

PROSECUTING PARENTS FOR TRUANCY: who pays the price?

‘Try as they will, some parents cannot get their children into school. You cannot force a 14 year-old out of bed, you cannot force a child into school uniform who is refusing. It’s not possible. You can imagine the stress this is causing’.

Rona Epstein Coventry Law School
R.Epstein@coventry.ac.uk

Geraldine Brown Coventry University
G.Brown@coventry.ac.uk

Sarah O’Flynn Roehampton University
sarah.oflynn@roehampton.ac.uk



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Geraldine Brown

Sarah O'Flynn

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‘Try as they will, some parents cannot get their children into school. You cannot force a 14 year-old out of bed, you cannot force a child into school uniform who is refusing. It’s not possible. You can imagine the stress this is causing. We need research on this’.

The above extract is from a letter written by an educational psychologist working with parents of children and young people, some autistic, many with a range of SEND (Special Educational Needs or Disability). It was the starting point of this research study on the prosecution of parents whose children do not attend school regularly.

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FOREWORD by Professor Sally Tomlinson

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FOREWORD

In 1897, when schooling until age 12 had recently become compulsory, a London School Board Inspector complained that “of every 70 children in Standard 1, 25 children are almost entirely ignorant. They misbehaved, learned nothing or truanted”. So what was to be done to keep reluctant children in an authoritarian school system intended to train the working classes in literacy, numeracy, moral training and vocational tasks? One way was to create a system of legal enforcement which has barely changed over 120 years. Attendance officers, usually male and in some areas known as “the Cruelty man” were employed by the local authorities which replaced Schools Boards in 1902, to threaten parents with fines and ultimately imprisonment if they did not make their children attend school.

The English education system has always been punitive towards parents, especially if working class, and increasingly if single parents. The 1944 Education Act, consolidated into 1996 legislation, laid a duty on parents to ensure the efficient education of their children by regular attendance at school or otherwise. While the increasing numbers of children and young people labelled as having special education needs, and also those excluded from school, are more likely to be the subjects of research and debate, the shocking increase in the number of parents actually prosecuted for failing to send their reluctant children to schools – which are often unable or unwilling to offer anything like an “efficient education” – remains largely an unknown issue. There is minimal knowledge and research about truanting children and their parents.

This remarkable and timely study seeks to rectify this. It notes that in 2017 16,400 parents were prosecuted for failing to send their children to school, 74% of those “convicted” being women. The study has analysed reports from 126 parents, mainly mothers, and found families under stress, fewer than half in employment, and others on social or disability benefits with 80% reporting health problems. Their children were anxious, fearful, often suffering night terrors, and bullied at school, with 40% diagnosed as autistic. Some 35% of the parents in these stressed families, all attempting to do the best for their children, had been prosecuted or threatened with prosecution.

In 2003, HM Treasury, partly as a response to growing child poverty, published a policy paper “Every Child Matters” followed by a Children Act and a Children’s Plan in 2007 which promised “to make England the best place in the world for children and young people to grow up in”. Clearly some children matter more than others, and many children are not growing up in a good place. As this report shows, in some countries the issues are welfare-oriented civil matters. In England few are asking what kind of schools we have created, which in the 21st century so many children and parents find frightening, intimidating or irrelevant. How have many schools become such competitive and unpleasant environments for some children? If every child is to matter questions should be asked about schooling rather than criminalising parents.

Professor Sally Tomlinson Emeritus Professor Goldsmiths London University, and
Honorary Fellow, Department of Education, University of Oxford
www.stomlinson.net

Acronyms used in this report

ADD: Attention Deficit Disorder

ADHD: Attention Deficit Hyperactivity Disorder

ASD: Autism Spectrum Disorder

BME: Black and Minority Ethnic

CAMHS: Child and adolescent mental health service

DfE: Department for Education

DfEE: Department for Education and Employment

EHCP: Education and Health Care Plan

EWO: Education Welfare Officer

FE: Further Education

IEP: Individual Education Plan

LA: Local Authority

OCD: Obsessive Compulsive Disorder

ODD: Oppositional Defiant Disorder

PDA: Pathological Demand Avoidance

SATs: Standard Attainment Tests

SEMH: Social Emotional and Mental Health

SENCO: Special Educational Needs Co-ordinator

SEND: Special Educational Needs and/or Disability

SLD: Specific Learning Difficulty

SPD: Sensory Processing Disorder

EXECUTIVE SUMMARY

The law

- In England and Wales, the offence of truancy is deemed to have been committed by parents or carers of school age children whose children have not attended school regularly.
- Section 7 of the Education Act 1996 sets out a parental duty to secure the efficient education of children by ensuring the child's regular attendance at school or otherwise.
- If the child fails to attend school regularly the parent is guilty of an offence. Under Subsection 444 (1) the offence is strict liability; the parent is not required to know that the child has missed school. If, for example, the child was living with her grandmother and missed school, the child's parents would be liable for prosecution for their child's truancy, even if they did not know she was missing school. Under Subsection 444 (1A) there is a further offence if the parent knew about the child's absence and failed to act.
- The punishment can be a fine up to £2,500 or a term of imprisonment.

Numbers

- In 2017 in England and Wales 16,406 people were prosecuted, of whom 11, 739 (71%) were women.
- 12, 698 were convicted, of whom 9,413 (74%) were women.
- 110 people were given a suspended sentence of imprisonment, 88 (80%) were women.
- 500 were given a community order – 416 (83%) were women.
- Ten people were sent to prison, 9 were women.
- It is thus clear that women are disproportionately pursued for this offence.

The research

- We wished to explore the reasons that lie behind children failing to attend school regularly, what problems this created for the family, the parents' views of how the schools tackled their child's problems, and whether or not the parents were prosecuted or threatened with prosecution.
- We placed a questionnaire online and invited parents affected by this issue to fill it in anonymously. We approached various online sites where parents discuss childcare issues. A number of these sites posted a note about our research with a link to the online survey.
- 126 parents, mostly mothers, filled in our anonymous survey, giving information on 132 children. Since the survey was filled in anonymously we have assigned a name to each respondent and report their answers with this pseudonym together with the Local Authority responsible for their child's school.

Respondents

- This is a self-selected group who completed the survey. We may assume that the respondents were not a representative sample of parents. Since they found links to the survey on sites where parents discuss childcare issues, they were likely to be parents of children with various health and disability issues.
- They were also not representative in terms of ethnicity: there were 118 who described themselves as White British, and 8 from other groups – Black British, Asian etc. A representative sample would be expected to have 16 parents (13%) describing themselves as other than White British.

Children missing school

- Almost every parent reported that their child was anxious, often highly anxious. They described night terrors, extreme reactions of fear when it was time to go to school. One reported there were meltdowns, vomiting, migraine, collapsing, self-harm.
- About 40% of the children in this sample have an autism spectrum disorder (ASD). Many of them had other health issues. 90% of the children had SEND (Special Educational Needs/Disability) or a health problem.
- All the parents reported that it was impossible to force their fearful and panicky children into school.

Taken off the school roll

- Some parents have taken their children off-roll to avoid prosecution. In our sample we have 16 parents who have taken this step, usually to avoid prosecution.
- These children may be missing out on important social experiences and may grow up lacking vital social skills.
- For some families home schooling creates enormous stress and financial loss for the parents, who often have to give up work to home-school their children.
- Some parents can successfully home-school their children, if they have time and resources.
- In this sample of 16, two children attended an online school, and one did well at home, the parent reporting that he is now happy and doing well.
- The others appeared not to be having any structured instruction. They were denied an education.
- Many of the parents wrote that the school did not understand the difficulties their child faced. *No understanding, no support* was a typical remark.
- They felt that schools do not fully understand what it means to be inclusive and that SEND discrimination happens all the time, with schools imposing sanctions and behaviour management strategies on vulnerable families and children.

Lack of resources

- There is evidence that a shortage of resources plays a significant role in the difficulties faced by these children.
- Many parents reported that one-to-one support in school for their child had been begun but not sustained, or recommended by the educational psychologist but not implemented.
- Long waits for diagnoses and for assessment and support from CAMHS were additional causes of distress for many of the parents in our survey.

The parents

- 26% of our sample were single parents, which is the same as the proportion in the general population.
- 44% were employed, 12% had a partner who was employed, 9% were self-employed, 24% were on benefits, 11% were on disability benefits, carer's allowance, sick leave or disability living allowance.
- Several of those on benefits reported having to give up work to care for their child who did not attend school. One couple, for example, reported that they both had good jobs which they had to give up because of their children's disabilities.
- We asked whether any member of the family had health needs. 80% said yes, 20% said no. Many of the mothers were themselves ill or disabled or unable to work due to long-term illness. Many of the other children in the families were ill or disabled too.

Families under particular stress

- All 126 parents in our survey reported stress and some family problems. We looked at features indicating families who were facing particular stress and difficulties: single parents, parents who are ill or disabled, those who receive carer's allowance, indicating very severe disability in the family, having other children who are ill or disabled – 42 parents (33%).
- They described a number of serious difficulties which indicated that they were under particularly great stress.

Bullying

- Bullying was an important part of the experience of many of the children in this survey – 60% of the children had been bullied: mostly by other children, but a significant number by staff.
- Some of the incidents of bullying described were extremely serious: for example a child punched in the stomach leading to hospital treatment for a damaged bowel.
- One parent reported that her child was locked in a cupboard in his special school.

- The bullying by staff included humiliation. One mother reported that her 12 year-old son, who has SEN and severe anxiety, had been bullied by staff – when he didn't understand the teacher he would get shouted at in front of others; he was kept in class.
- A few parents reported effective action by school to tackle bullying. However, the more usual response by schools was to ignore bullying, to deny that it happens, or to blame the 'over-sensitive' victim or the child's over-protective parents.
- Restorative justice is used successfully by some schools to deal with bullying issues.

Prosecutions and fines

- 42 parents (34%) have been prosecuted or threatened with prosecution. Among them are some of those facing the most severe challenges and under particular stress. For example one mother, a single parent whose 11 year-old son is autistic and highly anxious, was threatened with a fine. Another was fined though both she and her son suffer from multiple illnesses.
- Others in similar circumstances have been fined more than once.
- Prosecution and threats of prosecution puts these families under great fear and stress.

How parents can complain

- Where parents feel that academies are not performing well for their children with SEND, they can complain.
- Their Local Authority has a duty to investigate where their child has an EHCP. But if the complaint is a more general one about the school and its teaching and provision for children and where there is no EHCP, then the Office of the Schools' Commissioner should direct individuals to the Education Funding Agency.

Where next?

- We do not have information on the 16,400 parents who are prosecuted each year, and their children. We can only report on our sample of 126 parents and their children.
- It is important, but beyond our resources, to do research on these 16,400 families. A representative sample should be asked about their children and their family circumstance. Only the government can do this, as the Ministry of Justice has the data identifying these parents.
- We believe it is important to know how many of these families have children with SEND and what role this has played in their absence from school.

Another way

- Some European countries take a child-welfare rather than a criminal justice approach to the child who does not attend school regularly.
- In Denmark, for example, there are no criminal prosecutions for parents whose children miss school.
- Firstly the school makes contact with the parents and tries to convince them that the child/children should attend school and that the parents (adults) must take responsibility for that.
- Secondly (if the first is not enough) there is a possibility of imposing official, but non-criminal, measures. Such measures can only be imposed after a thorough examination of the situation around the child and the needs of the child. They are measures involving social services and the care of the child; they are very rarely taken, and are only in place as a last resort.
- The distinction between a social welfare and a criminal justice approach is important: in the social welfare system the welfare of the child is *the* paramount consideration: this is not the case in the criminal justice system where the welfare of the child is only one of a number of considerations.

To conclude

- It is evident that the punitive approach leads to harm for parents, children and vulnerable families. It also appears to be ineffective in getting reluctant and fearful children back into the classroom.
- The current law is cruel and discriminatory and does not achieve its purpose of reducing the number of children who do not attend school regularly.
- Our main conclusion and recommendation is therefore that the criminal law should not be applied to parents whose children do not attend school regularly. It should be a civil matter – a child welfare issue.

1. THE LAW

It is a parent's duty to ensure that from the ages of 5-18 years old, their children are in full-time education and attend school or college regularly. Most parents, of course, want their children to attend school, to be happy to do so, and to benefit from what school offers. But that is evidently not the case for every child. In England and Wales, the offence of truancy is committed by parents or carers of school age children whose children have not attended school regularly. Surprisingly, it is a strict liability offence – Section 7 of the Education Act 1996 sets out a parental duty to secure the efficient education of children by ensuring the child's regular attendance at school or otherwise. If the child fails to attend school regularly the parent is guilty of an offence. Under Subsection 444 (1) the offence is strict liability; the parent is guilty even if he did not know that the child has missed school. If, for example, the child was living with her grandmother and missed school, the child's parents would be liable for prosecution for their child's truancy, even if they did not know she was missing school. Under Subsection 444 (1A) there is a further offence if the parent knew about the child's absence and failed to act.

The Department for Education defines persistent absence (the absence that is potentially liable to prosecution) as above 10% – so attendance of less than 90% based on a full-year's attendance data. This means a child missing over 3 weeks of school in a year will make a parent liable to prosecution. That can include holidays during term time. If a local authority decides that a parent is not managing the circumstances surrounding persistent absence from school they can seek to prosecute the parent. This prosecution carries with it a fine of up to £2,500 and, if the fine is not paid or the truancy continues, magistrates can opt for a custodial sentence of up to 3 months and may also call for the intervention of social services.

2. THE NUMBERS

Table 1. Numbers of prosecutions of parents for truancy in 2017 in England and Wales¹

	Charged	Convicted	Community order	Suspended sentence
Women	11,739	9,413	416	88
Men	4,667	3,285	84	22
Total	16,406	12,698	500	110
Percentage women	71%	74%	83%	80%

Custodial sentences were either suspended or immediate. Ten people were given an immediate custodial sentence; of these 9 were women. Government statistics do not reveal what happened to the 12,078 people who were convicted but not given a prison sentence, either suspended or immediate. We can assume most of them were fined.

¹ Outcomes by Offence Data Tool 2017 <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2017>

Clearly, there is a disproportionate punishment of women compared to men in the case of truancy. Because a high proportion of women are primary carers of children they are therefore the ones to get punished for truancy despite the fact that (or because) the fathers in these cases have less or, in some cases, no involvement in the child's schooling.

3. RESEARCH METHODS

We wished to explore the circumstances of children not attending school regularly, the reasons why children refuse to go to school or are unable to go to school, the reactions of the schools and Local Authorities to persistent absence, the help the parents sought and the help they obtained, the parents' views of their children's needs, whether or not the parents have had sanctions imposed or threatened (fines or threats of prosecution) and the circumstances of affected families. We wished to hear the voices of parents and to report their experiences.

We posted a request for those affected by this issue who wished to share their experiences to do so by filling in an anonymous online survey, with a link to the survey. This request was posted on Mumsnet, and other online parent forums and on a number of Facebook pages where parents look discuss childcare issues. Our questionnaire asked 30 questions. These concerned the child who has missed school, the parents and other children in the family, what had triggered their child's reluctance or inability to attend school, how the child behaved when it was time to go to school, the health of the child, bullying, the help sought and help obtained, how the parents thought the school could have helped, whether the parents had been prosecuted or threatened with prosecution and we asked the parents to give their views.

We have 126 respondents to our survey, giving information on 132 children: 120 mothers, 2 foster-carers, 3 fathers, and 1 'parent'.

This group of parents, we may assume, is not representative of parents of children who do not attend school regularly. The nature of the websites which displayed our request for parents to complete our online survey meant we reached those who sought help and support, thus disproportionately parents of children with special educational needs (SEN) including autism and other disabling conditions. It was shared on Twitter and Facebook with a local community organisation which works with black and minority ethnic (BME) families in West Midlands.

We do not know what the circumstances are of those 16,400 parents prosecuted last year. We can only report on the 126 parents who responded to our online questionnaire. We will report on this group of parents and children, and hope that future research will widen the picture by reaching a larger group of prosecuted parents. We regard this study as a pilot and leave a wider, more representative study to others.

The parents filled in the survey anonymously. In analysing the data we have assigned a name to each parent. In line with Research Governance procedures, prior to taking part in the study, potential respondents were provided with a Participants Information Sheet (PIS). This detailed the aim of the study, intended respondents and what involvement in the study entailed. The PIS also addressed the issues of anonymity, confidentiality and

the security of respondents' data. Prior to completing the survey, respondents were required to confirm their consent to taking part.

4. RESEARCH FINDINGS

A. THE CHILDREN

Government statistics show that the total number of school pupils has grown every year since 2009 and there are now 643,000 more pupils in schools than at that point. Alongside this, there has also been a rise in the number of pupils in state funded primary education and an increased number of primary pupils since 2010 are now moving into secondary schools with the expectation that the number of secondary school pupils will continue to increase in the coming years.

CHILDREN MISSING SCHOOL

a. *School attended*

Table 2. Schools attended, sex, age: total 132 children

Secondary school	Primary school	Other
78 58%	44 33%	10 8%

Boys	Girls	Not stated
60%	30%	10%

Age 4-7	Age 8-12	Age 13-17	Age unknown
14 10%	51 39%	58 44%	9 7%

b. *School is compulsory*

Full-time education is compulsory for children from age 5 to 18. Following the Education and Skills Act 2008, from 2013 the school leaving age was raised and parents are now obliged to ensure their children attend education or training full-time to the age of 18, though it is not enforced with the same zeal as between the ages of 5 and 16. Young people under 18 cannot simply undertake full-time employment, with no element of training or education included.

Students from 16 to 18 who may not have obtained the pre-requisite qualifications to stay in the 6th form at their school are expected to continue their statutory education at a

Further Education College and complete Entry level and Foundation level qualifications, taking vocational courses and resitting their GCSEs in mathematics and English.

