of the investigation carried out by the school (which did not include the YP) in order to prepare for the discipline committee meeting but the school refused. Exclusion upheld and LA involved. YP receiving Education Otherwise Than At School (EOTAS). The family were not given information, advice support and time to prepare for the discipline committee meeting. They did not understand the process. School did not follow the process and did not carry out an appropriate investigation.
- 8130 (AN ADHD / Autism Spectrum Disorder – Age8) – Child permanently excluded, December 2011. Exclusion upheld. Since then Child has been receiving a mix of home tuition and other activities. Statutory assessment commenced, but has taken considerably more time than it should due to staff illness and staff shortage. Proposed statement finally issued December 2012. Child still has no school placement, and does not receive his/her entitlement to a full time education. The family were not given information, advice support and time to prepare for the discipline committee meeting. They did not understand the process and did not have any indication that it would take so long for their Child's needs to be assessed and to find a suitable, sustainable school placement – ongoing.
- 7980 (AN ADHD / Autism Spectrum Disorder – Age11) – Child permanently excluded from a special needs unit attached to a mainstream school even though h/she was receiving a high level of support. Exclusion upheld and LA involved. Child currently receiving home tuition whilst alternative school placement is secured. The family were not given information, advice support and time to prepare for the discipline committee meeting, and did not see the results of any investigation. They did not understand the process, did not contribute to discussions and had no idea that their child could be permanently excluded from a unit specialising in his/her difficulties.
- 7487 (AN Behaviour – Age13) – Parents informed that YP would be permanently excluded if they did not remove her from the school. Parents did and YP had no school placement until the Education Welfare Service intervened to investigate why the YP was not attending school. Parents confused as they thought the LA would contact them to

help find a suitable school placement. YP out of education for over 4 months. School did not follow correct procedure for exclusion and family were not given any information or support. They did not understand the process.

- 6910 (AN Aspergers Syndrome - Age 15) – Permanent exclusion overturned by independent appeal. YP has started at a different school which was agreed was the best way forward by the family, independent appeal panel and LA. However, LA is unwilling to provide access to school transport, and is not providing the family with information about how to complain about this and the permanent exclusion process which was not properly followed.

Illegal exclusion examples:

- Parent told that her child could no longer attend the school when she tried to complain about a teacher.
- Parent told by school that they would not formally exclude her child, but she should keep him at home for a week or so (the school would phone her). Parent also told that it was 'too difficult' for her child to be included on school trips or to go swimming.
- Parents told their child could only attend 'mornings' as he needed additional support that was not available in the afternoon. Parents were later told that their child could also no longer stay for lunch.
- Parents told not to bring child into school until they (school) can put some support in place to meet his AN.

In the above sample cases:

- Formal process was not followed by schools
- Schools discriminating (disability)
- Families did not understand about illegal exclusions – some thought they were 'doing the right thing' by removing their child from school
- Families were not given access to information, advice or support
- The LA was not informed

Recommendations

SNAP Cymru believes that most educational issues (including exclusion) can be resolved at a much earlier stage without the need for formal legal intervention and is committed to ensuring the provision of services as widely as possible. However we are extremely concerned that families in Wales will be even more disadvantaged when legal aid is withdrawn. Much more needs to be achieved to ensure the full participation of young people and families in planning and decision making which affects them.

1. Exclusion from school should be the resource of last resort
2. No child or young person should be excluded from education without access to free impartial specialist education advice and support.
3. Learners' should have access to advocacy services
4. Permanent exclusion should not take place without an evidence based documented investigation and a hearing to discuss the investigation. It might be worth considering the introduction of a tool kit/checklist to help schools ensure a fair investigation.
5. The learner must be able to give his or her side of the event. This should be documented and included in the evidence based documentation and subsequent hearing
6. Time is granted to schools in order to carry out investigations – possibly suspending the learner for a short period of time to allow the investigation to take place
7. Schools and Local Authorities need more robust complaints procedures to ensure that issues are fully understood and practice is improved.

Background

SNAP Cymru is a national Welsh charity with over 25 years experience in providing bilingual information services to children, young people, vulnerable adults, parents and carers. SNAP Cymru is the only third sector organisation in Wales holding the Community Legal Services (CLS) Specialist Quality Mark (Education). We do not provide services via the legal aid fund, however we do offer quality free face to face advice, information and support to families, children, young people and professionals.

As well as with CLS, SNAP Cymru is proud to hold quality marks with the following nationally recognised quality standard awarding bodies: Investors in People (Bronze) and Investing in Volunteers.

SNAP Cymru is funded through Welsh Government, Local Authority contracts and fundraising. In this time of austerity, many funding streams have reduced or are coming to an end. Working to full capacity already we are most concerned that services may become too stretched when the reduction of Legally Aided advice in education law starts to take effect from April 1st 2013.

- All members of the public needing legal aid funded advice and/or casework in matters of education law (in England & Wales) will be required to call the Community Legal Services Advice helpline. There will be no direct access to a face-to-face provider as there is at present, except from SNAP Cymru – we will do the best we can within a very limited budget across Wales. As there will be only 3 providers of legally aided education law advice in England & Wales. The majority of cases undertaken by the 3 providers will be dealt with over the telephone. It is unlikely that there will be a bilingual service.
- Legally aided advice or casework will only be available when the case involves the special educational needs of a child or young person. No such advice will be available in future in relation to areas of education law in which there is no such element e.g. the vast majority of exclusions, admissions, bullying or complaints cases. Only issues of disability discrimination in education will remain within the scope of legal aid.

These changes will have a serious impact on access to education law advice. Some current providers of this advice will either cease to provide it altogether or will provide it only on a private paying basis. Solicitors and private consultants are very expensive and our experience is that families have felt under real pressure to pay extortionate amounts of money to achieve outcomes which should be achieved without the need for litigation.

Early intervention, accurate information, advice and support, reduces conflict, and informal disagreement resolution reduces stress on families and other partners involved.

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