

Education (Additional Support for Learning) (Scotland) Act 2004

A GUIDE FOR PARENTS/CARERS



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What is this leaflet about?

This leaflet is for the parents/carers of all children and young people in Scotland's schools. 'Young people' here means 16 or 17 year olds who are still at school.

The leaflet explains the new arrangements introduced by the Education (Additional Support for Learning) (Scotland) Act 2004, referred to here as 'the Act'. The Act came into force on 14 November 2005 in Scotland.

What are additional support needs?

The Act introduces the term 'additional support needs' and places education authorities under a duty to give some extra help in their schools to **all** children and young people with additional support needs. Children and young people may need this help to assist them with reading or writing; to improve their access to the school and its facilities; or to support their learning through difficult family or other circumstances. Additional support needs can be short or long term. For instance, additional support **may** be required for a child or young person who:

- › is being bullied
- › has behavioural or learning difficulties
- › is deaf or blind
- › is particularly gifted
- › is bereaved
- › is a carer
- › is not a regular attender.

It is important to recognise that these are only a few examples. There is no limit to the reasons that can give rise to having additional support needs. This is why the Act aims to ensure that **all** children and young people receive the additional support they require to meet their **individual needs** and help them make the most of their education.

What does the Act do?

The Act introduces **new duties on education authorities to benefit children, young people and parents/carers**. It also requires certain agencies to help the education authority meet its legal duties under the Act. These include social work services, any other local authority, medical services, further and higher education institutions, and careers services. For example, the education authority may ask their local Health Board to help them identify and support children's and young people's learning needs.

Parents/Carers have rights to:

- › request the education authority to find out whether their child has additional support needs
- › request the education authority to find out whether their child needs a co-ordinated support plan or to review an existing plan
- › request a specific type of assessment and/or examination

- › make a placing request to an independent special school if their child has additional support needs
- › be informed of the outcome of these requests and any rights of appeal they have
- › receive a copy of the co-ordinated support plan or, if not eligible for a plan, receive advice and information about their child's additional support needs
- › have their views taken into account and noted in the co-ordinated support plan
- › request the use of mediation services (see page 4 for further details)
- › make use of dispute resolution arrangements for matters about additional support needs (see page 4 for further details)
- › appeal to new independent Tribunals on decisions by the education authority to prepare or not to prepare a co-ordinated support plan, the time being taken to prepare or review a plan, the information in the plan, including the support to be provided, and a refusal to review a plan.
- › have a supporter or representative with them at any meeting with the school or education authority and at hearings of the Tribunals.

Young people have the same rights as parents. For example, they can request that they be assessed and they can access the use of mediation services.

Education authorities:

- › must make adequate and efficient arrangements for **each** child or young person with additional support needs for whose education they are responsible
- › must also provide appropriate additional support for disabled children under 3, where the child has been referred by a Health Board and has additional support needs
- › must put in place arrangements to identify additional support needs
- › must publish information about the services provided under the Act and the arrangements for identifying and addressing additional support needs
- › must provide those children or young people who need it with a co-ordinated support plan (see below) and keep this under regular review
- › must provide independent and free mediation services to help parents avoid, or resolve, disagreements between the authority and parents/carers (or young people) regarding how the authority is meeting its obligations under the Act
- › must put in place arrangements to deal with certain children with additional support needs at key times of change in their education; eg moving from pre-school to primary, from primary to secondary, and from school to post-school (see below)
- › must request and take account of information and advice from agencies likely to support the child when he/she leaves school. This must all be done *at least* 12 months prior to the expected school leaving date
- › must provide information to whichever agencies will be responsible for supporting the young person once they leave school, including careers services, universities and further education colleges, if the young person agrees. This must be done *no later than* 6 months prior to the expected school leaving date

- › are able to help other children and young people with additional support needs who are not in education authority schools, for example, those being educated at home or who are receiving private education. This is not a duty, but parents of these children have a right to request assessment of their child's needs and the authority may provide advice, information and help.

Scottish Ministers have issued a **Code of Practice**. This sets out guidance on how the system is to operate and helps education authorities and others to meet their new duties.

What support is there for children and young people who have additional support needs?

Importantly, the Act places duties on education authorities to address, and keep under review, the arrangements for providing for the additional support needs of all children and young people for whose education they are responsible. The type of support provided will depend on the type of need. Learning plans, such as Individualised Educational Programmes may be used by the school to help plan the learning of children and young people with additional support needs.

What help is there for children and young people with the most complex needs?