A relatively small number of children and young people are provided with an Education, Health, Care Plan (EHCP). Approximately half of these will attend a special school. EHCPs are for those children with the most severe and complex difficulties. They often arrive at FE college without the necessary mathematics and English qualifications for their preferred vocational course.

These children have often not received appropriate or timely support at school to enable them to make progress. FE has also been impacted by the effects of austerity which has seen its funding cut, more dramatically than any other education sector.² These pupils may again be insufficiently supported in the FE system as a result of this. They do not trigger high needs funding at the level required for an EHCP, but they still clearly struggle with learning.

Occasionally, some of these students who have more complex needs in different areas that might make them eligible for an Education Health Care Plan fall into a 'High Needs' category (costs over £19000) and which would allow them eligibility to stay in education until they are 25 at the discretion of the LA. They often require this in order to catch up or keep up with the syllabus, in small groups, one-to-one support, specialist equipment and access arrangements. Without reasonable adjustments being funded and arranged this cohort of learner reaches the age of 18 without the necessary funding in place and without the attainment and achievement required to progress to higher education, employment, training or independent living. They are the new social underclass discriminated against by a system that does not provide adequately within its own definition of discrimination.³

c. ASD: on the autism spectrum

About 40% of the parents said their child was on the autism spectrum or awaiting an autism diagnosis. Many of the children on the autism spectrum (ASD) had other health issues. Here are some representative reports by parents.

Daphne (Devon) has a 15 year-old son who has ASD and high levels of anxiety: *He was just overwhelmed by the school environment. School bells, kids shouting and running, smells in the canteen, not understanding in the classroom. Expectations of him. He started cutting himself, and ran away from school on one occasion.*

Hester (Lancashire) mother of a 5 year-old child: *Under the care of children's hospital and local hospital. ASD and assessment for other things. Speech delay, motor skills, bowel problems, multiple complex allergies, anxiety.*

Wanda wrote: *Daughter is awaiting assessment for autism spectrum. She is diagnosed with Reactive Attachment Disorder. She's violent to me sometimes and since SATS last*

² IFS 2018 Education Spending in England

<https://doi.org/10.1920/re.ifs.2018.0150> 978-1-912805-10-5

³ We are grateful to Romy Dixon, retired Head of Supported Learning in Further Education for her input in the section 'School is Compulsory'.

year has had succession of urinary tract infections and has had 2 fractured wrists. She's also had numerous viruses. Her attendance is under 70%.

The parents of autistic children reported that their children found school overwhelming, frightening. Viola (Cumbria) wrote: *Myself disabled, husband autistic, daughter autistic, son ADHD. The school did not meet her daughter's needs: School threatened her that we would be sent to prison, which just increased anxiety. School weren't willing to be flexible and consider her needs to enable her to be happy attending school, constantly dismissed her anxiety etc. She doesn't like busy noisy places and interacting with people so doesn't like to leave home.*

Flora (Derby) has a 12 year-old daughter who struggles to cope with a mainstream school: *Child has autism, sleep disorder and sensory processing difficulties. There is a massive lack of understanding especially around high functioning autistic children and those with pathological demand avoidance diagnosis/profile.*

'He was just overwhelmed by the school environment. School bells, kids shouting and running, smells in the canteen, not understanding in the classroom. Expectations of him. He started cutting himself, and ran away from school on one occasion.'

'Child has autism, sleep disorder and sensory processing difficulties. There is a massive lack of understanding especially around high functioning autistic children and those with pathological demand avoidance diagnosis/profile.'

'School threatened her that we would be sent to prison, which just increased anxiety.'

Ingrid (Hampshire) has a 12 year-old autistic daughter who has not been to school for seven months. *School has been such a horrible place for her to be. Because they fail to understand or support her needs. [The school could have helped] if they had worked with us to help her, if they'd listened to us rather than just threatening fines. Each parent has been fined £60 for their daughter's absence.*

Jennie (Staffordshire) has a 9 year-old autistic son who has a number of health problems. He attends a special school. Her other children have also had health issues preventing regular attendance. The fear of prosecution adds to family stress: *Being punished for your child being ill (a lot) puts a lot of pressure on us as parents and the children. My eldest went to school with a urine infection, fever and feeling rubbish because he didn't want me to get into trouble !!! He was 13 he needed to go to the doctors but he said he'd wait till after school! So do you send your kids to school knowing they're off colour and end up getting sent home anyway because you don't want to be fined, prosecuted etc.? Or be a good parent and allow them to be off school and get better? Maybe put in force a catch up scheme after school or give them the work as homework.*

Nora (Cornwall) has an 11 year-old son with ASD: *There is not enough support and understanding, work not engaging, bullying. He's happy when these aren't factors i.e. when there's a good teacher.*

We see here parents reporting multiple complex problems experienced by their children with ASD – anxiety, fear and numerous health problems. They report that their child struggles to cope with mainstream education where support is inadequate. The threat of prosecution adds greatly to the stress.

Should children with ASD be in mainstream school?

Some parents of a child with ASD believe a mainstream school is not suitable for their child. Shirley (Notts) has a 16 year-old daughter with ASD and severe anxiety who has been refusing to go to school since she was nine: *There is a lack of understanding and support for ASD. She needed a different school provision. A smaller provision was needed but special schools in our area don't cater for bright children or average children. They only have provision for children with learning disabilities which she doesn't have. As much as they could try a reduced timetable, choices and no pressure, one-to-one support, they can't change the environment of a very large secondary with nearly 2000 children in the school.*

Maureen (Hounslow) mother of boy age 16 who has ASD, anxiety and depression: *The original school completely destroyed his self-esteem. Forever critical. They said he was not reaching his target grades even when he was 3rd highest in the year group! The school could have listened and acted. They should have put a proper IEP in place. Given training in anxiety and ASD to their staff. Had proper pastoral care. More praise, less stick. Ultimately there should be more specialist ASD schools.*

Zelda (Northants) has a son who has autism, anxiety and depression: *I truly believe that the government should build more specialist schools for children with high functioning autism. A large number of these children cannot easily function in a mainstream school yet need schools that can provide an academic enough curriculum, rather than just a token 2 GCSEs, like many special schools. After a year out of school her son was given a place in a special school.*

Alan (Peterborough) has a 12 year-old son who is autistic, anxious and has sensory issues. He finds school scary, and has a low mood. Alan comments: *School Refusal is NOT truancy. The importance of SEN in School Refusal is ignored in the literature. Standard methods of treatment don't often work when SEN is involved. Fine was issued but retracted. It was £60 per parent.*

The parents in our survey detail a range of factors related to ASD which impacted on their child's attendance and experience of school, however it is important to note that ASD is often accompanied by other issues (as shown in the section above). What is common in the data is that the majority of parents described schools as 'ill equipped' to meet the needs of their child/ren. Overwhelmingly, parents' encounters with schools due to their child's poor attendance were negative. Some reported how this had a negative impact not only on their child's schooling but also on family life, health and well-being. The data illuminates how some parents felt powerless in their interactions with schools and statutory bodies; feeling their voice was not heard. It is important to note this is happening despite the legal duties schools have to make appropriate provision for children with additional health, learning or physical health related needs, as detailed below.

d. SEND

A child or young person has a special educational need if they have a learning difficulty or disability which calls for special educational provision to be made for him or her. Children and young people who have SEN may also have a disability under the Equality Act 2010.

Table 3. SEND, specific learning difficulties and health problems

Does your child have SEND or a health problem?

Yes	No
90%	10%

Most of the children in this survey have special educational needs and/or a disability (SEND). In answer to the question ***‘Does your child have SEN or a health problem or a disability?’*** 10% answered ‘No’ and 90% answered ‘Yes’. The parents’ replies to our survey indicated a lack of resources both in schools and in the community to offer adequate support to their children.

Daphne (Devon), mother of a 15 year-old son, wrote: *He has Asperger’s and Pathological Demand Avoidance. He has high anxiety exacerbated by his sensory processing issues and poor executive functioning. He gets overwhelmed in the school environment and can’t function, then attacks himself as being useless!*

Chrissy (Croydon) has a 15 year-old daughter with autism, ADD, dyslexia and anxiety: *Lots of school avoidant children have SEN, support should be available sooner.* Gloria (West Sussex) wrote: *Two children diagnosed ASD/severe ADHD/severe anxiety one also diagnosed PDA. Husband has severe eczema and asthma I have vertigo.*

Lottie (East Sussex), mother of a girl aged 15: *My daughter has extreme PDA which is part of the autistic spectrum. It took 12 years to get her diagnosed and school would not admit she had special educational needs for 4 years, until she got her diagnosis last year and put on the SEN register but it’s been a constant struggle to be heard. The original SENCO didn’t believe my concerns so recently I found out I could apply for an EHCP and I’m in the process of gathering all the evidence. My youngest suffers with anxiety.*

‘Lots of school avoidant children have SEN, support should be available sooner.’

‘He has Asperger’s and Pathological Demand Avoidance. He has high anxiety exacerbated by his sensory processing issues and poor executive functioning. He gets overwhelmed in the school environment and can’t function, then attacks himself as being useless!’

Sylvia (Lancashire) wrote: *My son has ADHD, ASD, PDA and sensory processing disorder.*

Lola (Westminster), mother of a 16 year-old girl: *She has ASD (Asperger’s), Sensory Processing, Social Anxiety, OCD, Depression, Migraine, IBS, eating disorder.*

Faith (Wiltshire) has an 11 year-old daughter who has OCD and suspected ASD: *School said they could not apply for an EHCP as she 'was able to access the curriculum'. CAMHS would not help either as 'other children with OCD go to school'. Still under CIN (Children in Need) safeguarding who are offering no support, they are just looking to prove I am making her worse. I can't see myself ever being able to get back to work again. I have worked as a counselling psychologist for 20 years but I have lost complete faith in the mental health system.*

These are typical examples of the reports in our survey of children experiencing multiple serious problems in their school lives, struggling to cope with the demands that school makes on them.

Our finding that 90% of our respondents have a child with SEN is a remarkable statistic, even from such a small sample. It suggests that overwhelmingly issues of poor attendance are linked or perceived to be linked to issues of a special educational need or a disability. The overall percentage of children and young people identified as having an SEND in schools is 14.4% (SFR 37/2017, 27 July 2017). Having a SEN or a disability is not the same as being unwell but these children may have more specialist appointments and some of them, depending on the category of SEN or their disability, may have more frequent periods of illness. The SEND Code of Practice (2015) underlines the need to follow the Equality Act (2010). This would involve putting in place reasonable adjustments, thinking round potential issues and making allowances.

Recently the DfE have funded a £4m project to support innovation in the use of technology. One such innovation is a robot avatar, allowing children who are unable to attend school in person, to participate via remote access in the classroom: <http://www.tltp.co.uk/news/hospitalised-kids-can-now-participate-classrooms-without-present-using-virtual-robot/>. However, school attendance is more central to a school's success or failure at Ofsted school inspection, and reported in school comparison statistics and analysed by Ofsted as a benchmark for success or failure. Individual pupils with high percentages of absence, carry reputational damage for the school. Schools are not encouraged to think creatively or innovatively about supporting pupils with SEND to learn when they cannot attend in person, but rather to focus on attendance compliance.

This culture of compliance has itself also driven parents to seek diagnosis, as a way of complying with the SEND Code of Practice, not only for their children but also for themselves in the new ethos where the family is considered as an important unit.

In all the above examples, parents are looking for explanations but they are forced to work in a culture of extremes. For Gloria, everyone in her family has a diagnosis or difficulty. For Wanda the issues have piled up; they are health and mental health issues for her and for her daughter, social emotional and mental health issues with now on-going health issues and challenging behaviour in the home. Sylvia's son has numerous disorders and Lottie's daughter's PDA is 'extreme' and now her sibling is also presenting with anxiety. Both Harriet and Lola's children have a list of disorders.

Part of the issue with the system of SEND and the allocation of limited resources in England is that in order to gain some of those resources, one has to prove one's case. To do that, the diagnosis means everything and has to be medicalised and official. To ensure resources are dispensed one has to prove that the condition is severe – so at the extreme

end; complex – so more than one condition if possible and/or conditions that interact in complex and complicated ways. It must also be proved that the condition is long-term – so not likely to get better without significant resources. In this culture, teachers may become sceptical.

This causes difficulties. We have seen arguments put forward in Education, Health and Care Needs assessments that a child is making progress but would make more with more resources – the request for the plan is refused, on the grounds that the child is making progress. The argument has to be constructed such that the child and, in fact, the child's family too – since they are now integral to the process – have a high level of needs which cannot be met without additional resources. It is in this context that many of these parents' reports to us must be read. They are putting the case for their children to receive the help and support they need. In order to get this now, they have to represent their children in this way and that, unfortunately, may have unintended consequences for their children's perceptions of themselves.

For example, in pursuing an EHCP for a child one of the criteria to be demonstrated is:

evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided (DfE/DoH 2015 9.14).

In its 2016-17 annual report Ofsted commented that children and young people identified as having SEND support, but who do not have an EHCP, often have a much poorer experience of the education system than their peers. This is mainly because for children identified and placed in the category of 'SEN Support' the school is required to pay for any provision put in place from its 'notional' SEN budget. For each pupil in this category it must demonstrate that it is spending up to £6000 per year before it can apply for a statutory assessment for an EHCP. Schools do not tend to do this, because they do not have the money in their budgets (it is 'notional') and were they to do it for all the pupils that needed it, they would not have sufficient money in their budgets to run their schools in an 'efficient' manner for all the other children in the school.

In the LAs that Ofsted inspected, leaders were not clear how their actions were improving outcomes for children and young people with SEND. Some parents reported that they had been asked to keep their children at home because leaders said that they could not meet their children's needs. This, stated Ofsted, is unacceptable.

In the context where schools have such limited resources for pupils with SEND, it is unsurprising that this is an Ofsted finding and it would be fairer to report on the funding crisis which is leading to this situation, rather than to blame those who are simply trying to support children and young people with only a 'notional' SEND budget for them.⁴

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/666871/Ofsted_Annual_Report_2016-17_Accessible.pdf

e. Specific learning difficulties

Does your child have learning difficulties, for example: ADHD, autism, dyslexia, other?

Most of the children in this survey have special educational needs and/or a disability (SEND), as well as complex health issues. Dyslexia and dyspraxia were common among this group of children.

Arlene (Derbyshire) wrote: *Statutory services only diagnosed my son is deaf. They have refused to do any further assessments. We have had to pay privately for other diagnoses and assessments. We are waiting for an ADHD and ASD assessment. I have no idea how long this will take and my son has now been out of education for five months.*

Tamara (Solihull) has a 12 year-old son, who has been extremely anxious about school: *My son was suicidal after the first term of Year 7. He has ASD, is dyslexic and hyper mobile and has auditory needs as well as elective mutism, anxiety (thanks to the school), sensory and movement issues.* She reports that he had physiotherapy three times a week at primary school but the senior school did not *bother to meet his needs.*

Alice (Newham) reported: *Child has ADHD, autism, dyslexia.* Sadie (Caerphilly), parent of a girl aged 7, wrote: *Going through an assessment, but has severe sensory processing issues.*

'There is little to no support for school-related anxiety and phobia. Waiting lists for CAMHS are too long and your child can't access the level of support they require unless they are suicidal. Schools don't have the level of support required.'

'We are waiting for an ADHD and ASD assessment. I have no idea how long this will take and my son has now been out of education for five months.'

Some parents recounted how difficult it is to get a diagnosis of specific educational needs. Belinda (Cambridgeshire) wrote: *ASD, possible additional learning difficulties but seeing as no one will assess we don't know.*

f. Physical and mental health

Does your child have special educational needs or a health problem or a disability?

Section 100 Children and Families Act 2014 places a statutory duty on governing bodies of schools (maintained, academies and pupil referral units) to make arrangements at school to support pupils with medical conditions. The duty requires that a child's mental and physical health should be properly supported in school, so that the pupil can play a full and active role in school life, remain healthy and achieve their academic potential.

The Department for Education acknowledge that physical and mental health conditions can have a negative impact on school attendance.⁵

In statutory guidelines the Department for Education note that pupils with health conditions (long-term and/or complex) may require on-going support, medicines or care while at school to help them manage their condition and keep them well. In addition, children's health needs may change over time, in ways that cannot always be predicted, sometimes resulting in extended absences. It is estimated that mental health problems affect about 1 in 8 5-19 year-olds.⁶ 25% of these report having to wait at least six months for access to a mental health professional.

A number of children in this study suffer from serious physical illness. Janet (North Hertfordshire) wrote of her 15 year-old son who has no learning difficulties, but is extremely anxious about going to school and is seeing a CBT counsellor for anxiety: *Health problems. He has idiopathic urticarial oedema, asthma, gastric issues, chronic fatigue syndrome and is being investigated for Bartonella a co-infection with Lyme disease.*

In describing their child not attending school parents cited a number of physical conditions, among them: bowel problems, anaemia, low immune system, urinary tract infections, tonsillitis.

g. Anxiety

Does your child suffer from a mental health problem, for example, low mood, anxiety, eating disorder, other?

Almost every parent described their non-attending child as anxious, frequently 'very' or 'highly anxious'. Depression or low mood were commonly cited. The help of CAMHS (Child and Adolescent Mental Health Service) was frequently sought, some parents reported long waits, followed by little or no help; others found the service helpful.

Eugenie (Banes) has a 15 year-old daughter who is extremely anxious. She refuses to go to school, and she self-harms: *My daughter is desperate to get a good education. However anxiety is not taken seriously and all the schools are interested in is ticking all the boxes. Attendance - tick, results - tick, image in the community - tick.*

Arlene (Derbyshire) has a 7 year-old son who is deaf and has multiple disabilities – dyspraxia, sensory processing disorder, social and communication difficulties. He is very anxious: *My child can't cope being in the classroom with 35 other children and sitting at a table for such long periods. They were trying to bribe him to go in or tell him that I*

⁵ DFE (2015) Supporting Pupils at School with Medical Conditions: Statutory Guidance for governing bodies of maintained schools and proprietors of academies in England. <https://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions>

⁶ NHS (2018) The Mental Health of Children and Young People in England 2017 [PAS] <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-of-children-and-young-people-in-england/2017/2017>

would get sent to jail if he didn't attend! Scaring and bribing a child into attending isn't ever going to get to the root of the problem.

