

# Public Document Pack



## SCRUTINY COMMITTEE THURSDAY, 24TH SEPTEMBER, 2015

A MEETING of the SCRUTINY COMMITTEE will be held in the COUNCIL HEADQUARTERS,  
NEWTOWN ST BOSWELLS on THURSDAY, 24TH SEPTEMBER, 2015 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

17 September 2015

<b>BUSINESS</b>		
1.	<b>Apologies for Absence</b>	
2.	<b>Order of Business</b>	
3.	<b>Declarations of Interest</b>	
4.	<b>Minute</b> (Pages 1 - 6)  Minute of the meeting of 20 August 2015 to be approved and signed by the Chairman. (Copy attached).	2 mins
5.	<b>Attainment Levels in Schools in Deprived Areas</b> (Pages 7 - 76)  Presentation by Service Director Children and Young People. Headteachers will also be present to provide information and to respond to questions. (Background papers attached).	30 mins
6.	<b>Mainstream Schools and Children with Complex Additional Support Needs</b> (Pages 77 - 424)  Presentation by Service Director Children and Young People. (Background papers attached).	30 mins
7.	<b>Scrutiny Reviews - Update on Subjects included in the Future Scrutiny Review Programme</b>  Minute of the Meeting of 20 August 2015 refers.	10 mins
8.	<b>Date of Next Meeting</b>  The next Scrutiny Committee will be held on Thursday, 29 October 2015.	
9.	<b>Any other Items Previously Circulated</b>	
10.	<b>Any Other Items which the Chairman Decides are Urgent</b>	

## NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

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**Membership of Committee:-** Councillors G. Logan (Chairman), W. Archibald, K. Cockburn, A. Cranston, I. Gillespie, S. Mountford, A. J. Nicol, R. Stewart and J. Torrance

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Please direct any enquiries to Judith Turnbull, 01835 826556  
[judith.turnbull@scotborders.gov.uk](mailto:judith.turnbull@scotborders.gov.uk)

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**SCOTTISH BORDERS COUNCIL**  
**SCRUTINY COMMITTEE**

MINUTES of Meeting of the SCRUTINY COMMITTEE held in COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on Thursday, 20 August, 2015 at 10.00 am.

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Present:- Councillors G Logan (Chairman), W Archibald, K Cockburn, A Cranston, S Mountford, R Stewart, J Torrance, I Gillespie and A J Nicol.  
Also Present: Councillor S Aitchison, J Fullarton (joined the meeting during Item 2).  
In Attendance:- Democratic Services Team Leader, Democratic Services Officer (P Bolson).

1. **MINUTE**

There had been circulated copies of the Minute of 11 June 2015.

**DECISION**

**NOTED for signature by the Chairman.**

2. **NON SCHOOLING AND HOME SCHOOLING**

- 2.1 With reference to paragraph 6(a) (vi) of the Minute of 26 March 2015, the Chairman welcomed Ms Donna Manson, Service Director Children and Young People and Ms Christian Robertson, Senior Education Officer who were present at the meeting to give a presentation on Non Schooling and Home Schooling. There had been circulated copies of the Scottish Government's Home Education Guidance. Ms Manson explained that the document was issued under Section 14 of the Standards in Schools etc Act 2000 and it formed the basis of Home Schooling policies which had been developed at a local level at SBC. There were circulated at the meeting copies of a document entitled "In our sight: in our mind" and Ms Manson explained that this reflected the approach being taken across the Council area in terms of educating school age children.
- 2.2 Primary school attendance had shown an improvement during the academic year 2014/15, particularly throughout March and April 2015 and the department was continually working to achieve further improvements in the attendance levels. The period leading up to the summer break in June 2015 showed a drop in attendance and Ms Manson explained that this was due, in the main, to family holidays being taken outwith school term time. Members noted that Scottish Borders Council compared favourably at a national level. Statistics showed that attendance in 2012/13 was just above 95% and SBC had been successful in maintaining that position nationally. Statistics demonstrated an increasing trend in unauthorised absences during May and June of the academic years from 2012/13 to 2014/15. Ms Manson confirmed that parents were challenged in relation to any instances of non-attendance and the department was working towards a position where all non-attendance was authorised appropriately.
- 2.3 Secondary school attendance showed a similar pattern, with high attendance in May 2012/13 of almost 96% dropping to below 92% in June of the same year. It was noted that a substantial drop in school attendance during December 2012 could be linked to a serious infection which affected the whole of the Scottish Borders Council area. Ms Manson went on to explain that the attendance figures for May of any year related, in part, to the pupils sitting national examinations whilst the lower attendances in June coincided with an increase in the number of unauthorised absences. On a national level, Ms Manson was pleased to report that Scottish Borders performed well with an attendance level in 2012/13 of just over 95%.
- 2.4 Ms Manson advised Members of the work that was in progress and which had been undertaken previously to improve attendance levels in both primary and secondary

schools, noting that the way in which absences were monitored and analysed on a monthly basis had contributed to the high attendance levels across schools. Future actions to be taken forward included more engagement with parents, access for all schools to Home Link, multi-agency involvement and early intervention in the pre-school, early learning and childcare centres. Members were advised that the number of exclusion incidents and resulting exclusions in Primary Schools had decreased during 2014/15 and this decrease was also reflected in the male/female gender divide. The figures for secondary schools also showed a decrease in both the overall number of exclusion incidents and actual exclusions. With regard to the gender breakdown, there had been a decrease in the number of male-related incidents. Female-related incidents and exclusions showed a slight increase during 2014/15. Ms Manson advised that the aim was to achieve a zero exclusion figure across all schools. Members noted that exclusions at secondary school level had dropped from 245 to 150 in 2014/15 and discussion followed in respect of the reasons for this improvement. Ms Manson detailed some of the strategies for further reducing rates including tracking data and trends action planning, the up skilling of staff to deal with issues, sharing improvement strategies across schools and the development of creative support for young people.

- 2.5 Members raised a number of questions and highlighted issues of concern, one of which was the way in which statistics were reported in the media. Ms Manson advised that this was possibly due to the published figures being about two years old whereas the figures available in her report to Members were more up to date. In respect of how future strategies could improve the support offered to pupils with learning difficulties, Ms Manson suggested that this could be achieved by increasing the number of group sessions and reducing whole class lessons for which resources were currently in place. Members were aware of the impact of absences on attendance levels and noted that in some situations, such as the emergency services, parents could be allocated holiday dates which might not fit with school holidays. Ms Manson explained that such situations were dealt with by head teachers within each school. With regard to unauthorised absences, Ms Manson advised that sanctions for persistent unauthorised absences included referral to Family Support Workers, the Children's Reporter but that the first step would always be to try to identify the reasons for such a situation developing. In terms of sanctions which might be imposed on pupils, Ms Manson explained that pupils were made aware of the impact and outcome of unacceptable behaviour and emphasised the advantages of early intervention in such situations. It was acknowledged that a smooth transition from primary to secondary schooling could have a positive effect on the attendance levels for pupils. Further analysis of available information would be required to assess the full impact. Members requested information about the impact of inclusion of all pupils and Ms Manson explained that two meetings had already taken place with Parent Councils to consider this matter. Establishment of a "base" class was given as one example of how inclusion could be progressed within schools. Ms Manson emphasised that exclusion incidents should be addressed prior to reaching the stage where a pupil was the subject of multiple exclusions and it was recognised that schools needed support in dealing with these situations.
- 2.6 Ms Manson went on to provide Members with information about home schooling in the Scottish Borders. There were no national comparator statistics available but within the Scottish Borders, the figures included 32 families who were currently home educating with one on a part time basis only and there were 42 pupils or 0.28% of the total school roll who were being home educated. 50% of those being home educated lived outwith a town or village in the Scottish Borders but there were examples of how these families could be supported in formulating a programme of education for their children. Legislation stipulated the duties and rights of families and the Local Authority when a child/children were being home educated. Families were only bound to respond to enquiries by the Local Authority whilst Local Authorities were only entitled to make formal enquiries. Most of the pupils who had been withdrawn from school were removed during their primary education years and the main reason given was anxiety and/or stress. Ms Robertson explained that successful early intervention could avoid withdrawal from school by reassuring parents and adapting the way in which teaching was delivered. There were a

number of ways in which the Council could prevent disengagement with parents, such as the introduction of a Risk Matrix to identify children early, working to enhance the reputation of schools in the area and promote a wide range of activities and curriculum choices. Ms Manson advised Members that some families had never entered the education system and were therefore "invisible" to the Authority. This could be a cause for concern and it was important to find ways in which to engage with these families.

- 2.7 Discussion followed and officers responded to a number of questions raised. With reference to potential withdrawals following the summer break, Ms Manson advised that sometimes families had been considering this option during the holidays but it could as easily have been a totally unexpected decision. Provision of a sample curriculum was discussed as a "vanguard" for encouraging parents to remain engaged with the Council. Members were advised that only a small number of requests for home schooling were refused and these were normally on the grounds of child protection concerns. Ms Manson agreed that sports and leisure opportunities could be key to continued engagement with families and indicated that partnerships were currently being developed which would form part of the strategic plan within the new People department. Various education options were available to parents and part time home schooling allowed children to access school-based facilities at times which suited their family situation. Members raised concern about the lack of legislative authority given to Councils to monitor home schooling and were advised that parents could refuse to provide any information on the grounds of the Data Protection Act. There was also no evidence available to verify that these children were being home educated as opposed to working outwith the home. A question was asked in relation to the amount of maintenance allowance paid to parents who were home educating their child/children and Ms Manson agreed to investigate and provide this information to Members in due course. Members were advised that each primary school had access to a Home Schooling Link Worker (HSLW) to provide additional support. A different system was in place for secondary schools to access this type of resource available to them. Ms Manson considered this to be a strong and positive position from which to move forward. Members were advised that additional support needs were assessed on an individual basis and could include requirements such as transportation support. Should a pupil with such needs move into a different catchment area, then the assessed support would be provided.
- 2.8 Councillor Aitchison, Executive Member for Education commented on the excellent work Ms Manson and her team had undertaken and acknowledged that the new team of officers was now in place and moving forward to meet further challenges. He detailed some of the work currently in progress and in highlighting the importance of Parent Councils in preventing disengagement by some families, emphasised that this would be best served when the Parent Council represented all families within that school. Councillor Aitchison went on to emphasise the importance of active inclusion within classes and suggested that seclusion could be used as an alternative to the ultimate sanction of exclusion. There was no doubt that there were challenges ahead and Councillor Aitchison was confident that Ms Manson's team was equipped to meet those challenges. He thanked the Scrutiny Committee for inviting Ms Manson and Ms Robertson to attend the meeting and for providing the opportunity to receive feedback from the Members. The Chairman thanked Ms Manson, Ms Robertson and Councillor Aitchison for their presentation and for the answers to Members' questions. Members expressed concern regarding the lack of powers available to the Council to ensure that all children within the area were receiving an appropriate standard of education.

## **DECISION**

- (a) **NOTED the Briefing.**
- \* (b) **AGREED TO RECOMMEND that Scottish Borders Council write to the Scottish Government requesting that the 1980 Scotland Education Act be amended to give Local Authorities the power to enforce Section 37 of the Act in order to**

**ensure that children who were being home schooled received a satisfactory education appropriate to their age and aptitude.**

### **MEMBERS**

Councillors Archibald and Gillespie left the meeting during consideration of the following item of business.

### **3. SCRUTINY REVIEWS - UPDATE ON SUBJECTS INCLUDED IN THE FUTURE SCRUTINY REVIEW PROGRAMME**

With reference to paragraph 5 of the Minute of 26 March 2015, there was circulated at the meeting an updated list of subjects which the Scrutiny Committee had been asked to review and which included the source of the request, the stage the process had reached and the date, if identified, of the Scrutiny meeting at which the information would be presented. In addition, Members were also asked to consider further subjects for inclusion on this list for presentation at future meetings of the Committee. When deciding whether subjects would be reviewed by the Scrutiny Committee, Members required a clear indication from the initiator of the request as to which aspects of the subject they wished to be reviewed. This would enable the Committee to determine whether the subject was appropriate for consideration. It was agreed that guidance should be made available to ensure that requests for Reviews contained sufficient information to enable the Committee to make its decision.

### **DECISION**

#### **AGREED:-**

- (a) the proposed list of subjects for review by Scrutiny Committee, as appended to the Minute, and any further actions detailed against particular reviews;**
- (b) that guidance would be made available to anyone submitting a request for a Scrutiny Review to ensure that the request contained sufficient information to enable the Committee to make its decision.**

*The meeting concluded at 12.10pm.*

## Scrutiny Committee – Review Subjects

The following are those subject areas which have been requested for Scrutiny to consider and the stage they have reached:

Source	Issue/Description	Stage	Proposed Scrutiny Committee meeting date
Graeme Donald	Religious Observance Policy } }These will be presented together at the } same meeting.	With Service Director Children & Young People	29 October 2015
Scrutiny Committee	Faith Schools }	With Service Director Children & Young People	29 October 2015
Scrutiny Committee	Attainment levels in Schools in Deprived Areas	With Service Director Children & Young People	24 September 2015
Scrutiny Committee	Home Schooling and Non-Schooling	With Service Director Children & Young People	20 August 2015 Completed
Scrutiny Committee	Mainstream Schools and Children with Severe Learning Difficulties	With Service Director Children & Young People	24 September 2015
Ettrick and Yarrow Community Council	Great Tapestry of Scotland – to scrutinise the whole process through which the decision appears to have been taken by SBC Councillors to site the great tapestry of Scotland in a new-build at Tweedbank. In particular, to scrutinise the extent to which a full option appraisal was undertaken of all possible sites and that the detailed business case was presented for all options prior to any decision being made.	Letter from CC dated 15 June 2015. Agreed not to consider until it had been presented to Petitions and Deputations Committee on 1 October 2015. EYCC will be notified.	
Ettrick and Yarrow Community Council – Allocation of	To review the extent to which the SBC budget for road repairs and maintenance is sufficient to meet need and the not unreasonable expectation that roads will be maintained in a safe condition. Within this context, to particularly examine how the allocation of budget for <u>rural roads</u>	Letter from CC dated 15 June 2015. Agreed to consider this.	Date to be agreed.

Source	Issue/Description	Stage	Proposed Scrutiny Committee meeting date
Budgets for Road Maintenance and Repairs	is arrived at and whether more should be allocated.		
Councillor Turnbull	Fees for taxi licensing – the amount paid to outside bodies in administering taxi licensing and how the fees for a licence in the Borders compare with those of neighbouring authorities.	Information to be collated and forwarded to Cllr Turnbull. <i>Scrutiny review on hold.</i>	
Councillor Bhatia	Protection of Private Water Supplies	Request further information from Cllr Bhatia to determine what would be scrutinised. <i>Scrutiny Review on hold.</i>	
Lib Dem Group	Implications of the Community Empowerment Act on the Council	Request further information from the Lib Dem Group to determine what would be scrutinised. <i>Scrutiny Review on hold.</i>	
Scrutiny Committee	Financing arrangements for the Transport Interchange in Galashiels - to include subsidy arrangements and departure charges.	Agreed to consider this.	To be agreed
Scrutiny Committee	Renewable energy – to include arrangements for biomass boilers at high schools.	Likely to be considered by the Executive Committee. <i>Scrutiny Review on hold.</i>	



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**REPORT**

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# CLOSING THE ATTAINMENT GAP IN SCOTTISH EDUCATION

Edward Sosu and Sue Ellis

**This report** outlines what teachers, schools, local and national government and other education providers can do to close the education attainment gap associated with poverty in Scotland.

It looks at attempts that have been made to tackle the issue and considers the evidence for which ones have proved successful. It makes recommendations for educators and policy-makers about what is likely to work. It is the first systematic review of how education policies, frameworks and interventions can be used to make education outcomes in Scotland fairer. It is a timely contribution to helping Scotland achieve the goals of *The Child Poverty Strategy for Scotland* (2014).

The report:

- explores the nature of the educational attainment gap between children from higher and lower-income households in Scotland, and its consequences;
- examines the impact of recent policy and practical interventions that have been made in Scotland;
- summarises evidence about what educators can do to close the educational attainment gap associated with poverty;
- explains why better research, evaluation and attainment evidence is needed;
- lists who needs to do what, at every level of policy and practice, to help children who live in poverty do well at school.

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# EXECUTIVE SUMMARY

There is clear evidence of a persistent gap in attainment between pupils from the richest and poorest households in Scotland. This gap starts in preschool years and continues throughout primary and secondary school. In most cases, it widens as pupils progress through the school years. Most importantly, the poverty attainment gap has a direct impact on school-leaver destinations and thus the potential to determine income levels in adulthood.

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Current legislation and policies in Scotland promote integrated services, joint working and flexibility, all of which are helpful to pupils from economically deprived homes. Education policies and frameworks give considerable freedom for professionals to make localised decisions, and therefore have the potential to address the achievement gap associated with poverty. However, the policy and implementation advice for education professionals needs to focus attention explicitly on this attainment gap and direct professionals to research-informed knowledge about how it can be narrowed. For some policies (for example, the current policies on formative assessment), there is little research evidence of its impact on the attainment of pupils from economically disadvantaged households, and educators need to be alerted to this.

Projects and interventions that have been implemented in Scotland to raise attainment or to address low achievement associated with poverty need stronger, more focused, and data-driven evaluations to identify those that have been effective so that they may be scaled up and to learn from those that have not been effective. It is hard to find robust evidence about recent and existing projects.

The following interventions have a positive impact on reducing the attainment gap associated with pupils from economically disadvantaged households:

- effective parental involvement programmes that focus on helping parents to use appropriate strategies to support their children's learning at home rather than simply seeking to raise aspirations for their children's education;

- carefully implemented nurture groups and programmes to increase social, emotional and behavioural competencies;
- high-quality, full-day preschool education for children from disadvantaged backgrounds;
- collaborative work in small groups if effective collaboration is thoroughly taught across the school and facilitated by teachers;
- peer-tutoring, metacognitive training and one-to-one tutoring using qualified teachers, trained teaching assistants, or trained volunteers;
- literacy instruction that has a responsive learning mix of decoding, fluency, comprehension, engagement and digital literacy research skills;
- whole-school reforms, particularly those that are informed by research evidence and focus on improving attainment by using effective pedagogies, have a shared strategic plan that encompasses academic, social and emotional learning, are supported by significant staff development and are data-driven, multi-faceted and consistently monitor impact on attainment;
- high-quality, evidence-informed, context-specific, intensive and long-term professional development;
- mentoring schemes that adhere to particular characteristics associated with efficacy;
- academically focused after-school activities such as study support;
- targeted funding that avoids situations where budget increases in one area are undermined by reduced budgets elsewhere.

Evidence can help education professionals understand and address the multiple aspects of disadvantage that affect children's lives. It can help identify the causes of negative effects and sustainable initiatives likely to work, and it can help to direct core resources appropriately. However, in Scotland the quality and quantity of attainment data available for primary and early secondary pupils is highly variable. This limits the ability of professionals to design, monitor and evaluate the curriculum and contributes to a lack of reliable knowledge. Active measures to promote the role of data in directing professional decisions would be required to prevent the high-stakes testing regimes emerging from the use of such data.

National and local projects do not routinely focus on pupils from economically disadvantaged households in project conception, design and evaluation. Nationally the educators of Scotland need to develop policies to better create, collect and share knowledge of:

- interventions that improve the performance of economically disadvantaged groups;
- ways to make curriculum design and planning (at school, class and individual level) more nuanced and effective for economically disadvantaged groups;
- ways to deploy staff and resources to raise achievement in economically disadvantaged groups;

- 
- methods to monitor and evaluate pedagogies, resources and initiatives for impact on economically disadvantaged groups as well as general average attainment.

To be more equitable, Scottish education needs to ensure that key actors (national government; Education Scotland; local authorities and schools; the Scottish Qualifications Agency (SQA); non-government stakeholders such as charities and unions; and universities) share and shape how knowledge about poverty and attainment is used. Poverty and attainment need to become more visible in advice about developing the curriculum, improving schools and raising educational outcomes for all pupils.

Professionals at all levels need to understand how poverty influences attainment, and draw on an evidence base of ‘what works, for whom, in which contexts, and why’ to enable them to implement change in the most effective way. Focused staff development and a national ‘knowledge bank’ and mobilisation project would help this.

## Key recommendations

National government should:

- make robust attainment data available to all teachers, including those in the primary and lower secondary sectors, so that it can be used by schools for internal curriculum design, intervention and monitoring. This is not an endorsement of high-stakes testing regimes;
- establish a national knowledge bank and mobilisation strategy, underpinned by clear principles of what constitutes robust knowledge to sufficiently inform national, local authority and school-level interventions. This knowledge bank should enable education professionals to attend to different kinds of evidence, consider issues of fidelity and to understand the core characteristics that make a particular intervention successful. It should draw on academic and professional expertise.

Education Scotland should:

- analyse and discuss attainment profiles by deprivation deciles in all school and local authority inspections rather than focusing on general attainment levels. Educators should show inspectors how they draw on this data and on knowledge of what works to inform decisions;
- exemplify how national frameworks and strategies (including Curriculum for Excellence/Building the Curriculum; Journey to Excellence/How Good is Our School; and Getting it Right for Every Child) must be used with robust, research-informed knowledge to reduce the poverty-related attainment gap;
- commission national projects and identify local projects that focus on closing the poverty gap in attainment and that make good use of data in identifying, scoping, designing/planning, implementing, monitoring and evaluating impact.

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Local authorities should:

- ensure that improving the educational outcomes for pupils from economically disadvantaged homes is a priority in the local authority and school development plans;
- focus ‘support and challenge’ discussions on the poverty attainment gap and on nuanced application of robust research-informed knowledge of what might work in a particular school context;
- promote high-quality professional development programmes, conferences, networks, projects and implementation advice for teachers. These should be evidence-driven, promote school-to-school links and be focused on raising attainment to close the poverty gap

School staff should:

- raise their individual and collective awareness and understanding of the achievement gap associated with poverty and knowledge of how it might be addressed;
- monitor and analyse the poverty and attainment links in the school/ classroom and consider the implications for curriculum design, planning and teaching (for the school, classes and individual pupils);
- implement research-informed interventions to raise achievement among economically disadvantaged groups in a way that will have a positive impact on individual pupils, the class and the school.

Universities should:

- promote evidence-based knowledge about poverty and what works for pupils from economically disadvantaged homes in their pre-service, award-bearing and non-award-bearing career-long professional learning programmes;
- develop empirical research and evaluation studies that generate knowledge and understanding about how poverty-linked educational inequality operates and can be addressed in Scottish education.

Other stakeholders should:

- raise awareness and understanding of how poverty and educational attainment are linked through political, public and professional engagement;
- consider how the educational outcomes for pupils living in poverty and existing research might inform and shape the projects they fund.

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# 1 NATURE AND PERSISTENCE OF THE ATTAINMENT GAP AND ITS IMPACT ON LATER OUTCOMES

This chapter examines the attainment gap between children from the most and least deprived households and its impact on later outcomes.

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Overall:

- There is evidence of an attainment gap in the early years and this gap persists and expands across the years of formal schooling.
- Literacy and numeracy measures continue to show deprivation-related patterns throughout primary school.
- Children from deprived households finish compulsory schooling with significantly lower levels of attainment than their counterparts from more affluent areas.
- The observed gap in attainment is linked to the subsequent destinations of children and young people after school, and has repercussions for future job market success.

In Scotland today, over one in five children lives in poverty. It affects their health, their education, their connection to wider society and their future prospects for work. Although Scottish education does well for many of its children, it does not serve these most vulnerable children well and the gap in educational attainment between pupils from the richest and poorest background is wider than in many similar countries. A report from the Organisation for Economic Co-operation and Development (OECD) into the quality and equity of schooling notes that:

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'Little of the variation in student achievement in Scotland is associated with the ways in which schools differ... Who you are in Scotland is far more important than what school you attend, so far as achievement differences on international tests are concerned. Socio-economic status is the most important difference between individuals.'  
OECD, 2007, p. 15

An analysis of data from different tiers of the educational system shows that the attainment gap in Scotland is pervasive, starting from preschool and widening as children move up through the school system.

## Attainment gap in the early years

A recent longitudinal study, the *Growing Up in Scotland* survey, identifies the nature of this attainment gap among preschool children in Scotland (Bradshaw, 2011). Data on changes in the cognitive ability of children aged 3 to 5 from different income backgrounds shows that children from high-income households significantly outperform those from low-income households in vocabulary and problem solving at both ages. At age 3 and 5, average vocabulary scores for children from low-income households were significantly below that of children from high-income households (0.77 and 0.73 standard deviations respectively). By age 5, the scores correspond to a 13-month gap in vocabulary development. In problem-solving, the average attainment of children from low-income households was below those of children from high-income households at age 3 and grew by age 5 (0.69 and 0.73 standard deviations respectively). This difference corresponds to a gap of about 10 months in problem-solving ability at age 5 (Bradshaw, 2011). On the whole, while the vocabulary gap narrows slightly from age 3 to 5, it widens on measures on problem-solving. The above data provides evidence that the attainment gap already exists by the age of 3 and begins to widen in certain domains of learning by age 5.

## Attainment gap in primary and secondary school years

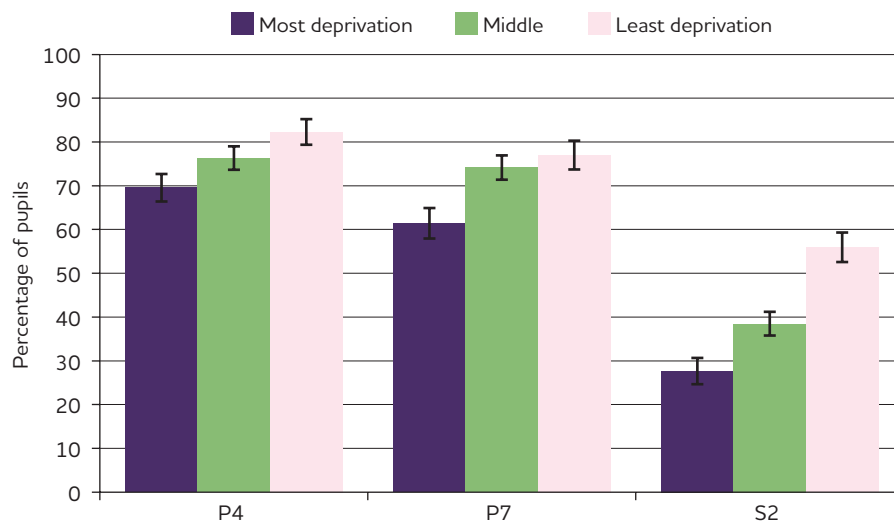
The annual Scottish Survey of Literacy and Numeracy (SSLN) is a sample survey that monitors academic attainment at key stages of primary to secondary school. Pupils are assessed at Primary 4, Primary 7 and S2, and the assessment is linked to Curriculum for Excellence (CfE) levels<sup>1</sup> (Scottish Government, 2013a). This gives an overview of the nature of attainment across key stages of education.

The first numeracy survey was undertaken in 2011.<sup>2</sup> Results (Figure 1) indicated that attainment was stratified by deprivation.<sup>3</sup> The attainment gap in numeracy between children from the most and least deprived background was evident at all levels. It starts at P4 and widens by the time children get to S2. At S2, pupils living in areas of low deprivation were more than twice as likely to be assessed as performing well, or very well, than those in areas of high deprivation.

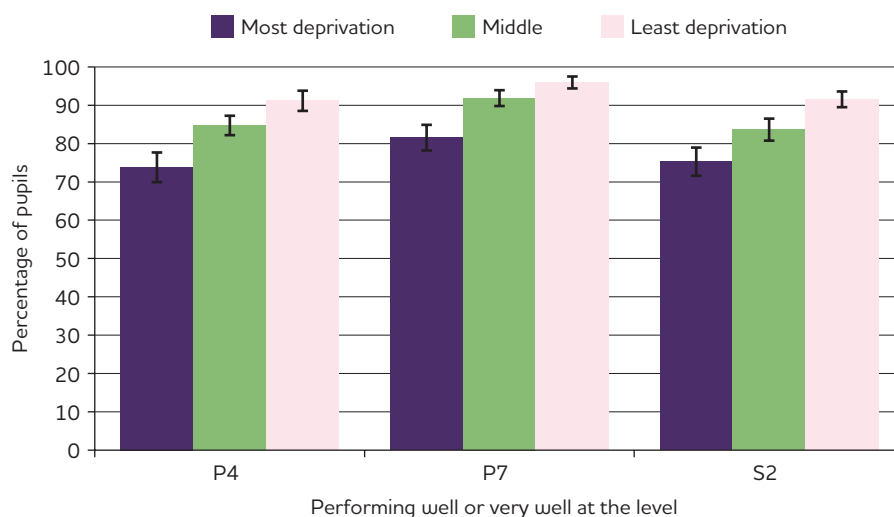
The 2012<sup>4</sup> survey assessed attainment in literacy. Analysis of individual components indicates an attainment gap in literacy associated with deprivation. Figure 2 shows significant attainment gaps in reading at all stages of education (P4, P7 and S2). Overall, there was a 17, 14 and 16 percentage point difference between children from the least and most deprived backgrounds at P4, P7 and S2 stages respectively.



**Figure 1: Attainment gap in numeracy based on getting 50% or more of task successfully completed**



**Figure 2: Attainment gap in reading based on getting 50% or more of task successfully completed**

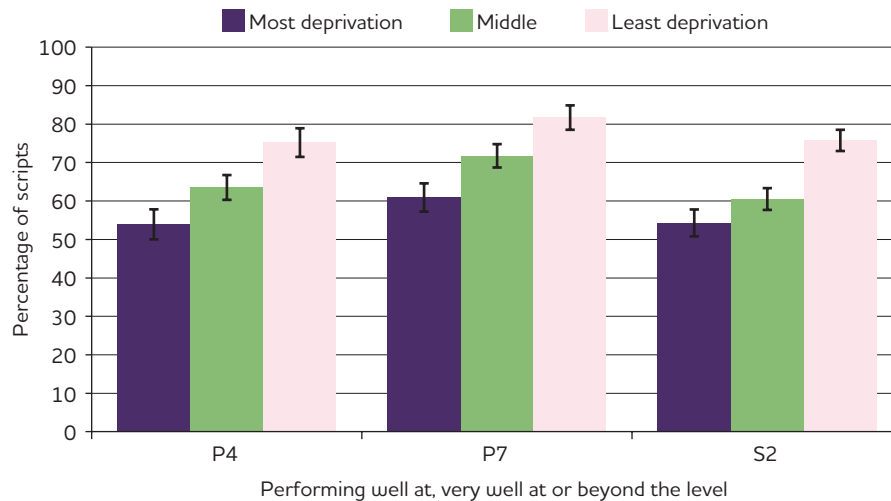


Similar trends were observed in children’s performance on writing (Figure 3), although the gaps in attainment were much wider than for reading. On the whole, the average attainment gap between children from the most and least deprived background across the various stages was 21 points.