The education authority will have to prepare a new **co-ordinated support plan** for these children (aged 3 and above) and young people. This will co-ordinate the support for those with additional support needs, arising from complex or multiple factors, who need support from education as well as from one or more other services. Co-ordination of the services is required where the education authority needs help from others both within the local authority itself, such as social work, or from outside agencies, such as health. That is what the plan is for. The views of the child or young person and the parents/carers will be taken into account when a plan is prepared and their final comments will be noted in the plan.

What is in the co-ordinated support plan?

The co-ordinated support plan must contain:

- › a description of why the child or young person has additional support needs
- › educational aims that the child or young person will be supported to achieve
- › the support required to help the child or young person achieve those aims
- › a note of who will provide this support
- › the name of the child's or young person's school
- › the name of a contact person within the education authority to provide advice and information to parents/carers
- › the name of the person who will co-ordinate the support from the different services.

Importantly, the co-ordinated support plan will set the aims for what the child should learn and will build on the child's strengths.



If my child had a Record of Needs, how will this be affected?

The Act has removed the requirement to have a Record of Needs and no new Records can be opened. However, children who had a Record of Needs on 13 November 2005 are, under the Act, deemed to have additional support needs. Education authorities have until 13 November 2007 to determine which of these children will require a co-ordinated support plan. There is a duty on education authorities to ensure that the arrangements in place for those with a Record of Needs are not reduced before the consideration for a co-ordinated support plan has taken place, unless there is a significant change in the needs of the child or young person. If it is decided that your child does not require a co-ordinated support plan then the arrangements made for him/her should remain the same as it was when that decision was made, for a further two years, unless there is a significant change in the needs of the child or young person.

What do I do if I have concerns about the arrangements being made for my child?

You should always discuss any concerns you have with the staff dealing with your child and, in particular, with the headteacher to see if any disagreements can be resolved within the school. Local authorities must have in place arrangements to provide parents with **mediation services** free of charge. Mediation services can help families and authorities to build or rebuild a positive relationship, leading to co-operation in making arrangements for the child or young person. They can help avoid problems that arise out of misunderstandings or lack of shared information by helping parents, teachers, authority officials and others involved to communicate directly with one another. The main purpose of mediation services is to help disputing parties come to a shared agreement on how to resolve their disagreement themselves.

In certain circumstances parents can access the authority's arrangements for resolving disputes by **independent adjudication**, this is free of charge to parents. This method of resolving disputes allows for a formal review of an individual case by an independent third party, external to the local authority, who considers the circumstances leading to the disagreement and makes a report with recommendations to the education authority. The education authority will then provide the parents/carers with a copy of the Independent Adjudicators report and inform the parents/carers of their decision. Your authority will be able to provide you with information about its arrangements for resolving disputes through independent adjudication.

Where matters relate to co-ordinated support plans then it may be possible to make a reference to the **Additional Support Needs Tribunals for Scotland**. The Tribunals (see contact details below) will provide further advice to you on making a reference.

Additional Support Needs Tribunals for Scotland Helpline: 0845 120 2906

Website: www.asntscotland.gov.uk

Where can I find more information?

For more advice and information about the Act, please contact the

Enquire Helpline on: 0845 123 2303

Textphone: 0131 22 22 439

E-mail: info@enquire.org.uk

or the Parentzone website: www.parentzonescotland.gov.uk

'The parents' guide to additional support for learning' from Enquire, which contains more in-depth information and case examples can be accessed at www.enquire.org.uk/enquire/pdf/parents-guide-to-asl-2006-01.pdf or contact Enquire, Tel 0845 123 2303.

Parents' Guide for ASN Tribunals can be accessed at www.asntscotland.gov.uk/asnts/files/j6769c.pdf or contact the Additional Support Needs Tribunals for Scotland, Tel 0845 120 2906.

Further information can also be found on the Scottish Executive Schools Directorate website: www.scotland.gov.uk/Topics/Education/Schools/welfare/ASL

The Act is available from www.scotland-legislation.hmso.gov.uk/legislation/scotland/acts2004/20040004.htm or Her Majesty's Stationery Office, Tel 0870 606 5566.

The Code of Practice is available from www.scotland.gov.uk/Resource/Doc/57346/0016754.pdf

This leaflet will be produced in alternative formats, please telephone 0131 244 1622 for further details. This leaflet will also be available in community languages from the Scottish Executive website. If you do not have access to the internet, please telephone the number above, and we will arrange for a copy to be sent to you.