We asked the parents why their child did not want to go to school. The answers tended to focus on the school being an inappropriate environment for their child, usually due to anxiety and ASD, with bullying also a frequent feature. Isabel (Surrey), for example, described the ill-health of her 14 year-old daughter who has serious weight loss, ASD, and anxiety: *Fear of being bullied, disenchanted with the inflexible results-driven approach to learning*. Similar points were made by a number of other parents.

Parents said that little help and support is available. Dorothy (Wiltshire), whose 14 year-old son suffers extreme anxiety, wrote: *There is little to no support for school-related anxiety and phobia. Waiting lists for CAMHS are too long and your child can't access the level of support they require unless they are suicidal. Schools don't have the level of support required. He needs more proper support with managing anxiety. A key worker from school who would work consistently with him.*

There is a failure in the EHCP process to bring together the different expert reports that should guide decisions. EHCP consultations often take place without the necessary cooperation of the different services. There is frequently a lack of reports, a lack of attendance at meetings by professionals, and inadequate resources to facilitate the necessary input to provide evidence to support the needs of the child or family. Failure in the system often results in decisions being made without the necessary expertise. There is a disparity between the medical and social model and lack of adequate knowledge and expertise being sought in the first instance and applied in the EHCP process.

Parents are often unable to ask the right questions as they are inadequately informed of their rights or unable to understand the importance of information they require to evidence their child's and family's needs. Dominant social attitudes to disability are inherently discriminatory, as those professionals providing evidence and advice may often be working within a medical model approach to disability, which sees the child or young person as the problem rather than working innovatively to redress the discriminatory practices these learners experience. These professionals may be unable to imagine a more inclusive way to work with disability. The SEND Reform was constructed to try to redress the inequality in the system by bringing together the different services involved but it is severely underfunded as cuts to education, social care and health have created a void in resources to support the needs of the SEND community.⁷

h. Lack of resources

Many of our respondents commented on the lack of resources in schools to help and support their children.

Ruby (Swansea), mother of a 14 year-old autistic boy, reported: *During Year 7 a vastly reduced timetable was implemented so that reintegration could be built upon and a comprehensive IEP and Teaching Assistant support was made available. However this support has been reduced due funding cutbacks.*

⁷ Personal communication from Romy Dixon, retired Head of Supported Learning in Further Education.

Lottie (East Sussex) wrote that the school needs: *More funding because this plays a major factor in our daughter's support.*

Since 2013 when the coalition government introduced a new national funding formula for schools in England (DFE: 2012 ***School funding reform: Next steps towards a fairer system***) the funding arrangements for 'high needs' pupils or those with SEND continue to be administered largely by Local Authorities. This has proved problematic. This is chiefly because in creating the new system, schools were made to bear the costs annually for the first £6,000 for each pupil with SEND. The aim of this was to ensure that schools used their funding to 'include' pupils with SEND. The thinking was that if schools were going to ask their Local Authority for additional funds for these pupils then they should be able to prove that they had already spent a substantial amount of money providing additional help and support to the pupil. One of the consequences of this however, was that in funding the first £6,000 annually for the pupils they already had with EHCPs which they had not had to do in the past, the money that they had available for identifying and supporting any additional pupils as they joined the school, or as they needed support, simply ran out.

The policy therefore, which aimed to ensure schools took more responsibility for these pupils with SEND and supported them, worked for those with EHCPs because schools were automatically obliged to find £6000 per year per pupil, before any additional funds were triggered each year; while at the same time other pupils whose difficulties might not be quite so severe suddenly found it much more difficult to access the money from this pot.

A secondary school which already had 50 EHCPs when this came into force, for example, had to find £300,000 per year and had nothing left for those additional 100 pupils it had identified as needing some support. Whilst more research is needed into the longer term consequences of this, one hypothesis is that schools are now more reluctant going forward to apply for assessments for EHCPs in order to be able to use any money they allocate for SEND, to support all pupils they identify with SEND rather than having to designate £6000 per year for one particular pupil. This way they can use their resources more flexibly and arguably more cost effectively. It does not, however, address the distress of children or their parents in need of more intensive support, care, or specialist advice beyond the school's resources and where it appears to be the case that the school is then reluctant to have the high cost pupil on its roll.

i. Long waits for services

Very long and frustrating waits for specialist services and expert diagnoses were a frequent feature of the reports by our respondents.

Tamara (Solihull) mother of a boy with multiple learning difficulties and severe anxiety: *I waited a year to a year and a half for each diagnosis and I am still fighting for an EDS (Ehlers-Danlos Syndrome) test because they are not funded for referrals in community services for children with special needs due to cuts. This means that I need at least three professionals to confirm that this support is needed, including a GP where there is not one qualified in this borough, and it takes 8 months for a community paediatrician appointment.*

Flora (Derby) has a daughter who is autistic. She has sought help for her child's many problems: *Went to social services who gave us a family worker but they do not have any experience in autism. Clinical psychology have a waiting list for 1:1 work, have been waiting for 18 months so far.*

Madge (North Cornwall) has a 9 year-old son who has ASD, OCD and anxiety and who self-harms: *CAMHS said he isn't bad enough for them to get involved despite getting increasingly further behind over the last couple of years and his self-harm and attempted suicide. We were told there is a 22-month wait for an assessment with the ASD team. We are one year into it. He has been suspended twice. Luckily for us his teacher often takes the abuse he gives her as she sees it as a panic attack not naughty behaviour. So where he would normally be suspended he hasn't been.*

j. Time for school – anxiety, distress, anger and meltdowns

Please describe any problems you have had in getting your child to go to school.

Frances (Essex) reported '*Panic attacks.*' Harriet (Devon) wrote: *His anxiety starts the night before, he makes every excuse possible.* Robin (Blaenau Gwent): *Emotional meltdown, sobbing, pleading not to go, verbal and physical abuse towards us.*

Lola (Westminster), who made the decision to deregister her very anxious daughter, wrote: *Meltdowns, vomiting, migraine, collapsing, self-harm.* Nora (Cornwall): *Watching my child's mental health break down: panic attacks, suicidal feelings.*

Other parents described violent fits of temper. Ann (Wiltshire), parent of a boy at secondary school, reported: *He refuses to get out of bed and fights back if I try to physically get him up. He has locked himself in the bathroom to avoid going in. If he gets as far as school he refuses to get out of the car. He then gets angry and often cries.*

'Watching my child's mental health break down: panic attacks, suicidal feelings.'

'A daily fight from getting up onwards. Kicking, screaming, biting. Will not dress himself. Will pull uniform off. Barricades self in various rooms. Won't put shoes on.'

'His anxiety starts the night before, he makes every excuse possible.'

'Threats to run away'.

Brenda (Warwickshire) whose son is at primary school describes: *A daily fight from getting up onwards. Kicking, screaming, biting. Will not dress himself. Will pull uniform off. Barricades self in various rooms. Won't put shoes on. Needs physically removing from the house. Tries to run off on the way to school. Needs peeling off the door to get into the building.*

Sabrina (Derbyshire) mother of an 11 year-old boy reported: *Severe challenging behaviour, running off.*

Some parents mention that their children express suicidal thoughts, and there were a number of mentions of self-harm. Wanda reported: *Begging not to go. Child to parent violence to me. Nightmares, hearing voices and having hallucinations. Self-harming by scratching herself and banging her head on walls.* Colleen (Bristol City Council) whose daughter is in primary school reports: *Panic attacks, vomiting, threats of suicide, etc.*

Edith (Kent), mother of 12 year-old boy, wrote: *Threats to jump out of window. Threats to run away. Physically too old and strong to force. Won't get out of bed. Meltdowns, tears and tantrums.*

Isabel (Surrey) mentioned her child's suicidal thoughts: *We didn't force the situation when we saw how distressed the prospect of school was making her. We were initially offered advice and strategies to cope but when symptoms escalated to unsafe level (not eating, self-harm, suicidal ideation) we reported her as unwell.*

Daisy (East Sussex County Council), who deregistered her daughter, wrote: *Won't get out of bed; undresses herself; won't do medication and physio regime so that she ends up in hospital rather than school; hurts herself; hides; locks herself in cupboards.*

k. Adopted children

There were four adopted children in our survey. Glenda's child's, who is now 8, has had problems in attending school since she was 4 years old. She suffers from anxiety and has been diagnosed as high functioning ASD. Glenda has been threatened with prosecution despite social work and national CAMHS advice. She says her daughter has attended four schools, the first three would not work with the parent, but blamed her (the mother). Glenda writes: *Schools should consider needs of adoptive parents dealing with trauma – prosecution re-traumatizes the child and the adoptive parents thereby exacerbating problems.*

Wanda is a single parent facing multiple challenges. Her 12 year-old daughter is awaiting assessment for autism: *She masks her anxiety at school then sits crying or becomes aggressive at home. Very bright girl but so stressed by difficulties coping with class bully despite almost daily emails from me.*

Esme's 8 year-old son has been so anxious that his parents are now not sending him to school: *Awaiting third consultation with paediatrician. No diagnosis at present. Maybe issues with attachment, past trauma, or Foetal Alcohol Spectrum Disorder.* Her son was at first greatly helped by the head teacher, but a new head came in who offered no support. *It would have helped if the school had applied earlier for an EHCP and given 1:1 support. Things got beyond redemption but earlier intervention may have got him on a different path. Schools need nurture groups and calm spaces. They need to do mindfulness groups. There was little flexibility with the new head teacher – you just had to fit in.*

Irene (Derbyshire) has a 6 year-old adopted son who is extremely anxious about going to school. He has: *Developmental Trauma due to pre-natal substance misuse and neglect which led to removal from birth family and caused Attachment Disorder.* Irene points out how important it is for schools to understand the situation of the adopted child: *If you actively sought out the opinions of adoptive parents, foster carers and special*

guardianship carers you will find that school refusal is extremely common and that school is one of the biggest sources of stress to these children and their parents and guardians because schools are poorly resourced to understand the educational needs of adopted and foster children.

1. Very young children

We did not expect to find parents of very young children responding to our survey. However, 14 parents (11% of our sample) reported children aged between 4 and 7 years having problems attending school. In this group there are 5 girls, 5 boys, others unstated. Two of the children are adopted and have attachment difficulties. Of the 14 parents, 6 are single parents, 8 with a partner. Eight of these children have ASD, eleven are anxious, there are also physical health problems – ear infections, low immune system, deafness, and specific learning difficulties. Here are some of the reports by these parents.

Rita (Stoke-on-Trent) has a daughter aged 6 who has ASD. The school have made adjustments to help her attend: *She goes in ten minutes early but this was only achieved by paying for a private speech and language therapist to meet with the school. Also allowed to go into school in own clothes and change into uniform at school.*

Hester (Lancashire) has a child aged five who has multiple serious problems, and who is under the care of the children's hospital and a local hospital. The child needs, but does not have, one-to-one support, and is *anxious about leaving home and then having to conform to school work and systems.*

Diane (Worcester) is a single parent who has two autistic children, aged 9 and 7. Her 7 year-old daughter experiences *sensory overload, inappropriate setting, lack of support, anxiety.* Diane reported: *I have had a letter from school and conversations warning of possible prosecutions.*

Gillian (Stockport) is home-schooling her 5 year-old. The child has ASD and SPD and is very anxious about going to school.

Colleen, mother of a 7 year-old: *My child was bullied in reception and first year of another primary school – developed psychological response (stress vomiting/sensory issues/hair cutting). Six months later developed symptoms of PTSD – Panic attacks, suicidal thoughts, disassociation, anxiety and was school refusing.*

‘At school start time he refuses to walk and runs off. At school he is unsupported in his needs.’

‘Horrendous mornings where he would refuse to dress, scream from waking until we arrived at school, screaming and banging on the window for up to half an hour when left at school’.

Eileen (Leicestershire) has a 6 year-old son who has ASD. At school start time he refuses to walk and runs off. At school: *He is unsupported in his needs.* Bethan's son is 7 – his first school attempted to expel him, his current school is helping by giving him one-to-one support. Irene's adopted daughter is 6 – she very anxious, with attachment issues, the

school have been supportive. The SENCO has regular meetings with parents and adoption support social workers.

Delia (Dudley) is a single parent who has osteoarthritis. Her 6 year-old son has refused school since nursery. He is being assessed for autism, is awaiting a diagnosis, and is very anxious. Delia has: *received a threatening letter of court action and fine.*

Glenda (Somerset) reports that her adopted 6 year-old daughter has ASD, ODD, anxiety and depression. She is home-schooling her because the authorities *threatened prosecution despite social work and national CAMHS advice and a lack of school support.*

Arlene (Derbyshire) has a 7 year-old son who is deaf and also *has sensory processing disorder, dyspraxia, social communication difficulties, anxiety.* She herself has mental health difficulties.

Belinda (Cambridgeshire) has a 7 year-old son with ASD and anxiety; *developmental trauma; lack of understanding from school as to how to support. Horrendous mornings where he would refuse to dress, scream from waking until we arrived at school, screaming and banging on the window for up to half an hour when left at school.*

Heather (Walsall) is a single parent who has both mental health problems and gastric problems. Her 4 year-old daughter, who is ill with anaemia and has a low immune system, is under the care of a paediatrician. She has missed a quarter of school sessions. Heather reports that the EWO called on her *to ask why my child had been off for so long, she was suffering with continuous tonsillitis and she had a sickness bug, I was told school was mandatory but they were concerned and asked if I could seek help from early learning (who told me they can't help).*

In this group (very young children) there are four mothers who have serious health issues: osteoarthritis; mental health difficulties; exhaustion and stress; the grandmother who lives with the mother suffers heart failure. There are also other children in the family with problems: Colleen's 12 year-old who is dyslexic does not attend school nor does Diane's 9 year-old. Two parents reported that the school have made adjustments, others report the opposite: *school staff abusive; school don't understand adoption issues; there is no support.* Two parents have received letters threatening prosecution.

The parents in our study list challenges they encountered when attempting to get their child to school, they understood the importance of regular attendance for their child. While a small number of parents reported positively about the support they received from their child's school, the majority of parents were critical about the support provided and deemed their school to lack understanding and empathy about circumstances they faced and the ramifications of the situation for children and families (discussed further in Section D, THE SCHOOLS.)

B. CHILDREN TAKEN OFF-ROLL

a. Threats of prosecution

The number of children being home-schooled has risen by about 40% over three years. Approximately 48,000 children in the UK were being home-schooled in 2016-17, an increase from about 34,000 in 2014-15. (BBC Report, 2018).

In our study there are 17 parents of 19 children who have been taken off the school roll, 15 of these took their children off-roll to avoid prosecution. Lola (Westminster) was fined £60; she paid the fine and said it was difficult to do so on her income – she is a single parent on benefits. She says the LA repeatedly threatened her with prosecution, and that they would *take my child into care and put me in prison – despite eight years of medical evidence provided.*

Lydia (Cumbria) reported that the school removed her 12 year-old son from the roll without her permission – he has SEN, Developmental Co-ordination Disorder and Auditory Processing Disorder.

Some of these parents have been prosecuted, some not. Maureen wrote: *I could not afford to be prosecuted. I am a teacher! And my job depends on a clean DBS [Disclosure and Barring Service].*

‘Felt very blamed as a parent and terribly judged by so called professionals. This area needs better understanding. My son was restrained by school staff for trying to run away and was forced in to School building most mornings. If an adult had severe anxiety they would be signed off work not forced in through a door by adults holding them down?! How can we think this is OK to treat children this way?’

Daisy (East Sussex County Council) has a 17 year-old daughter who suffers from cystic fibrosis and has a diagnosis of ASD. She found school too big and overwhelming, and refused to attend a small educational unit, and threw herself downstairs to injure herself so she would not have to go to school. She is very anxious and has a low mood. When Daisy was threatened with fines she deregistered her daughter.

Cathy (Redcar & Cleveland) whose 11 year-old son is in process of an autism diagnosis said that his anxiety about going to school induced panic. He threatened suicide and self-harm: *He was physically forced by school staff, dragging him in to school, pulling him, threats of punishments or rewards if he stayed. It backfired on me as he lost trust and was physically defiant to the point of retaliated violence, kicking, biting when prised off me.*

Primrose (Leeds) has a 12 year-old daughter who was unable to go to school after suffering severe leg trauma, followed by anxiety and loss of confidence. The parents requested hospital to home teaching, but this was not provided. The child was in too much pain to go to school. The parents were threatened with prosecution. She now attends Inter High (online education) for which the parents pay £1,000 per term.