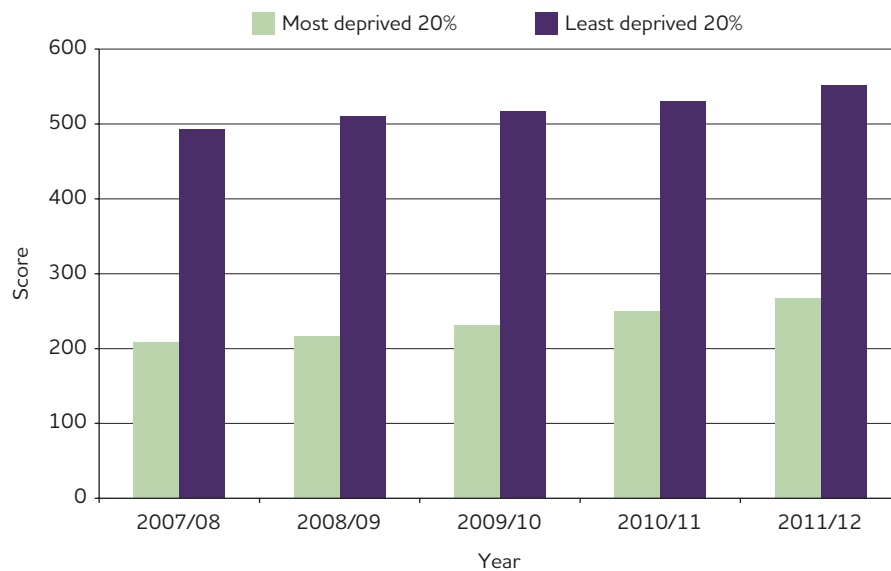
### Attainment gap at the end of compulsory education

A key measure of attainment at S4, the end of compulsory schooling, is the average tariff score.<sup>5</sup> This is an overall measure of attainment of school leavers. Available data from 2007/08 to 2011/12 (Figure 4) shows that over this period the attainment gap has remained unchanged. Even though overall leaver attainment increased slightly for all groups, the gap between children from the most and least deprived background remained the same. There appears to be an average of 300 points difference in attainment between the two groups over the period. This corresponds to about ‘four A grades’

**Figure 3: Attainment gap in writing based on getting 50% or more of task successfully completed**



**Figure 4: Average tariff scores of school leavers by SIMD (Scottish Index of Multiple Deprivation), 2007/8 to 2011/12**



in a Higher level exam or ‘three B grades’ at Advanced Higher.<sup>6</sup> Higher and Advanced Higher qualifications are taken after the end of compulsory schooling in Scotland and are required for entry into university.

A study by Howieson and Iannelli (2008) found that while a substantial proportion of low attainers continue at school beyond compulsory education (that is, after S4) in Scotland, the majority of those who stay on tend to come from more advantaged backgrounds. These ‘stayers’ are more likely to obtain a formal qualification by the time they are 22-23 years compared with low attainers who leave early (63% versus 14%).

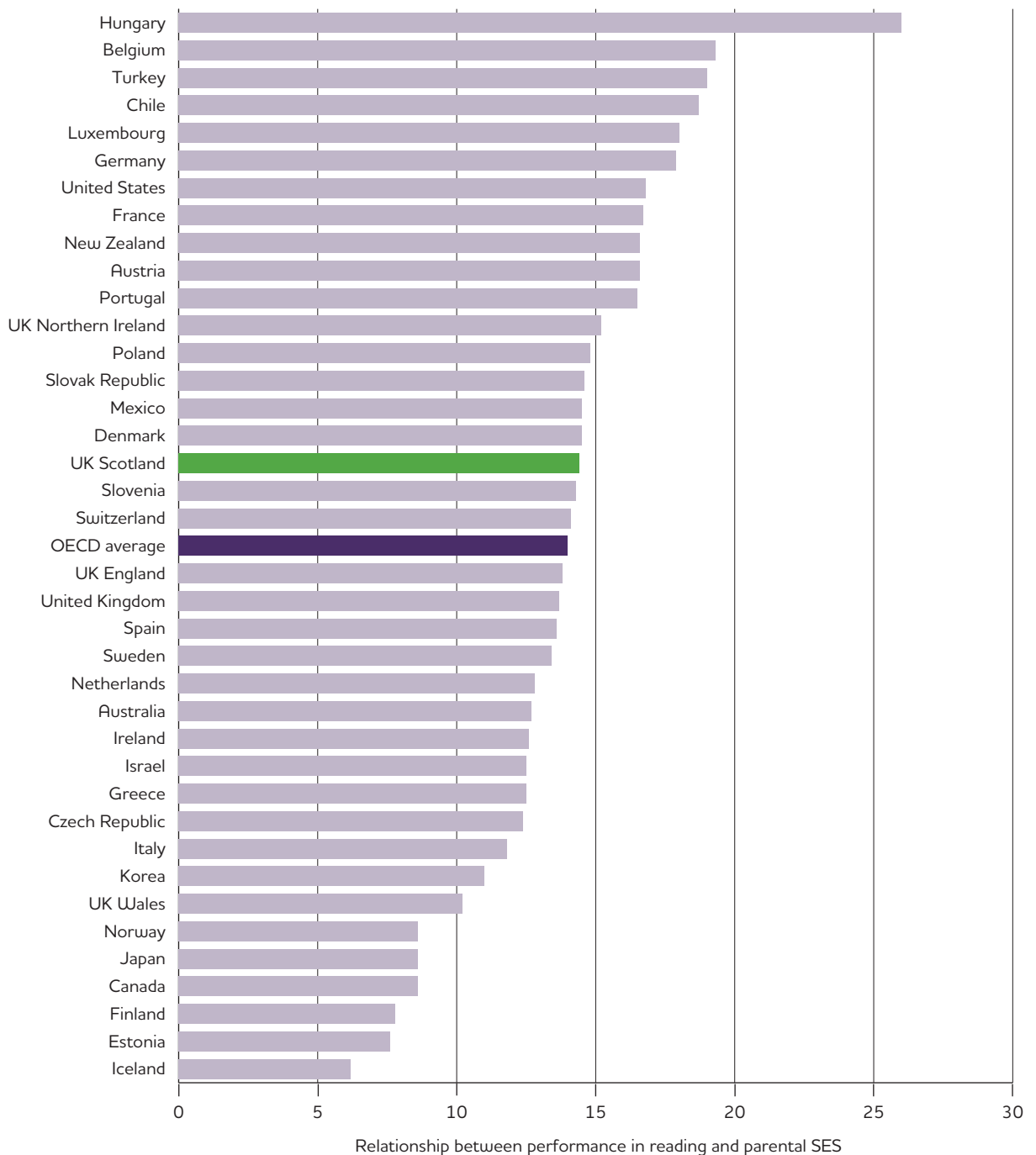
### Comparative attainment gap across OECD countries

The attainment gap between children from most deprived and least deprived households in Scotland is large compared with that of other countries. One international comparator is the Programme for International Student Assessment (PISA) (OECD, 2013), which focuses on the attainment of

15-year-olds in reading, mathematics and science. An OECD report (2007) commissioned by the Scottish Government indicated that in Scotland parental socioeconomic background (SES) was more important for children's attainment than the school they attended. In response to this, and to the UK 2010 Child Poverty Law, various policy mechanisms have been put in place to close the gap. The 2009<sup>7</sup> PISA study suggests that the association between parental SES and attainment in reading persists and is stronger in Scotland than the OECD, English or Welsh averages (Figure 5).

More detailed analysis suggests that correlation between poverty and educational attainment might even be worse for certain categories of

**Figure 5: Strength of relationship between performance in reading and parental economic, social and cultural status in OECD countries<sup>8</sup>**



Source data: [www.scotland.gov.uk/Publications/2010/12/10141122/15](http://www.scotland.gov.uk/Publications/2010/12/10141122/15)

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children in Scotland than in other countries. For instance, Jerrim (2013), using the same 2009 PISA survey, found that the brightest boys from poor homes in Scotland are almost three years behind those from the richest homes in reading. Scotland's attainment gap in reading for boys was the highest in the developed world, comparatively worse than that in emerging economies like Chile, Turkey and Mexico.

Newly released findings from the 2012 PISA survey (Boyling *et al.*, 2013) at the time of finalising this report suggests that the attainment gap in Scotland narrowed slightly compared with that in the 2009 survey. While this is welcome news, the impact of disadvantage on attainment was still substantial. For instance, students who came from households that were just one point above the measure of socioeconomic status were roughly about one year ahead in education. Additionally, a longitudinal trend using other datasets is required in order to be confident that the observed narrowing of the attainment gap is actually taking place. However, the observed changes from the 2012 result should give stakeholders the encouragement that persistent effort is likely to pay off in terms of closing the gap.

### **Impact of the poverty attainment gap: destinations after leaving school**

Educational inequality has repercussions for future labour market success as well as other social, emotional and health outcomes (Parsons and Bynner, 2007). The Scottish Government has set out a National Policy Framework, with five strategic objectives, 16 national outcomes and 50 national indicators covering all aspects of life and provision. The extent to which these are being met is measured through Scotland Performs, which reports on progress against the national indicators. One of the national indicators is to 'increase the proportions of young people in education, training or work', with the indicator measure being the 'proportions of young people in a positive destination 9 months after leaving school' (Scottish Government, 2013b).

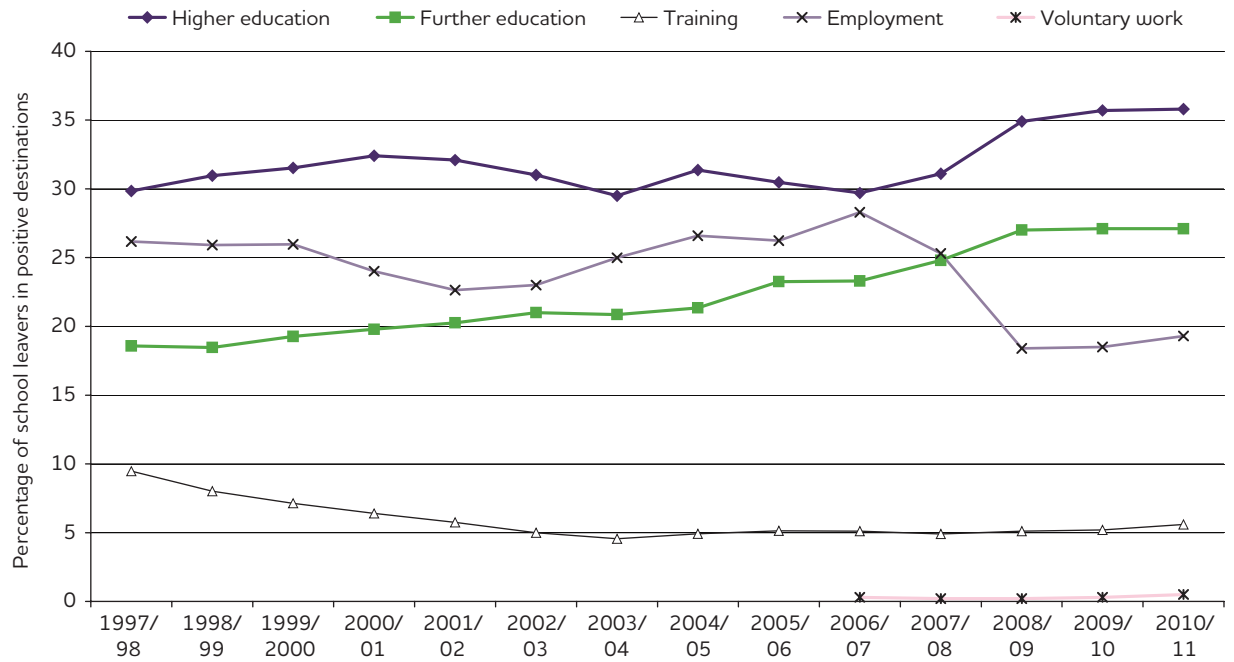
The Scottish School Leavers Survey (SLSS) produces information about destinations of young people post compulsory schooling. The survey measures the proportion of school leavers in positive destinations. 'Positive destinations' include higher education, further education, employment, training, voluntary work (since 2006/07) and activity agreements.<sup>9</sup> Data from 1997/98 to 2011/12 (Figure 6) indicates that on the whole, a substantial proportion of school leavers (almost 90%) end up in positive destinations (Scottish Government, 2013c). The percentages of leavers in unemployment have remained fairly consistent since 2001/02, at around 10%.

Examination of school-leaver destination by deprivation shows that, in comparison with school leavers from least deprived families, those from the most deprived background are less likely to end up in positive destination (Figure 7).<sup>10</sup> However, the relative gap between deprivation and destination appears much smaller than that observed between tariff scores. For instance, in 2011, while the average tariff and percentage of positive destination was 552 and 95% respectively for students from the least deprived backgrounds, tariff score and positive destinations were 268 and 82% for those from the most deprived background.

A more detailed analysis of types of destination provides a better indication of how school-leaver destination is stratified by poverty.<sup>11</sup>

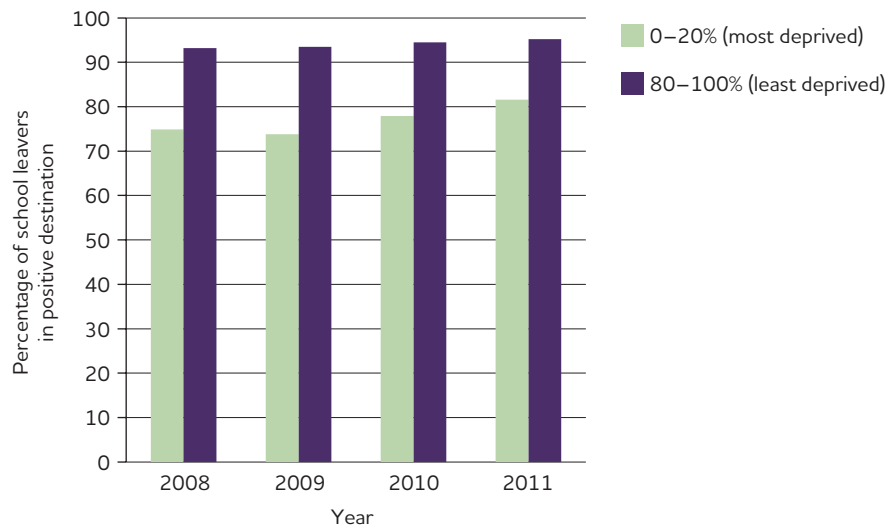
As evident in Figure 8, the majority of students from deprived backgrounds are more likely to end up in destinations other than higher

**Figure 6: Pattern of school-leaver destinations in Scotland, 1998-2011**



Source: Scottish Government, 2013c

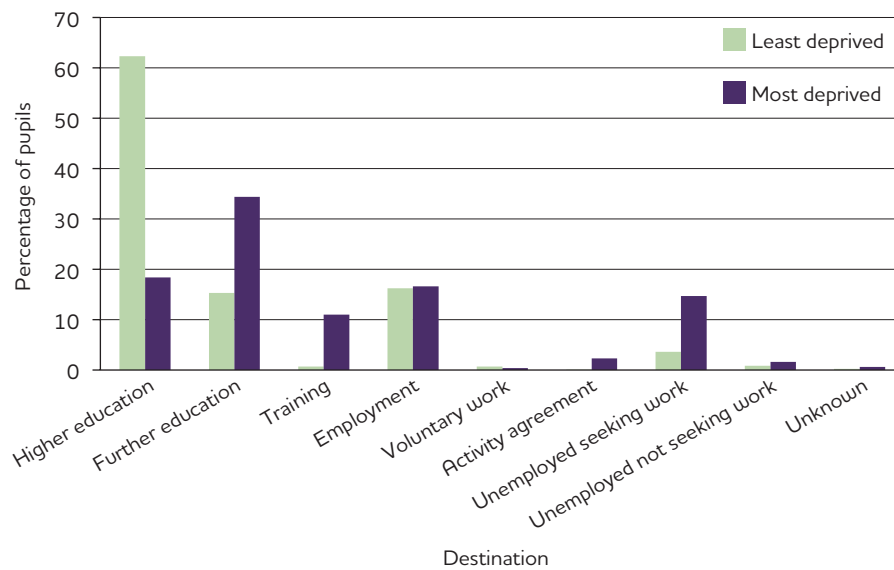
**Figure 7: Leaver destination by deprivation**



education. Thus, the attainment gap has a significant repercussion for future destinations, with children from the most affluent backgrounds ending up in higher education and those from the most deprived deciles more likely to end up in further education colleges, training or unemployment.

It is important to know that these differences in destination will have a direct influence on future incomes. The benefits of a university degree include increased learning potential and improved financial status. The Browne Report (2010) states that in England, over a lifetime, a university degree typically results in earnings of over £100,000 greater than those of an individual with A levels but no degree. Dearden *et al.* (2008) calculated that the average lifetime earnings difference between graduates and non-graduates (i.e. not restricted to those with A levels) is around £400,000 and could be closer to £600,000, depending on national productivity growth figures. While the figures vary, depending on the background variables taken

**Figure 8: Types of leaver destination by deprivation decile**



Source data: [www.scotland.gov.uk/Publications/2010/03/30180354/0](http://www.scotland.gov.uk/Publications/2010/03/30180354/0)

into account, there is no doubt that, in general, the higher the qualifications obtained, the greater the financial benefits and improved socioeconomic standing.

Several studies have found a direct relationship between educational attainment and future employment, occupational status and earnings (e.g. Bynner *et al.*, 2002; Howieson and Iannelli, 2008). In Scotland, Howieson and Iannelli (2008), using the SSLS, found that educational attainment at the end of compulsory education (S4) significantly predicted several labour market outcomes at the age of 22–23. Low attainers were more likely to be unemployed (12% versus 4%), working part-time (12% versus 6%) and earning less (difference of £23.45 and £44.94 per week for men and women respectively). Additionally, low attainers on average were more likely to be in low-status positions in their jobs. Considering that the majority of low attainers are from disadvantaged households, the findings suggest that the cycle of social inequality will continue if greater attention is not paid to closing the attainment gap. As indicated by Howieson and Iannelli (2008), ‘the attainment of disadvantaged young people is [likely to be] of considerable significance to their future life chances – in an unequal world, such apparently objective qualifications may enable them to improve their disadvantaged position’ (p. 273).

In summary, there is clear evidence of a persistent attainment gap between pupils from the richest and poorest household in Scotland. This gap starts in preschool years and continues throughout primary and secondary school. In most cases, it widens as pupils progress through the school years. Most importantly, the poverty attainment gap has a direct impact on school-leaver destinations, future labour market success and the potential to determine income levels in adulthood.

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## 2 POLICY AND INTERVENTION RESPONSES TO THE POVERTY ATTAINMENT GAP IN SCOTLAND

This chapter examines some of the policy and intervention responses that Scotland has made to reduce the poverty attainment gap.

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The chapter indicates the following:

- Current policies promote integrated services, joint working and flexibility, all of which are helpful to pupils from economically deprived homes.
- Education policies and frameworks have the potential to address the achievement gap associated with poverty. However, implementation advice should indicate how educators use them to address poverty-linked underachievement. For some policies, there is minimal research evidence of effective impact on the attainment of pupils from economically disadvantaged households and professionals need to be alerted to this.
- Projects and interventions that have been implemented in Scotland to address low achievement associated with poverty include:
  - early intervention programmes;
  - Schools of Ambition;
  - 'good practice' advice to schools;
  - literacy engagement projects;
  - widening participation in further and higher education;
  - targeted educational funding strategies.

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More robust, focused, data-driven evaluations are necessary to understand which of these projects has been effective and to learn from them.

There is a range of legislation, policies, strategies and frameworks in Scotland designed to create the context for schools and others to address educational underachievement associated with poverty. A few contain specific, focused mechanisms to reduce the correlation between low educational attainment and poverty, but many more are wider initiatives offering broad aims and levers that, if appropriately interpreted and applied, could enable educational establishments to address the impact of poverty on educational attainment. To understand the context of these responses, it is important to note that governance arrangements in Scotland are such that policy frameworks provide guidance for local authorities, schools and teachers rather than prescribed content or programmes of study. Thus, while government makes laws and policies, implementation is down to local authorities and schools. In theory, this should enable programmes to be flexible and tailored to meet the needs of the communities they serve.

## Legislation, policies and frameworks

### Child Poverty Strategy for Scotland

The Child Poverty Strategy for Scotland (Scottish Government, 2011a) promotes a child-centred, multi-agency approach to tackling economic disadvantage based on the principles of:

- early intervention and prevention so that families do not fall into poverty;
- prioritising the skills, knowledge and views of individuals requiring support;
- promoting the rights of a child to be involved and heard in decisions that affect their lives;

It draws together policies to promote co-operation between the Scottish Government and agencies such as the NHS and local authorities. Sime (2013, p. 863) explains that the strategy is to be achieved through initiatives such as:

- Achieving our Potential: A Framework for Tackling Poverty and Income Inequality in Scotland (Scottish Government, 2008a), which requires local authorities to target anti-poverty strategies in service delivery, including strategies to improve children's life chances.
- The Early Years Framework (Scottish Government, 2008b), which is an outcomes-focused, ten-year plan to re-envision how support for young children and their families is delivered. It promotes better-quality preschool provision and policies that emphasise the importance of putting children at the centre of service delivery.
- Equally Well (Scottish Government, 2008c), which promotes universal health services as well as early and targeted interventions. Thus the Child Poverty Strategy indirectly aims to close the attainment gap through quality early years provision.

The revised child poverty strategy (Scottish Government, 2014) sees education as a way out of poverty. The proposal is that all the policies and



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programmes aimed at tackling child poverty should think about how to close the attainment gap between rich and poor in schools, as a key priority for improving children's life chances. If the revised strategy is to make a difference to the life of children from the most disadvantaged households, then greater commitment and emphasis needs to be placed on using evidence of what works, for whom, and in what context to inform activities aimed at closing the attainment gap.

### Children and Young People's Bill

The proposed Children and Young People's Bill (2013)<sup>12</sup> is in 13 parts and covers a wide range of children's policy. It directly prompts local authorities to focus on the early years and highlights the need for interdisciplinary work across agencies to alleviate the impact of poverty on children's life chances. Investment in early years education is seen as a way to reduce the need for interventions that address academic failure in later years and the Bill increases the entitlement of every child to nursery education from 450 hours to 600 hours, although it makes no correspondingly hard-and-fast recommendations about quality of provision, which is also crucial. It takes into account the link between different agencies and programmes that affect children in Scotland, linking, for example, education and childcare together so that they may provide opportunities to alleviate disadvantage and break cycles of deprivation by allowing parents/carers to go out to work.

### Parental Involvement Act

The Parental Involvement Act (2006) (Scottish Executive, 2006) gives parents the right to be more involved in their children's learning and makes local authorities responsible for promoting parental involvement in learning at home, in home-school partnerships, and in promoting parental representation in schools. A National Parenting Strategy was also launched in 2012. Currently, very little evaluation exists on how these are being implemented and their impact on children's attainment.

### Curriculum for Excellence and Building the Curriculum

Curriculum for Excellence (CfE) (Scottish Executive, 2004) is the national curriculum framework that sets out the aims, principles and approaches that should underpin the educational system for three- to 18-year-olds. The CfE Action Plan 2011-2012 makes reference to 'raising standards and attainment levels through excellence in learning and teaching' (Education Scotland, 2011). The curriculum also offers several important themes that could empower the delivery of education to disadvantaged groups: it makes literacy, numeracy and health and wellbeing the responsibility of all teachers; it promotes flexibility, personalisation and choice; and it challenges schools to develop in their pupils four capacities, one of which is being 'successful learners'.

Evidence from existing reviews suggests that adopting a new curriculum per se does not result in improved outcomes for children living in poverty (Sharples *et al.*, 2011). However, CfE could be powerful force for closing the attainment gap if teachers, schools and local authorities used it to tailor their curricula, classrooms, school systems and pedagogies to meet the educational needs of children from deprived households. Thus, its impact will depend on focused implementation guidance that ensures schools effectively use the leverage it offers in making change happen.

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## Journey to Excellence

A key mechanism for delivering improvement through the implementation of the new curriculum is Journey to Excellence. This identifies ten dimensions of excellence and provides an improvement guide that reflects 'up-to-date evidence of excellence'. Journey to Excellence links to four strategies designed to lever change in local authorities and schools:

- identification of needs, through Getting it Right for Every Child (GIRFEC);
- formative assessment, through Assessment is for Learning (AifL);
- self-evaluation, based on How Good is Our School (HGIOS);
- enterprise and employability skills, through Determined to Succeed (DtS).

### *Getting it Right for Every Child*

GIRFEC is a national policy designed to ensure that all children and young people receive the help they need to be successful in life, including at school. It encourages collaborative inter-professional approaches to working with children and families and requires teachers to consider the barriers that pedagogies, curriculum design, learning environments or school systems may present to learning for individuals or groups, and to respond to these in dynamic and creative ways. GIRFEC is designed to focus attention on how schools might better meet the needs of all students, including educationally and economically disadvantaged students. Its SHANARRI Well-Being Indicators (Safe, Healthy, Active, Nurtured, Achieving, Respected, Responsible and Included) have encouraged a focus on disadvantaged groups. Local authorities have responded to this, and to the strategy Determined to Succeed (see below), with projects that, for example, improve family partnership working in all sectors and introduce homework clubs and nurture centres into primary schools. GIRFEC also prompts intervention for individual pupils via the staged intervention mechanism. However, this only begins once there are concerns about an individual pupil failing to achieve.

An Education Scotland report (Education Scotland, 2012b) indicates ongoing challenges to inter-agency working in GIRFEC and low awareness among classroom teachers of key requirements. Unless addressed, these will limit the potential for GIRFEC to lever change in Scotland.

### *Formative assessment: Assessment is for Learning*

Scotland's AifL strategy aims to improve educational outcomes for children through formative assessment strategies. International research on similar AfL programmes shows that the approach can have powerful effects on attainment, although this is dependent on the quality of implementation (Higgins *et al.*, 2013). However, we have been unable to find any studies showing how such programmes affect socioeconomically disadvantaged groups. A CERI/OECD (2008) review of evidence on formative assessment concludes: 'There is a need for more refined knowledge of what works for students in different socio-economic or demographic groups' (p. 12). Although AifL has been a major policy focus in Scotland, there have been no evaluations directly measuring its impact on general educational attainment or evaluations of its impact on specific groups. There has been a Scottish evaluation of stakeholder views of its impact, but this did not cite hard evidence of impact on pupil attainment. We simply do not know how AifL has affected the attainment of students from economically disadvantaged backgrounds or whether it impacts differently when these students are a minority group in the class as opposed to the majority. Nevertheless, Scottish policy-makers view AifL as a key plank in delivering social equity through schooling.

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### *How Good is Our School*

HGIOS is a self-evaluation framework to help educationalists evaluate a school's impact 'in improving the educational experience [sic] and lives of Scottish pupils through learning and their successes and achievements'. It is a lever for change, used by schools in self-evaluation, and by local authority and Education Scotland inspectors. Currently, poverty is only alluded to indirectly in HGIOS quality indicators and exemplification. For example HGIOS 3, Equality and Fairness, states: 'In our school, culture and language, disability, gender, race, religion, sexual orientation and additional support needs do not become barriers to participation and achievement'. Clearer badging and signposting of equity issues relating to poverty and a focus on how schools are closing the attainment gap would encourage schools to focus on it.

### *Determined to Succeed*

The DtS strategy aimed to improve enterprise and employability skills. It specifically acknowledged the challenges of poverty and the harsh consequences of low school attainment. It required schools to promote learning through a range of work-related contexts and work experience, and to ensure clear progression pathways for young school leavers. While DtS acknowledged the attainment gap, its main focus was not on reducing the gap but on providing young people with employable skills at the end of compulsory education. The final report (Bryan and Granville, 2011), however, highlighted continuing implementation challenges, such as establishing sustained enterprise contexts to foster learners' achievement, and effectiveness of enterprise experience and its impact on pupils' achievement. Direct funding for the implementation of this policy has now ended.

We have been unable to find an evaluation or research study that looks in a systematic and explicit way at how DtS affected different groups of pupils, or that examines its implementation in terms of the affordances, capacities and challenges faced by schools serving different communities. Such knowledge is important because it would enable funding to be more targeted, and generate new knowledge that could be shared to effect efficient implementation.

### **Early Years Collaborative**

The Scottish Government's Early Years Collaborative involves a coalition of Community Planning Partners comprising social services, health, education, police and the third sector. Launched in October 2012, it aims to accelerate and convert principles set out in the Early Years Framework and GIRFEC into practical action. Its ambition is to 'make Scotland the best place in the world to grow up in' through reducing inequality for the most vulnerable children and providing all children with the opportunity to have the best start in life. Key commitments include 85% of children to reach all expected developmental milestones during their 27- to 30-month health review by 2016, and 90% of children to attain all milestones by the start of primary school by 2017. These ambitions, if systematically implemented, monitored and evaluated to ensure that they are achieved, are likely to make significant contributions to closing the attainment gap.

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## Projects and interventions

### Early intervention programmes

Scotland's first early intervention programme (EIP) was launched in 1997 with the aim of raising literacy and numeracy skills of pupils in the first two years of primary school (Fraser *et al.*, 2001). The programme was a direct response to concerns that some children, especially those from disadvantaged backgrounds, did not receive the 'right start' to primary school and made poor progress subsequently. Initial evaluation of the EIP concluded that the programme had successfully raised attainment in literacy and numeracy, but had not closed the attainment gap associated with poverty. There was, for example, a significant overall rise in reading attainment during the programme, but the relationship between attainment and free meal entitlement remained in evidence and was of a similar order across the years of implementation. OECD (2007) reported a delay in widening the gap from P4 to P5, which it attributed to IEP. A short-term study of the impact of the EIP on progress in the first year of primary school in one Scottish authority reported considerable variation in attainment levels in literacy and numeracy on entry to primary school (Croxford, 1999).

### Schools of Ambition

Schools of Ambition was a £15-million scheme to bring about a step change in ethos and performance of secondary schools in Scotland. It involved 52 schools or school clusters that received £100,000 additional funding per year for a period of three years to implement planned transformational change (Menter *et al.*, 2010). The original intention was to involve 100 schools, but the project was stopped early. Schools in the project also got support from Scottish universities. The schools engaged in a number of initiatives to improve management, leadership, student engagement, curriculum breadth, parental engagement and post-school destinations. The model sought to generate knowledge and then share it via school-to-school networks. The evaluations vary in quality and are not always clear about the specific pay-offs for different groups of pupils in the school (LTS, 2010). Importantly, projects were not specifically labelled as poverty intervention projects, which means that they may not be easily recognised as relevant to those schools that could benefit most.

### 'Good practice' advice to schools

Education Scotland summarises information on a range of curriculum topics and intervention projects. These generally take the form of 'good practice' guidance and tend to rely on stakeholder impressions rather than hard data on attainment rises. The project reports are written in ways that mean the evidence base is not immediately traceable. There are also advisory groups (e.g. the Excellence Group, for mathematics; the Standing Literacy Commission) and subject-specific action plans (e.g. the National Science and Engineering Action Plan) that attempt to improve uptake and attainment in specific curricular areas. The Scottish Survey of Literacy and Numeracy (SSLN) also issues curriculum advice based on an analysis of pupils' performance on specific test items. All these bodies offer general advice on 'good practice' lesson activities and content rather than advice about how to make an impact on the most disadvantaged pupils, although this is clearly the group that does least well in the tests.

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## Programmes and school interventions: examples of reading engagement

Agencies such as the Scottish Book Trust, Education Scotland and local authorities have promoted a raft of projects to increase reading engagement. The Bookbug programme provides free books for all children and their families from birth to 4 years and the Book-bags programme promotes free-play at home around storybooks for nursery and infant children. Interventions for older children include Scotland Reads; literature circles (Allan *et al.*, 2005; Pearson, 2010); Book Week Scotland; and Booklists projects. It is likely that some of these projects are successful with some groups, but we could find no evaluations of their long-term impact, and no direct evidence of impact on attainment or engagement. Most appear to target the 'general population' and without data it is difficult to assess which projects are worth 'scaling up' and which have the most impact on low-literacy and economically disadvantaged children, or to learn lessons for future project design.

Some primary schools use commercial computer-based library reading programmes and non-computerised local authority programmes to increase the quantity of reading in levels P4-P7. However, there is no published evidence of the impact of these technocratic solutions on either general reading attainment or on disadvantaged students in Scotland. The programmes are not designed to promote reader choice (important in creating an identity as a reader), or to capitalise on the social spaces and networks that create engaged readers.

## Widening participation in further and higher education

At the other end of the age spectrum, the Scottish Funding Council for Further and Higher Education set up four regional forums to increase participation in further and higher education from population groups who were under-represented. There are also a number of outreach projects where universities and other organisations work with schools with traditionally low numbers of pupils progressing to higher and further education (e.g. On-Track, Aspire North). Further, the Scottish Government has widening access agreements with higher education institutions as part of their funding settlement, and has maintained free tuition for higher education. These initiatives are likely to have contributed to recent increases in the number of students from low-income households entering further and higher education (Scottish Funding Council, 2013), although it is difficult to make direct causal attributions. There is still a huge gap in entry to higher education. Destinations are still highly stratified by poverty and some widening access programmes only target students from low-income households who have a high likelihood of attaining the required grades to go to university. These latter programmes do not help the vast majority of children and young people from disadvantaged households. This is because they are likely to have low levels of educational attainment and not be on target to achieve the grades required for university.