Wilma (Essex) has a ten year-old autistic, very anxious son, who finds school overwhelming. She was threatened with court action: *Felt very blamed as a parent and*

terribly judged by so called professionals. This area needs better understanding. My son was restrained by school staff for trying to run away and was forced in to school building most mornings. If an adult had severe anxiety they would be signed off work not forced in through a door by adults holding them down?! How can we think this is OK to treat children this way? Most professionals involved in this case had no idea how to deal with it and school took it all very personally. In the end we had to remove him from roll and home educate him. Best thing we did but shouldn't have to come to that.

b. Anxious children

There was only one mother of the 19 home-schooled children in our survey who did not mention anxiety: the others all described their children as highly anxious. A number mentioned their children having suicidal thoughts, and making suicide attempts or threats. Maureen, for example wrote: *He would walk out of school to try to commit suicide.* Bullying, both by school staff and by other children, is a feature in the parents' accounts of school for these 19 children, as is low self-esteem, low mood and depression.

c. Home-schooling

Some parents in our survey report that the school has encouraged them to take their child off the school roll. Leonora (Cornwall), whose 15 year-old daughter has severe social anxiety and other mental health issues, wrote: *Over the last 3 years school have suggested twice we take my daughter off-roll and another time we enrol her at a school which was not Ofsted registered. I now think as we are entering year 11 they want us off-roll as we are affecting their stats. School seems unwilling to help children with problems.*

One parent reported that her child was taken off the school register without her consent, which forced her to home-school her child. Lydia (Cumbria), who had to give up her job as a teacher to home-school her 12 year-old son, wrote: *I asked the LA EWO to get his support needs assessed. She agreed to do this. She did not do it. The school deregistered him. They did this without my authorisation and against my wishes. The LA tried to push us out of the system.*

As reported above, there are 19 children in our study who are 'home-schooled': this has various meanings. For some it means no education at all: Maureen (Hounslow) wrote of her 16 year-old son who is high functioning ASD and who suffers from anxiety and recurrent depression: *He attended primary school with no problems, state secondary, PRU, independent college – now nothing.* Two parents report that their child is being educated privately online at Interhigh Online school (<https://interhigh.co.uk/>). They did not say whether this is working well for them or not. Agnes (Bromley) has a 12 year-old son who has autistic traits and is anxious and depressed. She reported that his school has helped him in every possible way, but the school environment is not suitable for him: *My son is now being provided with a home tutor. He struggles to engage with her and does not fully take up his allocated hours.*

Una (Bristol CC) has a 12 year-old son who is autistic and receives Disability Living Allowance. She says that he finds the school environment overwhelming: *He finds it exhausting to continually decode what is expected of him. He has to mask to fit in. He was also bullied by other children. He felt utterly alone and truly unhappy. I believe school is a*

totally unsuitable environment for autistic children and there's little or no support available for high functioning autistic children who mask.

Pearl (Warwickshire) has a 10 year-old autistic son who was not able to go to school where he was bullied. The school made adjustments for him, but could not provide the one-to-one support he needed: *They tried, his teacher was excellent in Year 6. Reduced timetable, but the poor teacher couldn't look after him and thirty others. He needed one-to-one to get him in. I wish that the LA could provide more support in the home, even online learning, to help keep him on track with the curriculum. How great would that be, it would mean he could slip into education when he is ready.*

Given that these parents have been forced into home-schooling, rather than choosing this, it is not surprising that only one parent reported a good experience. Eva (South Buckinghamshire) wrote that her 12 year-old son suffered from severe anxiety, panic attacks in the morning, low mood. He was badly bullied at school by the children – *name calling, physical injury, disruptive behaviour on unsupervised school buses*. He said he wanted to die rather than go to school. *He is home-schooled now – doing fantastically well – motivated and interested. Going to scouts and spending time with friends – something he had started to avoid. Sleeping better, eating better, happier.*

d. Denied an education

Looking at the evidence provided by this sample of 17 parents whose children are off the school roll and 109 whose children are attending school only part of the time, leads us to believe that some children with SEN are being denied the education to which they have a right.

Fenella (Hillingdon), whose 12 year-old daughter suffers from severe anxiety and has dyslexia and dyspraxia, reported: *The LA advised me to give up my career to home educate to ensure my child's safety and as a result of the school's failure to provide SEN support.*

'The system of paper targets and fines is destroying the lives of children and families. I am very, very bitter about it all.'

'When adults have diagnosed mental health problems, they are signed off from work and allowed to recover at their own pace. We expect vulnerable children, who can often not clearly express what they feel to just carry on.'

'If you are looking to fix the families then you are barking up the wrong tree. The problem is in the schools.'

Maureen, who is herself a teacher, wrote: *When adults have diagnosed mental health problems, they are signed off from work and allowed to recover at their own pace. We expect vulnerable children, who can often not clearly express what they feel to just carry on. I love education, but I hate the fact that I have been forced to withdraw my son from school because of government obsessions with attendance targets. So, what has this achieved? A young boy who was predicted to do great things is now, at 16 completely out of education and with no hope of gaining qualifications AND costing the NHS and social care services thousands of pounds a year at present. There is a good chance that they*

have messed him up so much that he will never fulfil his potential, costing thousands more in state handouts throughout his lifetime. The system of paper targets and fines is destroying the lives of children and families. I am very, very bitter about it all.

Lydia (Cumbria): *If you are looking to fix the families then you are barking up the wrong tree. The problem is in the schools. Children love to learn, they love to mix with their peers and they love to please. They do not learn to be afraid of this for no reason. They do not learn it at home. They learn it because they are in an environment which is damaging to them and they protect themselves by refusing to leave the safety of their home.*

Una, mother of boy age 12, wrote: *Our case is just one of thousands. Children with SEN are systematically being denied their right to an education. There is an epidemic of children and young people being off rolled by schools who need to keep up the attendance figures and have ever decreasing funds to support SEN. School refusal/phobia is in fact a very healthy psychological response to an unsuitable environment. ... It's utterly short sighted and frankly abusive to persist with forcing children and young people into totally unsuitable situations under threat of prosecution. This is ruining lives.*

e. Discussion

Ofsted has identified 300 schools with high levels of off-rolling. It found that more than 19,000 pupils who were in year 10 in 2016 vanished from the school roll by the start of year 11, the year when pupils sit their GCSEs. While many of those pupils moved to new schools and reappeared on roll elsewhere, around half disappeared without trace, raising concerns that a number will have dropped out of education altogether.

Off-rolling has become an issue of growing concern for Ofsted amid allegations that some schools are playing the system and getting rid of students who might do badly in their GCSEs and compromise the school's performance in league tables. Ofsted's analysis revealed that pupils with SEN are particularly vulnerable. Around 30% of pupils who leave their school between years 10 and 11 have SEN. Pupils eligible for free school meals, children looked after by local authorities and some minority ethnic groups are also more likely to leave their school ahead of GCSEs.⁸

The Chief Inspector of Ofsted, Amanda Spielman said:

Off-rolling is in some ways an even more extreme and invidious example of where some schools have lost sight of the purpose of education, which should always be to give children the support that they deserve. The problem of off-rolling affects many children, but our [local authority SEND reports](#) show that the pupils most at risk are those who have special educational needs or disabilities. Again, I am not saying it is never right to exclude pupils with SEND. But it is a concern that the exclusion of SEND pupils was high in a third of local areas inspected. Almost half of local authorities had poor attendance of pupils with SEND. In the worst cases, we heard from parents who had been asked to keep their children at home because school leaders said that they could not meet their children's needs. This is inexcusable and shames our education system. Dealing with students with different

⁸ <https://educationinspection.blog.gov.uk/2018/06/26/off-rolling-using-data-to-see-a-fuller-picture/>

needs isn't always easy but simply passing the job to parents, who rarely have the right professional expertise, is passing the buck. Children with SEND are not a problem to be pushed out of sight and out of mind.⁹

C. THE PARENTS

a. *Employment, carer's allowance, benefits*

Are you employed? Are you on benefits?

Table 4 : Employment, benefits and carer's allowance

Employed	Partner employed	Self-employed	Benefits	Disability benefits	Carers Allowance	On sick leave or Disability Living Allowance
55 44%	15 12%	12 9%	30 24%	4 3%	5 4%	5 4%

The replies to the question: *Are you employed or on benefits?* revealed the extent to which many of these families have multiple problems of health and disability. Many of those who said they or their partner were employed added 'low wage'. Several of those on benefits wrote that they had had to give up work to care for their non-attending child who has complex needs and had then gone on to benefits.

For example, Ann (Wiltshire) wrote: *Had to give up work due to school refusal. Currently receiving universal credit.*

Gloria (West Sussex): *Husband and myself on carer's allowance due to having two children with SEN so on benefits due to children's disability; both had good jobs before we had children.*

Wanda: *I work part time as daughter has so many problems I had to give up full time. I get some adoption support allowance and as I'm disabled have PIP [Personal Independence Payment].*

Helen (Somerset), whose son was 15 when he refused to go to school, said: *Disabled parent, husband/dad works. Not on benefits.*

Veronica (Sheffield) reported: *I am a full time carer supported by my husband. We have Disability Living Allowance for our other child who attends school.*

Daphne (Devon) whose son has ASD wrote: *Husband employed, I am applying for benefits, have tried to work around my son but it's just too stressful and almost impossible!*

⁹ 13 December 2017: <https://www.gov.uk/government/speeches/amanda-spielman-on-the-launch-of-ofsted-annual-report-201617>

b. Ethnicity

Our sample is not representative of the UK population with regard to ethnicity. Of the 126 respondents all but 8 describe themselves as ‘White British’. One wrote ‘*White British, daughter is half-Arabic*’; 3 wrote ‘*Mixed*’, one wrote ‘*White British, kids are mixed white and black Caribbean*’, one wrote ‘*African*’, one wrote ‘*British Asian*’, one wrote ‘*Jewish*’. To be representative we would need 16 parents describing themselves as other than White British (13% of UK population). We suggest that work is required that specifically focuses on the experiences of Black and Minority Ethnic families.

c. Geographical spread

There is a huge geographical spread: from Devon and Cornwall in the south west; Westminster and Bromley; Kent, Surrey, Hampshire and Dorset in the south; Wiltshire and Bristol City Council in the west; Essex and Norfolk in the east; Swansea, Powys and Blaenau Gwent in Wales; Derbyshire, Birmingham City Council, Stoke on Trent, Hertfordshire and Warwickshire in central England; Rotherham, Cumbria, Lancashire, North Yorkshire in the north; two parents on the Isle of Wight and one parent in Scotland.

d. Disability and illness

Table 5: ***Do you or any member of your family have health needs?***

Yes	No
121: 80%	25: 20%

Many of the mothers wrote that they were anxious, depressed, stressed and ill. Here are some representative replies.

Jackie (Birmingham City), (mother of an autistic 14 year-old), suffers from asthma. She has been prosecuted.

Gloria (West Sussex) reported: *Two children diagnosed ASD/severe ADHD/severe anxiety one also diagnosed PDA. Husband has severe eczema and asthma I have vertigo.*

Wanda: *I have terrible health largely related to stress of dealing with my daughter, high blood sugar, high blood pressure, lack of sleep, anxiety and panic attacks at times. May have to give up work as so much time off with my daughter.*

Lottie (East Sussex County Council) reported: *I see a mental health worker weekly due to the strain on the family and not having adequate support for years.*

Physical health issues, some very serious, were also common in this group, about 15% reported physical ill health of their children, for example cystic fibrosis, cerebral palsy, ear infections, ME, migraines. Lola (Westminster) reported: *As a result of LA threats and abuse, chronic anxiety, stroke. Also heart problems.* Madge (North Cornwall), mother of a boy age 9, wrote: *Husband self-employed. I am long term sick with multiple sclerosis and sarcoidosis, causing chronic pain.*

e. Other children in the family

Do you or any member of your family have health needs?

It was common for the other children in the family to have health issues as well as the non-attending child. Beatrice (Sutton), for example, reported: *Both my sons have mental health issues*. Physical health issues, some very serious, were also common in this group, about 15% reported physical ill health of their children, for example cystic fibrosis, cerebral palsy, ear infections, ME, migraines.

Gillian (Stockport) mother of home-schooled 5 year-old: *Yes, I have chronic illness, and my eldest, age 15, is bedbound with chronic illness*.

Jessica (Blaenau Gwent City Council) described multiple health problems in the family: *My son has ASD, SPD, complex & challenging behaviour, insomnia, suffers with anxiety, learning disability & SPLD. He is also awaiting the results of his ADHD assessment. My youngest son is on the ASD pathway, he also has problems with his bowels, he is under dietician & has hypermobility syndrome*.

f. Families under particular stress

33 of the 126 parents (26%) were single, bringing up children on their own. This is the same as the general figure for the UK, where single parent families make up nearly a quarter of families with dependent children.¹⁰

All 126 parents in our survey reported stress and some family problems. We looked at features indicating families who were facing particular stress and difficulties: single parents, parents who are ill or disabled, parents who receive carer's allowance, indicating very severe disability in the family, having other children who are ill or disabled – 42 parents (33%). They described a number of serious difficulties which indicated that they were under particularly great stress.

Table 6. Families under particular stress: total 126 families

	Single parent	Parent ill/disabled	Other child(ren) ill/disabled	Benefits/ carer's allowance	Prosecuted or threatened
Number	33	26	18	39	42
Percentage of 126 respondents	26%	20%	14%	31%	34%

Claudia (Rotherham) is a single parent. She herself is ill: *Depression anxiety diabetes and heart condition*. Her 15 year-old son suffers from *anxiety, obsessive compulsive disorder, sleep problems; he has low self-esteem. Really hated school. Not suited to academic learning environment*. She was fined: *Prosecution was pointless just made our situation worse*.

¹⁰ ONS (2017) Families and households, 2017. Table 1.

Delia (Dudley) is also ill. Her 6 year-old who is being assessed for autism, suffers from anxiety, is a selective eater who has unexpected mood changes. She reported: *My child doesn't like groups of children, he's very anxious away from me. He's scared what other children will do, won't speak out when he needs help, doesn't like to be the centre of attention with all eyes on him. He worries about getting into trouble even though he's always extremely well behaved.*

Penelope (Stoke on Trent) wrote: *Unemployed disabled lone parent of a disabled child/young adult. My child is also a young carer and worried about mum's health. He has ASD, more specifically PDA with a high level of social anxiety and masking, serious depression, social anxiety. I ended up home-educating my son for Year 11 as he refused to go anywhere near any educational establishments after this. It took me a whole year to persuade him that a college would be OK and that he needed some GCSEs.*

Daisy (East Sussex County Council) is a single parent, both her children have ASD, her elder daughter has cystic fibrosis: *Daughter had sepsis this year which may be going into chronic fatigue/post viral fatigue. Also Asperger's/PDA and extreme anxiety. At school time, 12 year-old hurts herself, hides, locks herself in cupboards.* Daisy was threatened with prosecution, and reacted by deregistering her child.

Tamsin (Pendle) is a single parent who is ill. Her son has several health issues (sickness, stomach cramps) which make going to school difficult for him, and he has been bullied: *bullying not dealt with until parents stepped in, still they didn't do much, until police was informed.* The EWO has been involved: *informed by them about fines etc.*

Cathy (Redcar) is a single parent who receives Carer's Allowance: *My son, 7 at the time, was a long-term refuser. I was threatened with prosecution, also told by school that they could not apply for an EHCP. No work was sent home from school. I quoted Education Act about child being entitled to alternative provision after missing 15 days of school. The school bullied and threatened me – said I was making up he was ill – high anxiety, bed wetting, kicking, biting, clawing into me when dragged away by them. Mental health deteriorated rapidly. Night terrors, sleepwalking, separation issues followed. I eventually deregistered. He is now 11 and full time home-schooled, in middle of autism diagnosis/pathway.*

Ann (Wiltshire) is a single parent. She wrote: *I am being treated for depression. Elder son has depression and anxiety, receiving medication.* Her 13 year-old younger son has: *Potential mental health issues. Anxiety and low mood, seen by CAMHS but unable to engage so discharged.* He found school very difficult: *He had an emotionally abusive father and I suspect the atmosphere at school brought back feelings associated with that.* She has been fined £60.

Tess (Norfolk) has a 15 year-old who suffers from ME and is too ill and exhausted to go to school. She is on disability benefit. She has not been prosecuted: *medical diagnosis received just in time.* Viola (Cumbria) is a parent of a 13 year-old autistic girl. *Myself disabled, husband autistic, daughter autistic, son ADHD. School threatened her that we would be sent to prison, which just increased anxiety. School weren't willing to be flexible and consider her needs to enable her to be happy attending school, constantly dismissed her anxiety etc. She doesn't like busy noisy places and interacting with people so doesn't like to leave home.*

Brian (Southampton) is on benefits: *Not employed. Long-term illness. Unable to work. ESA.* He suffers from ME and chronic fatigue syndrome. His wife has had heart treatment. His 11 year-old son is very anxious about going to school: *Minor relational/social issues causing inordinate anxiety. He can be tearful, upset, sobbing, due to unresolved inordinate anxiety.* The parents have met with the school, and have been promised help, they are now waiting to see if their child gets the help promised.

Heather (Walsall) is a single parent. Her four year-old child is anaemic. She has not found the EWO helpful: *I had a visit at home, a random knock on my door to ask why my child had been off for so long. She was suffering with continuous tonsillitis and she had a sickness bug, I was told it was mandatory but they was concerned and asked if I could seek help from early learning (who told me they can't help).*

'Not employed. Long-term illness. Unable to work. ESA.'

'Myself disabled, husband autistic, daughter autistic, son ADHD. School threatened her that we would be sent to prison, which just increased anxiety.'

'My older son is autistic with sensory processing disorder, school refusing younger son has Tourette's/tic disorder. My son has not been attending due to severe anxiety.'

'My son does not want to go to school because of unmet needs in school. Only focusing on the fact that he is deaf and not his other issues. One disability overridden anyone's ability to recognise that there may be other issues.'

Denise (Isle of Wight) is also a single parent. Her 12 year-old son has been diagnosed with ADHD and ODD. The school has not helped. The child has *low self-esteem ... feels misunderstood.* In answer to: ***Have you been fined?***, she replied: *Not yet.*

Sandra (Lewisham) has two children with disabilities: *My older son is autistic with sensory processing disorder, school refusing younger son has Tourette's. He has not been attending due to severe anxiety. School have unauthorised all his absences and involved attendance officer. Attendance officer says we must have 'diagnosis' for his absences. My son has Tourette's. However, CAMHS consultant has just referred him to specialist neurodevelopmental team for in-depth assessment as she suspects he is on the Autistic Spectrum like his older brother.*

Leah (North Yorkshire) is a single parent of two daughters. She lives on benefit and suffers from asthma and depression. Her 14 year-old is very anxious about going to school and suffers from bedwetting and night terrors. She displays some obsessional behaviour. She hates being away from her mother, can be very 'clingy'. Leah reports that the school attendance office is involved and they have recently been 'fast tracked' for a 12 week period, after which, if there is no improvement, a court case is likely.

Olwen (Norfolk) is herself ill, and has two children with learning problems, the 16 year-old has ADHD and suffers from anxiety; the 13 year-old is on the autism spectrum and suffers from anxiety. Both feel unsafe and unsupported in school and have missed school. She was fined twice for school absence – £120 each time.

Ivy (Angus) is a single parent. She has fibromyalgia and a child who has asthma. Her 13 year-old son has some autistic traits and was very anxious about going to school. He *has anxiety and suicidal ideation which started when he started high school* and has attended school only 60% of the time. She reports that the school did not involve the attendance officer: *In Scotland this isn't a big factor. Social services would step in and contact a family if attendance fell below 70% or if communication with the school was poor, but in this case I had worked hard to access school guidance and CAMHS before social services were involved.*

Catriona (Isle of Wight) has two children with ASD. She was fined: *We had no choice to pay. I could think of lots of things we could have better spent the money on. The local authority also refused to give a breakdown of the costs of the fine.*

Arlene (Derbyshire) has mental health issues. Her son did not want to go to school because of *unmet needs in school. Only focusing on the fact that he is deaf and not his other issues. One disability overridden anyone's ability to recognise that there may be other issues. Parents taking him to school for so long when he was telling us he didn't want to go has destroyed the trust in our relationship and the trust my son has in professionals.*

Evelyn (Hillingdon) is a single parent who suffers ill-health. Her 11 year-old son refuses to go to school: *My son is autistic and awaiting results for other conditions and I have an underactive thyroid and am having treatment for depression. She has sought help, but not received any: Social Services, BIG mistake! They are just as bad as the rest. Child Development Centre referral by GP again ...refused. CAHMS 3 referrals so far... refused! EHCP... refused! There is literally nowhere else to turn. All the things I have tried I have found out and tried to arrange myself and all the while my parenting skills are being blamed! It's so frustrating and just adds to the already stressful situation. **Have you been fined?** Not yet. Have been so close and still being threatened. How is having to pay them money for him not being in school actually going to make any difference to him having anxiety around going! It really does amaze me how they think by doing that, my son is miraculously going to go to school!*

Lana (Hertfordshire) is the mother of three children who do not attend school regularly, one aged 14 and twins of 10, with multiple problems – anxiety, ADHD, ODD, ASD, mood disorder, asthma, allergy, self-harm: *I received letters with information that I will be punished if more absence repeated.*

Holly (Swindon BC) is a single parent who is on benefits. She has two children – a 17 year-old disabled daughter and a 13 year-old autistic son who is very anxious and not willing to go to school. Her son has been bullied and is now afraid of the bullies. **'Have you been fined?'** Not yet.

g. Social class

Veronica (Sheffield) raised the issue of how being 'middle class' and articulate has helped her in her struggles to get the right education for her child: *Having talked to other parents and through membership of Facebook groups I feel really shocked at how much class plays a part in this issue. I come across as well educated I have worked in SEN and have knowledge of the system. As a result I have been able to pay my way out of*

problems, stand up to the school and my parenting has not been publicly blamed (although I think schools have seen us as indulgent parents). In contrast parents who appear working class seem to be blamed and fined more.

Wanda, whose 12 year-old adopted daughter has many problems, wrote that she has not been prosecuted: *I think being white, middle class and a university lecturer helps as I can respond to their allegations. I also keep in close contact with after-adoption team locally who understand why adopted kids find it hard. Also I sometimes say she has sickness virus to cover her refusals.*

Being able to afford a private tutor played a crucial role in the successful outcome that Iris (Northamptonshire) relates. Her daughter missed a lot of school due to fibromyalgia and chronic fatigue. *My daughter started university last September. She still has symptoms and does miss some lectures but through the disabled student allowance has been given equipment to record lectures, an ergonomic chair, computer software that types what she says etc. She is happier, the university staff are very supportive and she has made some great friends. She wouldn't be there if we hadn't employed a private tutor to get her through her A levels. School said she could redo the second year as they did not feel she would get the grades she needed as she had had so much time off.*

There is substantial evidence that shows that social class is implicated in educational disparities and a strong predictor in educational performance. Children growing up in poverty and disadvantage are less likely to do well at school due to social class having a clear bearing on a child's educational experience and outcomes (Raey 2017). Alongside this, it is now accepted that less advantaged children are more likely to feel a lack of control over their learning, have a less positive attitude to education, feel anxious and unconfident about school. Also, many children who become disaffected with school can develop strong resentment about mistreatment. This situation is compounded by differences between children living in persistent poverty, those who live in poverty for a short time and when factors such as 'race', ethnicity and gender are taken into consideration (McLoyd, 1998; Duncan and Brooks-Gunn, 2000; Sacker et al., 2002; Raey, 2017).

Evidence given recently to a parliamentary committee illuminated how material and racial disparities result in some families being excluded from the independent tribunal process. Dame Christine Lenehan, Director of the Council for Disabled Children, stated:

'There is a class issue. The people who go to tribunal are white and middle-class and educated, so there is in-built unfairness in the system'.¹¹

Understanding truancy requires attention to the role of the current schooling system in reproducing multiple disadvantages. For the poorest and most socially excluded children the lack of a culturally appropriate approach to schooling contributes to difficulties and differences in children's experience of education and their outcomes.

¹¹ House of Commons, Education Committee, Oral Evidence: Special educational needs and disabilities (roundtable), HC 968, 20 November 2018.

D. THE SCHOOLS

a. Academic pressure and SATS

Do you know what caused your child to not want to go to school?

There is a growing body of work that identifies the negative impact on the health and well-being on children resulting from the on-going testing regimes introduced as part of school curriculum.

In our survey some parents reported that school pressure caused or contributed to their child's unwillingness to go to school or fear of school.

Frances (Essex) replied: *Academic pressure.* Veronica (Sheffield) reported: *The main trigger was SATs preparation in the middle of Year 5. My son became very distressed by the practice tests, and reported having panic attacks. My son's teacher was kind but did not understand his level of distress and saw him as an over sensitive child. The teacher did not understand my son could not process tasks or that dyslexic children often can do things on some days but not others. The teacher kindly insisted that he could complete the task. My son became so fearful that he reports blacking out and not being able to play at break. He reports still having nightmares of this time.*

Helen (North Somerset), who is disabled, reported: *My son was pressured by the academy to work harder (he was hitting his targets).* This badly damaged his mental health.

Wanda wrote: *SATS broke her as school told them if they failed they would let themselves down, their class down and the school down and wouldn't ever get a decent job.* Edith (Kent) reported: *Combination of internet bullying. Getting behind with homework. Heavy-handed school sanctions.*

'SATS broke her'.

'Too much work pressure, academic pressure, staff not understanding anxiety.'

'The teacher did not understand my son could not process tasks or that dyslexic children often can do things on some days but not others. The teacher kindly insisted that he could complete the task. My son became so fearful that he reports blacking out and not being able to play at break. He reports still having nightmares of this time'.

Patty (Kent): *School related and separation anxiety, bullying, low mood, and inability to cope with tests/exams and school environment in general.*

Nelly (St Helens), who has two children with disabilities, said of her 12 year-old son who has autism and SEN: *Too much work pressure, academic pressure, social pressure, staff not understanding anxiety.*

Colleen (Bristol City Council) reported that her daughter suffers: *anxiety and low mood due to bullying, stress about constant assessment.*

Ann (Wiltshire) said reluctance to go to school *seemed to stem from the very rigid and controlling atmosphere at his high achieving grammar school. He had an emotionally abusive father and I suspect the atmosphere at school brought back feelings associated with that.*

b. Help given and help denied: parents want support

Has the school helped the child to attend school?

We asked the parents if they had asked for help from the school, the EWO and LA, and if so, if they had received help or support. Some reported that the school and the teachers had helped and supported their child and had done their best. Others described the school as unhelpful, unwilling to listen to parents, lacking in resources and staff lacking in training. Parents frequently reported that the school blamed the parents for their child's problems and denied help and support when this was sought.

Help given

First we report on some of the positive comments. Rhoda (Havering) has a 12 year-old son who is autistic and has other serious health problems: *To be fair I can't fault the school at all, they have tried everything possible and even had the educational psychologist in.* Carl (Isle of Wight) whose 8 year-old daughter was anxious about going to school wrote: *The school (independent school) were brilliant and we moved to a part-time timetable.* Sadie (Caerphilly) whose 7 year-old daughter is anxious and has not attended school for four months reported: *The school has been wonderful. They have helped us get support from outside agencies. They send homework and referred us for a home tutor. But there needs to be more support for children with mental health issues and their families.*

Sabrina (Derbyshire) whose son is on the autism spectrum found the school helpful: *Extra support, prearranged timetable, motivating lessons.* Agnes (Bromley, Kent) who has two children who do not attend school, a boy age 12 and a girl age 16, wrote that her daughter, who has been deregistered, suffered illness followed by post viral fatigue and bullying. There was a complete lack of support from school. The EWO, however, was *very supportive and helpful, especially as closely involved with the school refusal issues relating to my other child.*

Georgia (Derbyshire) has a 14 year-old son who is very anxious, autism is suspected: *New school is really good and supportive. The help he is getting now is fantastic ... Primary school however was horrendous. 1) listen to parents 2) don't blame bad parenting 3) when child moves up ... tell new staff 4) tell all staff involved kid's needs 5) ask them at school if OK 6) stop bullying 7) be more child centred 8) more training needed.*

Madge (North Cornwall) described the help the school is providing her 9 year-old autistic son: *The school have helped with referrals to occupational therapy, ASD team, speech therapy and an educational psychologist. They won't push him to do anything; they are*

trying to work out all the little things that will make him feel safe and happy. His own space, toys at his table, easier work, 1:1 when he really can't cope. However, she writes, mainstream school just isn't designed for children with any kind of difficulty. For the first few years staff blamed my parenting. Since a new head teacher started at the school they are trying to make changes so he can attend. He finds all the expectations at school difficult and scary. He has very poor self-esteem and finds it very difficult to socialise.

Laurie (Wirral) is the foster parent of a 13 year-old girl with autism and dyspraxia who had a *difficult childhood and severe anxiety around school. School have been fab and really supportive, school have done all they can to help us.* Other services have also been helpful: *CAMHS very supportive and good therapy team.*

Help not provided

The more usual view was that the school was antagonistic and unhelpful, and did not understand their child's special needs.

Fenella (Hillingdon), whose daughter has dyslexia and dyspraxia, is awaiting autism assessment and has suffered from serious bullying, says the EWO was *very unhelpful, rude and threatening. School refusing to provide SEN support, test for dyslexia and apply for EHCP. School not adhering to IEP. School refusing to conduct Occupational Therapy sessions as directed by medical professionals. School refusing to differentiate work and homework. School refusing to allow my child to eat or drink at lunchtime or have regular breaks.*

Eva (South Bucks) has a 12 year-old son who has dyslexia. He was depressed, said he would rather die than go to school. The school made sporadic attempts to help, but nothing was sustained. *Missing out on every trip as not selected to go. At school he experienced name calling, physical injury, disruptive behaviour on unsupervised school buses, failure to make progress in class – he couldn't understand work, disruption in class room, fear of being made to read aloud, fear of being shown up in drama classes – no accommodation for problems due to dyslexia.*

Marion (Westminster) is a single mother of three children. Her son suffers from anxiety and depression and has attended CAMHS: *school is unhelpful, don't encourage or support him; they use harsh wording.*

Denise (Isle of Wight): *there was a lack of understanding as a result of lack of specialised help in SEN in schools and low self-esteem and confidence, bad experience at school, made to feel negative, a feeling of being different.*

Gillian (Stockport), is home-schooling her 5 year-old: *School doesn't acknowledge or support SEND needs.* Lydia (Cumbria) writes: *School is a dangerous place for him to be because staff do not understand how to support his learning and this has led to them creating a very unsafe and frightening environment for him.*

Bonnie (Cornwall), who has a 17 year-old daughter who is autistic, believes that problems with school attendance are due to a lack of support and an inappropriate learning environment at school, that is, for her child, *'sensory overwhelm'*.

Ingrid (Hampshire) wrote: *While she has been off school, seven months now, the LA and School have failed to provide any alternative education or help at all.*

Sybil (Devon): *I have lived through this for less time than many (19 months) and the strain on a family is immeasurable. For me, greater understanding, transparency and effective early support is what is needed to help the many children that face difficulties in a school set up for the average child only.*

'Missing out on every trip as not selected to go'.

'There was a lack of understanding as a result of lack of specialised help in SEN in schools and low self-esteem and confidence, bad experience at school, a feeling of being different.

'He was bullied as he was academic. But he was also a daydreamer and disorganised. The positive/negative behavioural management system used by the school completely stressed him'.

Flora (Derby) reported: *There is a massive lack of understanding especially around high functioning autistic children and those with pathological demand avoidance diagnosis/profile. Schools and people have a general idea when they hear the word autistic of how a child should behave and what they find difficult and what strategies you use and they believe this is how every autistic child is. In Derby there are autistic champions in schools whose training consists of a one-day course. There needs to be much more awareness of all the different difficulties and problems they can encounter to ensure every child has the best possible chance to stay within mainstream school.*

Maureen (Hounslow): *Wrong fit school. I had flagged all the issues he had up to the school, even without diagnosis. He was bullied as he was academic. But he was also a daydreamer and disorganised. The positive/negative behavioural management system used by the school completely stressed him. The teachers did not follow the unofficial IEP. CAMHS said, when they pulled him from the school, that he was one of the most depressed children they had ever seen. He was suicidal.*

Ellen recounted a problem with the class her son was put in, leading him to refuse to go to school for several months. When, finally, he was moved to a different class, as he had asked at the beginning, he began to thrive again. *The class had a high proportion of very disruptive and sometimes physically violent children ... Our son was completing class work very quickly and then being told to read a book. He felt very isolated and started trying to mess about. He hated doing this and didn't feel himself and was worried that other teachers would tell him off. But felt the alternative was complete social isolation.*

In these reports we can see the desperation felt by parents whose children are not coping in school and whose requests for help and support have not been met with the skill and understanding their children need, and to which these children have a right.

A need for support

Many of the parents in our survey expressed a wish for more support from the school. Amelia (Ashford Borough Council) is a single parent, on benefits, whose 8 year-old has ASD, dyslexia, dyspraxia and anxiety: *I need support and help dealing with the school.*

Tilda (Bucks) has a very intelligent 14 year-old daughter who is autistic, dyslexic, has SPD, asthma, selective mutism. She reported *I've been threatened and referred to social services who declined referral. Had to prove to and fight school and county and CAMHS and everyone else. Schools are not able to cater for very bright children with 'invisible' diversities who also have learning difficulties. There is a total lack of understanding and a blame game that schools place both on children and their families.*

'I asked them for help but they initially couldn't spare the staff. By the time they could it was too little, too late.'

'To me, schools do not fully understand what it means to be inclusive. SEND discrimination happens all the time with schools imposing sanctions and behaviour management strategies on vulnerable families and children.'

Sybil (Devon) has a 14 year-old son who is autistic, extremely anxious, depressed and has OCD: *I asked them for help but they initially couldn't spare the staff. By the time they could it was too little, too late.* Her son wants to attend school but cannot. *Mainstream school is set up to educate the majority – a majority that only fit certain stereotypes. If a child does not fit this specific type you can expect them, at some stage, to struggle in one way or another.* She was threatened with prosecution: *My child is ill. Letter threatening prosecution was swiftly overturned on providing the required medical evidence.*

Krista (Warwickshire) has a 12 year-old son with serious physical health problems, anxiety and depression: *To me, schools do not fully understand what it means to be inclusive. SEND discrimination happens all the time with schools imposing sanctions and behaviour management strategies on vulnerable families and children. It feels like an intolerant persecution, such as the like I'd never in my wildest dreams thought I'd ever encounter. Discrimination is rife, either through ignorance, intolerance, austerity, Ofsted, not enough time for our children.*

c. Anxiety and the disciplinary regime of the school

Almost all of the parents reported that their children, whether or not they had a SEN or a disability, suffered from anxiety related to school. Whilst the academic pressures of school create anxiety, what often created problems was variously described as the school environment itself, its inescapability. For example, Janet (North Hertfordshire) writes of her 15 year-old son who has many physical health problems and is very anxious: *He knows he is going to do something wrong and get punished so he would rather stay at home. He will fall ill on the way to school, forget things so he has to come home.*

This is the disciplinary regime of the school. By this, we are not simply thinking of school discipline or school rules per se but the way in which discipline exerts control over children throughout the school day and beyond. Such discipline starts before children enter the school, through rules about uniform, punctuality and so on. Immediately the

school day starts and throughout the day it controls where they should be for every minute; how they should look; where and how they should sit or stand; whether they should speak or be silent; eat or drink or even whether they get permission to go to the toilet or not. This regime lets them know whether to move or be still and if move – how much is appropriate in any one situation. It is easy to get any of this wrong and in getting it wrong it is easy to become anxious. If a pupil has any specific difficulties that impact the need to regulate the body in time and space as demanded by the school, then school will become an exhausting and very inhospitable place to be. For example, any difficulty, whether physical, fine motor skill, organisational or problems with short term memory is likely to risk a make a mistake in following the small rules of the school at some point. The heightened anxiety created around this can become intolerable.

Increasingly, in the competing world of marketized schools and academies, it is the intensification of these disciplinary demands in schools which is making children anxious. We can continue to create the demand for interventions, EHCPs, medication and support, all of which cost a great deal of money, or we can change the disciplinary regime of the school to make it more inclusive and to acknowledge that it is currently productive of anxiety disorders.

d. Academisation

The impacts of the academisation of a school on supporting pupils with SEND are variable. This is unsurprising – academies are as varied in their performance and ethos as most local authority maintained schools are. However, they have greater freedoms to organise their curriculum, are not obliged to follow the National Curriculum, and can set their own terms and conditions for staff. This has led some parents with children at academies to believe that financial costs and academic reputation has trumped doing the right thing by their children.¹² This was also the case in local authority schools but many believed that if an academy chose to behave in this way, it could do so without challenge. This led some parents to believe that academies were a law unto themselves.