## Targeted educational funding strategies

Local authorities receive education budgets from the Scottish Government based on a common formula across Scotland, and these are not ring-fenced. This means that, in theory, local authorities can decide how to allocate their budget for education, but in practice there is limited room to manoeuvre. Approximately 95% of the budget allocation is based on various population measures and just 5% is distributed on the basis of social deprivation levels. About 70% of local authority spends are fixed costs for salaries and

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a further 10% fixed costs for property. The remaining 20% must cover all other costs, including those for initiatives associated with poverty (personal communication with selected local authorities). The local authorities must manage a diminishing resource, which is predicted to be further reduced in 2014-16. Within the current budgetary allocations, there is limited funding directly aimed at closing the poverty attainment gap. A study commissioned by Save the Children (Sefton, 2009) examining the education funding formula in Scotland found that although there was some deprivation weighting in allocations to local authorities, there was no clear link between deprivation and per-pupil expenditure. Huge variations were found across local authorities. A specialist report to describe the impact of funding arrangements is needed to understand how funding policies might efficiently and effectively focus attention on the educational attainment gap associated with poverty.

## Commissioned reports and policy groups

A number of reports have recently been commissioned by the Scottish Government to look at how best to close the attainment gap. For example, Pirrie and Hocking (2012), working for Scotland's Commissioner for Children and Young People, examined some strategies for closing the attainment gap between richer and less advantaged children. We are aware that the Scottish Government has set up an Improving Performance to Raise Attainment policy group to examine ways of closing the attainment gap. The group is currently taking evidence from various organisations and academics with the aim to making recommendations for action to the Cabinet Secretary for Education and Lifelong Learning. More recently, there have been published reports on raising attainment that make reference to poverty (for example, ADES, 2012; CSR, 2013).

## Conclusion

There is a range of legislation, policies, interventions and commissioned reports in Scotland that has sought to address issues of disadvantage and educational attainment. These initiatives have the potential to prompt schools and others to address the educational disparities that arise from economic disadvantage. However, the majority of these strategies have not directly targeted closing the educational-attainment gap, although there are signs that this is becoming part of the policy agenda. Judging from the available data outlined in the first part of this chapter, it can be concluded that there has been insufficient impact from previous initiatives on the attainment of children from deprived households. On the whole, most interventions have not been robustly evaluated to determine their impact on attainment, so we do not know which are worth continuing or scaling up. Evaluations are usually carried out after interventions have been completed or designed when projects are at an advanced stage, calling into question the validity and reliability of outcomes. Where evaluations have taken place, there is generally no focus on measuring impacts on educational attainment even with projects that have explicit aims of improving attainment for children from deprived households. These limitations need to be addressed if educationalists in Scotland want to work in a systematic way towards closing the attainment gap.

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# 3 EFFECTIVE STRATEGIES FOR CLOSING THE ACHIEVEMENT GAP: SYNTHESIS OF EXISTING EVIDENCE

This chapter summarises existing evidence from both Joseph Rowntree Foundation (JRF) studies and the wider literature about the most effective actions that schools and other stakeholders in Scotland can take to reduce the gap in attainment between richer and less advantaged pupils. In summarising the evidence, we focused on identifying key elements that make particular approaches successful (see Appendix for methodology). The aim is to provide guidance about the most appropriate ways of carrying out particular interventions in efforts to close the gap.

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The chapter indicates that the following interventions have a positive impact on reducing the attainment gap associated with pupils from economically disadvantaged households:

- parental involvement programmes that focus on helping parents to use appropriate strategies to support their children's learning at home rather than seeking to raise aspirations for their children's education;



- nurture groups and programmes to increase social, emotional and behavioural competencies if carefully implemented;
- high-quality, full-day preschool education;
- collaborative work in small groups, but only if effective collaboration is thoroughly taught across the school and facilitated by teachers;
- peer-tutoring, metacognitive training and one-to-one tutoring using qualified teachers, trained teaching assistants, or trained volunteers;
- literacy instruction that has a meaningful and responsive learning mix of decoding, fluency, comprehension, engagement and digital literacy research skills;
- whole-school reforms that are informed by research evidence; focus on improving attainment; use effective pedagogies, significant staff development and a shared strategic plan for academic, social and emotional learning; and are data-driven, multi-faceted and consistently monitor impact on attainment;
- professional development that is high quality, evidence-informed, context-specific, intensive and long-term;
- effective mentoring;
- academically focused after-school activities such as study support;
- targeted funding that avoids providing an increased budget in one area that is undermined by a reduced budget elsewhere.

We found that formative assessment strategies may raise general attainment, but there is no evidence about impact on children from low-income households

## **JRF research on attitude, aspirations and behaviour interventions**

UK policies and interventions in the past decade have frequently focused on changing parental and pupil attitudes to education, raising aspirations and promoting positive behaviour. The Joseph Rowntree Foundation commissioned a series of studies examining the impact of these interventions on the educational attainment of children from low-income households. The findings from these and other related studies provide insights about strategies for reducing the attainment gap in Scotland.

### **Parental involvement, expectations and parenting styles**

#### *Parental involvement*

Parenting variables have been the focus of much intervention in the UK (Goodman and Gregg, 2010). Key areas include parental involvement, aspirations and expectations, and parenting style. Recent evidence from JRF studies (Gregg and Washbrook, 2009; Chowdry *et al.*, 2010; Cummings *et al.*, 2012; Gorard *et al.*, 2012) suggests that only parental involvement makes a significant contribution to closing the attainment gap. However, there are questions around the type of parental involvement that results in increased academic attainment for children from low-income families, and how best to involve parents. According to Gorard *et al* (2012), most studies



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lack clarity on the definition of parental involvement, making findings difficult to compare. Research based on the UK's Millennium Cohort Study (Hartas, 2011) indicates that socioeconomic differences emerge not in the amount of home support children get for their education, but in the quality of that support. More work is needed to identify the key ingredients of a successful involvement programme.

On the whole, effective parental involvement programmes that have an impact on the attainment gap are those that focus on helping parents to use appropriate strategies to support their children's learning at home. Despite parents from disadvantaged households being as likely to help with their children's learning as economically advantaged parents, their efforts are less effective, especially where parental educational attainment is low. Successful parental involvement programmes include providing parents with effective strategies to tutor their children, making a good space for homework, and providing enjoyable books (Senechal and Young, 2008; Scott *et al.*, 2010; van Steensel *et al.*, 2011; Gorard *et al.*, 2012). These approaches are effective when they use qualified professionals to work with parents, are of longer duration and are group-based (Scott *et al.*, 2010; van Steensel *et al.*, 2011). Parental involvement is strengthened when combined with approaches for raising parental expectations and positive parenting (Scott *et al.*, 2010; Gorard *et al.*, 2012).

An example of a successful parental involvement programme in the UK is the SPOKES project (Scott *et al.*, 2010). This combined parenting interventions to reduce problem behaviour and training for parents to use the strategy of Pause, Prompt, Praise to support their children's literacy development. Findings showed that compared with control groups, the reading attainment of those involved in the intervention increased by more than six months. The intervention was particularly effective for children from disadvantaged backgrounds, thereby reducing the attainment gap.

A crucial issue with parental involvement initiatives is high levels of drop-out. This is attributed to the intensity of demand that the programmes make on parents. Coping with poverty introduces stresses and strains that leave parents with little emotional, physical and mental energy to spare (Hartas, 2011). Levering change through parental involvement in Scotland, therefore, would require schools and local authorities to think carefully not just about how they involve parents in the work of the school, but also about the demands and assumptions they make about their involvement.

Where programmes are highly structured, and provide parents with structured materials and high levels of support, retention rates are high (Cummings *et al.*, 2012). Approaches such as simply keeping contact with parents, and engaging them in routine activities such as attendance at school meetings or volunteering in school, have little impact on closing the attainment gap (Driessen *et al.*, 2005). In the context of Scotland, the Scottish Schools (Parental Involvement) Act 2006 and the National Parenting Strategy (2012) require schools to work with parents to improve attainment for children. There have been national initiatives to encourage parents to read to their children by providing books through the Bookbug initiative and government-funded national reading engagement projects but little is known about how these affect the attainment of children from the most economically deprived households. There are also ongoing parental involvement programmes in Scotland that hold promise but require further investigation. An example is Save the Children's Family and Schools Together programme, which focuses on building a stronger relationship between parents and teachers, and coaching parents on how to work effectively with their children. Existing international evidence provides Scottish

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educationalists with clues about the ‘active ingredients’ to build into parental involvement projects to make a difference to the attainment of children from low-income households. However, evidence from Scottish implementation contexts is still required to understand how best to achieve success in Scotland.

#### *Parental aspiration and parenting style*

There was insufficient evidence that raising parental expectations or changing parenting style helps close the attainment gap (Cummings *et al.*, 2012; Gorard *et al.*, 2012). Research consistently finds that the majority of parents from low-income backgrounds have high aspirations for their children’s education (Cummings *et al.*, 2011). The main issue is that parents from low-income households do not have the social or economic capital or the know-how to achieve these goals (Kirk *et al.*, 2011). Thus, policies should be aimed at supporting parents to keep aspirations on track and in bringing their dreams to fruition (Cummings *et al.*, 2012; Gorard *et al.*, 2012). The above findings do not mean that parental aspirations or parenting style are not important. Rather, they indicate that these elements should not be pursued in isolation but as part of wider interventions aimed at fostering parental involvement (Gorard *et al.*, 2012).

### Children: aspirations, attitudes, and social, emotional and behavioural learning

#### *Attitude and aspirations*

Existing JRF studies (Cumming *et al.*, 2012; Gorard *et al.*, 2012) suggest that there is very little evidence that changing attitudes or raising the attainment aspirations of children from economically disadvantaged households has a positive impact on the attainment gap. This is despite numerous programmes being devoted to increasing aspirations, particularly within a UK-wide context. We could find no published evidence about the impact of such initiatives on the attainment of children from low-income households in Scotland. Judging from the available evidence (Cumming *et al.*, 2012; Gorard *et al.*, 2012), it might be concluded that such initiatives on their own are unlikely to make a difference to closing the attainment gap. They should, therefore, be undertaken as part of other approaches for which there is an evidence-base, such as metacognitive training, mentoring or whole school reform (discussed later in this chapter).

#### *Social, emotional and behavioural learning*

Children from disadvantaged backgrounds are more likely to be identified with social, emotional and behavioural (SEB) issues. Issues associated with SEB have been given more importance on the political agenda, manifested in a number of policy initiatives aimed at promoting positive SEB learning in children and young people (Challen *et al.*, 2009). Evidence from JRF’s research and other existing studies suggests that, if carefully implemented, improving SEB competencies could play an important role in closing the attainment gap (Scott *et al.*, 2010; Sharples *et al.*, 2011; Gorard *et al.*, 2012; Higgins *et al.*, 2013). Successful programmes are those that integrate SEB learning into a general strategy aimed at increasing educational attainment for children from low-income backgrounds, rather than solely for improving SEB learning. The SPOKES project discussed earlier is one such successful initiative (Scott *et al.*, 2010) The evidence indicates that SEB initiatives in Scotland should be directly linked to increasing attainment followed by close monitoring to see if they are making a difference to the attainment gap. Many Scottish local authorities have established ‘nurture groups’ in schools

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to link SEB with academic attainment. An evaluation of the impact of nurture groups for Glasgow City Council (2006) indicate that they show promise. However, their impact on attainment needs to be robustly evaluated.

## Early years/preschool education

The achievement gap in children's cognitive development begins at preschool age (Feinstein, 2003; Bradshaw, 2011). Existing research suggests that provision of early, high-quality, full-day preschool education for children from disadvantaged backgrounds can reduce the attainment gap (Sammons *et al.*, 2007; Schroeder, 2007; Springate *et al.*, 2008; Sharples *et al.*, 2011; Tucker-Drob, 2012). Tucker-Drob's (2012) 'twin study' showed that environmental influences such as poverty on children's academic attainment are much stronger for children who do not attend preschool. Additionally, he found that preschool attendance resulted in significantly greater impact on attainment in maths and literacy at age 5 for children from low-income households than for their peers from wealthier families (Tucker-Drob, 2012). Children from economically disadvantaged backgrounds benefited more from attendance at preschool, which consequently narrowed the attainment gap.

Studies comparing attendance at half-day and full-day preschool suggest that full-day preschool results in significantly higher test scores in literacy and numeracy for children from low-income families (Schroeder, 2007). However, the quality of the preschool experience is more important for children from low-income households than children from other households. The effect of full-day preschool may not last if the quality is low (Springate *et al.*, 2008). Findings from the longitudinal Effective Pre-School and Primary Education project indicate that high-quality preschool is essential for children from disadvantaged households in closing the attainment gap (Sammons *et al.*, 2007). Disadvantaged children who attended high-quality preschools showed better attainment five years later, and the quality of preschool served as a protective buffer against attending a less effective primary school. For these children, attending low-quality preschool did not offer any long-term benefits in terms of improved attainments in mathematics and reading, compared with children who did not attend preschool. High-quality preschools have positive relationships between staff and children, clear learning objectives, an explicit focus on language, pre-reading, early number concepts and non-verbal reasoning, and well-qualified staff (Sylva *et al.*, 2004; Sharples *et al.*, 2011). Children from low-income households benefit from opportunities to attend preschools where there is a greater mix of children from differing socioeconomic backgrounds (Ringmose, 2012; Sylva *et al.*, 2004).

An important consideration for closing the attainment gap in Scotland is making preschool provision available at a much earlier age for children from deprived backgrounds than currently exists. While the Scottish Government provides opportunity for children who are looked after to attend preschool from the age of 2, those from the poorest households do not have similar opportunities and can only start from age 3. To reduce the attainment gap, the Scottish Government should consider making preschool opportunities available from age 2 to children from the most disadvantaged households. The commitment from the Scottish Government to increase the preschool entitlement of all children is a welcome contribution to reducing the attainment gap. However, a recent review on early years education commissioned by the Scottish Government (Stephen, 2006) points to a lack of evidence for the efficacy of a range of initiatives introduced to increase

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the impact of early years education. Because the quality of early years matters, ensuring that quality provision is available irrespective of geographic location of preschools is paramount in reducing the attainment gap.

## Effective pedagogies

The role of teachers and early years staff, and their pedagogy, is fundamental to narrowing the attainment gap. In this section, we examine pedagogical approaches that have consistently been shown to reduce the attainment gap. Almost all the pedagogies reviewed were focused on closing the gap in aspects of literacy and numeracy. However, we have provided a separate section on literacy because literacy is often a gateway providing access to the rest of curriculum (Coghlan *et al.*, 2009). Our list of pedagogies is not meant to be exhaustive and we recognise that there may be other useful approaches. We were guided by the key emphases in the Scottish curriculum and focused on those approaches that teacher and early years practitioners could employ fruitfully within this curriculum framework to make a difference to the attainment of children from low-income households.

### Structured group work/cooperative learning

Available evidence shows that involving children working with each other in small groups helps to close the attainment gap (Georges, 2009; Sharples *et al.*, 2011; Higgins *et al.*, 2013). However, effective collaboration has to be thoroughly taught across the school and facilitated by teachers. Simply putting children together in groups to work will not result in effective learning for children from disadvantaged backgrounds. Effective approaches are those where pupils are provided with support in how to work in groups, where tasks are carefully designed by teachers to foster effective group discussion, where teacher instruction is clear and focused on the learning to be undertaken, and where lower-achieving students are encouraged to talk and articulate their thinking to develop reasoning and problem-solving skills (Foorman *et al.*, 2006; Mercer and Hodgkinson, 2008). On the whole, mixed ability groups result in positive impact in closing the attainment gap, while ability grouping has a detrimental effect on the learning of children from economically disadvantaged household (Higgins *et al.*, 2013). For the above, teachers need training and coaching in the use of well-structured group work approaches (Sharples *et al.*, 2011).

Group working is common in Scottish schools but requires careful teacher attention to structuring and facilitation, drawing on evidence of effective group strategies (Donaldson, 2007; Howe *et al.*, 2007; Christie *et al.*, 2009; Tolmie *et al.*, 2010). It is also the case that schools continue to use attainment grouping despite substantial evidence of the detrimental effect of this on the attainment of children from disadvantaged backgrounds. Universities, local authorities and Education Scotland can facilitate training in effective group work strategies for teachers. This should not be in the form of one-off seminars but an intensive professional development programme that is reviewed, monitored and evaluated to ascertain impact.

### Peer-tutoring

Closely linked to group work is the evidence that peer-tutoring provides positive benefits to children from low-income households and helps close the attainment gap (Sharples *et al.*, 2011; Topping *et al.*, 2011; Tymms *et al.*, 2011; Higgins *et al.*, 2013). Approaches include the Peer-Assisted Learning Strategy (PALS), cross-age tutoring and reciprocal peer-tutoring. Both

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PALS and cross-age tutoring have been investigated in Scotland and found to have positive impacts on attainments in literacy and numeracy (Topping *et al.*, 2011; Tymms *et al.*, 2011). Key elements of successful peer tutoring include provision of training for tutors on effective tutoring, active teacher involvement in organising tutoring groups, regular monitoring and support for tutors, and effective structuring of activities. Topping and colleagues (2011) described the Dialog strategy used in Scotland. This involves eight steps to ensure effective tutoring. It is also important that tutoring sessions are of short duration, short term and used to complement rather than replace teacher support. The success of this approach in Scottish trials means that there is clear leverage for developing this further within Scottish schools in attempts to close the attainment gap.

### Formative assessment and feedback

Existing reviews on assessment suggests that effective feedback from teachers or peers can have a significant effect on educational attainment (Kingston and Nash, 2011; Higgins *et al.*, 2013). Inappropriate feedback, on the other hand, can have negative impacts on the attainment of children from economically disadvantaged homes. Kingston and Nash's (2011) systematic review showed that effective assessment results in an additional 6% to 12% of all students moving into a proficient category. Increases in attainment were observed irrespective of the content area. However, Kingston and Nash pointed to the absence of detail on the types of feedback that work. Higgins and colleagues (2013) identified the characteristics of effective feedbacks as those that are specific, accurate and clear; provide a learner with comparative information on both successful and unsuccessful work; provide opportunity for students to set clear and challenging targets; and give guidance to students on how to improve their work.

There has been a major increase in the use of AifL in Scotland. The rationale is that formative assessment can prompt pupils to take responsibility for their own learning and prompt teachers to identify the factors underpinning achievement and adapt the curriculum accordingly. AifL locates responsibility for learning with the pupils (individually and collectively) rather than solely with the teacher. It requires pupils to have good collaborative skills and work habits, which can take a long time to establish. It is demanding of, and thus has the capacity to develop but also to be hindered by, pupils' general academic capacities, their attitudes and habits towards schooling, and their social and communication skills.

In Scotland, the classroom strategies that most commonly encapsulate and carry the policy aims of AifL into practice (for example, negotiating learning intentions and success criteria, formative feedback and self- and peer assessment) do not, on first examination, necessarily direct teachers to explore understanding in ways that focus on identifying and addressing underpinning factors in achievement.

There has been no systematic national evaluation of how AifL is operating in Scottish classrooms, or its impact on attainment. To be confident that AifL could deliver on Scotland's equity agenda, policy-makers need such evidence, and they need specific information about the impact of the underpinning principles and practices on attainment in children from disadvantaged households.

### Metacognitive and self-regulation strategies

This relates to teaching children from low-income households to understand and improve their own learning. Evidence suggests that metacognitive training is effective in improving the attainment of children from low-

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income households (Campbell and Brigman, 2005; Higgins *et al.*, 2013). One successful example is the Student Success Skills Model, which was delivered for eight months (one session per month) through structured group counselling (Campbell and Brigman, 2005). It was focused on helping students develop competences in three skill areas, that is academic, social and self-management. Each group session was characterised by setting goals, discussion of goals with peers, goal implementation, and progress-monitoring through a review of how goals were achieved in preceding sessions. The cyclic approach provided opportunities for evaluating small steps and supporting students with specific strategies for overcoming barriers to achieving these goals. Findings were that those receiving this programme showed significantly improved attainment in both maths and reading compared with control students. Effective metacognitive strategies are those that are well structured and accompanied by intensive professional development and support for teachers. They focus on explicitly teaching students how to plan, monitor and evaluate their own learning, and provide opportunities for them to try these strategies out. Additionally, they tend to be group-based and specifically focused on raising attainment of children from poor backgrounds.

### One-to-one tutoring

Existing reviews of one-to-one tutoring suggests that using either qualified teachers, trained teaching assistants, or trained volunteers has a positive impact on reducing the gap in attainment (Sharples *et al.*, 2011; Higgins *et al.*, 2013). One of the issues raised with this approach is the significant cost involved in providing such opportunity through teachers or teaching assistants. This cost could be reduced if volunteers were recruited and provided with the necessary training required to facilitate effective one-to-one tutoring.

In Scotland, local authorities employ teachers whose remit is ‘support for learning’ and who work with a range of pupils who need support. However, we have been unable to find an evaluation of the impact of their efforts, and do not know whether they help close the attainment gap associated with poverty.

## Closing the attainment gap in literacy

Low levels of literacy impede young peoples’ access to the curriculum. This section identifies curriculum design and teaching practices that research indicates can close the literacy-attainment gap for children from low socioeconomic backgrounds.

### Time allocation, programmes and focus of instruction

Studies of ‘outlier’ schools that consistently narrow the attainment gap associated with economic disadvantage (Taylor *et al.*, 2002; Loudon *et al.*, 2005), indicate that the teachers prioritise literacy, make literacy enjoyable, and contextualise tasks to make them purposeful and relevant to pupils’ out-of-school lives. Highly effective early years literacy teachers engage in similar activities to their less effective colleagues, but weave their teaching more effectively through these activities, getting instructional density by seizing the moment to make teaching points, assessing understanding ‘on the hoof’ and providing explanations and repeat experiences as necessary (Louden *et al.*, 2005). This validates Scotland’s focus on developing high-quality, knowledgeable and reflective teachers (Donaldson, 2010).



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## Decoding and fluency

There are strong correlations between low socioeconomic status and low letter and vocabulary knowledge on starting school, and also between letter knowledge at the start of school and later reading attainment (Denton and West, 2002). The arguments around phonics and teaching pupils to decode print have been fierce and often unhelpfully reductionist. Obviously, teaching alphabetic knowledge, and how to hear, to sequence, to isolate, blend and segment the sounds in words is important. However, large-scale longitudinal studies in the US show that mastering phonics alone does not improve the reading attainment of those children from low socioeconomic groups and that fluency is equally important (Denton and West, 2002).

In a cross-national study that included Scotland, Thompson and colleagues (2008) found that classes that focused heavily on phonics had less instructional time available to practice reading continuous text and that over-prioritising phonics, or atomistic elements of reading, may not be the best way to promote literacy in disadvantaged groups. Nonetheless, the Clackmannanshire phonics study (Johnston and Watson, 2005) made headline-grabbing claims for phonics and has had a significant impact on Scottish practice through media publicity, local authority networks and commercial teaching materials, despite obvious evidence that the claims do not match reality (Ellis and Moss, 2013). Research does indicate that children starting school with low letter and vocabulary knowledge (associated with socioeconomically disadvantaged groups) benefit from small-group, teacher-led, explicit literacy teaching at the start of their school career, with more open-ended literacy activities as the year progresses (Connor *et al.*, 2004, 2007).

## Comprehension

PISA 2009 (OECD 2010; Scottish Government 2010) indicates that poor comprehension correlates with economic deprivation. Research (Kamil *et al.*, 2008) stresses:

- teaching multiple comprehension strategies together (good evidence for summarising the main ideas of paragraphs and whole texts; posing questions; paraphrasing; inferring from text information and prior knowledge; using graphic organisers; and thinking about the types of questions they will be asked to answer) and emerging evidence for visualising;
- identifying metacognitive strategies (e.g. activating background knowledge; identifying reading purpose, author intent and elements of text structure), and using protocols for interrogating texts (e.g. generating literal, inferential and evaluative questions);
- teaching vocabulary through direct instruction in word meanings and strategies that promote independent vocabulary acquisition such as analysing context clues and word roots.

Quasi-experimental research indicates that single-strategy training (for example, posing questions) has no impact, but that multi-strategy and explicit discussion of strategies in open-ended, content-based tasks increase both text comprehension and curricular attainment in disadvantaged groups (Pearson and Hiebert, 2010). Open-ended discussion makes clear the unwritten (and discipline-specific) rules that govern texts in each subject area, and connects subject-specific content to familiar experiences and to existing knowledge (McKeown *et al.*, 2009). The implications for Scotland are

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that the current policy focus on literacy across learning (a central tenet of Curriculum for Excellence) could be an important lever for social justice if it goes beyond a 'basic skills' approach.

Substantive content knowledge helps comprehension. Some experimental studies have shown that equalising the background knowledge that poor and excellent comprehenders bring to the task is all that is required to raise literacy attainment (Wallach *et al.*, 2009). This would imply that a highly engaging, knowledge-rich curriculum in both primary and secondary schools could improve reading comprehension and close the attainment gap.

### Engagement

The 2009 PISA survey (OECD, 2010) shows that increasing reading engagement could mitigate 30% of the attainment gap associated with socio-economic disadvantage. Early and positive reading engagement also has long-term effects on young children's language acquisition and literacy development (Raikes *et al.*, 2006). Research emphasises the need to create a coherent and appropriate 'literacy learning mix' to promote engagement rather than sticking to single programmes.

In the UK, children from socioeconomically disadvantaged groups tend to have fewer books in the home and are less likely to be read to by their parents, although parents do teach them the alphabet. By age 10, pupils living in poverty are significantly less likely than their economically advantaged peers to report reading for enjoyment in their own time (Parsons and Bynner, 2007). Studies suggest that reading engagement begins to fall around Primary 4/5, declining most strongly in struggling readers (Kamil *et al.*, 2008).

International randomised controlled trials show the effectiveness (and the cost-effectiveness) of holiday reading schemes only when pupils choose their own books (Allington *et al.*, 2010). Some Scottish local authorities fund holiday reading initiatives, but the focus and impact are unclear. The Scottish Book Trust distributes books and runs engagement projects, but does not target socioeconomic groups or collect data on participation or impact. Research in England indicates that teachers' book knowledge is often out of date (Cremin *et al.*, 2008), which is likely to also be true in Scotland, particularly since efficiency savings have reduced the number of librarians with expertise in nursery/primary books.

### Digital literacy

In today's world, digital literacy is important. Young people who struggle to read and write risk social isolation. Unable to email, text, google, or use Facebook, Twitter and other social networking tools, they struggle to maintain and organise their social lives or participate in civic society (Leu *et al.*, 2013). Efforts to close the attainment gap need to recognise the importance of these social uses of literacy, but also that academic digital skills (for example, determining 'key word' search terms, selecting appropriate web pages, assessing web-page reliability, and comprehending and summarising content) determine employability. There is evidence (Leu *et al.*, 2013) that schools servicing poor populations tend to set few homework tasks requiring computers and that providing computer equipment and opportunities to use new technology in school quickly equalises skill levels with pupils in more economically advantaged areas. Attending to digital literacy skills is important for equity because schools must ensure that those likely to find it most difficult to access the jobs market have sufficient opportunities to develop and apply such key skills.



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## Whole-school approaches/reforms

Whole-school approaches that incorporate elements of effective pedagogy, leadership, and quality professional development to teachers provide the best strategy for closing the attainment gap (Balfanz and Byrnes, 2006; Beecher, 2008; Sharples *et al.*, 2011). Whole-school reforms need to tackle the complex factors that result in the attainment gap. Copyrighted approaches such as Success for All in literacy or tailor-made reforms such as the London Challenge both work. Successful approaches are informed by research evidence, focus on improving attainment, use effective pedagogies, have a shared strategic plan that encompasses academic, social and emotional learning, and are supported by significant staff development. Additionally, these approaches are data-driven, multi-faceted and consistently monitor impact on attainment, making extensive use of data to inform decisions (Balfanz and Byrnes, 2006; Beecher, 2008). For instance, Success for All requires extensive professional development for teachers, cooperative learning, systematic phonics, parental involvement, one-to-one tutoring, and attendance to social, emotional and behavioural issues. Evaluations of the model in both the US and UK found significant positive impacts on the academic attainment of children, particularly those from deprived backgrounds (Borman *et al.*, 2007; Chambers *et al.*, 2010; Slavin *et al.*, 2005). The London Challenge (see the section on targeted funding policies) witnessed similar comprehensive inputs and is analysed in detail later in this report.

A key message for the Scottish context is for schools and local authorities to exploit the flexibility provided within Curriculum for Excellence to design context-specific, whole-school reforms that raise attainment in pupils from economically disadvantaged households. Such interventions should, however, be informed by robust evidence and accompanied by regular monitoring of their impact on attainment levels.

## Professional development and coaching

A hallmark of successful interventions that close the attainment gap is that they are backed by evidence-informed, high-quality, context-specific, intensive and long-term professional development for teachers, volunteers or mentors (Tivnan and Hemphill, 2005; Jackson *et al.*, 2006; Kennedy, 2010; Hindman *et al.*, 2012). For instance, one US programme, ExCELL, provided professional development for teachers that took place over a full year followed by a second year of support and coaching (Hindman *et al.*, 2012). This intensive training involved developing teacher content knowledge, literacy pedagogies, assessment and feedback; demonstrations of pedagogies by coaches; and observing and coaching teachers in the classroom, followed by regular group reflections after each cycle of implementation by teachers (Hindman *et al.*, 2012). Findings from this intervention showed improved vocabulary scores for all children. Most importantly, the intervention produced the strongest gains for disadvantaged children with the lowest initial vocabulary skills thereby helping to close the attainment gap. Similar intensive support was provided for the Heads Up programme in the US and for the London Challenge, all with resultant positive impact on the attainment gap (Jackson *et al.*, 2006; Hindman *et al.*, 2012). Although professional development programmes need to take into account context-specific issues rather than being pre-packaged approaches (Tivnan and Hemphill, 2005), they need to be informed by evidence and

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accompanied by systematic monitoring of impact on attainment for them to be effective.

One key issue identified in our review is that teachers tend to receive significantly higher support during initial implementation of new programmes in comparison to when the programmes are implemented at scale. According to Sharples and colleagues (2011), sustained support for teachers should be built into mass roll-outs of programmes coupled with continuous monitoring and evaluation. A recent review of teacher education in Scotland highlights the importance of career-long professional learning for teachers in order to develop an effective profession (Donaldson, 2010). A key take-away message is that the nature of professional development programmes needs careful consideration in terms of being informed by robust evidence, relating in particular to their impact on the attainment of children from disadvantaged households.

## Mentoring

Mentoring usually involves one-to-one matching of volunteer mentors with student mentees, with the mentor serving as a role model to a student from a disadvantaged background. Role models may provide academic or non-academic support, and may be from a similar background to the mentee or from a professional background relevant to the interests of the mentee. Existing JRF research and other studies (Cummings *et al.*, 2012; Higgins *et al.*, 2013) suggest that although evidence is inconclusive, effective mentoring can have a significant impact on the academic attainment of children from poor households and help close the attainment gap. Teacher mentors particularly have substantial impact on children from disadvantaged backgrounds. Effective approaches are characterised by provision of training and ongoing support for mentors, high-quality mentoring relationships, specified regular face-to-face contact, target-setting, longer mentoring periods, parental involvement and sufficient funding (Cummings *et al.*, 2012; Higgins *et al.*, 2013). While mentoring schemes currently exist in Scotland, not much is known about their impact on attainment (although see Wilson and Hunter, forthcoming). A more systematic evaluation incorporating evidence of effective strategies is needed to ascertain the efficacy of mentoring approaches in closing the attainment gap in the Scottish context.

## Extracurricular activities/after-school programmes

Several interventions have been aimed at providing enriched extracurricular experiences for children from economically deprived households. These usually involve school-based or out-of-school activities. Examples include sports, music, dance, ICT and study skills activities. Overall, these programmes fall into non-academic activities; study support; and multi-strand extracurricular activities (Cummings *et al.*, 2012). Evidence from existing reviews (Zief *et al.*, 2006) and studies commissioned by JRF (Cummings *et al.*, 2012; Gorard *et al.*, 2012) suggests an inconsistent impact of participation in extracurricular activities on the attainment levels of children from deprived households.