Tamara (Solihull), whose son has ASD, wrote: *The school refused to meet need and instead of providing the support that was written in his EHCP that he was receiving in senior school decided to commit fraud and put it into the school general pot. (I have explained that this is illegal many times including getting the council, MP, involved, along with the head of SEN services but they told me that because it is an academy there is nothing that they can do).*

An EHCP is a statutory document: schools are legally obliged to put in place the support that is written into it. Schools receive funding specifically designated for the named pupil in their budget and must organise the required provision. In this sense Tamara's perception that the school is putting the money designated for her son into a general school funding pot and hence committing fraud has some truth. However, for pupils with an ECHP, schools have to contribute the first £6,000 of the funding every year from the school's general pot of money and this puts considerable strain on school budgets. Nevertheless, from Tamara's account, the school is breaking the law and appears able to do this with

¹² Roberts, N. (2017) FAQs Academies and Free Schools, House of Commons Library, Briefing Paper, 07059 Open Parliament
<http://researchbriefings.files.parliament.uk/documents/SN07059/SN07059.pdf>

impunity. Tamara has tried to get others involved, including the local authority and the head of SEN services at the local authority. The local authority has very limited powers in relation to academies since they are not part of the local authority's responsibility generally. However, in this instance, the local authority does maintain the responsibility for the provision of services to pupils with EHCPs and it is its responsibility to check that this provision is in place and monitor how the money is spent. In that sense, the local authority in this instance is not fulfilling its statutory duty.

In the case of Tamara's son, he does not receive the appropriate provision. Her only recourse would be to become litigious, which is expensive and also something that was supposed to be avoided in the new Children and Families Act 2014 and the subsequent statutory advice in the SEND 0-25 years Code of Practice (2015).

Gloria (West Sussex) wrote: *Our 10 year-old never wanted to go to school due to anxiety. For the first 3 years of school he had 1:1 help to get in to school and support to cope (no school refusal - decent attendance) then when he was in year 3 the school became an academy and sacked all the support staff, he lost all support and we really struggled to get him in to the building; eventually he wouldn't go to school. After he lost all support we had to deregister him and start home educating 3 months in as we couldn't get him into school and he was so distressed and couldn't cope in school without support.*

Thus the process of academisation is seen by some parents in our survey to be the cause of loss of continuity of SEN provision. As schools convert to academies and particularly if they join multi-academy trusts, inevitably there will be some staff re-organisation and redeployment. This would not necessarily involve the removal of support staff. Blatchford and colleagues (2009) published a very unfavourable research report on the impact and effectiveness of support staff in schools: 'The more support pupils received over the year, the less progress made.' Whilst the thrust of this report was that support staff were poorly deployed, prepared, trained and managed, rather than of themselves being of no use, it led to the then Secretary of State for Education, Michael Gove recommending in 2013, that funding for the training of teaching assistants end and that teaching assistants themselves be phased out in schools. This was based on a report by the Think Tank Reform (Basset, D et al 2010), which explicitly recommended cutting the teaching assistant workforce on the grounds that they were 'not delivering a quality education' (page 9).

For children like Gloria's son, without an EHCP, there is a statutory obligation to provide the support her son needs, but defining it is more complicated. Statutory guidance states that all mainstream schools, including maintained schools and academies, must use their best endeavours to ensure that children with SEND gets the support they need – this means doing everything they can to meet children and young people's SEN.¹³

With evidence-based arguments against the effectiveness of one-to-one support and Michael Gove's intervention in 2013, many schools decided that one-to-one support for children was not the mode of support that children needed. Attributing academisation as the sole cause for the loss of support is, therefore, difficult. Clearly, there are very obvious reasons for continuing the use of support in the case of Gloria's son, which became very clear when the support was removed. It had enabled him to attend school successfully, control his anxiety levels and support his learning. It is a lesson to all schools that adopting such national research wholesale or cynically saves money in the short term, but in the longer term leads to greater costs for individual children.

¹³ Chapter 6, SEND 0-25 Code of Practice, para 6.2.

Parents perceive academies to have greater freedom to make alterations to their children's support with fewer or no adverse consequences. In the case of a local authority school, the local authority would feel more able to challenge the head teacher. But academies are still bound by the 2010 Equality Act and by the Children and Families Act 2014 Section 3, relating to the education of children with an SEND.

Gloria believes that the process of academisation caused her son to lose his support at school. Whilst academisation may have involved a change of senior leadership, ethos and attitude, there is no inherent reason why academisation should cause loss of funding for support staff. What some question in the academisation process, is the attitudes of senior leaders to children with SEND and their parents and their commitment to listening and taking account of their views.

Helen (N. Somerset) referred to the reputational pressure of academies and especially newer academies to demonstrate improving performance. This can only be achieved by pressurising students to achieve; and for students with SEN or a disability, the resulting feelings can be unbearable. Helen's son has dyslexia and dyspraxia, and suffers from anxiety and depression. She wrote: *He was pressured by the academy to work harder (was hitting his targets) was being bullied and not believed by staff (even bullied by a teacher) his mental health not believed by SENCO, no one wanted to help him, heart-breaking... If the school had helped our son he wouldn't have got so bad. He still struggles to leave the house, to trust others, to feel worthy, to believe in himself. This could've ended much worse than it has... He's on medication that helps. There are students who've taken their own life, we're so thankful everyday that our son asks us for help. He's getting better every day ... All the above happened in 2016. We don't want other students to go through what our son has. The school let him down massively; he was just a number to them (large academy) not a person with feelings whose voice needed to be heard.*

The Academisation Act 2010 greatly expanded the power of the Secretary of State to force schools deemed to be underperforming to 'convert' to Academies. The belief was that these converter academies would provide a better education and could turn under-performing schools around. However, this put a great deal of pressure on these academies to improve school performance dramatically, in some cases to the detriment of pupils with SEND or indeed other vulnerable pupils. This has led Helen to think her son was viewed simply as a 'number' and to be grateful that he did not end up, like others, taking his life.

Where parents feel that academies are not performing well for their children with SEND or indeed are breaking the law, then they should complain. Their LA has a duty to investigate in cases where their child has an EHCP. But if the complaint is a more general one about the school and its teaching and provision for children and there is no EHCP, then the Office of the Schools' Commissioner should direct individuals to the Education Funding Agency. Interestingly, whilst our parents were generally well versed in liaising with their individual LAs, none was aware of this complaint procedure and LAs tended not to direct them to it.

For parents of children with SEN or a disability, academisation represents a further fragmentation of the authorities responsible for monitoring the quality of special educational provision for their children. Parents do not know enough about where they should go to get problems sorted out quickly. The simplest thing to do is still to approach a lawyer for support, help and advice. It is the quickest way to ensure provision is forthcoming. (See **Assisting prosecuted parents**, page 57).

e. Lack of support for special needs

It was recently reported that in 2017 more than 4,000 children with an approved EHC plan received no special support, five times more than in 2010.¹⁴

One child with SEND [...] not receiving the help they need is disturbing enough, 2,060 is a national scandal.

The report highlights serious concerns that some pupils are moved off the school roll illegally, because are seen as difficult to teach.

The report says that compounding the difficulties faced by children with SEND and their parents is the fact that demand for EHC needs assessments from LAs has risen by 50% since 2015. In 2017, 45,200 children and young people were assessed, while 14,600 were refused an assessment.

EHC assessments and plans were introduced in 2014 amid a shake-up designed to streamline and reduce the burden on the special needs education system. They replaced statements of SEN, which were carried out by local authorities. Many parents complained of the long and difficult battles they had to get their child's needs 'statemented'. But campaigners say the same issues are being faced with EHCs. At the same time, the costs of supporting more children with lower levels of special needs were handed back to schools, which have been facing budget pressures of their own.

E. BULLYING

Has your child been bullied? If yes, what was the school's response?

There is no legal definition of bullying. However, according to government guidance, it is 'behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally'.¹⁵

Bullying is all too common in our schools. *Ditch The Label* is an organisation which does research on bullying-related issues affecting young people in the United Kingdom. Their 2017 survey found that one in two have experienced bullying, with one in ten having been bullied within the past week. The impacts on health, self-esteem and performance are significant. 36% of those who have been bullied said it made them feel depressed and one in four turned to self-harm as a coping mechanism.¹⁶

For some children, the impact of this behaviour is so severe that they self-exclude from school. It is estimated that over 16,000 children between the ages of 11 and 15 are absent from state schools where bullying is the main reason for absence, a

¹⁴ Ofsted Report, 4 December 2018: <https://www.bbc.co.uk/news/education-46400397>

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/248751/01_BULLYING_WEB.PDF

¹⁶ <https://www.ditchthelabel.org/wp-content/uploads/2017/07/The-Annual-Bullying-Survey-2017-2.pdf>

figure that rises to over 77,000 where bullying is cited as one of a number of reasons given for absence.¹⁷

The Centre for Social Justice Roundtable reported a concerning, widespread failure by schools to prevent bullying effectively. In part, this stems from a tendency to focus on performance outcomes. The relentless pursuit of high grades promotes a more functional approach to schooling, which often sees broader social education languish. This means that schools frequently operate as organisations rather than communities and in doing so, relinquish many of the tools needed to identify, understand and deal with and prevent bullying.¹⁸

When we asked *Has your child been bullied, and if yes, what was the reaction of the school?* we had in mind bullying by other children at school. The respondents in fact reported bullying both by staff and children. Of the 132 children on whom we have data 80 (60%) were described as having been bullied.

Bullying is a major issue in the failure of the placement of a child with SEND in a mainstream school. Dame Christine Lenahan, director of the Council for Disabled Children, recently conducted a review of residential special schools. She said:

One of the groups of children we saw were children with autism, who were bright, able kids who were going to get 5 A to Cs, or they should have done, but people were just not making the adjustments. People were expecting them to be different than they were. They were young people with autism in massive schools without safe spaces. Often they would come out of that because their mental health wouldn't cope, they'd get very anxious about it, or again they would do something, usually to do with behaviour, that would take them out of the school, and the minute they did that the future for them in terms of success would start to go down fairly quickly. Yet we know for many of those people fairly basic reasonable adjustments in schools can meet their needs.¹⁹

Table 7: *Has your child been bullied?*

Yes	No
80 (60%)	52 (40%)

Table 8: **Bullied children: by children, by staff, by both children and staff at school**

By children	By teachers	Both children and staff
72 (92%)	6 (7%)	2 (1.5%)

¹⁷ Bullying and Self-Exclusion: who cares? Centre for Social Justice, 2016.

<https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2016/11/Bullying-RT-Report-1.pdf>

¹⁸ Centre for Social Justice, 2016.

¹⁹ The Alliance for Inclusive Education

<https://www.allfie.org.uk/news/blog/a-society-where-everyone-matters/>

a. Bullying by peers

Bullying is clearly an important feature in the lives of the children in our survey.

Wanda, mother of a 12 year-old adopted daughter, reported: *Reason not to want to go to school was bullying and unnecessary pressure around homework plus poor support. At home she can be at peace. She will then actually research topics happily. At school there should be better discipline plus an attitude of children being taught to be kind to each other. Better break and lunch time supervision to stop bullying.*

Daisy (East Sussex County Council), who eventually deregistered her daughter, reported: *They dealt with it but it really impacted on her and was the final nail in the coffin with her attending.*

Zelda (Northamptonshire), whose son has a diagnosis of high functioning ASD and suffers from anxiety and depression, wrote: *His 'friend' pulled a pen knife out and held it to his throat on the way home from school and it scared him witless. There were other regular instances of bullying like chasing him, name calling and emptying his bag out on hall floor etc.*

There were some extreme examples of bullying reported in this study. Fenella (Hillingdon) said: *School refused to deal with it even when my child ended up in hospital due to damaged bowel where bullies had punched her so hard in the stomach. I escalated to the LA Safeguarding team who also refused to assist.*

Hope (Ipswich), whose daughter has learning difficulties and anxiety and has been bullied, reported that the school *didn't want to know. My daughter doesn't like other children, she's scared of them, shouldn't have gone to a mainstream school, would not let me move her.*

Brenda (Warwickshire) wrote: *Yes. Lack of belief or interest. No investigation. Colleen (Bristol City Council): The school stopped engaging with me and failed to investigate properly, choosing instead to 'protect the school and the boys from further allegations'. Ofsted, the LEA and social services were inaccurate and often dishonest in their response. All documented. The Governors' investigation concluded that they didn't recognise a 'pattern' in what happened to my daughter and that I had 'lost faith' in the school.*

Ellen (Hampshire) has a 10 year-old son who missed five months of school before the school agreed to move him to a different class. She wrote: *[He was bullied] by one child when he was in year 5. There were several spates. Each was dealt with in isolation and not recorded in the behaviour log. The class teacher had forgotten and mistakenly thought the boys were friends which seems to be why they ended up in the same class. (A teaching assistant confirmed that the incidents had happened as our son described and the other boy had admitted everything.) It started again after a class change. The school told the boy off and said he would be in trouble if it happened again. This just added to our son's worries. We spoke to the boy's father and he was fantastic. He spoke to his son and it didn't happen again. The father was really concerned about our son and keen to help.*

Patty (Kent) wrote: *Yes, frequently. School "spoke to" the bullies, who then came back worse. My child is now afraid to report instances or name bullies.*

The parents' reports show the important negative effects of bullying on their child's health and well-being. Bullying can be very severe, and may have a life-changing impact on a child.

b. School handling of bullying

Bullying by peers appeared to be a major factor in some of the children in our study becoming fearful and reluctant to go to school. For some children a change of school made a huge difference for the better.

Grace (Birmingham) reports her 14 year-old son with ASD has a fear of busy places and of being attacked. He experienced: *Bullying by head of year at previous secondary school. They did not understand his anxieties and did not wish to even try to understand.* Now at a new school she finds that the school helped: *Late start early finish to avoid rush times. This school is doing fine.*

Some schools handled the bullying issue well. Hester (Lancashire), for example, whose 5 year-old has ASD and is anxious, wrote: *'Yes - school addressed it promptly'*. Madge (North Cornwall) said: *He has been [bullied] and the school have dealt with it well.*

However, for most of the parents in our survey the reaction of the school was to deny that bullying took place, to refuse to believe their child's reports, to argue that this was just the way children are, to blame the bullied child or their parent, and to decline to take effective action.

Tamara (Solihull) reported: *Yes, school told me that it was a teething issue and he needed to learn to ignore it. When it involved staff I was called a liar, that I was too over protective and that I was trying to hide my son's bad behaviour (even though there was no instance of behaviour being recorded until after I made a complaint, then it was every day) and that my son brought a lot of it on himself and needed to learn to get along with different people because this is how the real world worked. When I asked for this in writing it was refused and they have never brought it up again. The official stance is that it does not happen and that the SEN children are just struggling academically which is why they feel 'left out'.*

'My 7 year-old was repeatedly hurt, threatened and name called by a group of boys through reception and Year 1. This including hair pulling, punches to the stomach, being thrown to the floor and piled on, strangulation and sexual assault.'

'Yes, school told me that it was a teething issue and he needed to learn to ignore it. When it involved staff I was called a liar, that I was too over protective and that I was trying to hide my son's bad behaviour'

Schools sometimes advised the child to ignore bullying.

A commonly reported reaction by the school is to disbelieve the child has been bullied. Tilda (Buckinghamshire) wrote: *Yes. They wouldn't believe it.* Nora (Cornwall) wrote: *Yes. [The school's answer]: "There is no bullying here"*.

Una (Bristol County Council), now home-schooling her son aged 12, who is autistic, reported that he was bullied by other children. *My child was bullied and the school's response was that it's just what kids do. Games get out of hand. There was no help from school.*

Rosie (Powys): *Initially my child was repeatedly told to build her resilience.*

Glenda (Somerset), now home-schooling her adopted 8 year-old, reported: *Schools one, two and three denied racism, school four immediately dealt with it.* Lottie (East Sussex County Council) wrote: *Yes sexual harassment but the boy only got detention.* The school's reaction is usually described as one of denial and refusal to deal with bullying, often blaming the child or the parents as 'overprotective'. Yvette (Somerset) reported: *Yes. Transphobic and racist. The school did nothing.*

'My child was bullied and the school's response was that it's just what kids do. Games get out of hand. There was no help from school.'

'She suffered bullying which took an antisemitic form from the time she began secondary school. The school did not deal with it.'

Krista (Warwickshire) has a son aged 12 who attends school for five hours per week. He has serious long-term physical health problems as well as anxiety, depression and dyspraxia. He has been reluctant to attend school for four years. Krista reported: *He experienced low level bullying in Year 1 and 2 and high level in Year 3 and start of Year 4 before he dropped out permanently. He struggled socially due to chronic low self esteem (developmental trauma resulting from infant needs being unmet due to undiagnosed bowel problems). Also he was picked on for his lack of co-ordination problems due to undiagnosed DCD, joint hypermobility etc. As detailed above, the health crisis and the adults around him telling him he was making things up and wasn't ill led to a complete breakdown emotionally and psychologically for my son and meant he didn't trust his teachers to keep him safe. School did not handle bullies well either until a year later. Anxiety was not recognised or understood by the school, developmental trauma and attachment issues also not understood.*

Linda (Birmingham) wrote: *She suffered bullying which took an antisemitic form from the time she began secondary school. The school did not deal with it. They could have cracked down on the bullies and paid better attention to the general ethos of the school. She is now 14, and is school phobic, depressed and has made suicide attempts.*

Agnes (Bromley) has a 12 year-old son who was bullied in primary school in Years 1 and 3. *The school ignored the issue in Year 1 but took action to resolve in Year 3.*

Colleen (Bristol City Council) reported that bullying was an important element in school going wrong for her daughter. *My 7 year-old was repeatedly hurt, threatened and called names by a group of boys through reception and Year 1. This including hair pulling, punches to the stomach, being thrown to the floor and piled on, strangulation and sexual*

assault. The teachers failed to protect her and minimised what was happening, in favour of protecting the boys who struggled with 'impulse control'. As a result she developed a fear of boys, mistrust of teachers and a reluctance to leave the house.

c. The restorative justice (RJ) approach

As we have seen most of our respondents reported that the school's response to their child's experience of bullying was ineffective. There is growing awareness that restorative justice (RJ) may be useful in the context of bullying at school.

Restorative approaches are a collective term for a range of responses, from informal conversations to formal meetings. Restorative approaches work to resolve conflict and to repair harm. 'They encourage those who have caused harm to acknowledge the impact of what they have done and give them an opportunity to make reparation. They offer those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made' (Thompson and Smith, 2010).

Emma Clarke - RJ lead at a Coventry comprehensive school reports:

The policy at Finham Park is zero tolerance on bullying – we make every attempt to educate and support students within this area. This, of course, does not always prevent issues arising and we have had bullying incidents within the school, although to a minimal extent. Using a RJ approach, any incident of bullying is reported and statements are taken from all involved. I will then speak with students individually and ensure they are in agreement with the RJ process taking place. Preparations for an RJ conference will then commence. Risk assessments are put into place, taking into account all the circumstances, if there is any bullying history between the harmed and harmer, also medical conditions. Preparation for the conference is imperative for it to be successful.

Within the RJ process we aim to reach an agreement/contract between the parties on how their behaviour towards one another should move forward and how to prevent further issues arising. This is their agreement/contract and as such they decide what is included. If a bullying contract is required, this will also be put into place alongside the agreement/contract. All students have to be willing to take part in this process and engage throughout. Taking turns to listen fully to one another is very important. If parents are required to be involved they can take part in the conference, this would then be more formal. Other members of staff can attend to support if required. A balance must always be maintained.

The students' attitude to bullying within Finham Park is they neither like it or wish it to be a part of their school life. The implementation of RJ is fully supported by both staff and students as an effective method to prevent those who bully and support those who are or have been bullied.

This method shows the harmer just what long-term effects they have had on the harmed and this in itself is extremely powerful. I, of course, follow up and continue to support all students involved to help prevent further issues arising, if issues continue then a new strategy is implemented. Punitive

measures may still implemented alongside RJ depending on the severity of the bullying.

This is a very positive support system and method of intervention. Both students and teachers are aware this gives them all a voice, an impartial person to liaise with, who will support and help to resolve issues within a safe and open environment.

As to my personal views on bullying and the process of RJ, well of course I fully believe that RJ can alleviate problems that other methods have struggled to do previously. If RJ could become common practice within all primary and secondary schools, I believe this would equip our young people/children with skills and values they can carry into adulthood and use accordingly. RJ in my opinion is the way forward, the positive results at Finham Park school since this was started in November 2017 have reinforced that.

You can't keep practising and using the same approach and expecting different results! We could have a generation of young people aware of what RJ is, how it works and how it can help **all** involved. It could become common practice and the preferred method to resolve issues. We cannot simply keep expecting things to change if we keep using the same ineffective methods.²⁰

d. Discussion of peer to peer bullying

Work by the Anti-Bullying Alliance, including research with the DfE and others, suggests that whilst the frequency of bullying over the last ten years is on a downward trend, nevertheless 40% of children are subject to it and 6% to a sustained daily pattern of bullying. Two further interesting points emerge. First approximately a quarter of all pupils with SEN or a disability experience threats or actual violence over the course of a year and 21% of children who experience bullying on a daily basis will truant from school and often with the permission of their parents.²¹

In spite of the fact that this problem is systemic, research evidenced and well known about, it seems that often schools pathologise the pupil, locating the reason for the discrimination and abuse within the child who is its victim. Thus Nora is told that her daughter lacks resilience. Tamara's son is accused of making it up to detract from his difficulties with academic learning. Teachers, reflecting the culture of our society, frequently make excuses for 'excesses' of masculinity, which is normalised – boys' poor impulse control or games getting out of hand, typically when someone is physically injured in a violent incident. In these cases the victim is again pathologised for being unable to deal with what are being presented by teachers as 'normal' masculine peer relationships.

²⁰ We are grateful to Emma Clarke, RJ Lead at Finham Park Comprehensive School, Coventry for this contribution.

²¹ <https://www.anti-bullyingalliance.org.uk/tools-information/all-about-bullying/prevalence-and-impact/prevalence-bullying>

e. Allegations of bullying by staff

As noted above several parents reported that their child had been bullied by staff. Tamara (Solihull) wrote: *Bullying from both children (being crushed causing rib cage muscle damage, being called every name under the sun including 'retard' and threatening to have his fingers cut off) and the staff (calling him slow, deregistering him from every lesson except English and Maths because in Year 7 he did not show enough 'progress and was struggling so would not attain a GCSE' and writing that his work was not good enough in his books, that he needed to sit in a classroom and be quiet so that other children had the opportunity to learn).*

Nancy (Warwickshire), mother of a 13 year-old boy, who was diagnosed with autism at the age of three, reported: *My child was locked in a cupboard in his special school.*

Lola (Westminster), who eventually deregistered her daughter, said: *The staff bullied her, some peers also. The response was to escalate their bullying and ignore peer bullying.* Vanessa (Hampshire) recounts that her 12 year-old son, who has SEN and severe anxiety, has been bullied by staff – when he didn't understand the teacher he would get shouted at in front of others, he was kept in class sat at the desk too long in view of his need for sensory breaks.

'The staff bullied her, some peers also.'

'He constantly feels bullied by peers and staff.'

'My child was locked in a cupboard in his special school.'

Belinda (Cambridgeshire) has a 7 year-old son with ASD and anxiety. He has had *developmental trauma, lack of understanding from school as to how to support, inconsistency and abusive behaviour from staff. He does not feel safe at school. He is treated badly.*

Brenda (Warwickshire) related bullying by staff to her child's fear of school: *Bullying by a teacher who was not prepared to accept there was a possibility the child had ASD. This increased the child's feelings of worthlessness and they became depressed.*

Lydia (Cumbria), who is now home-schooling her son, replied: *Yes, yes - his teachers were hurting him (physically and emotionally).* This boy has dyslexia and dysgraphia, experts have assessed his needs (at the parents' expense) and offered to support his teachers free of charge. Lydia writes: *This advice is backed by the LA Educational Psychologist and the community paediatrician who happens to have a child at the school. But his teachers will not even READ the advice.*

Fenella (Hillingdon), mother of a 12 year-old girl, wrote: *Abused by teacher. Severely bullied for four years by pupils and ended up in hospital with serious injuries. Threatened by teachers with physical violence. Ridiculed and humiliated by teachers for her additional needs.*

Jessica (Blaenau Gwent) reported: *Being physically pinned down by the head teacher from my son's old school who had no team teaching training and didn't believe in ASD.*

The head teacher also refused to attend team teaching courses or allow a positive handling plan to be put in place for my son. The head teacher excluded my son without following protocol or procedure and because of my son's difficulties the head teacher put him on a reduced timetable for 1 hour a day and made it extremely difficult for any inclusion for my son which resulted in my son feeling isolated.

Avril (West Berkshire) describes her ethnicity as 'African'. She writes that she has health issues, and her 14 year-old son is dyslexic. He has *special educational needs, hearing impairment, mental health issues and medical conditions. When the tinnitus keeps him awake and he cannot attend school, the School and EWO refused to mark absence as authorised due to illness*'. She reports he has been bullied by teachers. She has been threatened with legal action: *They want to go to court.*

Ruby (Swansea) has a 14 year-old autistic son who suffers *high anxiety caused by being around lots of people and the impact of having to interact because of the difficulties of having autism, he constantly feels bullied by peers and staff.*

f. Discussion of staff bullying

Since we were not present at the incidents described by these parents as the bullying of their child by staff, we must comment with caution. Were these teachers exercising what they regard as appropriate discipline for the orderly running of the classroom? Or did they find the demands made on them overwhelming – too many children making too many demands, too few assistants, too many tasks to perform and forms to fill in – and did exasperation lead to a loss of adult control, expressed in aggressive actions against the children in their care? We cannot say.

Without this evidence our comments in this section must be tentative. However we note the oral history project by the Alliance for Inclusive Education (www.allfie.org.uk accessed 14 January 2019). Here we may access accounts by people with disabilities of their mistreatment in the education system. Disabled pupils were not exempt from physical punishment and were often especially subject to it. (See <http://howwasschool.org.uk/themes/discipline> accessed 14 January 2019).

Teachers are allowed to use 'reasonable force' against pupils and pupils may see this as bullying in instances where they do not perceive the force used as reasonable.

The Education and Inspections Act 2006 incorporated a formal statutory framework for the use of 'reasonable force' on those pupils who could not 'learn' to behave in school. In 2013 the government published advice relating to the 'Use of Reasonable Force' in schools (DFE, 2013) to make all head teachers and school staff aware of when they might decide to use force against a pupil.

The 2006 legislation states:

Section 93: Power of members of staff to use force

(1) A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely—

- (a) committing any offence,
- (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
- (c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

School staff using physical force to control a risk and the ‘prevention’ of injury or offence or damage to another person would seem an acceptable demarcation of risk. It assumes a level of ‘unreasonable’ behaviour or unreasoned behaviour on the part of the pupil, and indeed in the training packages around the use of physical force, there is a general consensus that physical force or control is used only if reasoning does not work or if the pupil is out of control or irrational. However, teachers can now also use ‘reasonable force’ under the provision in point 1(c) and this is problematic. 1(c) is not about crime necessarily or offence or the breaking the law, it is about public order in the school and essentially about the use of physical force to uphold school rules. This is a much more contentious use of force against pupils, given that some school rules can in themselves be problematic and individual teachers can be unreasonable in applying them. The problem of the pupil’s apparently unreasonable behaviour could, in fact, quite easily be the unreasonableness of the school regime or the unreasonableness of the teacher’s implementation of the school regime.

Physical intervention training for all staff working within schools and colleges is necessary if it is to be used safely and correctly. Some children from special schools will be used to a set methodology being employed to help them gain control of extreme behaviour but when children leave that type of school provision and join in with a wider community they may find that their behaviour cannot be dealt with in the same way. If their intervention plan is written into their EHCP it becomes necessary for follow on schools and colleges to implement it correctly. Training, such as ‘Team Teach’, is beneficial to an organisation, but everyone within the team must be trained. For big organisations this can be extremely expensive and may result in an organisation being unable to provide an adequate level of support. Managing physical behaviour can become an issue of ‘reasonable adjustment’.

It is not surprising then, that pupils have felt punished or physically assaulted by teachers who have used what they have deemed to be ‘reasonable force’. Simply put, the use of physical force is still contested in English schools. It can be differently interpreted by different stake-holders – teachers, parents and pupils – according to their point of view. Behaviour might be seen as ‘reasonable’, or as ‘punishment’, or as assault or bullying.

Finally, even though government advice to teachers working in English schools on their powers to use ‘reasonable force’, make it clear that schools cannot use physical force ‘as a punishment – it is always unlawful to use force as a punishment’ (DfE, 2013, page 5) on the Yougov website (and listed there since 2014) ‘use of reasonable force’ is a sub-heading under ‘Punishments’, which itself is a subheading under school-discipline.²²

²² Gov.uk 2014: <https://www.gov.uk/school-discipline-exclusions>

One of the parents surveyed, Nancy, told us that her 13 year-old son was locked in a cupboard in his special school. This procedure is known as ‘seclusion’ and is outlawed in this country in schools, though still used in youth detention and the prison estate. It is a restraint technique, as the pupil is restrained against their will and cannot remove themselves from the situation. It is a dangerous practice and can lead to serious harm. Major campaigns are currently in progress in the USA to outlaw its practice there in schools. A similar incident in an Australian school where a child was locked in a small room with caged bars caused international outrage and a review into restraint policy and practice in all Australian schools.²³ We were disappointed rather than shocked to discover an incident of the practice in our survey responses and will be encouraging its reporting to the relevant Local Authority Designated Officer (LADO) for Nancy’s LA.

Most of the reported bullying by teachers appears either to be verbal, being shouted at or to have no reasonable adjustments put in place for a disability and so to be constantly reprimanded, given detentions and, in the process, not being made welcome in the classroom. One of the problems of schools’ disciplinary regimes is that they are often in direct opposition to inclusionary practices. When they are implemented, they feel like and so are ‘bullying’ of those who are not able to meet their exacting standards.

E. PROSECUTION

a. Numbers threatened with prosecution or prosecuted

Table 9. Numbers threatened with prosecution or prosecuted

Yes	No
42 34%	75 60%

Table 10. Prosecution and official action

Fined	Threatened with action	Given a warning	In process of being prosecuted
16	19	5	2

Parents found that the threat of prosecution was an additional source of stress in an already fraught family situation. Mary (Bristol), a single parent with an 11 year-old son suffering from an autism condition and high anxiety levels, wrote: *Fine threatened but L.A. autism team told them to stop.* Primrose (Leeds), mother of an autistic daughter aged 12, asked if she was fined, replied: *No, but they threatened to prosecute, that was after the diagnosis.*

²³ Butler, J (2017) How Safe is the Schoolhouse? Accessed at <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf> <https://www.abc.net.au/news/2015-09-09/photo-of-cage-used-to-restrain-boy-autism-at-canberra-school/6762404>

Jackie (Birmingham City) is on benefits. She has a 14 year-old son who has ASD and anxiety, she herself suffers from asthma. She has been fined £120 because of his absence from school.

Diane (Worcester) has two children not attending school regularly, aged 7 and 9. They have possible autism, are highly anxious, and have expressed suicidal thoughts. She writes: *No [not been fined] but have had letter from school and conversations warning of possible prosecutions.* She has been threatened with a fine: *Feel very left without support.*

Katie (Herefordshire) has a son aged 10 who has recently had an EHCP agreed: *He suffers from and is recently being medicated for depression, extreme anxiety and very poor sleep, violent and aggressive outbursts. We have had an interview under caution.*

Millie (Staffordshire) has a 9 year-old son who has ASD and is anxious. He has Sever's Disease, which causes pain in the heel in children. She says she is not sure why he doesn't want to go to school: *Do not know, think demands too high as currently in a wheelchair. We're waiting to hear judgment, have been told we will be fined.*

Lola (Westminster), whose daughter has Asperger's, anxiety, fear and depression, was fined £60 because she missed school. Harriet (Devon) has a 15 year-old son: *He has cerebral palsy, auditory processing disorder, sensory processing disorder, learning disabilities, and autism with elements of Demand Avoidance.* Has she been prosecuted? *Not yet but we're on our last (and only) warning. There needs to be more interaction from Education Welfare Services BEFORE they caution or fine parents, EWS needs to work with children, parents and schools in a joined up pathway!*

Isabel (Surrey) made the point that prosecution is not fair: *school refusal is the only situation where a parent can be prosecuted because a child is ill. Without the low weight issue, we feel we would have had a different and less supportive approach from professionals involved. (We have been down this route before with older siblings with different health needs and less understanding professionals. One EWO did threaten us with prosecution and made judgements on child's medical fitness which she had no competency to comment on.)*

Colleen (Bristol City) is a single parent who has two children who do not attend school regularly. Her 12 year-old experiences extreme menstrual bleeding and severe menstrual pain. The 7 year-old was bullied in reception and first year of another primary school – developed symptoms of PTSD, panic attacks, suicidal thoughts, disassociation, and was school refusing. Colleen writes: *I received letters from attendance officers at both schools. The secondary school letter details fine amount/court proceedings etc. I have spoken with him to tell him, it makes no difference to my daughter being unwell.*

The law is both cruel and ineffective. This is seen most clearly in the case of Sylvia (Lancashire), a single parent on benefits. She is a professional woman with a Masters degree in Social Work who cannot work because of her ill-health. She has a 13 year-old son who has ASD, a number of learning difficulties and anxiety. She had one fine, which she paid. When the authorities issued her with a second fine for non-attendance she refused to pay and it was taken to court: *I represented myself and gave full details of my son and the reasons for his school refusal and the court fully appreciated my mitigating circumstances and said they agreed that it must be very hard raising a child like my son.*

They found me guilty (because they had to) but gave me an absolute discharge with no court fees! I deregistered my son the day after the new term started because I was threatened again by the attendance officer saying that the school could not accommodate my son's part-time timetable and them not knowing when he was going to turn up and that I should find a different school.

d. 'The fine was hard to pay'

If you were fined did you find it difficult to pay on your income?

Ten parents replied that they had paid fines and it had been difficult to do so. As with almost all the parents in this study they are coping with children with serious illness and disability.

Janet (N. Hertfordshire) mother of a 15 year-old boy, who has a number of serious health issues: *I had to borrow the money to pay the fine, £60 each time.* Beatrice (Sutton) is a single parent whose two sons both have mental health issues. Her 14 year-old son has a: *Mental health diagnosis of anxiety OCD and depression.* She was fined twice, paid £60 each time: *it had an impact on my low income.*

'My son has a mental health diagnosis of anxiety, OCD and depression. Fined twice, £60 each time: it had an impact on my low income.'

'We did pay the fine and yes it was difficult to pay it. Also, we each had to do 25 days probation.'

Beth (Coventry City Council) has a 15 year-old son who is very anxious: *He said he is frightened that something might happen to the family when he is at school. Also bullying, he keeps saying he is scared. He can sometimes go in sometimes he can't.* They were fined £500 each: *We did pay the fine and yes it was difficult to pay it. Also, we each had to do 25 days probation.*

Lola (Westminster) has *chronic anxiety, stroke, and heart problems.* *Yes, I paid. Yes, difficult on my income.* Hope (Ipswich) whose daughter, 16, has *mild learning disabilities, anxiety and selective mutism,* also found it difficult to pay the fine.