Zief and colleagues' (2006) systematic review examined the impact of programmes that combined recreation and academic support services on the attainment levels of students living in poverty in the US. Of the individual studies examined, only one significant effect was found. Elementary students

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attending after-school programmes had significantly higher social studies grades than control youths. There was no effect of attending after-school programmes on reading achievement. When participants' grade-point averages were considered (using data from the five evaluations), it was found that after-school programmes were having a small but significant effect on improving participants' grades. In other words, programmes may be having an impact on raising grades but these impacts are quite small.

Cummings and colleagues (2012) found in their review that only participation in academically focused activities such as provision of study support had a significant impact on narrowing the attainment gap. This area is, therefore, worth further investment, particularly with respect to projects that have a clear focus, develop study skills, and are aimed at raising educational attainment (Gorard *et al.*, 2012). There were inconsistent impacts from participating in other types of extracurricular activities. A key take-away message for Scotland is to ensure that activities have an academic element if the aim is to close the attainment gap.

## Targeted funding policies

The evidence reviewed suggests that all successful programmes are accompanied by targeted funding. Mindful that provision of finance alone is not sufficient to make a difference to attainment, we have examined three targeted funding schemes in a bid to learn from successful approaches: Title I in the US (van der Klaauw, 2008), the City and London Challenges in England (Hutchings *et al.*, 2012) and the Pupil Premium in England (Carpenter *et al.*, 2013).

### Title I

Title I is a US funding scheme that provides more than \$12 billion in annual financial assistance to state and local education agencies. The programme was set up in 1965, and reauthorised in 1994, and again in 2001. It provides supplementary educational services in reading and mathematics to improve attainment of students from deprived backgrounds. The funding is therefore directly targeted at students in need. Van de Klaauw (2008) evaluated the impact of Title I on the educational attainment of children living in poverty in New York from the 1993, 1997 and 2001 school years. The results showed that Title I was ineffective at raising student performance, and appeared to have had adverse effects on attainment during the 1993 and 1997 school years. For example, students in Title I schools were significantly more likely to score in the bottom two quartiles nationally by 3.55% and 5.26% points, and less likely to read above the state standard by 8.25% points. Compared with the two earlier school years, there was less evidence in 2001 that the programme had had a negative effect on student attainment. It was reasoned that the absence of negative impact in 2001 was due to changes made to the programme after the 1994 reauthorisation.

Several reasons were found for the poor impact of the programme on closing the attainment gap. First, schools with a high proportion of children living in poverty faced reduced entitlements immediately the attainment for pupils in the school started to rise, whereas poor student performance resulted in increased funding. This served as a disincentive for schools to improve. The reforms prior to 2001 ensured greater targeting of funds and the link between the amount of funding and achievement was removed. Second, receipt of Title I funding did not translate into a significant increase in per-pupil expenditures. While Title I eligibility meant that each student

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within a school was entitled to funding of \$300 to \$400 dollars, overall increase in expenditures per student varied significantly between \$108 and \$448 in 1993 and 1997. By 2001, there was a decrease in overall expenditures of \$325 per student in a Title I school. Thus, Title I funding was a very small share of the school's total budget. More critically, estimates for 1997 and 2001 suggest that Title I schools on average received smaller non-Title I allocations. There were claims that city and the state authorities appeared to have shifted some of their own funding from Title I schools to non-Title I schools. These practices were also found at the national level (Gordon, 2004, cited in van de Klaauw, 2008). Third, the mode of delivery of Title I programmes was based on an approach that separated students with Title I funding from the rest of the class for remedial action. This approach was found to be an ineffective pedagogical strategy and had a stigmatising effect that resulted in adverse outcomes (Jendryka, 1993, cited in van de Klaauw, 2008).

### The London and City Challenges

The London Challenge took place between 2003 and 2008. Following its success, the City Challenge was launched in 2008, providing approximately £160 million of targeted funding to schools in London, Manchester, and the Black Country (Dudley, Sandwell, Walsall and Wolverhampton). The purpose of the scheme was to improve educational outcomes for children from poor families and close the achievement gap. The programme emphasised support for schools, a fundamental shift from the previous rhetoric of a 'zero-tolerance of failure' (Hutchings *et al.*, 2012). The Challenge programmes were whole-school reform programmes. Key elements included an emphasis on collaboration between schools, school leadership, use of data, and systematic evaluation to monitor impact on attainment. The City Challenge programme built on principles from the London Challenge, although there were key differences in the implementation of the programme in Manchester and the Black Country. For instance, in London there was a strong emphasis on the use of data. Comparative data from collaborating schools was published to track progress and guide decision-making. In Manchester and the Black Country, collaborative activities between schools did not necessarily involve making comparative data available to guide decisions and activities. Additionally, while the London challenge was focused on supporting collaborating schools to improve pupils' attainment levels, programmes in the City Challenge were ambitiously aimed at improving performance across broad geographical areas. This meant that unlike in London, programmes in Manchester were very thinly spread and schools had limited involvement. Finally, while London Challenge had specified sets of activities for schools involved in the programme, the inbuilt context-specific flexibility of the City Challenge meant that there were no specific guidance provided for schools and schools used the funding in different ways.

Evaluation of the Challenge programme revealed different degrees of success in the primary and secondary sectors, and in geographical areas. Between 2008 and 2011, the attainment of primary school pupils eligible for free school meals (FSM) in participating schools increased by more than the national figure in all areas, London, Manchester and the Black Country. However, whereas the attainment gap between those eligible for FSM and their wealthier peers in London was narrowed by 3.5% (a stunning result compared with the national average of 2.2%), and was also narrowed in the Black Country, this was not the case for Manchester primary schools. For secondary school attainment, results between 2008 and 2011 showed an increase in attainment levels of secondary students on FSM in all three

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City Challenge areas. However, only in London did this increase exceed the national figure to narrow the attainment gap between rich and poor by about 2% (compared with the national average of 0.3%, another stunning result for London). For Manchester and the Black Country, however, although attainment levels rose, the gap did not narrow. In conclusion, only the London Challenge schools narrowed the attainment gap in secondary schools.

In evaluating specific approaches adopted by schools, Hutchings and colleagues (2012) noted that targeted approaches focused on buying in external support for tuition for exams produced only short-term effects, while long-term strategies such as parental involvement had a long-term effect on attainment. There was also evidence that targeted funding that fostered strong collaboration between schools, with decisions driven by efficient use of data, were successful at narrowing the attainment gap. Finally, the targeted funding provided a platform for raising awareness about the attainment gap and the systematic disadvantage faced by students living in poverty among schools and society.

### The Pupil Premium

The Pupil Premium, launched in 2011-12, provides targeted additional funding to schools in England with the sole purpose of enabling them close the attainment gap between children from poor backgrounds and those from wealthier households. Schools were allocated £488 in 2011-12, £623 in 2012-13, and £900 in 2013-14 for each pupil in the school who is eligible for free school meals or has been looked after continuously for more than six months. This corresponds to a total budget commitment of £625 million, £1.25 billion and £2.5 billion nationally over the specified periods to tackle the attainment gap. Schools have flexibility with respect to how this money is spent, but are required to account for what it has been spent on and how it has affected pupil attainment.

While the impact of the scheme on closing the attainment gap is too early to determine, initial evaluation of the funding (Carpenter *et al.*, 2013) shows that schools have a positive attitude towards the funds and are using them to support a wide range of activities aimed at closing the attainment gap. About two thirds of schools indicated that they would not have been able to do as much for disadvantaged pupils without the funding. However, the report also identified key issues that will have implications for whether or not the scheme will have an impact on closing the attainment gap. First, it was found that over 60% of schools in receipt of the Pupil Premium reported a reduced overall budget, attributed to the disappearance of funding for existing initiatives. There were also differential formulae being adopted by local authorities to determine funding allocation for schools, and an increased tendency of some local authorities to charge for services they had hitherto provided free of charge to schools. Schools were seeing the funding of Pupil Premium grants as additional funds and pooled this together with school budgets to keep providing services that had previously been funded from other sources. The pooling of budgets also suggests that there is a need for a more robust approach towards school accountability for how the Pupil Premium budget is used.

Second, it was found that the most common source used by schools in decisions about what to spend the money on was the schools' own experience of what works. While this signifies positive attempts to adopt context-specific measures, the lack of attention to more widely evidenced academic research raises issues of how schools can be supported to integrate academic evidence into their decision-making. This is important

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because schools' own evidence is likely to be less robust; what is believed to work in closing the attainment gap does not always turn out to be the case. Continuous and consistent monitoring of impact on academic attainment of students from low-income households is therefore needed to ensure real-time impact is being made in closing the attainment gap.

A key message for closing the attainment gap in Scotland is that policies are unlikely to achieve meaningful results without resources. The successful approaches discussed in this review require additional funding to work. For instance, provision of intensive, evidenced-based professional development for teachers covering specific pedagogies requires additional resourcing; so do effective parental involvement programmes. The evaluation of targeted funding so far points out that such an approach could make a significant difference in closing the attainment gap in Scotland. However, this has to be done in a way that results in genuine increases in school funding.

Lessons from the Title I project in the US and Pupil Premium funding in England suggest that it is important to take into consideration what happens to school budgets when target funding is introduced. Steps must be taken to avoid a situation where an increased budget in one area is undermined by a reduced budget elsewhere. Where targeted funding does not result in significantly increased resources, the policy of closing the attainment gap is unlikely to succeed. There are also important lessons to be drawn from the London and City Challenges. Targeted funding can only succeed in closing the attainment gap if there are supporting structures that help schools to team up, draw on robust evidence, and obtain and use robust data to guide decision-making. There should be clarity of purpose for the funds and support for schools to systematically evaluate the impact of interventions on closing the attainment gap.

## Government poverty reduction strategies

Our review suggests that income levels have a direct impact on pupils' educational attainment. The complex pathways whereby poverty affects children's learning through health, parental interactions, home and community environments and lack of resource limit the capacity of education on its own to make a difference. If schools are to close the gap, they must be supported by anti-poverty strategies aimed at reducing income inequality. A recent systematic review commissioned by the JRF (Cooper and Stewart, 2013) shows that changes in parental income levels directly lead to increases in educational attainment of children living in poverty, and contribute to a substantial narrowing of the attainment gap. The authors estimate the effect to be equivalent to outcomes attained through investing in early childhood programmes or education. Most importantly, increasing household income can result in multiplier effects on areas like parenting, home environment or maternal depression. Findings of a study examining PISA data and poverty reduction policies across 18 OECD countries found that where the economic policy environment favours single low-income parents, the literacy attainment gap decreases between children from single-parent households and those from two-parent families (Hampden-Thompson, 2013). The findings have a direct implication for poverty reduction strategies, considering the fact that children living in single-parent households are more likely to be in poverty. A key message for Scotland is that reducing the attainment gap must involve concrete strategies that increase income levels to families living in poverty.



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# 4 THE IMPORTANCE OF USING EVIDENCE TO INFORM ACTION TO CLOSE THE ATTAINMENT GAP

This chapter explains why it is important for education professionals to use evidence to inform action. It also summarises the evidence about pupil performance that is available to education professionals working in the various sectors in Scotland.

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The main points that emerge from this summary are that:

- Evidence can help educators and policy-makers understand and address the multiple aspects of disadvantage that affect children's lives, and the mechanisms that cause negative effects. It can also help them identify sustainable initiatives likely to work, and to direct core resources appropriately.
- The quality and quantity of attainment data available for primary and early secondary school pupils is highly variable across Scotland, which makes robust, data-driven project design and evaluation difficult.
- There is a need for reliable research knowledge and evaluation information about what works to raise the attainment of pupils from economically disadvantaged homes in Scotland.

Perceptions of what makes a difference in education are not always right. Evidence from research has frequently challenged and redefined traditional professional judgements. Research on poverty, for example, has shown that:

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- schooling is not fair: despite many policy initiatives in Scotland, the attainment gap remains;
  - poverty and low attainment are not inevitably entwined;
  - progress requires most pupils to overcome barriers rather than raise their educational aspirations;
  - three quarters of parents living in poverty help their children with schoolwork;
  - teacher expectations can positively improve (or negatively amplify) the educational outcomes of children living in poverty.

## Evidence to identify what matters, to evaluate and to monitor impact

A profession is defined by the knowledge that its members possess, the ways in which they apply this knowledge, and the standards that they are required to meet in doing so. Evidence from research and evaluations can inform professional knowledge. It can help educators and policy-makers understand and address the multiple aspects of disadvantage that affect children's lives. It can help them to understand the mechanisms that cause negative effects, to select sustainable initiatives and to direct core resources to those most likely to have an impact. It can also help them to design how to collect worthwhile data during implementation and use it to adapt teaching, school systems, curriculum designs and projects to make learning efficient and effective for particular groups of pupils.

Yet this review found very little research or evaluation evidence about which initiatives have made a significant difference to children's learning in Scotland, or which children they have made a difference to, and how. It is likely that effective approaches do exist at micro-levels, but it is difficult to identify them because evidence of impact on attainment is not easy to find or has not been systematically documented. The lack of attention to systematic evaluations of national and local initiatives makes it difficult to find out, and learn from, what has worked well and use it to raise the attainment of disadvantaged children in Scotland. This makes it difficult to build professional knowledge. To be most productive, evaluation measures need to be designed into the project or initiative at the start so that data is collected before, during and after implementation. We would also suggest that there is a need to focus many more evaluations to assess how effectively curriculum designs and projects close the achievement gap between rich and poor.

Our analyses suggest that interventions chosen to close the attainment gap should be based on robust research evidence, but this in itself is not enough to make interventions successful. Successful innovations introduce rigorous monitoring of pupil progress to evaluate whether intended outcomes are being achieved (Sharples *et al.*, 2011; Hutchings *et al.*, 2012). For instance, the effective schools and approaches examined in this review regularly monitor students' progress and teaching standards. They draw on this data to identify underperforming groups, to provide pupils with regular feedback, and to make informed decisions regarding target-setting and early interventions. They also monitor the impact of interventions. The data is also used to examine whether the gap is being closed rather than whether average achievement is improving.



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## The availability of useful data

The quality and quantity of attainment data available for primary and early secondary school pupils is highly variable across Scotland. In primary schools, teachers judge attainment based on performance in class-work activities. These judgements can be supplemented by information from the National Assessment Resource. This offers teacher-created, criterion-referenced test items and tracks progress against Curriculum for Excellent (CfE) levels. External assessment data has an important role to play in directing the considerations and efforts of professionals, and in challenging or confirming professional judgement. However, CfE levels are too broad to identify and track persistent underperformance among children from low socioeconomic groups. Also, the test items do not focus on those elements of learning most important to pupil progress and so are of limited use in modifying curriculum design.

Many schools and local authorities recognise the need for more nuanced external assessment data and pay for commercial, standardised literacy and numeracy assessments. However, sometimes the marking and analysis arrangements for these means that results arrive too late in the schools for them to be used to interrogate the curriculum, monitor the impact of innovations or inform teaching. Professional development to help teachers investigate, interpret and use the test results to adapt curricular provision is also required so that the data can direct professional attention. For instance, it can point to what matters for individuals, identify points of inquiry and assess how projects affect the attainment of children living in poverty.

## The availability of useful knowledge

Interventions that close the attainment gap draw on robust research evidence of 'what works' to guide context specific decisions. We note that most published research evidence is in academic libraries, protected by 'firewalls' that require subscription to gain access.

Education Scotland currently provides some information on research and on Scottish projects judged to be successful by local authority managers. However, outside Scotland, national projects have been established to synthesise key findings from research in an accessible, searchable format so that they can inform professional and policy decisions. For example, What Works Clearing House (US Department of Education) creates specialised review teams, with a content expert, a methodological expert and review staff to generate general advice on a range of topics and summarise the weight of evidence for specific interventions. Other examples are the Education Endowment Foundation's (EEF) toolkit (England), which summarises randomised controlled trial evidence to ascertain what works to improve attainment levels among children from disadvantaged households. The narrow focus on randomised controlled trials in the EEF is limiting: it overlooks 'what works' in particular contexts or for skewed school populations; it does not document events after the researchers (and their research resources) withdraw; it omits valuable implementation knowledge; and it excludes knowledge from systematic cohort studies, case study series, surveys and social science methodologies. However, the principle of academics and practitioners working together to synthesise and publish research evidence on what works to deliver social justice in schools for pupils living in poverty is important. Other approaches include the Best Evidence in Brief newsletters (University of York), the Centre for Evidence-Based

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Interventions (University of Oxford) and the Best Evidence Encyclopaedia (Johns Hopkins University).

We think that similar strategies need to be adopted in Scotland. Research evidence can help identify those interventions likely to have most impact for economically disadvantaged pupils. It can help schools by identifying the implementation factors that affect outcomes, and it can indicate which interventions may fit within the possibilities and constraints of particular contexts and resources. This means it should command attention.

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## 5 WHAT SCOTLAND CAN DO: LEVERS AND AGENTS FOR CHANGE

This chapter summarises what can be done to make Scottish education more equitable. It identifies the agents of change and mechanisms that are potential levers to effect positive change. Where necessary, it specifies what can be done to make these levers more effective. The chapter indicates that establishing and maintaining the focus on equity for pupils from economically disadvantaged backgrounds will require persistent and focused political and professional effort.

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The chapter concludes that:

- There are some highly efficient actors for sharing and shaping how knowledge about poverty and attainment is used, including Education Scotland; local authorities and schools; SQA; non-government organisations; and universities.
- Poverty and attainment need to become more visible in advice about developing the curriculum, improving schools and raising educational outcomes for all pupils, and in national and local inspections of schools.
- The education community in Scotland needs a national evidence base of ‘what works, for whom, in which contexts, and why’ to understand and combat the impact of poverty on attainment.
- Data on pupil attainment will help educators know whether the curriculum is having a fair impact on all pupils and to analyse what needs to be done to ensure equity. Active measures to prevent the emergence

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of high-stakes testing regimes must promote understanding of the role of data in directing professional decisions.

- Poverty should be considered at the conception, design, evaluation, report, and publication stages of national and local projects.
- The education community in Scotland needs to develop more powerful national and local working practices around the following:
  - how to better create, collect and share knowledge of interventions that improve the performance of economically disadvantaged groups;
  - how to design interventions and evaluations that generate knowledge;
  - how to make curriculum design and planning (at school, class and individual level) more nuanced and effective for economically disadvantaged groups;
  - how to deploy staff and resources to raise achievement in economically disadvantaged groups;
  - how to monitor and evaluate pedagogies, resources and initiatives for impact on economically disadvantaged groups as well as for general attainment.

Governance arrangements in Scotland require local authorities and schools to deliver a curriculum that meets the needs of the communities they serve. In theory, this promotes a curriculum that is non-uniform, responsive and locally managed. Professional decisions underpin the learning mix schools offer rather than statutory curriculum content or centrally mandated pedagogies.

Several agencies shape what happens in schools, but no single agency has direct control to determine the curriculum design, content or implementation decisions that schools make. To influence change in favour of equity, several key agencies need to create and maintain a strong and consistent focus on the poverty attainment gap. They need to use, and where necessary strengthen, the levers that exist in the system to effect change. This requires deep and widespread understanding of the poverty agenda and the specific curriculum and pedagogy issues for schools because in each agency there is potential for the focus to be redefined. Agents for change are located in:

- the Scottish Government;
- Education Scotland and other government agencies such as Creative Scotland;
- local authorities;
- schools;
- non-government agencies, charities, unions and statutory bodies like the General Teaching Council for Scotland;
- universities.

Specific levers for change lie in the policy-into-practice mechanisms that exist in Scotland. These are:

- implementation advice for national policies and frameworks;
- curriculum development and intervention projects, and project reports;
- attainment data;
- knowledge about 'what works';
- professional development courses (initial and continuing), networks, communities and activities.

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## National policies and frameworks

An interesting feature of the agenda around poverty and educational achievement in Scottish education is that it is virtually invisible in the key documents that provide advice for schools and on-the-ground examples of policy and curriculum implementation. This matters because these documents frame school development priorities, professional plans for action and the 'challenge and support' conversations used to effect change. National strategies and frameworks allow space for poverty to be addressed, but this is unlikely to happen unless a 'poverty lens' is applied to the advice and exemplar materials that support professional understanding. Chapter 2 of this review identified the following national strategies and frameworks as powerfully shaping what happens in schools:

- *Curriculum for Excellence/Building the Curriculum* (Scottish Government, 2006-11);
- *Journey to Excellence/How Good is Our School* (HMIE, 2007);
- *Getting it Right for Every Child* (Scottish Government, 2012c);
- *Formative Assessment/Assessment is for Learning* (Scottish Government, 2011b)
- *Principles of Inspection and Review* (Education Scotland, 2011).

Curriculum for Excellence (CfE) affords schools and teachers the flexibility to design, plan and teach the curriculum in ways that offer bespoke solutions to the challenges their communities face. Support documents in the Building the Curriculum series need to show how this flexibility should be applied to address issues around poverty and educational attainment. For example, although Building the Curriculum 3 acknowledges that socioeconomic disadvantage is linked to low literacy, poverty is omitted when it lists sources of inequality that need to be considered in curriculum design: 'It has been acknowledged that a person's race, national or ethnic origin, gender, sexual orientation, religion or disability has the potential to put them at a disadvantage' (Education Scotland, 2008b, p. 48). The poverty landscape is complex for education. Schools serving economically advantaged communities with pockets of poverty may require different solutions from those serving more widely disadvantaged communities, and we would argue that poverty deserves its own Building the Curriculum document. The flexibility CfE affords needs to be seen to be working to meet the needs of economically disadvantaged pupils.

*Journey to Excellence/How Good is Our School* (HGIOS) and *Getting it Right for Every Child* also need illustrations of how they are to be used to identify, monitor and address equity issues arising from poverty. It would be particularly beneficial to highlight how self-evaluation and 'challenge and support' conversations should explore the relationship between poverty and attainment. Such illustrations could focus attention on how school leadership, teacher expectations, curriculum content, design and pedagogies, as well as wider school and community/work engagement arrangements, can effect better outcomes for this group.

Advice on implementing formative assessment needs to alert education professionals to the possibility that strategies may have different impacts in different contexts or on pupils from different home backgrounds. School leadership teams and teachers should monitor the impact of both formative and summative assessment on pupil attainment, self-efficacy and engagement, and respond sensitively and productively to the evidence. This,

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rather than extant foci on strategies such as setting 'success criteria', should be used to determine the depth and breadth of implementation.

The document *Principles of Inspection and Review* (Education Scotland, 2011) sets out how Education Scotland HM inspectors monitor attainment and policy implementation in schools and local authorities. Inspectors provide independent assurance and accountability, collect evidence to inform national policy development, promote the adoption of effective practice and help professionals increase their own capacity to self-evaluate and drive improvement. Inspections are based on self-evaluation data using the Journey to Excellence/HGIOS framework but focus on outcomes and impact, and on promoting equality and diversity. However, equality is aligned to legislative requirements for disability, gender and race rather than non-legislative issues such as poverty. This means that inspectors may not ask all establishments about how poverty links to attainment, or how their curriculum design, content and pedagogies meet the needs of pupils from economically disadvantaged homes. Making poverty a more routine and central part of the inspection agenda would both raise the profile of poverty issues, and increase the knowledge base about what works.

## National and local projects

Curriculum development and intervention projects can raise awareness of the educational experiences of children living in poverty. They can also affect attainment, generate knowledge and build professional understanding. Our telephone enquiries about national and local projects and our analysis of national website materials indicate that research knowledge about poverty and educational achievement is not routinely used to frame, design, evaluate, analyse, report or tag curriculum development projects. This makes it hard to collate accounts of national and local education initiatives that close the attainment gap. The lack of routine focus on poverty seems inexplicable, given that poverty is the biggest factor associated with academic failure.

Projects that distribute resources, or apply curriculum innovations in an unfocused way miss the opportunity to build an understanding of those groups most in need of help. Equal provision does not equate to equal opportunity; by default, the most vulnerable groups may become invisible and it is unclear whether such projects reach them, how they respond, whether they work for them, or how they work. This allows projects to be declared successful when actually they enshrine existing disadvantage.

Those involved in projects that seek to have an impact on education, particularly on pupil attainment and engagement, professional understandings, curriculum development or curriculum implementation, have a moral and professional duty to consider how the evidence on the educational outcomes for pupils living in poverty might inform and direct both the project as a whole and their own work in it. Questions about how the project relates to poverty need to be considered when projects are first scoped and when decisions are made about their focus, design, implementation, evaluation, analysis and reports.

Chapter 4 reports that evaluation evidence about which projects have made a significant difference to children's learning in Scotland is hard to find. National projects, and those local projects given a national profile, should set the quality standard for evaluation. National reports of projects, whether on websites or professional networks, need to attend to the quality of the evaluation data, and to the range and robustness of the evidence and not just report teacher impressions of impact. In the case of national projects in

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particular, external, mixed-method evaluations need to systematically collect and analyse direct measures of impact on pupils, the context and nature of implementation, the costs (both in terms of staff effort/time and in material resource) and the long-term impact.

National and local authority projects have the potential to be a strong lever for change. However, to release this potential requires focused project specifications with designs informed by the existing knowledge of what works, and stronger evaluation measures. Projects that lack these features are a weak lever for raising attainment and for changing national awareness, aspirations and understanding of how the educational outcomes for pupils from economically disadvantaged homes can be raised.

## Data for monitoring student attainment

Data on pupil attainment can direct the efforts of teachers, schools and local authorities. It needs to be used in conjunction with reliable knowledge to drive 'support and challenge' conversations about individual pupil progress and about how well the curriculum is meeting the needs of pupils from economically disadvantaged homes. Currently, gaps in data availability limit the extent to which this can be done for some age groups.

Data is most easily available on pupil attainment in the latter half of secondary school education. The Scottish Qualifications Agency (SQA) releases summaries of exam tariff scores for pupils aged 15-18 to local authorities and schools. These summaries include:

- the National Comparison Decile, which provides a rank order of all secondary schools' performance of attainment against poverty measures over five years;
- the comparison with comparator schools measure, which indicates performance against comparators with similar profiles.

New SQA Dashboard data will provide national, local authority, school and student-level information linked to economic deprivation factors about literacy and numeracy attainment, the quality and quantity of attainment, and school-leaver destinations. The data will be in a form useful to inspectors, local authorities and schools to focus on how to mitigate the poverty attainment gap. This is a very positive development.

Attainment data for primary and lower secondary pupils is based on teacher judgements. This makes it difficult for school and local authority staff to easily identify how poverty links to attainment, to identify and analyse patterns of need, or design and monitor curriculum innovations. Some local authorities and schools use commercial, standardised tests from England. These collect postcode and free school meal information, but it is unclear how such data is actually used in schools. Some schools use it just for baseline accountability.

To inform teaching and learning, data needs to be easily and quickly available in a useful form to teachers, and teachers in turn need staff development to help them analyse and respond to it productively. Buying commercial tests is a significant and continuous drain on the school/local authority budget. Were Scotland to develop such tests as a national resource, free on demand to Scottish schools and local authorities, local authority efforts could focus on using the data to promote equity.

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## Reliable knowledge and research

Knowledge is a powerful lever for change. To act in ways most likely to be effective, professionals need an evidence-base of what works, for whom, in which contexts, and why. Without this, professional effort may be wasted trialling solutions known to be ineffective, and opportunities to make collective progress may be missed.

Chapter 3 of this report outlines evidence about what works to increase the attainment of pupils living in poverty. It indicates the need for a knowledge bank and mobilisation strategy so that robust, evidence-based knowledge is available for those who make or influence education decisions, and who fund or propose projects that could have an impact on education. Professionals likely to find such a knowledge bank useful obviously include early years professionals, teachers, head teachers, local authority staff, national development officers and inspectors. Such a strategy could also benefit librarians, staff at national agencies such as Creative Scotland, charities such as the Scottish Book Trust, local and national politicians, members of curricular advisory bodies, other non-governmental organisations (NGOs) that focus on poverty or education, and journalists. This is an indicative, rather than an exhaustive, list.

Construction of such a resource needs to engage a wide variety of professionals, and be in a format that is useful to them. Importantly, however, the content should be decided by groups with appropriate expertise in academic and curricular research, research methodologies, curriculum and pedagogy, national policy and school/local authority management.

Scotland forms a unique policy and curriculum implementation context. We need to understand how knowledge generated in international contexts transfers into a Scottish context. Chapter 3 of this report indicates wide gaps in our knowledge about what actually works for pupils from economically disadvantaged homes in Scottish schools. The empirical research has either not been done, or has not been done in sufficient quantity to generate reliable knowledge.

Research and evaluation knowledge is a potential lever for change and the lack of knowledge leaves Scottish education professionals unsupported in making professional judgements about which particular initiatives might work in the Scottish educational system, and how they might be adapted to work more effectively and efficiently.

## Professional development and knowledge generation

Scottish professional development models emphasise building capacity for self-improvement within the system. Professionals at all levels share 'good practice' and teachers engage in school-based communities of enquiry and action research. While these are widely acknowledged as being effective ways to embed change, they need to be research-informed and data-driven to focus effort on, and generate reliable knowledge about, the impact of innovations on specific groups such as pupils living in poverty.

Professional development can only be a strong lever for change if it draws on such sound knowledge and data. Where it does so, professional development can encourage nuanced reflection on learning and teaching and bespoke curriculum innovation. Where professional development is not driven by data and robust knowledge, it tends to follow 'fads' and emphasise resources, procedures, activities and 'quick-fix' solutions.



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Chapter 4 indicates the crucial role that robust knowledge and evaluation play in the process of generating reliable professional knowledge from teachers' experiences. Reliance on post-hoc evaluation measures and impressionistic data in school-based action research projects is problematic because interventions often look and feel successful to those who choose and action them, but may be skewed by the professional's enthusiasm or by the responses of a few highly visible pupils. Evaluation is a complex process and requires a particular form of professional development. It would be particularly appropriate for staff working in quality improvement, curriculum advice or development teams in local authorities and in Education Scotland to receive such development. Models of how strong, mixed-method evaluations are designed and used to build knowledge in school and teacher-based enquiries would then be more readily available for other local authority staff, schools and teachers to access.

Robust professional development can be a powerful lever for change. It generates applied knowledge, including implementation advice that goes beyond procedures, it raises questions and it feeds professional understandings about research, contexts of application and constraints. However, to work well as an agent of change, it requires robust knowledge, with good mobilisation, and exemplification through projects and data use.

## Agents of change: the Scottish Government

National government is in a good position to increase the national focus on low educational achievement in pupils from economically disadvantaged homes. It can direct attention and resources to it, and promote evidence-informed knowledge about what works to make education more equitable. To effect change the Scottish Government can:

- raise awareness of the achievement gap associated with poverty;
- work to make robust attainment data available to all teachers, including those in the primary and lower secondary sectors, so that it can be used by schools for internal curriculum design, intervention and monitoring. This is not an endorsement of high-stakes testing regimes;
- set funding requirement rules that insist interventions be accompanied by well-designed evaluation measures to assess impact on attainment from the outset. The evaluation measures should be built into the programme schedule and not decided during or after commencement of the project. They should focus on direct measures of impact rather than on teacher perceptions, be published, and be made available for analyses that would help to build more context-specific evidence of what works for Scotland;
- establish a national knowledge bank and mobilisation strategy, underpinned by clear principles of what constitutes useful and robust knowledge, to inform national, local authority and school-level interventions. This knowledge bank should enable education professionals to attend to different kinds of evidence, consider issues of fidelity and understand the core characteristics that make a particular intervention successful. It should draw on academic and professional expertise.

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## Agents of change: Education Scotland

Education Scotland is a major lever for change through its HM Inspectors, who have responsibility for school and local authority inspection, and its national development officers, who have responsibility for developing and leading national projects and for promoting 'good practice' advice through staff development, networks, websites and conferences.