Claudia (Rotherham) was prosecuted. She is a single parent who suffers from *depression anxiety, diabetes and a heart condition.* *Everything I had discussed with school and EWO thinking it was confidential was used as evidence against me. I wasn't ever cautioned. I pleaded guilty because I had no support or knowledge what I was going into. It severely damaged my mental health to the extent I couldn't get out of bed for at least a week afterwards.*

Yvette (Somerset) has arthritis. Her 11 year-old daughter has *social anxiety, juvenile migraines, sensory disorder, possibly ASD.* Yvette reports: *My daughter was unable to attend for a week due to mental health issues. The school have marked it as a holiday and have prosecuted me.* She was fined £60. *I refused to pay and have been taken to court.*

c. Effects on the families

The prosecution of these parents and the threat of legal action is reported as having caused intense stress. For example, Daisy (East Sussex County Council), whose 17 year-old daughter suffers from cystic fibrosis and has a diagnosis of ASD, deregistered her child because of the threat of legal action against her. Ellen (Hampshire) wrote: *we were threatened with penalty notices on two occasions and the threat has not been withdrawn despite us repeatedly asking. This has been a huge source of stress for us we had done nothing wrong so couldn't really have paid fines. I work in children's education myself so a criminal record would be devastating. We almost deregistered our son due to the stress of having the threat of legal action hanging over us.*

Sandra (Lewisham): *I think this whole system is wrong. We are so stressed trying to support our anxious son, we should feel supported, not frightened about prosecution. Our son has previously had an excellent attendance record so why on earth do they think we suddenly wouldn't send him to school? It makes no sense and LAs should look at families on a case by case basis. No common sense.*

Some parents take their children off-roll to avoid prosecution. Glenda (Somerset) who has an adopted child wrote: *Home educated after school 3 to avoid prosecution.* Cathy (Redcar & Cleveland) wrote: *Threatened with fines. Deregistered as a result.* Agnes (Bromley), who has two children being home-schooled, wrote: *EWO had been instructed by school to commence process. She closed the case as soon as I deregistered my daughter, as 'not in the public interest to proceed'.*

We have described how for some families the effects of being threatened with prosecution are devastating – leading to deregistration of their child, attempts to home-school, and for some of the children, a complete denial of education. Others told us that they had paid fines, and that this was very difficult to do on a small income.

Penelope (Stoke on Trent) who is a single parent and is disabled, could not pay the fine: *The council fined me £60 which increased when I refused to pay. I was forced to plead guilty by a last minute replacement solicitor, my parents paid what the court ordered.*

For Naomi (Leicester City), whose husband's cancer is in remission, it was hard to pay the £120 fine. Her daughter aged 8 has mild ADHD and sometimes finds the classroom difficult: *She feels she can't be good enough because she doesn't sit still and get her work done.*

Paying a fine can put a big strain on struggling families, and is bitterly resented as being unfair. Catriona (Isle of Wight) paid two fines of £60 each: *The education welfare officer and the school both know we do all we can to get him there, even my husband having to be late for work some mornings because I can't cope on my own when my son is having a meltdown. EWO said he knows we couldn't have done any more but he has no choice but to fine us and the code of conduct doesn't really mean that. What is the point of having it if they don't stick to it? We have two children with additional needs who make mornings very difficult for us as well as three other children to get ready. We are up at 5.30 sometimes 5, we pay for my son's taxis at £40 a week then another £50 to get my other children to school by taxi because by the time my eldest son leaves it's too late to walk or get the bus to get the other children to school on time and we end up being fined for them*

too. We are not lazy parents who couldn't be bothered or don't take school attendance seriously. We don't mind paying out for taxis and getting up so early but then to be told we're being fined for it all anyway is disgusting, they should have supported us or at least shown some understanding of our situation rather than punishing us for having a child with additional needs and a disability none of us can change.

'Having the threat held over us was worse than being fined as we could have disputed a fine with the LA. We almost deregistered our son due to the stress of having the threat of legal action hanging over us'.

'Threats of fine cause so much worry on top of the worry about the child ... do they help sort the problem? No'.

'My parents paid what the court ordered.'

Georgia (Derbyshire County Council) described the strain of the fear of prosecution: *Threats of fine cause so much worry on top of the worry about the child ... do they help sort the problem? No. Do they make parents cry as they have to worry about own employment cover risking own job when kids off as well as a financial penalty? Yes (especially when I have had to give up employment before due to time off with sick child). Does it break down or damage the home-school partnership? Yes and makes me very angry (they are well aware).* Other parents too expressed anger at the basic unfairness of the system.

Judy (Kirklees) wrote: *It is despicable that parents are criminalised due to this being a strict liability 'offence'– this makes it very difficult indeed to plead not guilty unless there is concrete evidence, and parents would have to wait for the trial date to introduce this evidence and bring in any witnesses. I feel this should be a civil matter in law.*

d. Families fight back

Some parents fight back. Tamara (Solihull) wrote: *I told the attendance officer that if they wanted to take me to court I would put them on the stand first and ask them why under oath they refused to meet the needs of my son under legal obligation for an EHCP.* Shirley (Nottinghamshire) was threatened with legal action: *So I threatened them back with disability discrimination and they backed down.*

Enid (Hertfordshire) reported: *They tried to prosecute me but didn't want to be dragged through court themselves. Many complaints have gone in to LA.*

Nelly (St Helens) wrote: *Not yet. EWO threatened me that she can start court proceedings but then I called the manager of EWOs at LA and she got involved. She agreed that we needed support, not a fine. She got the school to stop sending threatening letters out to me.*

Jessica (Blaenau, Gwent) has two children with SEND: *I have not been fined, but have been threatened with a fine. I have spoken to the LA, made formal complaints and I have now instructed a solicitor to take the LA to court to make them do and provide what they are legally required to meet my son's educational needs.*

Arlene (Derbyshire), mother of a 7 year-old deaf boy with many disabilities, expects that she will be prosecuted as he has been out of school for five months: *I think they may be doing soon. I will be seeking damages for them not securing my son a suitable education.*

Lola (Westminster), whose 16 year-old daughter has Asperger's, social anxiety, fear and depression, reported: *Repeated threats to prosecute (read me 'my rights' "You do not have to say anything, but anything you do say may be used in evidence against you" etc), to take my child into 'care', to put me in prison - despite eight years of medical evidence provided. Children's Services, actioned a Child Protection Plan (which was in place for a year) against me, for neglect for 'failing to ensure my child received appropriate education' despite my repeated requests for school / LA to provide appropriate education support, despite eight years medical / CAMHS evidence. I brought a complaint against the LA, which took three years to complete. My child's physical and mental health have been severely damaged, she is school and education phobic. My physical and mental health have been severely damaged. I am unable to work due to being my child's full time carer and also my own health problems caused by this horrendous nightmare.*

e. Assisting prosecuted parents: turning the tables

Dan Rosenberg, Partner at Simpson Millar Solicitors, has experience of acting for numerous mothers who are being prosecuted or threatened with prosecution for school non-attendance. He often acts for them when they have a child who is unable to attend school for medical, mental health or other reasons. He uses Section 19 Education Act 1996 to ensure that local authorities fulfil their obligations to provide suitable education to these children in circumstances where the education on offer is either not suitable or it is not reasonably practicable for them to attend.

Cases where it is not reasonably practicable to attend school often include those where children have SEN and many tactics have been tried but nothing can get them to school. Similarly, some children will not attend a particular education provision for safety (or perceived safety related) reasons (often related to fear of gangs/travelling to 'opposition' territory).

These cases can be brought using legal aid. There is civil legal aid for education matters where there might be a judicial review (which is often the case when children are out of school, there is often an obligation on the local authority to make provision). Few people know that there is civil legal aid available, which is often why children remain out of school for very long periods of time, thus leading to the local authority seeking to prosecute in the first place. This is unfortunate – a wider knowledge of the availability of civil legal aid for education cases might reduce the number of these matters that end up being prosecuted, and would mean that children received appropriate education and missed less school.

There is likely to be discrimination in the way that it invariably appears to be mothers who are prosecuted, when often the case with children with special education needs is that there will be a father with parental responsibility who has (often because of the difficulties of dealing with the child), left the family home.²⁴

²⁴ We are grateful to Dan Rosenberg, Simpson Millar Solicitors, for writing this section of our report.

5. PARENTS' VOICES

Our questionnaire asked parents for their views. Many expressed anguish about their children's situation and anger that resources were scarce and little done to meet their children's needs.

Tess (Norfolk): *Our case is just one of thousands. Children with SEN are systematically being denied their right to an education. There is an epidemic of children and young people being off-rolled by schools who need to keep up the attendance figures and have ever decreasing funds to support SEN. School refusal/phobia is in fact a very healthy psychological response to an unsuitable environment. All behaviour is communication and until schools and the government actually sit down, listen and support these children and young people, instead of criminalising both them and their families, the tragic waste of potential and continued misery of attendant mental health issues will continue. It is utterly short sighted and quite frankly abusive to persist with forcing children and young people into totally unsuitable situations under threat of prosecution. This is ruining lives.*

Shirley (Nottinghamshire) reports: *I can't believe how hard it was to get her absences authorised. How hard it was to 'prove' she was ill. We paid for a private therapist who managed to get us re-referred to CAMHS. I'm really aware that we got an excellent psychiatrist who then fought for us. Without her backing we would have been prosecuted. School refusal is seen as being a family problem not a school problem. Mums not tough enough. I was tough and made her go and it made the situation worse.*

'I am horrified at the lack of support for children with SEN. The priority of the education system is attendance and grades, not the welfare of the child'.

'I can't believe how hard it was to get her absences authorised. How hard it was to 'prove' she was ill'.

'Our case is just one of thousands. Children with SEN are systematically being denied their right to an education. There is an epidemic of children and young people being off-rolled by schools who need to keep up the attendance figures and have ever decreasing funds to support SEN. This is ruining lives.'

Janet (North Hertfordshire) said: *While my son's school is at fault a lot in my opinion I do feel they are restricted by rules and red tape. They are always so busy they don't have time for everyone and as my son is not violent or extremely in need I feel we just fall through the cracks.*

Ellen, whose son missed a term of school, reports: *Our son's case was so simple in terms of the cause of the problem and the fix. It makes us wonder how many cases of school anxiety could be resolved through early intervention – listening to the child and meeting their needs. Schools seem to have such poor knowledge of mental health issues in children.*

Olivia (Hampshire) whose son attends a special school: *I am horrified at the lack of support for children with SEN. The priority of the education system is attendance and grades, not the welfare of the child. They also do all in their power to save money so they*

delay, refuse, play games etc. and parents have to fight for everything. My son has the academic ability to get 10+ high-grade GCSEs but he is unlikely to scrape one now. This is due to the difficulty in getting the appropriate support for him. Another issue is the lack of SEN schools generally but also ones which cater for children who have SEMH difficulties but are bright.

There is much deep underlying sadness in the parents' comments. Diane (Worcester) wrote: *Feel very left without support, isolated and misunderstood, feel let down by the system and sad for the lost potential education for my children and the damaged mental health caused by lack of understanding.*

6. CURRENT CONCERNS

There is serious concern in education circles about the way parents are being pressured to home educate their children. Educational psychologists frequently come across this with autism, as we have found in this study. Some parents want to do this and, with the right support, that can be an appropriate course. But it also occurs because of threats of prosecution, or even at the suggestion of LA officers/schools that this would be a better option, where it is not something parents would have chosen.

In the view of some of the professionals working with children with special needs and those on the autism spectrum and for parents of children with ASD, it is a particularly unsuitable pathway. These children have lagging skills in social interactions, understanding and communication, gaps which are will not be addressed by keeping them away from school. We have to question how they will cope, say, in Further Education, at university and in the world of work if they have not been practising and learning the social skills in school? How will they become independent functioning young adults if their parents have been doing everything for them at home? Psychologists see sad cases of young people who barely come out of their room and seem locked in the cyber world.

Curricula should be developed within the remit of Employment, Independent Living, Community Inclusion, and Health. Students with academically uneven profiles should have personalised provision that directly addresses their needs as identified in their EHCP; provision should be available to enable students to develop so-called 'soft skills'.

What these children/young people often need is a modified environment (such as a unit attached to a mainstream school) and access to professionals such as ASD specialist teachers and Speech and Language Therapists who can support the children and teach some of the skills. In some areas there are such provisions, but they are always oversubscribed and are costly. But they really do work. Some LAs do not have them at all. However, it is important to keep in mind that the children attending such units must not be 'ghettoised' within the school and consequently not fully integrated within the mainstream. For children without ASD but who are anxious, schools need to offer calm spaces, where children do not necessarily have to go into every lesson, in addition to staff who understand. But in this ever more rigid education climate, it is simply not available.²⁵

²⁵ Personal communication from an educational psychologist.

7. AN ALTERNATIVE APPROACH

We have seen in this report how the application of criminal sanctions to parents whose children struggle with school attendance leads to intense stress and suffering for both the parents who face multiple challenges and their children who have many educational and social difficulties. We would argue that the criminal law is entirely inappropriate in this context. It should be a civil issue.

This is the approach of some European countries. In Denmark, for example, the main approach in cases where children do not attend school on a regular basis is a social-welfare one. Firstly the school makes contact with the parents and try to convince them that the child/children should attend school and that the parents (adults) must take responsibility for that. Secondly (if the first has not been effective) there is a possibility of imposing measures. Such measures can only be imposed after a thorough examination of the situation around the child and the needs of the child. Such examination can only be carried out on the basis of consent from the parents (and the child if the child is 15 years old or older). After this examination different measures may be taken – starting at the mild end with support at home and ending up with the child being taken away from home.

There is no reason to believe that these measures will be used if there are not other problems around the child (which there will be if the child systematically does not attend school). This is regulated in the code on social services (Serviceloven) § 52 and is all aimed at safeguarding the child. In the same Code you find § 57 which provides that the parent may be obliged to ensure that the child attends school. Fulfilling this obligation is a precondition for obtaining the social welfare economic support that parents in general receive. The aim is still the safeguarding of the child but there is an economic sanction connected to this construction, which is named something like ‘Parents’ obligation’. Such sanctions are, however, hardly ever used.²⁶

8. CONCLUSIONS AND RECOMMENDATION

The aim of the law which provides that parents can be and should be prosecuted for the ‘crime’ of truancy is to curb unauthorised absence from school. It does not succeed in doing this. The rates of unauthorised absence continue to rise despite the prosecution of parents. In March 2018 the Department of Education reported that overall and unauthorised absence rates had increased since the previous year. The overall absence rate has increased from 4.6 per cent 2015/16 to 4.7 per cent in 2016/17. The authorised absence rate stayed the same at 3.4 per cent and the unauthorised absence rate increased from 1.1 per cent in 2015/16 to 1.3 per cent in 2016/17.²⁷

²⁶ We are grateful to Anette Storgaard, Professor of Law, Aarhus University, Denmark for providing this information, and to Nathaniel Hong who translated sections of this for us.

²⁷ Pupil absence in schools in England: 2016 to 2017. SFR 18/2018, 22 March 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692406/SFR18_2018_absence_text.pdf

It has been said that a punitive approach to the problem of poor school attendance cannot work. ‘For families with multiple problems, fines will not work nor will they address many of the reasons why some children are missing school, such as a child who is missing school because they are being bullied or because they are struggling to catch up with their peers’ (Arthur, 2015).

Our research follows and confirms the 2011 study of Professor Jane Donoghue (Swansea University) who has criticised the ways in which the power to prosecute parents has been used by local education authorities and interpreted by the courts. She critically analysed the manner in which the powers emphasise punishment and retribution in the context of the social moralisation of ‘flawed’ parents; pay insufficient regard to the effects of parental responsibility laws on low-income, single parent families; represent an attempt to impose a simple solution on a complex socio-economic problem; and amplify the scope for mothers to be made the subject of criminal justice interventions.

It is evident that the punitive approach leads to harm for parents, children and vulnerable families. It also appears to be ineffective in getting reluctant and fearful children back into the classroom. Our main conclusion and recommendation is therefore that the criminal law should not be applied to parents whose children do not attend school regularly. The distinction between a social welfare and a criminal justice approach is important: in the social welfare system the welfare of the child is **the** paramount consideration, this is not the case in the criminal justice system where the welfare of the child is only one of a number of considerations.

Truancy should be a civil matter – a child welfare issue.

9. SOURCES OF HELP

Legal advice

Dan Rosenberg is a lawyer who specialises in education law and has experience of assisting parents threatened with prosecution: Simpson Millar, 16 Upper Woburn Place, London, WC1H 0AF; telephone 0345 357 9400 dan.rosenberg@simpsonmillar.co.uk

Independent Parent Special Education Advice IPSEA offers free and independent legally based information, advice and support to help get the right education for children and young people with all kinds of special educational needs and disabilities (SEND). They also provide training on the SEND legal framework to parents and carers, professionals and other organisations <https://www.ipsea.org.uk/> .

Parent Groups

Parents Forum <http://parentsforum.org/>

Not Fine in School <http://www.notfineinschool.org.uk/>

The Parents Union <http://www.theparentsunion.uk/>

Rescue our Schools <https://rescueourschools.co.uk/>

Autism West Midlands <https://www.autismwestmidlands.org.uk/>

School Refusal Support Services for Phobia, Refusal & Separation Anxiety
<https://www.facebook.com/groups/schoolphobiarefusal/>

Special people (Facebook) <https://www.facebook.com/specialpeopleuk/>

Special Needs Jungle <https://specialneedsjungle.com/>

Independent Education

1. Online education enquiries@interhigh.co.uk <https://interhigh.co.uk/>

2. Red Balloon operates four centres in the UK, supports young people who self-exclude from school and are missing education because of bullying or other trauma. They provide an academic and therapeutic programme to enable students who have excluded themselves from school to get back on track and reconnect with society. At least 90% of the children who enrol onto its recovery programme for six weeks or more return to appropriate mainstream education or take up apprenticeships. Email: admin@group.rblc.org.uk Tel: 01223 366052.

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