To improve the educational outcomes for pupils from economically disadvantaged homes, HM Inspectors in Education Scotland can:

- analyse and discuss attainment profiles by household deprivation in all school and local authority inspections rather than focusing on general attainment levels. Educators should show how they draw on this data and on knowledge of what works, to inform further decision-making;
- exemplify how national frameworks and strategies, including Curriculum for Excellence/Building the Curriculum, Journey to Excellence/How Good is Our School and Getting it Right for Every Child should be used to reduce the poverty attainment gap. Where necessary the documentation should be supplemented;
- identify and publicise projects that make good use of data and research evidence to inform the conception, specification, design, evaluation and impact reports on what works for pupils from economically disadvantaged homes;
- identify for colleagues in Education Scotland and elsewhere, those Scottish innovations in teaching that successfully close the gap.

To improve the educational outcomes for pupils from economically disadvantaged homes, national development officers in Education Scotland can:

- use staff development courses, networks, websites and conferences to increase awareness and understanding of the achievement gap associated with poverty and publicise information about robust, research-informed measures that reduce the poverty-related attainment gap.
- increase their understanding of how evaluation measures can be designed into, and used to drive, projects;
- Provide national exemplification showing how professionals respond to attainment data in ways that empower pupils, and how data-driven curriculum innovations can narrow the attainment gap;
- commission national projects and identify local projects that focus on closing the poverty gap in attainment and that illustrate good use of data in identifying, scoping, designing/planning, implementing, monitoring and evaluating impact;
- report and appropriately tag 'good-practice' initiatives that close the poverty gap in attainment, and provide detailed, evidence-based, knowledge-informed analyses of what worked, for whom, in which circumstances and why.

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## Agents of change: local authorities

Local authorities in Scotland have a statutory duty to deliver school improvement and are intimately involved in school governance and in allocating resources. The Association of Directors of Education Services has discussed national poverty and attainment data for S4-S6 but needs to also focus on issues about how to monitor poverty-related attainment gaps in primary schools and S1-S3. They need to publicise research knowledge on how local authorities and schools can address the educational disadvantage that results from poverty and promote nuanced interventions.

Local authorities in Scotland have flexibility over budgetary allocations to schools. The deprivation component of this budget is small, and authorities must adopt evidence-based and data-driven approaches to spending this money, targeted on raising attainment. For instance, clear lessons can be drawn from the London Challenge to reduce the attainment gap.

To improve the educational outcomes for pupils from economically disadvantaged homes, directors of education can:

- ensure that improving the educational outcomes for pupils from economically disadvantaged homes is prioritised in the local authority and school development plans;
- raise awareness and understanding of the attainment gap associated with poverty, the research on how it might be closed, the strategies favoured by the local authority, and the role of all education staff in implementing these.
- Devise evidence-based and data-driven approaches to close the poverty attainment gap and ensure these are prioritised in schools.

In many (although not all) local authorities, quality improvement officers (QIOs) offer 'support and challenge' to schools through improvement planning, performance review and pastoral support. They may also develop authority-wide curriculum projects. This makes them important change agents.

Increasing the understanding of QIOs, their knowledge about what works and the mechanisms to lever change, would have a direct impact on schools. It is important, for example, that QIOs use data-driven decisions to identify ineffective interventions and avoid situations where interventions or curriculum resources are purported to be making a difference and are therefore rolled out to other schools, but turn out not to work.

To improve the educational outcomes for pupils from economically disadvantaged homes QIOs can:

- develop their own knowledge of evidence-based poverty interventions and of how to design data-driven projects with robust evaluation built in to ascertain impact on attainment;
- make the poverty/achievement gap a standing item on the agenda for meetings between QIOs and school managers in all sectors of schooling;
- focus 'support-and-challenge' discussions on the achievement gap associated with poverty and on applying research knowledge of what might work in a particular school context in nuanced ways;
- promote high-quality professional development programmes, projects and implementation advice for teachers. These should be evidence-driven,

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promote school-to-school links and be focused on raising attainment to close the poverty gap;

- consider the assessment data available to teachers and provide or commission staff development on how this can be used to tailor curriculum design, teaching content, pedagogies and school systems.

## Agents of change: schools and teachers

Curriculum for Excellence offers flexibility for schools and teachers to design context-specific, whole-school approaches that bridge the gap between learning in school and the experiences children have outside school. To do this, school management teams and teachers need to know how pupils from economically disadvantaged homes perform in their school and class. They need to draw on robust evidence of ‘what works’ for children from disadvantaged backgrounds and use it to inform their curriculum design, content and pedagogical interventions.

We are aware that ‘what works’ might be context-specific and there should be room for professional innovation. However, this has to be accompanied by regular monitoring and evaluation to ascertain impact on attainment, and there should be increased focus on reducing the attainment gap.

Many schools are facing a challenging change agenda, but school managers must ensure that mitigating the effects of poverty on attainment is prioritised in school development planning and project implementation. It is, after all, the factor that has the biggest impact on attainment. Teachers need to attend to the characteristics that make particular pedagogical interventions effective. They need to focus on fidelity to deep understanding and on informed, reflective and responsive teaching. Effective professional development should be guided by robust knowledge, driven by evidence, and attend particularly to attainment for those children from disadvantaged backgrounds.

To improve the educational outcomes for pupils from economically disadvantaged homes, school management teams and teachers can:

- raise their own awareness and understanding of the achievement gap associated with poverty and knowledge of how it might be addressed;
- prioritise the poverty/achievement gap for action, staff development, planning and intervention;
- monitor and analyse the poverty and attainment links in the school/class and consider the implications for curriculum design, planning and teaching (for the school, classes and individual pupils);
- make responsive and research-informed decisions about how to deploy staff and resources to raise achievement among economically disadvantaged groups;
- monitor how new pedagogies, resources and initiatives affect economically disadvantaged groups and not just focus on the general school/class population;
- increase their commitment to staff and curriculum development through involvement in focused, evidence-based, poverty intervention projects and networks designed to raise attainment and close the gap between rich and poor.

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## Agents of change: universities

Universities should be asked about how initial and post-qualifying teacher education courses address poverty issues. Scotland's education research community also needs to be more involved in discussing, generating and reviewing national advice. Re-engaging university staff in projects to study the impact of poverty intervention projects on educational outcomes would support evidence-informed decision-making. There is a need for large-scale, mixed-methods research and evaluation studies that generate qualitative and quantitative data and can support the design, implementation and evaluation of new curricula programmes and interventions.

To improve the educational outcomes for pupils from economically disadvantaged homes, universities can:

- share how they promote evidence-based knowledge about poverty and what works for pupils from economically disadvantaged homes in pre-service and career-long professional learning programmes;
- focus on developing empirical research and evaluation studies that help educators to understand educational inequality relating to poverty in Scotland, identify effective and efficient projects and understand the active ingredients of successful 'gap-busting' projects.

## Other stakeholders

The Scottish Qualifications Agency, the General Teaching Council of Scotland, national agencies such as Creative Scotland, national advisory groups such as the Standing Literacy Commission, teachers' unions, NGOs such as the Scottish Book Trust and charities that work with educators or with disadvantaged communities can also raise political, professional and wider society's awareness of the links between poverty and educational attainment and can exert pressure for it to be prioritised in the school system – see, for example, EIS (2010) and the SQA Dashboard initiative described earlier in this chapter.

All stakeholders should make determined efforts to ensure that their own education work attends to the research on links between poverty and attainment in Scotland. Projects should draw on existing research evidence and, where possible, bring a poverty focus in project design, resource and evaluation so that projects build understanding of how to effectively increase the attainment of pupils from Scotland's poorest homes.

To improve the educational outcomes for pupils from economically disadvantaged homes, other stakeholders can:

- raise awareness and understanding of how poverty and educational attainment are linked through political, public and professional engagement;
- fund and support specific interventions, knowledge-identification and mobilisation activities, and evaluations;
- consider the educational outcomes for pupils living in poverty and how existing research might inform and shape all projects, at the stage when they are scoped, focused, designed, implemented, evaluated, analysed and reported.

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# NOTES

- 1 CfE defines five levels: Early (Preschool, P1); First (P2, P3, P4); Second (P5, P6, P7); Third/Fourth (S1, S2, S3); and Senior Phase (S4, S5, S6). Children and young people are expected to move through levels and subjects at their own pace and thus can be at higher or lower level relative to their classmates.
- 2 Data from [www.scotland.gov.uk/Publications/2013/04/8843/0](http://www.scotland.gov.uk/Publications/2013/04/8843/0)
- 3 Deprivation is measured using the Scottish Index of Multiple Deprivation (SIMD) 2009 (where pupils live, not where they go to school). Data is split into three groups of unequal terciles, bottom 30 per cent, middle 40 per cent and top 30 per cent of datazones. While children from the poorest households are disproportionately represented in the lowest SIMD, this area-based data is limited as not all poor children live in poor postcodes and vice versa.
- 4 Data from [www.scotland.gov.uk/Publications/2013/04/8843/0](http://www.scotland.gov.uk/Publications/2013/04/8843/0)
- 5 Tariff score is calculated by simply adding together all the grades (converted into tariff points) accumulated from all the different course levels and awards obtained by a student. The current tariff score scale does not recognise pupils' achievements in individual National Qualifications units and non-SQA accredited courses, and it does not include achievements of pupils in special schools (data from [www.scotland.gov.uk/Topics/Statistics/Browse/School-Education/TrendTariffScores](http://www.scotland.gov.uk/Topics/Statistics/Browse/School-Education/TrendTariffScores)).
- 6 See [www.scotland.gov.uk/Publications/2013/06/7503/8](http://www.scotland.gov.uk/Publications/2013/06/7503/8)
- 7 Data from [www.scotland.gov.uk/Publications/2010/12/10141122/15](http://www.scotland.gov.uk/Publications/2010/12/10141122/15). The 2012 results were released after the main report was completed and at the time of submitting the final report.
- 8 Economic, social and cultural status combines a range of information provided by students about their parents' education, occupation and home possessions.
- 9 Activity agreements include those where there is an agreement between a young person and a trusted professional that the young person will take part in a programme of learning and activity that helps them become ready for formal learning or employment (Scottish Government, 2013b). Data from [www.scotland.gov.uk/Topics/Statistics/Browse/School-Education/TrendDestinations](http://www.scotland.gov.uk/Topics/Statistics/Browse/School-Education/TrendDestinations)
- 10 Data from [www.scotland.gov.uk/Resource/0042/00426004.pdf](http://www.scotland.gov.uk/Resource/0042/00426004.pdf)
- 11 See also SFC (2013) report highlighting differences in types of higher education destination by deprivation quintiles. Data from [www.scotland.gov.uk/Publications/2010/03/30180354/0](http://www.scotland.gov.uk/Publications/2010/03/30180354/0)
- 12 [www.scotland.gov.uk/Topics/People/Young-People/legislation/engagement-events/services-bill](http://www.scotland.gov.uk/Topics/People/Young-People/legislation/engagement-events/services-bill)

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# APPENDIX: METHODOLOGY

A systematic review method was adapted and used for locating and synthesising evidence presented in this report. The approach generates comprehensive, criterion-based analysis of the available literature and utilises a robust, consistent method in retrieving, appraising and synthesising literature (Higgins and Green, 2011). Due to the purpose of the study and range of evidence considered, no meta-analyses were undertaken to provide summary statistics of effect sizes. The approach for generating the report encompassed three main phases: *Initial trawl*, *Screening and selection* and *Analysis and synthesis*.

---

*Initial trawl*: a systematic search for relevant references in databases using pre-specified search terms. The main database used was SUPrimo, the JRF website, Google Scholar, the What Works Clearing House and Scottish Government websites. SUPrimo is a comprehensive meta-database that includes key databases such as ERIC, ProQuest, PsychINFO and many others. In order to make data manageable, searches were restricted to selected databases iteratively. For instance, a search using the term 'poverty and educational attainment' was restricted to ERIC in the first instance and expanded to cover other databases such as PsychINFO in subsequent searches.

A snowballing strategy that involved following up interesting references cited in articles retrieved was also adopted. We were aware that within the Scottish education context, there are challenges relating to the lack of empirical evidence to address some key issues. Electronic searches were therefore complemented by email and telephone enquiries with key stakeholders, ensuring comprehensive coverage of existing evidence.

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Various search terms were generated and used in locating literature for this report. The search terms were guided by and focused around the main remit of the study to allow for comprehensive coverage:

- The scale, nature and persistence of the attainment gap in Scotland and its consequences for later outcomes, especially in the labour market and in relation to poverty and low income in adulthood.
- The ways in which the problem has been considered and addressed in Scotland so far.
- What the evidence tells us about the most effective actions for schools and others in Scotland to take to reduce the gap in attainment between richer and poorer pupils.
- The lessons that can be drawn from the JRF research about the role of attitudes, aspirations and behaviours, and interventions relating to them.
- The importance of using evidence to inform action to close the attainment gap.

*Screening and selection:* pre-specified inclusion and exclusion criteria were specified to determine which materials were selected for inclusion in the final report. The criteria were guided by the terms of reference of the project and judgements about the quality/strength of the evidence to support claims made:

- aim of the study;
- design of the study;
- clarity in definition of indicators and outcomes;
- sample adequacy;
- quality of data and analysis;
- theoretical and ideological bias;
- robust peer-reviewed methodology;
- plausibility of claims and causal links based on evidence presented;
- relevance within the UK/Scottish context.

In reviewing evidence on what works to close the poverty educational attainment gap, the following additional criteria were used:

- studies evaluating interventions aimed at closing the achievement gap between children from poorer and richer backgrounds;
- studies aimed at evaluating interventions for improving achievement of children from poorer backgrounds;
- studies aimed at evaluating interventions for increasing achievement in specific curricular domains (for children from poorer backgrounds);
- studies using acceptable measures of poverty (free school meals, household or area-based socioeconomic status indicators);
- studies using objective measures of poverty and educational attainment;
- studies undertaken over the past ten years (2003-13) and published in English. Only in rare cases were articles consulted beyond this timeframe;
- studies using experimental and non-experimental designs. We chose to consider non-experimental studies because of the scarcity and difficulty

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of experimentation in educational research. However, the quality of evidence was evaluated using other criteria (see above).

*Analysis and synthesis:* this involved synthesis of findings from the review using a structured protocol. The first stage involved identifying and summarising key elements/findings from each review in order to address each of the five aims highlighted in the project within the context of Scotland (Chapters 1-4 of the report). This section also addressed gaps in existing evidence. The second stage entailed bringing together the key issues addressed in the first section to construct a viewpoint (Chapter 5). The focus was on specific recommendations for action that can be taken by schools and various stakeholders to reduce the attainment gap between children from the poorest and richest background in Scotland.

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Claire Telfer, Policy and Advocacy Manager (Scotland), Save the Children



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# ABOUT THE AUTHORS

**Edward Sosu** is a lecturer in the School of Education at Strathclyde University, Glasgow, with a background in education and psychology. His research interests include the relationship between social inequality and educational achievement, developmental trajectories in childhood, and teacher effectiveness. The overarching goal of his research is to improve educational outcomes for children. Edward also has expertise in quantitative methods and data analysis.

**Sue Ellis** is a reader in the School of Education, University of Strathclyde, Glasgow. She is committed to research and teaching that leads to more effective literacy learning environments, teaching interventions and policies. Her research generates empirical, technical knowledge about literacy teaching that examines 'what works, with whom, in which circumstances and why'. Through this, she seeks to theorise how to construct more effective literacy policies, curricula, professional development and knowledge mobilisation systems that will help educators navigate the various rhetorical traditions and methodologies that coexist in literacy research and practice.

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The Homestead  
40 Water End  
York YO30 6WP  
[www.jrf.org.uk](http://www.jrf.org.uk)

# Raising Attainment For All (8 years to 18 years)

Our Vision: Scotland should be the best place to go to school. We want each child to enjoy an education that encourages them to be the most successful they can be and provides them with a full passport to future opportunity

**To raise education attainment for all and reduce inequity**  
Page 73

**School learning environment which supports the individual needs of all children**

**Positive physical, mental, cognitive health and emotional development for all children and young people**

**Parents, carers, families engaged with their child's learning and involved in supporting their learning and development**

**Communities engaged in supporting opportunities for learning and development of children and young people**

**Transformational Leadership**

**Culture for change and improvement**

**High quality learning and teaching**

**High Quality, Skilled Workforce**

**Individual Support for children**

**Universal Support for learning**

**Co-produced planning/decision making**

**Sharing of information**

**Positive aspirations of children & young people**

**Supportive home school partnerships**

**Encouraging home learning environment**

**Developed parental skills & strategies to support learning**

**Partnerships between Schools, FE, training, HE & Employers**

**Engaged community enterprises / community assets / third sector**

**Theory of actions that will enable children and young people to achieve**

**Improved teamwork, communication and collaboration**

**QI team discussions**

**Enhanced coaching skills**

**Coaching /mentoring interventions**

**Pedagogy**

**Study support skills for parents**

**Availability & access to services**

**Nurture groups**

**Increased engagement with partner agencies**

**Improved communication between school and home**

**Transition communication**

**Improved planning**

**Understanding of local context of achievement gap**

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# Closing the Gap

Reducing the link between deprivation and poor educational attainment in Scotland

## Our Vision

Our National Performance Framework highlights our ambition for our children and young people to grow up to be successful learners, confident individuals, effective contributors and responsible citizens.

Scotland should be the best place to go to school. We want each child to enjoy an education that encourages them to be the most successful they can be and provides them with a full passport to future opportunity.

To achieve this, we need to raise attainment consistently and for all our children and young people, and progressively reduce inequity in educational outcomes.

Children living in the most deprived areas in Scotland are....

6-13 months behind their peers in problem-solving at age 5

11-18 months behind their peers in expressive vocabulary at age 5

Around two years of schooling behind their peers at age 15

This inequity gap holds true for school leavers at every single decile of area deprivation - not just the bottom 20% and most of this variation exists within rather than between schools.

## We have a firm foundation in our key policies:

**CfE**

Curriculum for Excellence is our long-term platform for energising learning and teaching by providing more coherent and flexible learning, aimed at raising standards, improving knowledge and developing skills for learning, life and work for every young person.

**GIRFEC**

Getting It Right for Every Children is the overarching approach to all our policies and frameworks. GIRFEC is all about keeping the child at the centre, providing early intervention and co-ordinated support.

**Early Years**

We know that investing in the early years of a child's life can help prevent problems developing later on. This is why we established the Early Years Framework in 2008 and introduced the Early Years Collaborative - a multi-agency local quality improvement programme to put these principles into action.

**Teaching Scotland's Future**

Will provide a stronger and more coherent early phase of teacher education, enhanced opportunities for professional learning and a greater range of leadership learning opportunities.

## What is happening to support this?

### Leadership at all levels

The implementation of Teaching Scotland's Future

The establishment of a Scottish College for Educational Leadership

### Excellence in Learning and Teaching

Curriculum for Excellence empowers teachers, schools and their leaders the freedom to innovate

### Effective interventions

Encouraging collaboration and continuous self-improvement through our Self-Improving Schools Partnership Programme and Pathfinder Schools

### Use of Evidence and Data

The establishment of literacy and numeracy hubs across Scotland to facilitate sharing of best practice

Funding for the Scottish Schools Education Research Centre

### Engaging with Families and Communities

Providing accessible information through a refreshed Parentzone

Working with schools and the third sector to explore effective links and share ideas

## What next?

**We need to secure consistent, continuous improvement within our education system to meet the needs to every child.**

**We want to enable schools to successfully manage their own local improvements that will allow them to meet the particular needs of students, families and communities.**

**At the same time, we will equip teachers and professionals with the authority, resources and skills necessary to do this.**

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supporting children's learning  
code of practice

(Revised edition)

2010

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## Ministerial foreword



The purpose of this Government is to create a more successful country with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. Our aim is to build an environment where all people in Scotland can help to create and share in that prosperity.

Our aspiration for all children and young people in Scotland is that they should be successful learners, confident individuals, responsible citizens and effective contributors to society and at work. They are our future and we all have responsibilities to ensure that they are safe, nurtured, healthy, achieving, active, respected and responsible, and included.

All children and young people need the support of our education system to help them to learn and to achieve their potential. We are determined to provide all our children and young people with a world-class education.

Within that context, *Curriculum for Excellence* is transforming school education in Scotland by providing a coherent, more flexible curriculum from 3-18. Additionally, *Getting it right for every child* provides a common co-ordinated approach across all agencies that supports the delivery of appropriate, proportionate and timely help to all children and young people as they need it.

While most of our children and young people respond well to the opportunities for learning provided by our schools, we also know that without extra help some will not benefit fully from education. That is why the Education (Additional Support for Learning) (Scotland) Act in 2004, as amended, aims to create a stronger, better system for supporting children's learning. This Act aims to ensure that all children and young people receive the additional support required to meet their individual needs and to help them become successful learners.

Partnership working among those involved in supporting children's learning is essential if we are to achieve our aspirations for our children and young people. The Act requires local authorities and NHS Boards to establish clear arrangements for joint working so that they can work together effectively in order to benefit from their shared knowledge to improve outcomes for children and young people.

We all have a part to play in ensuring that our children and young people become all that they can be.



**Adam Ingram**

**Shona Robison**

Minister for Children and Early Years

Minister for Public Health and Sport

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Pete Whitehouse, Head of Analytical Services Unit (Schools), Scottish Government

Peter Diamond, Assistant Director, Support for Learning, Orkney Islands Council  
Rachel Sunderland, Team Leader, Support for Learning Division, Scottish Government  
Ruth Henderay, Head of Faculty, Integrated Curriculum Services, Jewel and Esk College/Scotland's Colleges  
Sandra Mitchell, Mediation Manager, Children in Scotland  
Sheila Downie, Clinical Services Manager/Lead Speech and Language Therapist, NHS Greater Glasgow and Clyde  
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# Introduction

## **Purpose of the Act**

1. The Education (Additional Support for Learning) (Scotland) Act 2004 (“the Act”) provides the legal framework which underpins the system for identifying and addressing the additional support needs of children and young people who face a barrier, or barriers, to learning. The Act aims to ensure that all children and young people are provided with the necessary support to help them work towards achieving their full potential. It also promotes collaborative working among all those supporting children and young people and sets out parents’ rights within the system. The Act has been subsequently amended by the Education (Additional Support for Learning) (Scotland) Act 2009 (“the 2009 Act”).

## **Purpose of the code**

2. This code replaces the original code of practice published in 2005 in order to take account of the 2009 Act. It explains the duties on education authorities and other agencies to support children’s and young people’s learning. It provides guidance on the Act’s provisions as well as on the supporting framework of secondary legislation. The code uses the term “the Act” to include, where appropriate, the secondary legislative provisions and includes features of good practice on how these can be applied. It also sets out arrangements for avoiding and resolving differences between families and education authorities.

## **Status of the code**

3. Education authorities and appropriate agencies, such as NHS Boards, are under a duty to have regard to the code when carrying out their functions under the Act. The code is designed to help them make decisions effectively but it cannot be prescriptive about what is required in individual circumstances. Education authorities and appropriate agencies must ensure that their policies, practices and information and advice services take full account of the legal requirements of the Act. The code includes brief case studies and examples of good practice to illustrate some of the processes involved in applying the Act’s main provisions. These do not offer definitive interpretations of the legislation since these are ultimately a matter for the courts.

4. The code is intended to explain the principles of the legislation and to illustrate how the law might apply in certain situations. It is important to an appropriate understanding of this framework that this code of practice is read as a whole. Individual chapters should not be taken out of the context of the whole code or read in isolation from each other and the Act and the related secondary legislation. There are some issues which the code cannot resolve and which must await the authoritative interpretation of the courts. The code is not intended to be a substitute for taking appropriate advice on the legal implications of particular situations.

## Other legislation and policy

5. The guidance in this code should be read alongside other legislation and policy where appropriate. For example, *Curriculum for Excellence*, *Getting it right for every child* (GIRFEC) and *Hall 4*<sup>1</sup> have implications for education authorities' and other agencies' support for learning strategies. In particular, *Curriculum for Excellence* is a curriculum for all and this includes explicitly children and young people with additional support needs. The Act, with its focus on ensuring that children and young people receive the help they need to benefit from education, supports this inclusive ethos<sup>2</sup>.

6. While the guidance in the code outlines links with other legislation and policy, the main purpose of the code is to explain the principles of the Act and how the law may apply in certain situations. While *Curriculum for Excellence* and *Getting it right for every child* are major policy drivers in Scottish education they are not statutory provisions. They are referred to at points in the code to describe the overall context within which the Act applies but they do not themselves impact directly on the **legislative** provisions of the Act. In particular, it is beyond the scope of the code to provide a full account of these other policies and their impact on the lives of children and families. A summary of other relevant legislation and policy issues is provided at Annex A.

## Who should read the code?

7. Education authorities and agencies involved in advising or supporting children and young people with additional support needs and their families should encourage and support their employees in gaining knowledge of the content of the code and understanding of its application in their day-to-day work. Parents and young people may wish to refer to the code for information and advice on exercising their rights. However, specific guidance is available for them from *Enquire*, the helpline funded by the Scottish Government which provides information and advice on additional support needs.

8. Examples of professionals across agencies who are under a duty to have regard to the code, or others who may find it useful when carrying out duties under other legislation, include:

**Multi-agency planners:** policy officers, planners and service managers working in children's services planning networks across education, health, social care, further education and training.

**Education:** education directorate, head teachers, teachers, classroom assistants, educational psychologists, staff in schools and nursery provision, including partner providers for pre-school education.

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<sup>1</sup> See policy section in Annex A.

<sup>2</sup> *Focusing on Inclusion and the Education (Additional Support for Learning) (Scotland) Act 2004: a Paper for Professional Reflection* (2006) Learning and Teaching Scotland.



**Early years and childcare:** early years practitioners, early years workers in family centres, staff delivering out-of-school provision.

**Health:** health visitors, public health nurses, community child health teams, paediatricians, physiotherapists, occupational therapists, speech and language therapists, other allied health professionals, clinical psychologists, and medical practitioners in paediatrics, general practice and child and family psychiatry.

**Social work:** social workers, residential child care staff, support workers, adoption and foster care service staff and social workers with responsibility for child protection and looked after children.

**Voluntary sector:** staff working in the whole range of children's services.

**Other agencies:** professionals in other agencies who may be involved in integrated assessment teams, for example, childcare fieldworkers, youth workers, Children's Reporters, police, schools/community liaison team, community workers, staff working in Skills Development Scotland (careers services) and in higher and further education.

## Definitions

9. A young person has the same meaning as under the Education (Scotland) Act 1980 (referred to here as "the 1980 Act") which is a person who has attained the age of 16 years and who is not yet 18 years of age. Throughout the code the term young people is used instead of young persons, for ease of understanding.

[135\(1\)](#)  
[1980 Act](#)  
[as](#)  
[amended](#)

10. The term "parent" has the same meaning as in the 1980 Act and includes "guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has care of a child or young person." The term parent as well as meaning a child's or young person's genetic father or mother also includes others exercising parental responsibilities in respect of the child or young person.

11. "Education authority" is defined in the 1980 Act as a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994. In practical terms, the education authority and the local authority are the same entity. In general, the code refers to an education authority when considering a local authority's education functions and to a local authority in respect of functions other than education ones such as social work services.

12. The Act applies generally to pre-school provision, which is under the management of the education authority, and made for prescribed pre-school children (see glossary). This provision also can include provision where an education authority have an arrangement with another provider; for example, where the authority have<sup>3</sup> arranged for children to attend a private nursery under a partnership agreement. In certain circumstances, described in chapter 3 below, the education

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<sup>3</sup> The Act treats the term "education authority" as a plural term and for the sake of consistency the code adopts this convention.

authority have a duty to make provision for certain disabled children under the age of 3 years.

13. The meaning of disability, used in the code, is as defined in the Disability Discrimination Act 1995 (c50), section 1(1). This states that “a person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities.”

14. The Act refers to looked after children within the meaning of section 17(6) of the Children (Scotland) Act 1995 which covers children looked after at home and children looked after away from home.

- **Looked after at home:** where the child or young person is subject to a supervision requirement with no condition of residence through the Children’s Hearing system. The child or young person continues to live in their normal place of residence (i.e. often the family home).
- **Looked after away from home** (i.e. away from their normal place of residence): where the child or young person is subject to a supervision requirement with a condition of residence through the Children’s Hearing system, or is provided with accommodation under section 25 (voluntary agreement) or is the subject of a Permanence Order (Part 2 of the Adoption and Children (Scotland) Act 2007)). The child or young person is cared for away from their normal place of residence, e.g. in a foster care placement, residential/children’s unit, a residential school, a secure unit or a kinship placement.
- In addition to the above, a child or young person may be the subject of a warrant instigated by a Children’s Hearing or Sheriff Court. These are short term measures where the child or young person is considered **Looked after** for the duration of the warrant.

15. A glossary of terms used is provided at the end of the code.

### References in the code

16. The code refers to the Act and its associated regulations. References to the Act are in the margin of each page, for example s1(1)(a) refers to Section 1, subsection 1(a). References to the titles of other legislation are also in the margin of each page.

### Further information

17. Further information on the code of practice is available from:

Support for Learning Division  
Scottish Government  
Victoria Quay  
Edinburgh  
EH6 6QQ

Tel: 0131 244 0946 Fax: 0131 244 0834  
Email: [ASLAct@scotland.gsi.gov.uk](mailto:ASLAct@scotland.gsi.gov.uk)

# Chapter 1

## SUMMARY OF THE ADDITIONAL SUPPORT FOR LEARNING ACT

1. This chapter summarises the main provisions of the Act. This summary takes account of amendments to the Act introduced by the 2009 Act but does not cover all of the Act's provisions. It is provided for ease of reference as a brief overview of the Act, as amended. It is not an authoritative interpretation of the legislation which only the courts can provide.

2. The Act provides the legal framework underpinning the system for supporting children and young people in their school education, and their families. This framework is based on the idea of additional support needs. This broad and inclusive term applies to children or young people who, for whatever reason, require additional support, long or short term, in order to help them make the most of their school education and to be included fully in their learning. Children or young people may require additional support for a variety of reasons and may include those who:

- have motor or sensory impairments
- are being bullied
- are particularly able or talented<sup>4</sup>
- have experienced a bereavement
- are interrupted learners
- have a learning disability
- are looked after by a local authority<sup>5</sup>
- have a learning difficulty, such as dyslexia
- are living with parents who are abusing substances
- are living with parents who have mental health problems
- have English as an additional language
- are not attending school regularly
- have emotional or social difficulties
- are on the child protection register
- are young carers.

3. The above list is not exhaustive nor should it be assumed that inclusion in the list inevitably implies that additional support will be necessary. However, the 2009 Act automatically deems that all looked after children and young people have additional support needs unless the education authority determine

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<sup>4</sup> Reference: Guidance for addressing the needs of highly able pupils, The University of Glasgow -[http://www.gla.ac.uk/media/media\\_138127\\_en.pdf](http://www.gla.ac.uk/media/media_138127_en.pdf)

<sup>5</sup> Within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c.36).

that they do not require additional support in order to benefit from school education. In addition, education authorities must consider whether each looked after child or young person for whose school education they are responsible requires a co-ordinated support plan. In discharging their responsibilities towards looked after children and young people authorities are obliged to take steps to consider the educational progress of these children and young people. These steps should include establishing whether looked after children and young people require additional support to enable them to benefit from school education and which of those with additional support needs meet the requirements for having a co-ordinated support plan (see chapter 5).

### **Functions and duties of education authorities**

4. The Act confers various functions and imposes duties on education authorities in connection with the provision of school education for children and young people with additional support needs belonging to their area. Some of the main duties are listed below. Education authorities must:

- make adequate and efficient provision for the additional support required for each child or young person with additional support needs for whose school education they are responsible, subject to certain exceptions
- make arrangements to identify additional support needs
- keep under consideration the additional support needs identified and the adequacy of support provided to meet the needs of each child or young person
- provide appropriate additional support for certain disabled children under school age (in this case, generally children under 3 years of age) belonging to their area who have been brought to the attention of the authority as having additional support needs arising from their disability
- presume that all looked after children and young people have additional support needs unless the authority determine that they do not require additional support to enable them to benefit from school education
- presume that all looked after children and young people require a co-ordinated support plan unless the authority determine that they do not meet the requirements for having one
- publish, review and update, as necessary, specified information about their policy and arrangements in relation to provision for identifying, addressing and keeping under consideration such provision for each child or young person with additional support needs for whose school education the authority are responsible
- provide parents of children with additional support needs (and young people with additional support needs), for whose school education the education authority are responsible with all of the information they are required to publish under the Act
- ensure that a summary of the information published under the Act is available, on request, from each place in the authority's area where school education is provided, regardless of whether the school is under the management of the education authority

- provide the above summary in any handbook or other publications provided by any school in the authority's area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and on any website maintained by any such school or the authority for that purpose
- provide those children or young people who need one with a co-ordinated support plan and keep this plan under regular review
- provide independent and free mediation services for those parents and young people who want to use such services and publish information on these services
- have in place arrangements for resolving disputes
- at least 12 months prior to the expected school leaving date, request, and take account of, information and advice from appropriate agencies likely to make provision for the child or young person when he or she leaves school
- no later than 6 months before the child or young person is expected to leave school provide information to whichever appropriate agency or agencies, as the authority think appropriate, may be responsible for supporting the young person once he or she leaves school, if the child's parent or young person agrees.

### **Powers of education authorities**

[s5\(4\)](#)

s7

5. The Act gives education authorities the **power** to help children and young people belonging to their area who have or may have additional support needs and for whose school education they are not responsible. A power is a discretionary function of an education authority which the authority may or may not decide to exercise whereas duties **must** be carried out. Those who may be supported include children and young people sent to independent schools by their parents and those being educated at home. The support can include, for example, provision of learning and teaching support, resources or advice, as considered below.

6. Parents of the above children or young people may request the education authority to establish whether a child or young person has additional support needs or, if the education authority were responsible for the school education of the child or young person, would require a co-ordinated support plan. The education authority are not required to comply with the request but if they do they must provide the parent or young person with information and advice about the additional support required.

7. Parents may arrange directly for children and young people to attend grant-aided and independent schools; that is, the parents and not an education authority are responsible for the child's or young person's school education. In these circumstances, managers of grant-aided or independent schools may request the education authority, for the area to which the child or young person belongs, to establish whether a child or young person attending their school has additional support needs and would require a co-ordinated support plan, if the education authority were responsible for the school education of the child or

young person. The education authority are not required to comply with the request but if they do they must provide the managers of the school with information and advice about the additional support required.

[s25](#) 8. Education authorities may arrange for children or young people with additional support needs to attend establishments outwith the United Kingdom which make provision wholly or mainly for those with such additional support needs.

### **Appropriate agencies**

[s23](#) 9. The Act has an impact wider than education and has significant implications for service providers and professionals working in the health service and in the other appropriate agencies as defined below. An appropriate agency must help the education authority in the exercise of any of its functions under this Act, if requested to do so by the education authority, unless the request is incompatible with the agency's own statutory or other duties or unduly prejudices the agency's discharge of its own functions. Under the Act an appropriate agency is:

- any other local authority
- any NHS Board.

10. The Act enables the Scottish Ministers to make an order naming other appropriate agencies. In addition to the above, the Scottish Ministers have determined that **Skills Development Scotland, all colleges of further education and all institutions of higher education, in Scotland, and the Scottish Agricultural College** are appropriate agencies for the purpose of the Act. It should be noted here that voluntary organisations are not appropriate agencies as defined by the Act.

11. It is expected that in most circumstances an appropriate agency will respond to a request for help from an education authority. However, if, for any of the reasons outlined in paragraph 9 above, the appropriate agency is unable to comply with the request for help then this is a matter for the education authority to pursue with the particular appropriate agency. It is the education authority which must provide (or arrange for the provision of) services. For example, if the education authority make a request to an NHS Health Board and the request is refused then it would be for the education authority to either raise a court action to compel the NHS Board to provide the service or, alternatively, to provide the service itself.

### **Rights of parents and young people**

12. The Act introduces new rights for parents and young people. Parents have rights (and young people have these rights on their own behalf) to:

- request the education authority to establish whether their child has additional support needs

- receive advice and information about their child’s additional support needs
- request, **at any time**, a specific type of assessment and/or examination for the purpose of considering the child’s additional support needs as well as when the education authority propose to establish whether a child or young person has additional support needs or requires a co-ordinated support plan (or where a plan is being reviewed)
- request the use of mediation services
- make use of dispute resolution arrangements<sup>6</sup> for matters about additional support needs that are specified in regulations – generally matters not eligible to be considered by the Additional Support Needs Tribunal<sup>7</sup> for Scotland, although the use of these arrangements does not affect the entitlement to refer any matter to a Tribunal
- make a placing request to the education authority requiring them to place the child or young person in a specified school which can include an independent or grant-aided special school if their child has additional support needs
- make a placing request to another education authority for their child to attend a school under the management of that authority
- be informed of the outcome of requests under the Act, reasons why a request is refused and any applicable rights to have a decision reviewed, for example, through mediation or dispute resolution, or referred to a Tribunal or an education authority appeal committee (where it concerns a placing request where there is no related co-ordinated support plan matter and the placing request is not for a special school)
- request the education authority to establish whether their child needs a co-ordinated support plan or to review an existing plan
- receive a copy of the co-ordinated support plan, and any amended plan
- be asked for their views and have them taken into account and noted in the co-ordinated support plan
- refer to the Tribunal specified matters relating to co-ordinated support plans, appeals against the refusal of placing requests to special schools and failures by an education authority in relation to their duties regarding school to post-school transitions
- have a supporter with them or an advocate to present their case at any meeting with the school or education authority, in connection with the exercise of the education authority’s functions under the Act and at Tribunal hearings.
- have access to a free advocacy service in Tribunal proceedings.

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<sup>6</sup> Dispute resolution is used here to mean specifically the arrangements outlined in The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005 and discussed in detail in chapters 4 and 9.

<sup>7</sup> The term ‘Tribunal’ will be used to refer to ‘Additional Support Needs Tribunals for Scotland’ unless otherwise stated.

## Chapter 2

### ADDITIONAL SUPPORT NEEDS

1. This chapter of the code considers the meaning of the terms “additional support needs” and “additional support” and considers the factors that may give rise to the need for additional support.

#### Legal definition of additional support needs

##### ***Additional support needs***

*1.-(1) A child or young person has additional support needs for the purposes of this Act where, for whatever reason, the child or young person is, or is likely to be, unable without the provision of additional support to benefit from school education provided or to be provided for the child or young person.*

s1

*(1A) Without prejudice to the generality of subsection (1), a child or young person has additional support needs if the child or young person is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c.36)).*

*(1B) But where, in the course of identifying (in accordance with the arrangements made by them under section 6(1)(b)) the particular additional support needs of a child or young person who is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c.36)), an education authority form the view that the child or young person is, or is likely to be, able without the provision of additional support to benefit from school education provided to or to be provided for the child or young person, subsection (1A) ceases to apply.*

#### Benefit from school education

2. The Act’s reference to school education links both the 1980 Act and the Standards in Scotland’s Schools etc. Act 2000 (referred to as “the 2000 Act”). The 1980 Act states that school education “means progressive education appropriate to the requirements of pupils, regard being had to the age, ability and aptitude of such pupils”. It should be noted that this definition does not require pupils to be attending school in order to be receiving school education. For example, pupils could be receiving school education in hospital or at home when they are unable to attend school because of ill-health. The 1980 Act also places a general duty on education authorities to secure for their area adequate and efficient provision of school education.

[s1\(5\) 1980 Act](#)

3. The 2000 Act requires the education authority to secure that school education is directed to the development of the personality, talents and

[s1\(2\) 2000 Act](#)



mental and physical abilities of the child or young person to their fullest potential. School education includes education provided by education authorities in exercising their duty to provide school education for eligible pre-school children, such as may be provided, for example, in nursery classes.

4. The benefit from school education which children and young people gain will vary according to their individual needs and circumstances. However, all children and young people benefit from school education when they can access a curriculum which supports their learning and personal development; where teaching and support from others meet their needs; where they can learn with, and from, their peers and when their learning is supported by the parents in the home and their wider community. A difficulty or particular need in one, or more, of these areas may lead to a requirement for additional support to be put in place to enable a child or young person to benefit from school education. Through *Curriculum for Excellence* all children and young people are entitled to a curriculum that includes a range of features at the different stages – <http://www.ltscotland.org.uk/curriculumforexcellence/curriculumoverview/aims/entitlements.asp>

#### **Looked after children and young people**

5. The Act automatically deems that all looked after children and young people (see introduction, paragraph 14) have additional support needs unless the education authority determine that they do not require additional support in order to benefit from school education. In practical terms this means that education authorities must make arrangements to identify the additional support needs, if any, of every looked after child or young person who is, or is about to be, provided with school education. It should be noted that this requirement does not apply to looked after children under school age who are not prescribed pre-school children (that is, who are not receiving school education and who will generally be under 3 years of age). In addition, education authorities must consider whether each looked after child or young person for whose school education they are responsible requires a co-ordinated support plan. Looked after children under school age and who are not prescribed pre-school children, as above, are not eligible for a co-ordinated support plan since they are not receiving school education. However, when they start receiving school education, at say nursery school, and the authority have determined that they have additional support needs, then the authority must consider whether these children require a co-ordinated support plan.

s1(1A)  
and  
(1B)

s6(1A)

6. The reason for deeming that looked after children have additional support needs, unless it can be shown that they do not require additional support to benefit from school education, is that there is considerable evidence that looked after children and young people face significant cultural and institutional barriers which impede their success in school education (reference: *Improving the Education of Looked After Children: A Guide for Local Authorities and Service Providers* (The Scottish Government, 2009), available at <http://www.scotland.gov.uk/Resource/Doc/265301/0079476.pdf> ). Children and young people who are looked after (both at home and away from home) often require individually tailored support to get the best from their school education.

Providing appropriate support is an important function of the corporate parent responsibilities of local authorities and their service provider partners.

### What is meant by additional support?

#### ***Additional support***

*1(3) In this Act, “additional support” means—*

- (a) in relation to a prescribed pre-school child, a child of school age or a young person receiving school education, provision (whether or not educational provision) which is additional to, or otherwise different from, the educational provision made generally for children or, as the case may be, young persons of the same age in schools (other than special schools) under the management of the education authority responsible for the school education of the child or young person, or in the case where there is no such authority, the education authority for the area to which the child or young person belongs,*
- (b) in relation to a child under school age other than a prescribed pre-school child, such provision (whether or not educational provision) as is appropriate in the circumstances.*

7. All children and young people need support to help them learn. The main sources of support in pre-school provision and schools are the staff who, through their normal practice, are able to meet a diverse range of needs. With good quality learning and teaching and an appropriate curriculum most children and young people are able to benefit appropriately from school education without the need for additional support.

s1(3) 8. Some children and young people, and this includes pre-school children receiving school education, require support which is additional to, or otherwise different from, the provision that is generally provided to their peers in order to help them benefit from school education. Subsection (3) was amended by the 2009 Act to ensure that additional support is not limited to educational support but can include multi-agency support from health, social services and voluntary agencies, for example. In addition, as described in chapter 3 below, education authorities have a duty to make provision for the additional support needs of disabled children under the age of 3 years in certain circumstances and this support, as above, is not limited to educational provision.

s1(3) (a) 9. The Act, as amended, requires that a child’s or young person’s additional support needs are assessed against the provision made for children or young people of the same age in schools (other than special schools<sup>8</sup>) managed by the education authority that are responsible for his/her school education. However, when, as a result of a placing request, a child or young person is educated in a host education authority (that is, an education authority other than the one to which he/she belongs or in which he/she normally resides) then the

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<sup>8</sup> See glossary for the definition of a special school

additional support needs are assessed against the provision in that host education authority.

10. Where no education authority are responsible for the child's or young person's education (e.g. the child or young person is home or privately educated), his/her additional support needs are assessed against the provision made for children or young people of the same age in schools managed by the education authority in which he/she lives.

11. The definition of additional support provided in the Act is a wide, inclusive one and it is not possible to provide an exhaustive list of all possible forms of additional support. Additional support falls into three overlapping, broad headings: approaches to learning and teaching, support from personnel and provision of resources. Examples are provided below of forms of additional support which are common in our schools, and many more can be given<sup>9</sup>. What is central to all these forms of support is that they have been identified as additional provision required to help individual children and young people benefit from school education, taking account of their particular needs and circumstances. The examples below refer to particular situations but should be understood more widely. They can be used to suggest how the law may apply in analogous situations. However, the examples are illustrative, not comprehensive, and they do not constitute an authoritative or exhaustive interpretation of the legislation.

12. Additional support for children and young people **may be provided in a range of locations** including in school, at home, in hospital, or in a specialist health, social services or voluntary agency facility. The additional support may include:

- a particular approach to learning and teaching: for example, as used with children and young people with autism spectrum disorders, dyslexia or sensory impairments
- youth work provided through community learning and development
- attendance shared between school and further education college
- the deployment of personnel from within the school or education authority: for example, support from a learning support teacher in the school or from a peripatetic teacher of the deaf
- the deployment of personnel from outwith education: for example, support provided by allied health professionals working in health or social workers from the local authority or staff from the voluntary sector where this support enables the child or young person to benefit from education
- provision of particular resources: including information and communications technology (ICT) and particular learning and teaching materials.

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<sup>9</sup> The term "significant additional support" is discussed in chapter 5, as one of the criteria for a child or young person requiring a co-ordinated support plan.

13. Examples of additional support provided from within education services to children and young people are the following:

- a support for learning assistant working with a learning disabled child in a nursery
- class teacher helping a child by following a behaviour management programme drawn up in consultation with a behaviour support teacher
- tutorial support from a support for learning teacher to help with a reading difficulty
- use of communication symbols by a child with an autism spectrum disorder
- designated support staff working with Gypsy/Traveller children on their site to help them improve their literacy and numeracy skills
- in-class support provided by an English as Additional Language (EAL) teacher for a child whose first language is not English
- a highly able child at the later stages of primary school receiving support to access the secondary mathematics curriculum

Mary is in P6. She comes from a highly mobile Gypsy/Traveller family. Distance learning materials had previously been provided but with limited effect and Mary has fallen behind her peer group in a number of areas. She is now settled in a school and is receiving support from a teacher experienced in working with Gypsy/Traveller children. The teacher advises the support for learning and classroom teachers in the school. Mary receives age appropriate resources and is included with children of her own age.

Anna comes from a bilingual background and is fluent in her first language. She attends a mainstream primary school where she also receives additional language support from a visiting EAL teacher once a week. The teacher works directly with Anna in class and offers advice and support to her class teacher and other teachers and staff who support Anna.

George is in P6 and has completed the mathematics curriculum for primary school. His head teacher contacted the mathematics department in his associated secondary who agreed to provide suitable support from their department. The secondary mathematics teacher liaised with the class and learning support teacher to provide an appropriate mathematics curriculum for George.

14. Some children and young people will require additional support from agencies from outwith education services if they are to make progress. This support may be provided outwith an educational setting. Some examples are:

- social work support to help a young person with social and emotional needs address his substance misuse

- communication programme drawn up by a speech and language therapist and teacher for implementation in the classroom
- anger management programme delivered to a group of young people by staff from a voluntary agency
- counselling provided by a voluntary agency for a child who has been bereaved and needs support to help her overcome difficulties in school
- psychiatric support for a child with mental health difficulties
- specialist equipment support from physiotherapy
- sensory integration programme provided by an occupational therapist
- group or individual career support to engage choices for education, training or employment in anticipating school leaving.

Darren is a young carer of his mother who has mental health problems. He attends his local secondary school but has had significant absences because of caring for her. His mother's social worker and guidance teacher identified the extra burdens on Darren and their effect on his attendance. Darren's guidance teacher and his mother's social worker discussed the reasons for his absences with Darren. The social worker arranged for a carer to support Darren's mother during the day, enabling him to attend school.

Kyle, aged 11, was placed with foster carers following several periods of serious offending with a group of older boys. As part of his care plan, social work staff began working with Kyle and his mother, who is a lone carer, to address his offending behaviour. Kyle also exhibited behaviour difficulties at school requiring close interagency collaboration to ensure an effective programme of support. Kyle benefited from three days in a behavioural support unit and two days in a mainstream class, per week. In mainstream he received additional support through a child support worker employed on a sessional basis within school. This support was co-ordinated through his care plan which incorporated his individualised educational programme.

Susan, aged 14, is a 'school refuser' and is attending a voluntary agency day provision full-time where she receives education and counselling. Local authority and voluntary agency staff, together with Susan and her parents, have been working together using the *My World Triangle* (see chapter 3) as a framework to assess her needs. The authority are considering whether the requirements for preparing a co-ordinated support plan (see chapter 5) have been met and what the future options for Susan are in terms of post-school provision (see chapter 6).

s5(3)  
s1(3)(b) 15. Children under school age who are not prescribed pre-school children will generally be under the age of 3 years and, therefore, unlikely to be receiving school education. The Act requires an education authority to provide additional support to certain disabled pre-school children in their area, normally those who are under 3 years of age. This duty applies where such

children have been brought to the attention of the education authority as having, or appearing to have, additional support needs arising from a disability within the meaning of the Disability Discrimination Act 1995<sup>10</sup>, and it is established by the education authority that they do have such needs. In their case, additional support will be provision which is appropriate to their circumstances. For example, support may be provided by educational support services in the form of teachers who visit children at home every fortnight and advise the parents about suitable activities they can carry out to promote their child's development and learning. Additional support may be provided from outwith education such as from an occupational therapist from social work services or a speech and language therapist from health services. By virtue of the amendments made by the 2009 Act the wider definition of additional support also applies to these children.

### **Factors giving rise to additional support needs**

16. There is a wide range of factors which may lead to some children and young people having a need for additional support. These fall broadly into the four overlapping themes described below: learning environment, family circumstances, disability or health need, and social and emotional factors.

17. Schools are aware of their responsibilities to provide an effective and efficient education for all children and young people on their roll, including those with additional support needs. However, the educational experiences of some children may not take sufficient account of their individual needs and circumstances to ensure that they derive appropriate benefit from school education. A need for additional support may arise where the **learning environment** is a factor. For example, pupils may experience barriers to their learning, achievement and full participation in the life of the school. These barriers may be created as the result of factors such as the ethos and relationships in the school, inflexible curricular arrangements and approaches to learning and teaching which are inappropriate because they fail to take account of additional support needs. For example, highly able pupils may not be challenged sufficiently or those with specific reading or writing problems may not be receiving the appropriate support to help them make progress overcoming their difficulties.

18. **Family circumstances** may give rise to additional support needs; for example, where a child's or young person's home life is disrupted by poverty, homelessness, domestic abuse, parental alcohol or drug misuse or parental mental or physical health problems. Additional support needs may arise where the pupil herself is a young mother or is helping to care for disabled parents or siblings. The child or young person may be being looked after by the local

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<sup>10</sup> The Disability Discrimination Act, 1995, s1(1), states - "a person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities."

authority or have recently left care or be in need of measures to secure their care and protection. In these circumstances support from social work services may be needed to ensure that the child or young person is able to benefit from education.

19. Issues relating to a **disability or health need** may mean that additional support is required; for example, where a child or young person has a motor or sensory impairment, specific language impairment, autism spectrum disorder or has learning difficulties. Mental health problems such as attention deficit hyperactivity disorder and depression can disrupt learning and may lead to additional support being required from child and adolescent mental health services to ensure benefit from school education.

20. **Social and emotional** factors may also give rise to a need for additional support. A child being bullied or bullying may need additional support. A child experiencing racial discrimination may need additional support. A child with behavioural difficulties may require additional support to develop positive behaviour in school and to stop offending in the community.

21. Additional support needs may be of short duration, perhaps a few weeks or months, or could be long-term over a number of years. The factors which may give rise to additional support needs are wide and varied because they relate to the circumstances of individual children and an individual may have additional support needs arising from more than one of the factors outlined above

22. The same factor may have different impacts on individual learning. For example, one child or young person may find that difficulties at home have an adverse impact upon his or her learning. Another child in apparently similar circumstances may experience a minimal impact on his or her learning.

23. A need for additional support does not imply that a child or young person lacks any abilities or skills. For example, bi-lingual children or young people, whose first language is not English, may already have a fully developed home language and a wide range of achievements, skills and attributes. Any lack of English should be addressed within a learning and teaching programme which takes full account of the individual's abilities and learning needs. Similarly, some deaf children may have support needs which are related primarily to language and communication issues and they may have significant skills and abilities in other areas.

24. The requirement for additional support varies across a spectrum of needs and circumstances. Generally, it is preferable to ensure that support is provided in ways that are well integrated within everyday practice and do not single out the child requiring additional support. Some children, young people and families will find terms such as dyslexia or autism spectrum disorder useful in helping them explain and understand any difficulties being experienced. Others may experience such terms as limiting and stigmatising. Children and young people, generally, are keen to be seen as being no different to their

peers. Throughout, the requirement should be to view children and young people as individuals and to tailor support to their individual needs.

25. Chapter 3 below describes in more detail the functions and duties on education authorities to identify, assess and make provision for additional support needs.



# Chapter 3

## MEETING ADDITIONAL SUPPORT NEEDS

### Introduction

1. This chapter of the Code sets out guidance on the Act's provisions for identifying and assessing additional support needs and making provision for them. Most children and young people are educated in schools under the management of the education authority for the area to which they belong, the authority in which they reside with their parents, referred to here as the home education authority. However, in certain circumstances a child or young person may not be educated in a school under the management of the home education authority. The implications of these circumstances are considered in detail in chapter 4 below. Where responsibility for the school education of the child or young person rests with an education authority other than the home authority then that authority is referred to here as the host education authority.

2. The guidance here is considered against a background of authorities' and agencies' evolving approaches to assessment and provision. In particular, it reflects the values and principles to be found in *Curriculum for Excellence* and the development of the national programme *Getting it right for every child* involving those working with children and young people across all agencies. It also draws on the definition of assessment to be found in the national programme and considers the role of agencies outwith education, such as NHS Boards and social work services, in supporting children and young people with additional support needs.

### Curriculum for Excellence

3. *Curriculum for Excellence* aims to achieve a transformation in school education in Scotland by providing a coherent, more flexible curriculum from 3-18. The curriculum comprises the totality of experiences which are planned for children and young people wherever they are being educated. Children and young people are entitled to experience:

- a [coherent curriculum](#) from 3 to 18
- a [broad general education](#), including the experiences and outcomes well planned across all the curriculum areas, from early years through to S3
- a [senior phase](#) of education after S3 which provides opportunity to obtain qualifications as well as to continue to develop the four capacities<sup>11</sup>
- opportunities for developing [skills for learning, skills for life and skills for work](#) with a continuous focus on literacy, numeracy, and health and wellbeing

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<sup>11</sup> As successful learners, confident individuals, effective contributors and responsible citizens

- [personal support](#) to enable them to gain as much as possible from the opportunities which *Curriculum for Excellence* can provide
- support in moving into [positive and sustained destinations](#) beyond school.

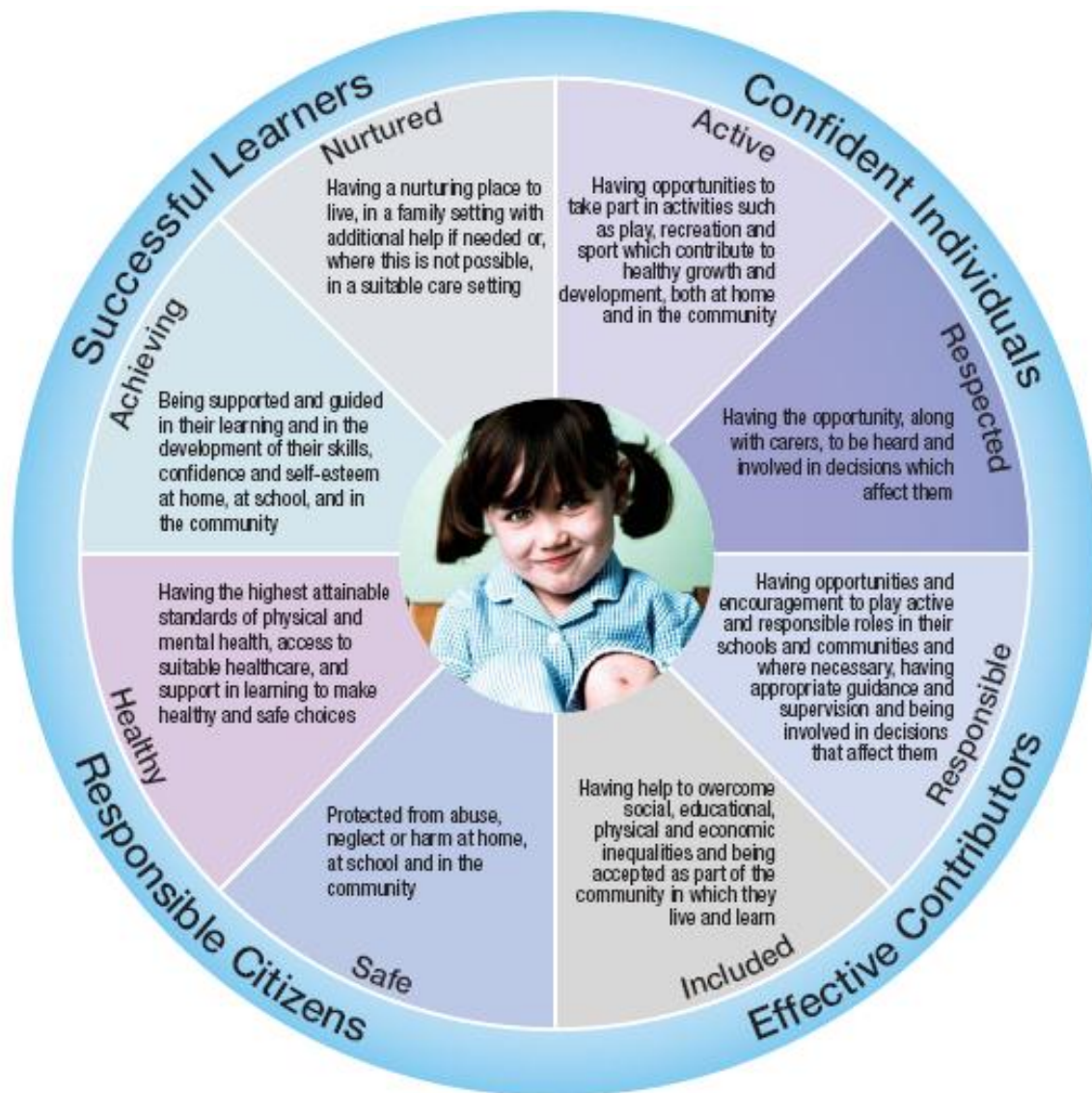
### Getting it right for every child

4. *Getting it right for every child* is a national programme that aims to improve outcomes for all children and young people. In particular, it supports the Government's aspiration that:

- our children have the best start in life and are ready to succeed
- our young people are successful learners, confident individuals, effective contributors and responsible citizens
- we have improved life chances for children, young people and families at risk.

5. The overarching concept of *Getting it right for every child* is a common approach across **all** agencies, co-ordinated where necessary, that supports the delivery of appropriate, proportionate and timely help to all children and young people as they need it. The national programme aims for an improved focus on meeting the needs of children and young people leading to better outcomes for them; effective collaboration among agencies leading to a more integrated approach to the way the needs of children and families are met; the removal of institutional, cultural and procedural barriers to joint working; and access to the services and support needed.

6. The diagram below illustrates the Government's aspiration that all children and young people should be successful learners, confident individuals, effective contributors and responsible citizens. A child's well-being should be considered as set out in the eight indicators: safe, healthy, achieving, nurtured, active, respected, responsible and included. Concerns noted in any of these areas should be seen as a trigger for action and consideration given to the need for a holistic assessment. The *Well-being Wheel* and the *Getting it right for every child* practice model within which it sits are based on well researched, robust evidence about child development. For children and young people to become successful learners, confident individuals, effective contributors and responsible citizens, they must each be in the best possible place according to their circumstances in respect of the indicators if they are to achieve their potential.



### ***The Well-being Wheel***

#### **Values and principles of assessment, planning, action and review**

7. Effective assessment, planning, action and review, consistent with the values and principles of *Curriculum for Excellence, Getting it right for every child*, the *Early Years Framework*<sup>12</sup> and the provisions of this Act, involve:

- taking a holistic view of children and young people and their circumstances, and what they need to grow and develop and achieve their potential

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<sup>12</sup> Launched by the Government in December 2008 : <http://www.scotland.gov.uk/Resource/Doc/257007/0076309.pdf>

- seeking, taking account of and noting the views of children, parents and young people and involving them fully in the assessment process and in finding solutions
- ensuring that parents, children and young people, understand, and are asked to agree to, the aims of any assessment and the purposes of any action proposed<sup>13</sup>
- ensuring that assessment is an ongoing, integrated process of gathering and evaluating information, planning, providing for, and reviewing, services for the individual
- adopting the least intrusive and most effective course of action affecting the lives of children, young people and families
- taking into account issues of diversity and equality and ensuring that outcomes do not discriminate against children, young people and their families. This includes not discriminating on grounds of race, disability, gender, sexual orientation, language, culture, religion or belief, and age.
- working in partnership with, and building the capacity of, parents to secure education for their children and to promote their child's health and wellbeing, development and welfare.

### **Inter-agency co-operation**

8. Those with additional support needs comprise a broad group of children and young people whose needs require to be identified, understood and addressed to ensure that they benefit from school education. Education authorities need to play their part in ensuring that there is effective communication, collaboration and integrated assessment, planning, action and review when other agencies are involved. For example, where a child or young person is looked after away from home, there will already be involvement from social work and health staff as well as, possibly, voluntary agency staff. Also, the Act, as amended, presumes that all looked after children have additional support needs unless the education authority determine that they do not require additional support to enable them to benefit from school education (paragraph 35 below). Agencies will require to co-operate in order to determine whether particular looked after children have additional support needs. Similarly, where children are within the Children's Hearing System, or need to be protected from harm, the relevant agencies must work together to ensure an integrated assessment of all of the child's or young person's needs. In all circumstances there should be a clear plan of action accessible to all who need to see it and, where there is multi-agency involvement, a lead professional responsible for co-ordinating the action set out in the plan and for monitoring its effectiveness. The role of the lead professional is set out below. **Where lead professionals are working with children or young people with additional support needs then, in addition to the points set out below, they also have a responsibility to be familiar with the Act and, in particular, to ensure that**

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<sup>13</sup> While parental agreement to assessment and action should always be sought there will be circumstances under the Act where an authority will have to take action without parental consent; see chapter 5, paragraph 24.

**parents and young people themselves are aware of their rights when they have concerns or disagreements about the provisions being made under the Act.**

#### **The Lead Professional role<sup>14</sup>**

When two or more agencies need to work together to provide help to a child or young person and family, there will be a Lead Professional to co-ordinate that help. The role of the Lead Professional is:

- to make sure that the child or young person and family understand what is happening at each point so that they can participate in the decisions that affect them
- to be the main point of contact for children, young people, practitioners and family members, bringing help to them and minimising the need for them to tell their story several times
- to promote teamwork between agencies and with the child or young person and family
- to ensure the child's plan is implemented and reviewed
- to be familiar with the working practices of other agencies
- to support other staff who have specific roles or who are carrying out direct work or specialist assessments to ensure the child or young person is supported through key transition points, particularly any transfer to a new lead professional
- to ensure the information contained in the child's virtual shared record (where there is one) is accurate and up-to-date.

#### Co-ordinated support plans

9. Chapter 5 describes the circumstances under which co-ordinated support plans require to be prepared. A co-ordinated support plan is a statutory plan prepared by the education authority when a child or young person requires significant additional support from the education authority and from at least one other agency from outwith education in order to benefit from school education. The plan sets out the educational objectives to be achieved by each individual who has one together with the additional support that requires to be co-ordinated to enable him/her to achieve these. An individual child or young person may also benefit from more detailed planning in school (typically in the

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<sup>14</sup> From *Getting it right for every child: the approach in practice* - <http://www.scotland.gov.uk/Resource/Doc/238985/0065824.pdf>

form of an individualised educational programme). Within the context of *Getting it right for every child* a child or young person may require wider planning to address other aspects of his/her development such as are encompassed by the *Well-being Wheel* above. Where such planning exists it should incorporate the educational objectives from the co-ordinated support plan. For example, the overall plan of action may describe what is being done to promote the individual's safety or to address health needs, with the educational component of the plan covered by the co-ordinated support plan.

### Other agencies

10. Other agencies too need to ensure that they engage with education. For example, in line with national guidance from the UK National Screening Committee, NHS Boards have introduced Universal Newborn Hearing Screening. In line with Hall 4<sup>15</sup> guidance, all children should be screened by an orthoptist in their pre-school year, between the ages of 4 and 5 years. It is clearly important that NHS Boards have arrangements in place for sharing information with education authorities, as necessary, about children with difficulties in hearing and/or vision which may give rise to additional support needs.

### **Duties on appropriate agencies**

11. The Act promotes integrated working across agencies, in assessment, intervention, planning, provision and review. Appropriate agencies have a duty to help an education authority discharge their duties under this Act unless the help asked for:

- is incompatible with the agency's statutory or other duties
- or unduly prejudices the agency in its discharge of its own functions.

12. For the purposes of the Act, appropriate agencies can be any other local authority, any NHS Board or any other person specified by the Scottish Ministers. Those specified under regulations are Skills Development Scotland, further education colleges and higher education institutions in Scotland and the Scottish Agricultural College.

13. As noted in paragraph 11 above there are two circumstances where an appropriate agency need not discharge its duty to help the education authority. The first refers to a situation where an appropriate agency may be asked to do something which it does not have the power to do. The second refers to circumstances where, if the agency was to provide the help, the agency's ability to carry out its other duties may be seriously compromised. For example, an education authority may request that a particular child has speech and

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<sup>15</sup> *Health for All Children 4* – the fourth edition of a Royal College of Paediatrics and Child Health report following review of childhood screening and surveillance practice across the UK.

<http://www.scotland.gov.uk/Resource/Doc/37432/0011167.pdf>



language therapy. The NHS Board<sup>16</sup> may agree that therapy is required but argue that it has its full complement of therapists all working to capacity and that to release a therapist to provide this service would prevent the Board carrying out its duties with regard to other children (Annex E contains a matrix which illustrates the various roles of allied health professionals).

s29(3)  
(a)

14. Where a child or young person is attending a school under the management of an education authority outside the child's or young person's home area by virtue of a placing request then it is that host education authority which are responsible for the school education of the child or young person and all the duties under the Act transfer to the host authority. Under the powers in relation to appropriate agencies under the Act, the host education authority could request help from the local authority for the area to which the child or young person belongs. In certain circumstances the host authority can recover costs from the home education authority (see chapter 4 paragraphs 24 and 25).

[s12\(2\)](#)

15. An education authority are under a duty to seek and take account of relevant advice and information from such appropriate agencies and other persons as they think appropriate when establishing whether a child or young person has additional support needs or would require a co-ordinated support plan.

### Transitions

16. The Act makes specific provisions to enable children and young people with additional support needs to receive help when they experience changes in school education<sup>17</sup>. These changes, or transitions, include starting pre-school provision for the first time, transferring to primary school, transferring from primary to secondary school and preparing for adulthood and leaving school. Transitions also include moving from one school to another, for example, as a result of a change of address or through being excluded from school. The legislation requires the authority to seek relevant advice and information from such appropriate agencies and others as the authority consider appropriate. Transitions are considered in detail in chapter 6.

### Requesting help from an appropriate agency

[s23\(1\)](#)

17. Where it appears to an education authority that an appropriate agency could, by doing certain things, help in the exercise of any of their functions under the Act, they may, specifying what these things are, request the help of that agency. In making a request the education authority should be very specific about the help they are requesting. For example, the education authority should ask an NHS Board to assess a child's or young person's vision

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<sup>16</sup> The Scottish Government's guidance on partnership working between allied health professionals and education is available from:

<http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

<sup>17</sup> The Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005

or hearing where the child or young person is experiencing learning, behavioural or speech or language difficulties<sup>18</sup>. An appropriate agency must comply with a request under this subsection of the Act unless it considers that the exceptions in section 23(3) of the Act, set out above at paragraph 11 apply.

s23(1)

18. The Appropriate Agency Request Period and Exceptions Regulations<sup>19</sup> made under the Act specify that appropriate agencies are expected to respond to requests for help within 10 weeks from the date the request is made by the education authority, subject to certain exceptions stated there (eg an assessment or examination cannot take place or any results of these are not available; the child or young person fails to keep an appointment within the 10 weeks; information required from another appropriate agency or person is not available before the expiry of the time limit). However, where the appropriate agency is aware that the 10 week timescale will not be met it must inform the education authority which made the request of the reasons for failing to comply with the time limit and the new date by which the help will be provided. This new date itself should be as close to the 10 week time limit as possible but must not exceed 16 weeks from the date of the original request.

19. The role of further education colleges and higher education institutions as well as Skills Development Scotland, as with all other appropriate agencies, will be in line with their statutory or other duties. For example, further education colleges or higher education institutions may be requested to help with provision of information and support relating to their provision. Other agencies, for example local authorities or NHS Boards, may be asked to assist with assessment of the child's or young person's need for certain support.

20. Further education colleges, in line with the sector's statutory duties, may offer link courses to children and young people with additional support needs other than at the stage of transition. For example, they may be involved in assisting schools to prepare pupils for the transition from school to appropriate further education courses at college. These courses may include "Skills for Work" or other courses for children under school-leaving age which form part of the links partnership between schools and a particular college. Such link courses should be designed to include assessment of the additional support needs of particular individuals that can then support transition planning at a future stage.

21. The help which may be provided by both further education colleges and higher education institutions may include a range of services to support transition from school to post-school provision such as:

- visits to the college or university

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<sup>18</sup> Based on recommendations made in *Health for All Children 4* – the fourth edition of a Royal College of Paediatrics and Child Health report following review of childhood screening and surveillance practice across the UK.

<http://www.scotland.gov.uk/Resource/Doc/37432/0011167.pdf>

<sup>19</sup> The Additional Support for Learning (Appropriate Agency Request Period and Exceptions) (Scotland) Regulations 2005.



- early meetings with college learning/student support advisors, or university disability advisers, to discuss the type of support available
- attendance at link courses or transition courses
- the opportunity to talk with other students with or without additional support needs.

22. These types of support can be extremely helpful to a young person in the transition to college or university, as they may help reassure students that support will be available to resolve any concerns that they might have. Such help may also help reassure them that the issue of future support is being actively addressed. Further information about the roles and responsibilities of further education colleges or higher education institutions is outlined in a guidance document called *Partnership Matters*<sup>20</sup>.

23. Where it appears to an education authority that a young person may benefit from such support it would be reasonable for further education colleges or higher education institutions to be asked for help under section 23(1).

24. Skills Development Scotland can:

- help children and young people become more aware of the world of work
- develop the career planning and decision-making skills of children and young people
- assist children and young people to enter appropriate education, training or work.

25. The design and delivery of Skills Development Scotland's products and services are intended to take account of the varied needs of individuals, including those with additional support needs.

26. In addition to the support appropriate agencies may provide to individual children and young people, the provisions of the Act could also extend to discussion between the education authority and the appropriate agency to enable them to collaborate effectively.

s23(1) 27. Another local authority are an appropriate agency for the purposes of the Act and this means, for example, that a request for support could be made by an education authority to social work services belonging to another authority. The social work service from the same council is not an appropriate agency but is covered by the Act. The Act requires an education authority to exercise any s23(5) of their other functions (whether relating to education or not) if they consider that would help them in the exercise of their functions under the Act. This is subject to the exceptions based on compatibility with any of their statutory or other duties or being unduly prejudicial to the discharge by them of any of their functions. See paragraph 13 above for a discussion of these exceptions.

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<sup>20</sup> Partnership Matters – A Guide for Colleges, Universities, Local Authorities, NHS Health Boards and Voluntary Organisation on Supporting Students with Additional Support Needs:- <http://www.scotland.gov.uk/Publications/2009/05/08155445/0>

28. It is expected that in most circumstances appropriate agencies will support an education authority when asked. However, if, for either of the reasons outlined in paragraph 11 above, the appropriate agency is unable to comply with the request for help then this is a matter for the education authority to pursue with the particular appropriate agency. It is the education authority which must provide (or arrange for the provision of) services. For example, if the education authority make a request to an NHS Health Board and the request is refused then it would be for the education authority to either raise a court action to compel the NHS Board to provide the service or, alternatively, to provide the service itself. The Act does not confer powers on the parents to take action against the appropriate agency.

29. There will be circumstances where agencies are working with children or young people but are not defined as “appropriate agencies” within the terms of the Act. For example, the police may be working with youth offenders, or a particular voluntary agency may be involved in providing a care package to a child in a family. Education authorities and such agencies will wish to continue working in partnership with each other using a single plan to co-ordinate action.

### **Assessment, planning, action and review**

30. Local authorities and other agencies use a wide range of approaches to support assessment and action and to promote inter-agency working. In education generally, these approaches reflect a staged approach (most commonly three to six stages). Such approaches are built around discrete stages of intervention which seek to resolve difficulties as early as possible and with the least intrusive course of action.

31. The Act does not prescribe any particular model of assessment or support. The diagrams below show some of the common features to be found in most models of staged assessment and provision and in the approach adopted through *Getting it right for every child*

### ***Getting it right for every child***

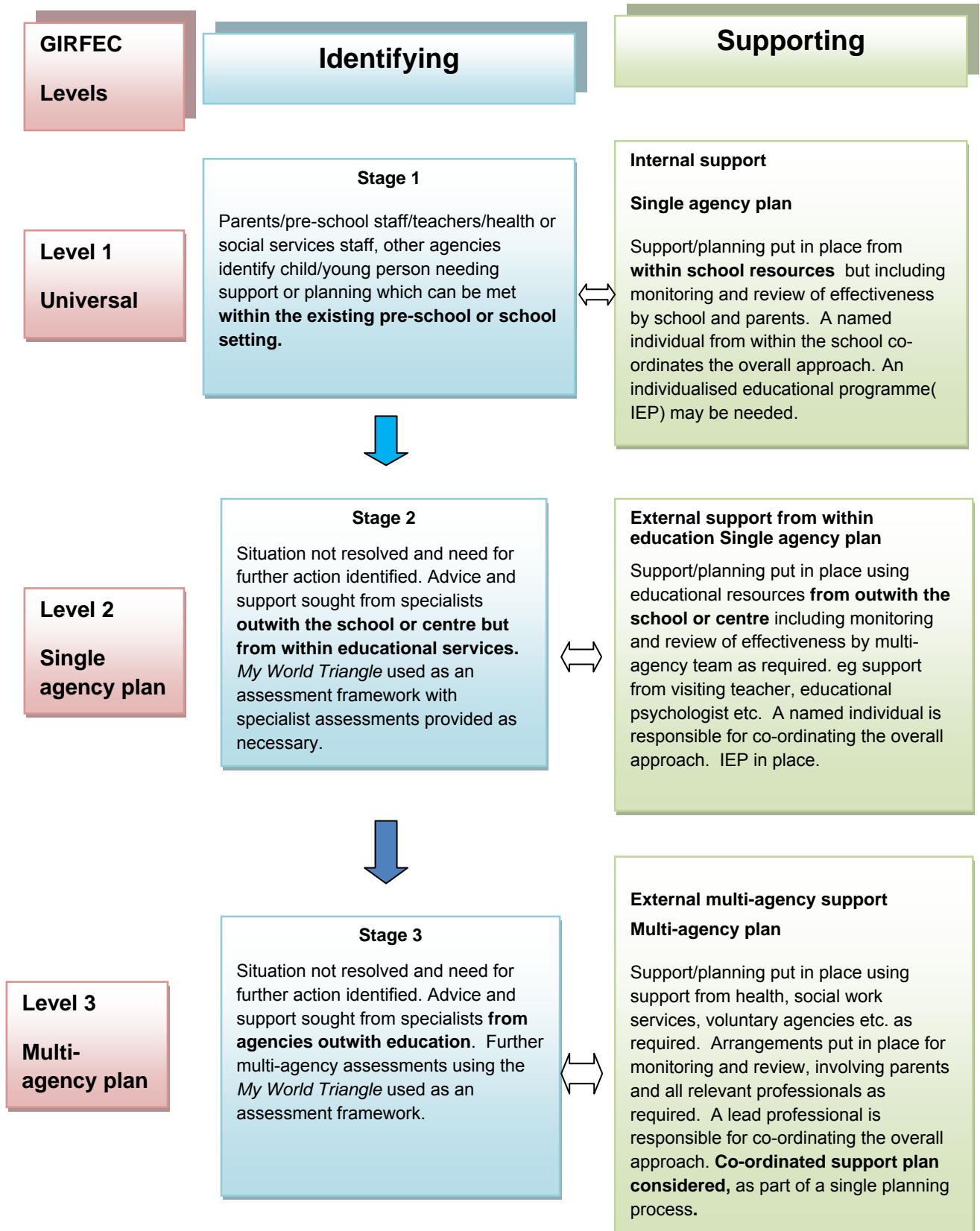
The *Getting it right for every child* approach provides five questions practitioners need to ask themselves about a child or young person:

- what is getting in the way of this child's or young person's well being?
- do I have all the information I need to help this child or young person?
- what can I do now to help this child or young person?
- what can my agency do to help this child or young person?
- what additional help, if any, may be needed from others?

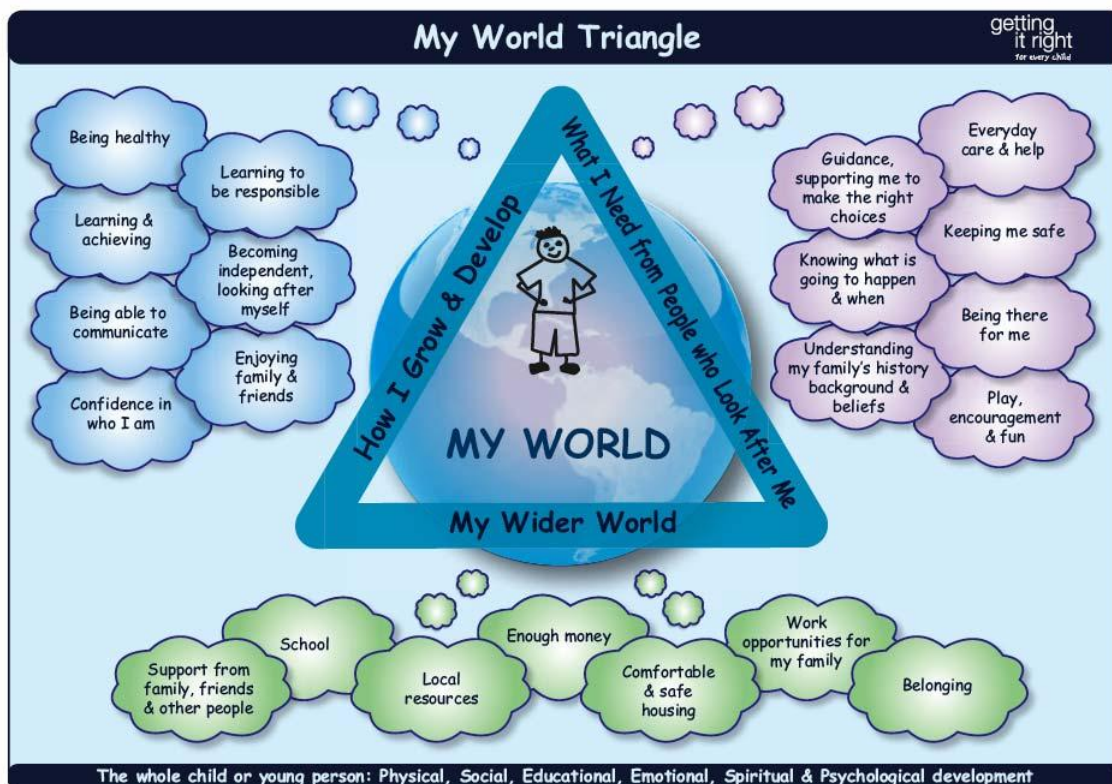
When working with children or young people the *My World Triangle* can be used at every stage to think about the whole world of the child or young person. It is particularly helpful to use the triangle to gather more information from other sources to identify the strengths and pressures in the child or young person's world. The *My World Triangle* allows practitioners to consider systematically:

- how the child or young person is growing and developing
- what the child or young person needs from others
- the impact of the wider world on the child or young person.

# Meeting additional support needs<sup>21</sup>



<sup>21</sup> See also paragraph 61 below.



**Children and young people for whose school education the education authority are responsible: identifying and assessing additional support needs**

Identifying additional support needs

s6(1)

s26(2)

32. The Act requires education authorities to make appropriate arrangements for identifying from among the children and young people for whose school education they are responsible those who have additional support needs and those who have additional support needs and require a co-ordinated support plan (considered in chapter 5) and the particular additional support needs of those so identified. The authority have to publish information explaining what these arrangements are (see chapter 9 for more details).

s6(2)

33. Education authorities and schools should be able to identify most children and young people with additional support needs through their arrangements for assessing learning and for monitoring the educational progress of children and young people. However, the Act makes provision for parents and young people to request the education authority to establish whether their child has additional support needs or requires a co-ordinated support plan (see below).

s6(5) and (6)

34. There will be circumstances where it comes to the attention of the authority (for example, through a teacher, paediatrician, social worker or

therapist) that a child or young person may have additional support needs or requires a co-ordinated support plan. In these circumstances the authority must establish whether the child or young person has additional support needs, or requires a co-ordinated support plan, unless the authority consider it unreasonable to do so. The authority should inform any person making such a referral of their conclusions where the education authority consider it appropriate to share such information and there is no legal barrier to such sharing. The consent of the parent or young person should be sought before doing this but in the event that this consent is not forthcoming the authority are still under an obligation to ensure that the child's or young person's additional support needs are met in so far as it is within their power to do so and that, where applicable, a co-ordinated support plan is prepared.

s1(1A),  
(1B); and  
s6(1A)

35. The Act presumes that all looked after children have additional support needs unless the education authority determine that they do not require additional support to enable them to benefit from school education. In effect this means that each looked after child will be considered to have additional support needs unless he/she is identified as not having them. In addition, each should be considered for a co-ordinated support plan. However, as noted earlier, education authorities should already be considering whether looked after children have additional support needs and require a co-ordinated support plan as part of the process of reviewing the educational progress of all looked after children and young people (see chapter 1 paragraph 3 and chapter 2 paragraphs 5 and 6).

#### Assessment

36. In this code, assessment is seen as an ongoing process of gathering, structuring and making sense of information about a child or young person, and his/her circumstances. The purpose of assessment under the Act ultimately is to help identify the actions required to maximise development and learning. Assessment plays a key role in the authority's arrangements for identifying children and young people who have additional support needs and who, of those, require a co-ordinated support plan. Assessment is a process supported by professionals and parents in most circumstances. It identifies and builds on strengths, whilst taking account of needs and risks. The assessment process also assumes the negotiated sharing of information by relevant persons and agencies where the law, best practice and policy allow or require it.

37. Assessment is a dynamic process with the child or young person at the centre. As a result it should not be divorced from other aspects of the child's life either at school, home or in the community as illustrated in the *My World Triangle* above. It will usually include discussion with parents and professionals involved with the child or young person, for example, class teacher, support for learning staff, speech and language therapist, social worker, foster carer or residential worker. It should build on other assessment information already available. It may involve observation in one or more day-to-day situations and/or individual work with the child or young person as required. The education authority should always endeavour to seek and take account of the

views of the child or young person unless there are particular circumstances to prevent this happening or which make it inappropriate.

[s9\(2\)\(c\)](#) 38. Where it is required by virtue of the child's or young person's additional support needs, the assessment process should seek effective multi-agency consultation and collaborative working. Following *Getting it right for every child* practice a lead professional will co-ordinate the work with the child and family to ensure that the assessment is carried out efficiently and effectively with minimal intrusion into the lives of the child and family members. Where there is a co-ordinated support plan involved then consideration should be given for the lead professional role to be taken by the person from the authority responsible for carrying out the authority's duties to co-ordinate the additional support required (see chapter 5).

[s12\(2\)](#) 39. An education authority must seek and take account of relevant advice and information (including assessments) from such appropriate agencies and such other persons whom they think appropriate in establishing whether a child or young person has additional support needs, or requires a co-ordinated support plan, or in preparing a plan or carrying out a review of a co-ordinated support plan. Those involved from outwith the education authority may be health services. For example, with the consent of the parents or young people themselves, an education authority may request an NHS Board to assess the hearing or vision of a child or young person where the authority are seeking to establish whether the child or young person has additional support needs. The education authority must also take account of any relevant advice and information available from sources within the local authority, other than from education. Such a source is most likely to be the local authority's own social work services. In these circumstances the education authority are not obliged to seek consent from parents or young people under the Act.

[s12\(2\)\(c\)](#) 40. The education authority must also take account of any relevant advice and information provided to them by parents on behalf of their child, or the young person. For example, if the parents have privately commissioned an assessment or report on the child or young person, or the young person has commissioned the report, then the authority must take that report or advice into consideration if asked to do so. Also, the authority must seek and take account of the views of parents and, where appropriate, of children and young people themselves. Further information is provided in chapter 7 which considers working with children and families.

#### Requests for assessment

41. When seeking the views of parents, young people and, where appropriate, children and when carrying out an assessment, education authorities need to take into account the parents', young people's or child's preferred method of communication. For example, assessments of bilingual children should take into account the child's level of skills in the first language as well as their educational attainment.



[s8\(1\), \(2\)  
and \(4\);](#)  
8A

42. The Act enables parents or young people to request an education authority to arrange for a child or young person to have an assessment or examination which includes educational, psychological or medical assessment or examination. This right applies when the authority are proposing to establish whether a child or young person has additional support needs or requires a co-ordinated support plan, or the authority propose to review an existing plan. In addition, the right to request an assessment applies **at any time** so that where it has been established that the child or young person has additional support needs then the parent or young person may request another assessment if they consider this necessary for any reason.

[s28\(1\)\(a\),  
\(b\)](#)

[s8\(4\)](#)

43. Any such request from the parents must be in writing or in any other permanent form which can be referred to in future, such as video or audio recording, and should contain a statement of the reasons for the request. The request can be for an educational, psychological or medical assessment or examination or any other assessment or examination which the parents wish for, including any combination of these. In the case of an assessment or examination requested by the education authority from another appropriate agency such as an NHS Board (for example, related to speech and language, hearing or vision) then the other agency must comply with the request unless it considers that the request is incompatible with its own statutory or other duties or unduly prejudices its discharge of its own functions. As provided for in the Appropriate Agency Request Period and Exceptions Regulations<sup>22</sup>, other agencies are obliged to respond to a request for help, which could include a request for an assessment, from the education authority within a period of 10 weeks from the date the request is made, unless one of the statutory exceptions applies in the particular circumstances of a specific request made by an education authority of the appropriate agency.

[s23\(3\)  
and \(4\)](#)

[s8\(1\)](#)

44. The education authority must comply with the request for assessment unless the request is unreasonable. An unreasonable request is not defined in the Act. However, unreasonableness in this context is an objective test - what a third party might consider unreasonable. It will be for the education authority to consider each individual case on its own facts and circumstances. In some circumstances an education authority will need to consider carefully whether to comply. For example, they may decide not to comply with the request where the reasons for the request are not clear in which case the authority should attempt to establish why the request is being made. Where they are unable to establish the reasons for the request then they may decide not to comply. They may also decide not to comply with the assessment request where the assessment:

- may not be seen as being relevant given the child's or young person's circumstances

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<sup>22</sup> The Additional Support for Learning (Appropriate Agency Request Period and Exceptions) (Scotland) Regulations 2005.



- may be unnecessary as there has not been a significant change in the child's or young person's circumstances since an earlier assessment was completed
- may be within an inappropriate timescale e.g. falling within a short time of a previous request
- may repeat recent assessments already carried out.

45. Parents or young people may request other types of assessment beyond education, including psychological and medical assessments and examinations. The Act states that it is for the education authority to consider who is the appropriate "person" to carry out the particular process of assessment or examination. In this context "person" does not mean a named individual but rather the type of professional involved such as a psychologist, speech and language therapist or learning support teacher. Education authorities are not required to arrange for examinations or assessments to be carried out by named individuals or organisations requested by the parents or young person. The education authority may take into account information from social work services or voluntary organisations which are involved with the child or young person. Where a range of individual assessments is required, the education authority should, in line with *Getting it right for every child* practice, seek to bring these within one assessment process to avoid duplication and placing the child or young person, and his/her family, under stress. This will involve ensuring that there is a lead professional co-ordinating the process when the assessments involve multi-professional staff. The ultimate aim will be to bring the assessments and their conclusions together into a single plan of action.

[s8\(1\),  
\(2\)  
and  
\(3\)](#); 8A

46. Psychological assessment will normally include assessment by an educational psychologist employed by the education authority. In cases where other psychologists (e.g. clinical or occupational psychologists) may have relevant knowledge or information about the child or young person, they should be consulted and their advice recorded and considered.

[s8\(4\)](#)

47. The NHS Board for the area in which the child or young person resides will arrange for the provision of assessment or examination, subject to the consent of the child, from the relevant health professional(s) such as, for example, from medical, nursing, speech and language therapy, occupational therapy, physiotherapy, audiologist or orthoptist. Such assessment or examination should take into account relevant information from other professionals as appropriate.

48. Where a child or young person with additional support needs attends a special school in a host education authority which is served by a different NHS Board from the home education authority then it is the NHS Board for the home education authority which remain responsible for specialist healthcare provision (except for the provision of general school medical service which are provided in the school). This position holds when a child or young person attends an

independent special school and for whose school education an education authority are responsible. It is the home NHS Board which is responsible for specialist healthcare services, and for their costs, although these services should be provided by the NHS Board for the area in which the school is situated (or by another NHS Board which is willing to provide the service). This principle holds when a child or young person is normally resident outwith Scotland.<sup>23</sup>

49. A social work assessment may highlight specific issues in the child's or young person's life which are impacting on his/her ability to benefit from school education. For example, there could be child protection concerns linked to domestic abuse or parental substance misuse; mental or physical health problems within the family; concerns about a young person's offending behaviour; or concerns about a child or young person who has experienced bereavement or loss. A social work assessment should be sought when considering a residential placement.

50. Once an assessment request has been made the process should be managed by appropriate staff within the education authority, school or appropriate agencies. The parent or young person should be provided with contact details for the person managing the process to enable them to be updated on progress. The request for assessment should be acknowledged as soon as possible and the response to a request for assessment should be made within 10 weeks<sup>24</sup>. The 10 week period begins when the education authority request the assessment from the appropriate agency. Education authorities should therefore have arrangements in place to make sure that requests are processed without undue delay. In any case where the appropriate agency considers that it cannot meet the timetable it should notify the education authority.

51. Where an education authority decide not to comply with any request made to them under the Act (see paragraph 44), including a request for assessment, they must inform the person who made the request, such as the young person or parents, in writing of their decision not to comply and must explain why they are refusing the request. They must also inform the person who made the request about the right to access mediation services provided by the education authority and dispute resolution arrangements and, where appropriate, the Tribunal.

[s28\(2\)](#)

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<sup>23</sup> Reference: Guidance from Scottish Executive Health Department to NHS Boards 6 December 2004

<sup>24</sup> This provision is contained within The Additional Support for Learning (Appropriate Agency Request Period and Exceptions) (Scotland) Regulations 2005.

Early years: children under the age of 3 years

s5(2),(3) 52. The Act requires an education authority to provide additional support to certain disabled pre-school children in their area, normally those who are under 3 years of age. This duty applies where such children have been brought to the attention of the education authority as having, or appearing to have, additional support needs arising from a disability within the meaning of the Disability Discrimination Act 1995<sup>25</sup>, and it is established by the education authority that they do have such needs. For example, if the parent has brought the child to the attention of the education authority, then the authority must establish whether the child has additional support needs arising from a disability under its arrangements for identifying and providing for children with additional support needs.

s5(2) 53. It should be noted that not all disabled children, whether under the age of 3 years or not, will necessarily have additional support needs; for example, those who are disabled by having medical conditions such as diabetes, asthma or HIV may not require additional support to enable them to benefit from school education. However, if the education authority do determine that the child has additional support needs arising from a disability, then they must provide such additional support as is appropriate for the child provided the child's parent consents. That support is not confined to educational support but could include support from health, social work or voluntary agencies. As noted in paragraphs s1(3)(b) 11 to 13 above, appropriate agencies, such as NHS Boards, have a duty to help s1(1) the education authority discharge their duties under the Act. However, the support provided must have educational aims. In other words, without that support the child would be in a position where he/she would be unlikely to be able to benefit from school education provided, or about to be provided, by the authority. Where the education authority decide that there are no additional support needs arising from a disability the authority should inform the parents in writing of the decision and the reasons for it.

54. Although not required to do so under the Act, the education authority should monitor the number of children under 3 years of age receiving support and the nature of that support in order that plans can be made to ensure their needs are met on transition to pre-school provision.

55. In good practice, and following the principles of the *Early Years Framework* and *Getting it right for every child*, there will be effective communication across health and social work and education services so that the child may already be known to the education authority. Monitoring by health professionals, such as health visitors, general practitioners and community paediatricians, can identify children with likely additional support needs arising

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<sup>25</sup> The Disability Discrimination Act, 1995, s1(1), states - "a person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities."

from a disability early in their lives, often at, or just after, birth. In good practice the needs of an identified child will be considered by a community team with relevant representation from health, education, social work and voluntary agencies. In partnership with the parents, the team will consider assessment and intervention approaches. This process will also inform the planning of support when the child enters pre-school provision and/or school. A lead professional who has regular contact with the child should be identified from the education authority or any one of the agencies involved.

56. The team should aim to ensure a co-ordinated approach to gathering information and to avoid parents having to provide information more than once. Such an approach also provides a holistic view of the child within his/her family and community context and enables early assessment of medical, social and/or learning needs to identify appropriate services, for example, for vulnerable children.

57. Outcomes of the process of identification and assessment for very young children and their families are:

- clarification of the child's needs
- agreement as to what, how, where, when and by whom support will be provided and monitored
- a plan of action which details the provision and explains to the parents how they can contribute.
- the identification of a lead professional who acts as a single point of reference for the family and other professionals.

Phillipa is a one year old child with complex medical needs resulting in significantly delayed development. She has been referred to the education authority by the local NHS Board for consideration of her additional support needs arising from her disability. A multi-disciplinary community assessment team is co-ordinating a multi-agency support package for Phillipa and her family. This includes support from a home visiting teacher. A speech and language therapist is also advising the family on activities to help develop Phillipa's language. It is clear that her needs are complex and enduring and will require significant multi-agency support. It was agreed that in addition to the current additional support the preparation for a co-ordinated support plan will begin before her third birthday.

### Early years: prescribed pre-school children<sup>26</sup>

[s6\(1\) and  
\(2\)](#)

58. The Act places a duty on an education authority to make appropriate arrangements for identifying those children for whose school education they are responsible, who may have additional support needs. At the pre-school stage, this duty will cover a child with additional support needs who is in pre-school provision managed by the education authority or in a partnership nursery under arrangements made by the education authority. It may involve also a child who is about to be provided with school education (including pre-school education), either in a school under the management of the authority, or through arrangements entered into by the authority.

59. Some children in pre-school provision will previously have been identified under the age of 3 years as having additional support needs arising from a disability. However, there will be others in pre-school provision who have a range of additional support needs and this can include those who are highly able or looked after, for example. Early years staff, in partnership with parents, have a key role to play in identifying children who may require additional support.

### School years

[s6\(1\)](#)

60. Education authorities are required to identify the additional support needs of each child or young person for whose school education they are responsible. This can be achieved in a range of ways. Any person working with the child, or the young person himself/herself, could draw attention to the fact that difficulties with learning exist. For example, this person might be the parent, class teacher, a member of the school health team, educational psychologist, social worker or any person who has been working with a child or young person. All education authorities (and all schools) should have a clearly set out policy that describes procedures for identifying additional support needs. All education authorities and appropriate agencies should ensure that their processes for identification, assessment, planning, action, monitoring and review take account of the need for multi-agency and collaborative working following the principles of *Getting it right for every child*.

61. Within a school these processes typically follow the path outlined below (see also the flow chart following paragraph 31) with the aim of identifying and meeting the child's additional support needs at the earliest possible stage:

- the teacher identifies children or young people who need a greater level of attention or planning than is generally required by the majority of children or young people to ensure that they can make appropriate progress and can overcome, as far as possible, any barriers to learning. Those identified can include children and young people who have abilities in one or more areas of the curriculum and require to be challenged more as well as those who have difficulties in learning or

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<sup>26</sup> See glossary for definition of prescribed pre-school children.

need support for social/emotional reasons. The teacher may adapt approaches to learning and teaching with the aim of securing the educational progress required.

[s6\(1\)](#)

- where the expected progress is not achieved the teacher consults with, and seeks help from, other **within-school** support, such as learning support staff and typically a plan of action, such as an individualised educational programme (IEP), is prepared
- if action at this stage does not resolve the issue, the school in consultation with colleagues and with parents seeks information and advice from **educational services outwith** the school, such as, for example, from a visiting teacher or educational psychologist
- the teacher and the school incorporate this information and advice into their planning and practice with the child or young person in the school through the **single agency plan**
- if action at this stage does not resolve the issue then support from services from appropriate agencies **outwith education** may be required such as support from health or social work services. The authority may also look to voluntary agencies for information or advice or from a voluntary agency under a service level agreement. Where more than one agency is, or should be, involved with the child or young person then the education authority and agencies should develop an integrated **multi-agency plan** of assessment, sharing information, intervention and review following *Getting it right for every child* practice. Some children and young people may require a co-ordinated support plan (see chapter 5).

62. There are variations of the above model in operation. Educational services from outwith the school, such as visiting teachers or educational psychologists, may provide advice to the classroom teacher at the early stages when concerns are first expressed and before these services become directly involved in working with the child and family. This may also apply to services from outwith education where collaborative working is a feature of the work of the school such as is found in some special schools. This overall approach can be very effective. It can lead to a resolution of the issue which avoids the need for formal referrals to these services and provides the class teacher with advice on approaches which may prove successful when similar circumstances arise in the future.

At parents' night Mai Ling's P4 class teacher explained to her parents that while Mai Ling's oral skills were very good, she had difficulties with reading and spelling. These difficulties were beginning to have an adverse impact on her progress in other areas of the curriculum and the class teacher was concerned that Mai Ling might have a form of dyslexia. The parents agreed with the class teacher that the learning support teacher should be asked to assess Mai Ling with a view to determining how best she could be helped in the classroom, whether or not she was dyslexic and what extra support the parents could give her at home.

## **Children and young people for whose school education the education authority are not responsible: identifying and assessing additional support needs**

[s7\(1\) and \(2\)](#)

[s9\(1\)](#)

[s5\(4\)](#)

s5(4)

63. There will be children and young people belonging to the area of an education authority but where no education authority are responsible for their school education. These may be children and young people who are attending independent or grant-aided<sup>27</sup> schools as a result of parental choice or who are being educated at home. In these circumstances, the parents (or young person) may ask the education authority to establish whether the child or young person has additional support needs or would require a co-ordinated support plan, if the authority were responsible for the school education of the child or young person. The education authority **may** comply with the request but are not obliged to do so. Where an education authority exercise this power they are not required to make any provision for the additional support needs identified nor are they able to prepare a co-ordinated support plan; they can only prepare these plans for children and young people for whose education they are responsible (see chapter 5). The education authority may indicate what would be in a co-ordinated support plan were they responsible for the education of the particular child or young person. In reaching a decision to refuse the request, education authorities should consider each case on the basis of its own facts and circumstances. In addition, given that education authorities may not exercise their discretionary powers to identify additional support needs, it is important that managers of grant-aided and independent schools make their own arrangements to identify and provide for children and young people with additional support needs.

64. Where a child or young or young person is educated outwith his/her home authority as a result of a placing request then any request for assessment should be directed to the host authority since that authority are responsible for the child's or young person's school education (see chapter 4 paragraph 22).

[s7\(2\)\(b\)](#)

65. Managers of independent and grant-aided schools may also request the education authority for the area to which the child or young person belongs to establish if the child or young person would require a co-ordinated support plan, if the authority were responsible for the school education of the child or young person. Again, the education authority may comply with the request but are not obliged to do so. There may be children and young people from outwith Scotland attending these schools but, clearly, such a request could only be made with regard to children and young people whose home education authority is in Scotland.

[s28\(2\)](#)

66. Where the education authority refuse to comply with the request they must inform the person who made the request of their decision and explain their reasons for the decision.

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<sup>27</sup> See glossary for explanation of grant-aided schools



67. There may be circumstances where there is no request as such but it is drawn to the attention of the authority that a child or young person belonging to their area, but for whose school education they are not responsible, may have additional support needs. For example, the authority may be aware of a child being educated at home who may have additional support needs. The education authority are not obliged to carry out an assessment but they may, if they wish, establish whether the child has additional support needs by, for example, arranging for an assessment to be carried out by a teacher or educational psychologist. In these circumstances the authority will normally require the agreement of the parents or young person, as appropriate. Where the education authority have concerns about the provision being made by the parents then under the 1980 Act they have powers to make an attendance order where they are not satisfied that the parents are providing efficient education for their child.

[s7\(4\)](#)

[s38  
1980 Act](#)

68. Where the education authority do respond to a request, as above, or decide to assess a child or young person to whom their attention has been drawn, then they must provide the persons making the request with such information and advice about the additional support required by the child or young person as they consider appropriate. In the case of a child, the parents should always be informed about any additional support which the child requires. However, the education authority have the power, but are not obliged, to make provision for the additional support needs so identified.

[s7\(7\)](#)

[s5\(4\)](#)

### **Making provision**

69. The Act requires that the education authority must make adequate and efficient provision for such additional support as is required by **each** child or young person with additional support needs for whose school education the authority are responsible. In other words the Act places a duty on the education authority with regard to **individual** children or young people with additional support needs. Conversely, the authority could be held to be in breach of a duty if it fails to make adequate and efficient provision of additional support for a particular individual with additional support needs. This adds to existing legislation in the 1980 Act which requires that an education authority make adequate and efficient provision of school education for their area.

[s4\(1\)](#)

[s4\(2\)](#)

[s1\(1\)  
1980 Act](#)

70. The above duties under the Act do not require an authority to do anything outwith their powers or which would result in unreasonable public expenditure. The Act does not define unreasonable public expenditure. Decisions regarding what can be considered adequate and efficient provision and unreasonable public expenditure can only be judged in the light of each child's or young person's circumstances. Expenditure may be unreasonable where the cost incurred would be completely out of scale with the benefits to the child or young person or where suitable alternative provision is available at a significantly lower cost. It may be unreasonable where substantial expenditure on new facilities would be completely out of scale to the benefits to the wider community. This could be assessed in light of the authority's duties to secure best value and service improvement. **Cost should not be the primary consideration in**

[s28\(2\)](#)



**determining what provision is to be made.** For example, an education authority will wish to consider whether the expenditure in providing for a particular child or young person may be of benefit to others in the future. Where the education authority refuse to comply with a request on the grounds of the request being outwith their statutory powers, or likely to incur unreasonable expenditure, they must inform the person who made the request of their decision and explain their reasons for the decision. They must also notify the person making the request about mediation services and dispute resolution procedures. The person making the request should be informed about the Tribunal, where the matter concerns:

- a request to prepare, or review, a co-ordinated support plan
- the provision of additional support identified in the plan as required by the child or young person
- an appeal against a refusal of a placing request for a special school, special class or unit
- school to post-school transition arrangements

71. The education authority should ensure that the authority's policy on additional support needs explains clearly the procedures used by their authority, and in their schools, to monitor and review the progress being made by children and young people with additional support needs, and the effectiveness of any additional support provided.

72. The Act requires education authorities to take account of the additional support needs of children and young people with such needs when carrying out any of their functions in connection with the provision of school education. Education authorities will wish to review all their policies relating to the provision of school education to ensure that this general duty is met.

[s5\(1\)](#)

73. The above duties apply to children and young people for whose school education the authority are responsible. However, there are circumstances where an education authority are not responsible for the school education of particular children and young people belonging to their area. These circumstances may include children and young people being educated at home or attending independent schools, or grant-aided schools under arrangements made by their parents. In these circumstances, the authority may provide the additional support required for children and young people belonging to their authority area, but they are not obliged to do so. The education authority will wish to keep appropriate records for planning and monitoring purposes where additional support is provided in such circumstances as well as more generally.

[s5\(4\)](#)

## Appropriate agencies

74. As noted in paragraphs 11-15 above appropriate agencies have a duty to help the education authority discharge their functions under the Act. Paragraph 48 contains advice where a child or young person attends a special school in a host education authority served by a different NHS Board from the one in which the child or young person is normally resident.

## Early years: children under the age of 3 years

s5(2);(3) 75. As described above, the education authority have a duty under the Act to provide additional support in certain circumstances to disabled children belonging to their area, who are under 3 years old and are not prescribed pre-school children. The nature of that support will depend on the circumstances of the individual child but may include support from a pre-school home visiting teacher and/or attendance at a pre-school centre. This provision need not be educational provision but could include, for example, provision of speech and language therapy (see paragraph 53). As noted in paragraphs 11 to 13 above, appropriate agencies, such as NHS Boards, have a duty to help the education authority discharge their duties under the Act. The authority may make provision for children under the age of 3 years of age with additional support needs, but who are not disabled. However, they are not obliged to make such provision.

s5(4)

## Early years: prescribed pre-school children

s4(1) 76. The authority have a duty to make adequate and efficient provision for such additional support as is required by each child or young person with additional support needs for whose school education the authority are responsible. This includes prescribed pre-school children being educated by the authority in their own provision or, for example, in partnership nurseries. The nature of this support will depend on the circumstances of each individual child but the range of support available will in many cases be the same as, or very similar to, that which is available to children in schools.

## School years

77. The needs of most children and young people who require additional support will be met through the range of provision available within the school. In some circumstances support in school will be supplemented by other services or resources (for example, educational psychology or English as an additional language support) provided by the education authority. However, whilst the purpose of additional support is to enable the child or young person to benefit from school education, that support is not restricted to what takes place in a school. Importantly, additional support may also include non-educational provision such as support from, for example, a physiotherapist, clinical psychologist, speech and language therapist, play therapist or social worker where it is required for the purposes of meeting the learner's additional support needs. Additional support may be provided in a hospital, for example, where

the child or young person is unable to attend school because of ill-health; or the additional support may be provided in a social work facility where the child or young person is receiving help with social/emotional difficulties. In chapter 2 additional support was referred to under three overlapping broad headings: approaches to learning and teaching, provision of personnel and provision of resources. It is clearly not feasible to list all the forms of support but some of the common ways support can be provided to the child or young person within the school include:

- use of specialist learning and teaching approaches (for example, for children with language and communication difficulties or dyslexia)
- implementation of an individualised educational programme incorporating SMART (Specific, Measurable, Attainable, Relevant, Timed) targets
- specific support from a classroom assistant or additional support needs assistant or behaviour co-ordinator
- group work support within the school provided by education and/or social work staff
- peer support arrangements such as buddying, paired reading and circle time
- support from a therapist working directly with the child or young person, and/or working through another such as a teacher or parent following the therapist's advice
- individual or small group teaching by a learning support teacher.

78. Where difficulties persist, a progressive process of assessment and support will inform next steps in learning. Consultation with parents and the child or young person, support staff and agencies outwith the school may be necessary. Additional support may be given within or outwith a classroom or mainstream school context. For example, some children may benefit from attending a specialist unit within the school on a full or part-time basis. Others may benefit from provision in a special school. Others may benefit from attending a health, social work or voluntary agency facility.

### **Planning: educational plans**

79. Planning for learning is an ongoing process subject to continuous review, through pre-school, school and beyond into lifelong learning. Most children and young people who require additional support will have their learning needs met by the day-to-day classroom practice in pre-school and school settings. This practice is subject to the normal self-evaluation and external professional monitoring and quality assurance procedures in place in school education. More formal planning arrangements may be required where additional support is needed from other education services and other appropriate agencies. For example, an educational psychologist may be called on to advise on appropriate learning outcomes for a particular child or young person. Non-educational services may be involved in a joint or shared assessment of a child or young person. In such circumstances an integrated plan of action will be appropriate in which case a lead professional will be appointed.

80. In all circumstances, planning should aim to ensure the effective co-ordination of support, including parents and the child or young person, so that it is clear what the intended learning outcomes are and what additional support is required to achieve these. Every opportunity should be taken to ensure that there is an integrated plan of action for a child or young person where more than one agency or service is involved and the aim should be to have one plan in line with the principles of *Getting it right for every child*. Such an integrated plan of action may be made up of different elements; for example, an individualised educational programme may be included as part of a child's plan for a looked after child. In this way, the professionals working with the child or young person use one integrated plan of action with shared educational objectives. The following paragraphs consider the plans most likely to be used with children and young people who require additional support for learning.

### Personal learning planning

81. Personal learning planning helps children, young people and parents to be clear about the goals of learning, including those for personal development, and the experiences and outcomes planned for children and young people through *Curriculum for Excellence*. The focus of personal learning planning is on supporting dialogue among teachers, parents, children and young people, and ultimately about engaging children and young people in their own learning. The purpose of record keeping and documentation is to support the process of personal learning planning rather than these being ends in themselves. This should be done in whatever way suits learners and the school best. All children with additional support needs should be engaged in personal learning planning and for many this process will be sufficient to address their additional support needs. Further detailed information about personal learning planning including information on involvement of pupils, gathering evidence, record keeping, individual and group personal learning planning and meeting the needs of pupils with additional support needs, including extracts from case studies explaining each of these further, can be obtained from the *Assessment is for Learning* website<sup>28</sup>.

### Individualised educational programme

82. Where children or young people require more detailed planning for learning than can be catered for through personal learning planning, or where substantial adaptation to the arrangements for learning and teaching is being considered, an individualised educational programme may be appropriate. An individualised educational programme describes in detail the nature of a child's or young person's additional support needs, the ways in which these are to be met, the learning outcomes to be achieved, and specifies what additional support is required, including that required from agencies from outwith education. Where appropriate, an education authority should work with health,

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<sup>28</sup> Assessment is for Learning website: <http://www.ltscotland.org.uk/assess/index.asp>

social work or voluntary agencies to draw up the programme so that objectives and services can be co-ordinated into a plan of action.

83. Many local authorities have a policy which explains the circumstances under which individualised educational programmes are used. Some have developed a template for an individualised educational programme which can be completed electronically and some use different names for individualised educational programmes.

#### Co-ordinated support plans

84. There is a small number of children and young people with significant additional support needs arising from complex or multiple factors who require support from at least one agency from outwith education. These children may fulfil the statutory requirements for having a co-ordinated support plan, which are described in detail in chapter 5, to ensure that the support for learning is co-ordinated effectively across agencies. The links between co-ordinated support plans and other educational plans are considered in chapter 5.

#### **Planning: agencies outwith education**

85. There is a range of plans, which a child or young person may have. Education authorities and other agencies should seek to ensure that assessment for, and production of, learning plans takes account of any other planning processes within the local authority and across agencies. The ultimate aim is to have one plan in line with *Getting it right for every child*. Educational objectives should be shared across plans. In particular, education plans should link with any health or social care plan. This will help prevent duplication and facilitate the co-ordination and implementation of support for children and young people. Nevertheless, as explained in chapter 5, co-ordinated support plans are statutory plans and where a child or young person fulfils the requirements for having one then it must be prepared. Other plans cannot substitute for a co-ordinated support plan.

86. Particular issues may arise with statutory care plans. There is a statutory duty on the local authority as “corporate parent” to review children and young people looked after by them. Although the emphasis of the care plan will quite properly focus on the child or young person in placement, and contact arrangements with the family, it must also reflect fully the child’s or young person’s learning needs. Effective planning is important to ensure that children and young people receive the services they need. “*Children who are looked after should have the same opportunities as all other children for education, including further and higher education, and access to other opportunities for development. They should also, where necessary, receive additional help, encouragement and support to address special needs or compensate for previous deprivation or disadvantage.*” (*Guidance to the Children (Scotland) Act 1995*)

87. Local authorities are required to monitor the educational progress of each child or young person who is looked after away from home. Where children or young people have additional support needs, these should be stated in their care plan. In many cases it will be appropriate for that part of the care plan which covers education to refer to any planning documents used for education, and for these documents to be appended to the care plan, without necessarily completing the education section of the care plan.

88. There is a range of health care plans for different disciplines within health, e.g. medical, nursing, occupational therapy, speech and language therapy, and physiotherapy. Each plan is informed by an assessment process with clear objectives and outcomes. These outcomes are monitored to inform and ensure clinical effectiveness. Plans may be single or multi-disciplinary, or form part of a multi-agency plan as appropriate. Although these plans have their own specific purposes, it is important that they are integrated with, and cross-refer to, education plans for purposes of identifying learning needs and educational objectives. However, the Government's eCare Framework<sup>29</sup> will eventually provide secure multi-agency information sharing.

Louise, aged 6, is the oldest of three children. The school is concerned about her short concentration span, poor communication and aggressive behaviour towards other children. The family receive support from the local family centre and there have been regular multi-agency meetings to co-ordinate support.

For the previous six months all three children have been on the child protection register because of concerns of neglect. At the most recent review of the child protection plan it was highlighted that Louise's communication skills remained poor despite an individualised educational programme being in place. A speech and language therapist assessed Louise and advised the school about more appropriate learning and teaching approaches and objectives and helped to develop new appropriate education targets within the plan. There is one overall action plan which incorporates child protection measures and the steps being taken to address her additional support needs.

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<sup>29</sup> eCare is the name given to the Scottish Government's multi-agency information sharing framework which covers, amongst other aspects, consent, standards, security, procurement, organisational development and technical issues relating to the electronic sharing of personal data.

<http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/efficientgovernment/DataStandardsAndeCare>

## Monitoring and review

89. Education authorities must make appropriate arrangements for keeping under consideration the additional support needs of, and the adequacy of additional support provided to, each child and young person with additional support needs for whose school education they are responsible. Education authorities, with appropriate agencies, must monitor the progress of children and young people who have additional support needs to ensure that they are learning effectively and making appropriate progress. Where children and young people are not making progress as expected, their additional support needs should be re-assessed and appropriate support provided.

90. Education authorities and other agencies need to have arrangements in place to co-ordinate the planning and review process for children and young people. These arrangements will maximise effective joint and coherent working across agencies and authorities involved and help reduce pressure on the child or young person and their parents as well as promoting the child's or young person's development to their fullest potential. This is particularly important where the review schedules for plans vary. For example, individualised educational programmes (IEPs) are reviewed regularly by teachers and children and young people as part of the continuous learning and teaching cycle. IEP reviews are called as required but typically every two months or each term.

91. The local authority, as a minimum requirement, must review the circumstances of children and young people looked after away from home within six weeks of being placed<sup>30</sup>. Thereafter, reviews must take place within three months of the first review, and subsequently, at intervals of no more than six months. The purpose of these reviews is to prepare a care plan which addresses the immediate and longer term needs of the child or young person with a view to safeguarding and promoting his or her welfare. Where a looked after child or young person also has an individualised educational programme or a co-ordinated support plan, the authority may decide to review these within the care plan review process. Any meetings should fully involve the parents and the child or young person in preparing the plan or plans. A copy of the plan should go to parents, young persons and all those who have contributed to the plan or plans. It should be noted that a copy of the co-ordinated support must be given to the child's parent or the young person.

[s11\(5\)](#)

92. Local authorities and agencies should have arrangements in place to ensure that all appropriate plans are updated and integrated as required into a single planning process. These plans are all working documents. Local arrangements should be in place to decide who convenes multi-agency review meetings and who the lead professional will be. As noted in paragraph 35 above, the Act presumes that all looked after children have additional support needs unless the education authority determine that they do not require

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<sup>30</sup> The Looked After Children (Scotland) Regulations 2009

additional support to enable them to benefit from education. The local authority should use the reviews to consider whether looked after children or young people have additional support needs.

93. Changes in educational provision such as transfer of school and planning for leaving school require to be considered carefully to ensure that transitions are as smooth and purposeful as possible. Transitions are considered in chapter 6.



## Chapter 4

### **SCHOOL ATTENDANCE: RIGHTS, RESPONSIBILITIES AND PLACING REQUESTS**

#### **Introduction**

1. For the purpose of arranging for children to attend schools, local authorities usually divide cities, towns and country areas into school catchment areas and children living in the same catchment area usually attend the same school. Most children and young people with additional support needs are educated in their local schools under the management of the education authority responsible for the area to which the child or young person belongs. This is the education authority for the area in which they usually reside with their parents, referred to here as the home education authority. Some children with additional support needs may attend schools in the local authority outwith their catchment areas as a result of arrangements made by the authority with the agreement of the parents. For example, children and young people may attend special schools (or special classes or special units)<sup>31</sup> or other schools in that local authority because they are better able than the local school to provide school education to meet the child's or young person's additional support needs.

2. This chapter considers the following five circumstances under which a child or young person may not be receiving school education in their local school<sup>32</sup>.

- the parents may be educating the child or young person at home or may have arranged for the child or young person to attend an independent or grant-aided school
- the home education authority may have entered into arrangements with another education authority to have the child or young person educated in a school under the management of that education authority
- the home education authority may have arranged for the child or young person to be educated in an independent or grant-aided special school, or a school in England, Wales or Northern Ireland providing wholly or mainly for children or young people with additional support needs
- the child may be being educated in a school in another education authority area as a result of a successful placing request made by the

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<sup>31</sup> See glossary.

<sup>32</sup> Education authorities have the power to enable children and young people with additional support needs to attend certain establishments outside the United Kingdom (see chapter 9, paragraph 5).

parent(s) to that education authority. A young person may have made such a placing request on his/her own right

- as a result of a successful placing request to the home education authority, the child may be being educated in a school (other than the catchment area school) in the home education authority area or in an independent or grant-aided special school in Scotland or a school in England, Wales or Northern Ireland making provision wholly or mainly for children or young people with additional support needs. A young person may have made such a placing request on his/her own right

Sch 2 8

3. Young people can make placing requests on their own behalf unless the education authority are satisfied that they lack the capacity to do so in which case the parents can act on their behalf.

4. In considering each of the above, the focus in this chapter will be on where the responsibility for providing the school education rests when a child or young person is educated at home or in a school outwith his or her catchment area and what procedures are available for the parents or young people to pursue when they have concerns or disputes about the provision available. In particular, the Act provides parents and young people with access to mediation, dispute resolution and Tribunal in certain circumstances. While each of these is considered in detail in chapter 8 the following summary is provided here for ease of reference.

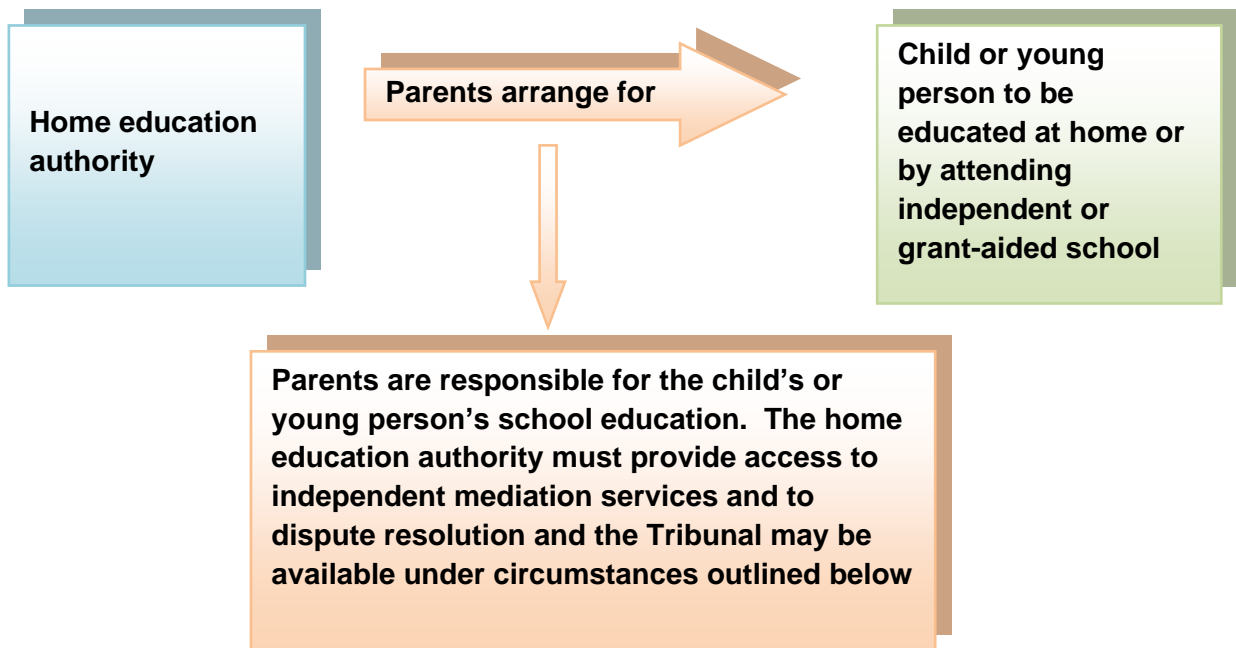
- mediation: an education authority must have an independent mediation service in place for disagreements relating to matters concerning the exercise of the authority's functions under the Act. It allows disputing parties to seek to resolve their differences with the assistance of a mediator acting as an impartial third party. Mediation is free of charge to parents and young people.
- dispute resolution: the procedure for 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 for all parties. The referral for dispute resolution is made to the Scottish Ministers and dispute resolution is free of charge to parents and young people.
- Tribunal: the Tribunal will hear references from parents and young people on matters relating to co-ordinated support plans, appeals against refusals of placing requests to special schools and school to post-school transitions. The Tribunal's statutory functions, decisions and dealings with its users and the public are independent of national and local government. There is no charge to parents and young people for making a reference to the Tribunal.

## An education authority's functions under the Act

[s7\(1\)](#)  
[s6\(1\)\(a\)](#)

5. A reference to an education authority's functions under the Act is another way of describing their powers and duties under the Act. The education authority's **powers** under the Act are discretionary so the authority may choose to exercise these or not. For example, where parents of a child belonging to the area of an education authority, but for whose education the authority are not responsible, request the authority to establish whether their child has additional support needs, the authority may comply with request but need not do so. However, duties are mandatory and must be carried out. For example, each education authority must make arrangements to identify from among those children and young people for whose education they are responsible those who have additional support needs.

### **Parents providing education at home or through making arrangements for attendance at an independent or grant-aided school**



6. Section 30 of the Education (Scotland) Act 1980 states that "It shall be the duty of the parent of every child of school age to provide efficient education for him suitable to his age, ability and aptitude either by causing him to attend a public school regularly or by other means." Most parents discharge this duty by sending their child to a school managed by the local authority for the area in which they live. However, they may discharge their duties under the 1980 Act by educating their child at home or by making arrangements for him/her to attend an independent or grant-aided school. In those circumstances, the home education authority are not responsible for the child's education. Usually, the parents would require to meet any costs of their child attending such a school.

7. The Act gives education authorities the following **powers which they may or may not choose to exercise** (see chapter 3 paragraphs 63-68):

- [s5\(4\)](#) to help children and young people belonging to their area who have additional support needs (eg they could provide support to a child being home educated or attending an independent school)
- to respond to requests from parents, managers of grant-aided or independent schools or young people themselves to establish whether children or young people have additional support needs and would require a co-ordinated support plan if the education authority were responsible for the school education of the child or young person.

### Mediation

8. Parents of children for whose school education an education authority are not responsible have access to independent mediation services through the home education authority in connection with the exercise by it, or failure to exercise by it, of any of its functions as regards those children. Young people have access in their own right. For example, parents of a child at an independent or grant-aided school, for whose school education the authority are not responsible, may request the home education authority to establish whether the child has additional support needs or would require a co-ordinated support plan if the home education authority were responsible for the school education of the child or young person. If the education authority decide to exercise their discretion **not to establish either**, or both, of these matters then these cannot be referred to mediation because the education authority have no duty to carry out any assessment. Equally, if the education authority have exercised their discretionary power, and have, for example, established that the child has additional support needs, then they are obliged to provide the parents with information and advice about the additional support required. Failure to do so could be referred to mediation and/or to the Scottish Ministers under section 70 of the 1980 Act, as a failure to comply with this duty would be a failure to comply with education legislation. The education authority are not obliged to provide the support so identified but may exercise their discretionary power to do so. However, where they **have** provided the support and, for example, wish to change it then if the parents disagree with the authority's decision in relation to the provision of support they may refer the matter to mediation.

### Dispute resolution

9. As with mediation services, parents and young people have access to an education authority's dispute resolution arrangements, irrespective of whether the authority are responsible for a particular child's or young person's school education. However, the matter in dispute must be related to the education authority's exercise of their functions, or failure to exercise their functions, under the Act **and** must be one of the specified matters in the Regulations<sup>33</sup>. For

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<sup>33</sup> The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005

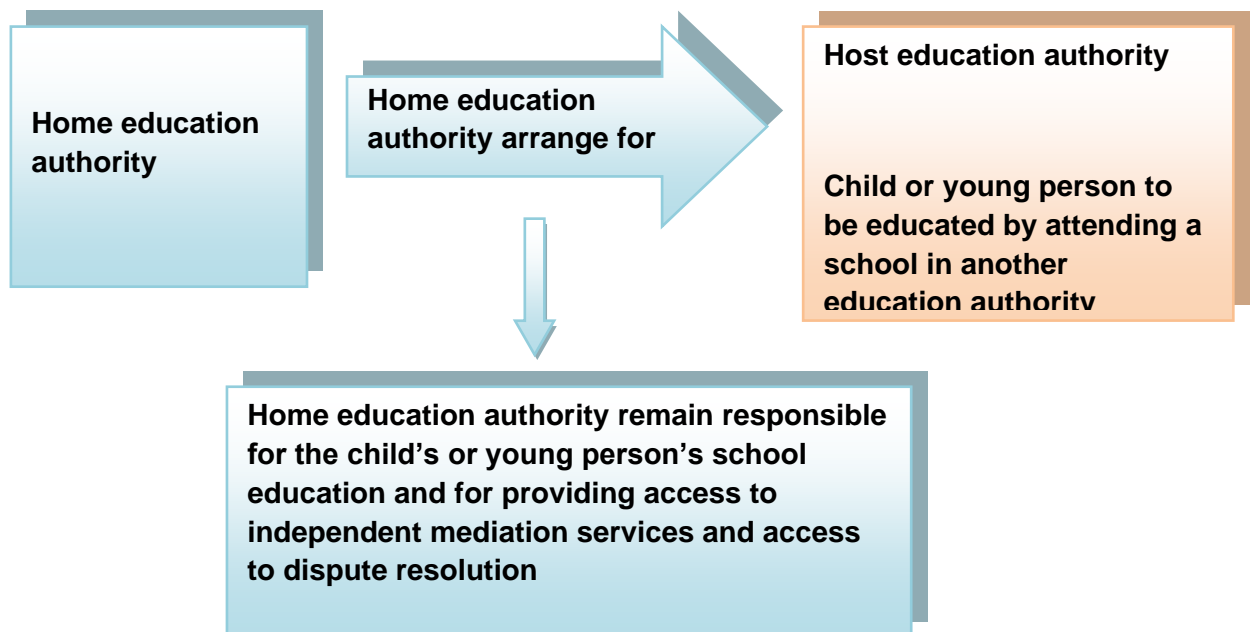
example, parents of a child at an independent or grant-aided school, for whose school education the authority are not responsible, may request the home education authority to establish whether the child has additional support needs. If the education authority decide to exercise their discretion not to establish the matter then it cannot be referred to dispute resolution because the education authority have no duty to carry out any assessment. If the home education authority have established that the child has additional support needs but have not provided the parents with the necessary information about the additional support required then the matter **cannot** be referred for dispute resolution **because failure to provide the information is not a specified matter in the Regulations**. However, where the authority have exercised their discretionary power to provide additional support and then fail to provide, or make provision for, the additional support then the matter can be referred to dispute resolution because such a failure is one of the specified matters in the Regulations.

### Tribunal

s18(3)  
(da)

10. Parental appeals against refused placing requests regarding special schools can be referred to the Tribunal. Young people can appeal in their own right. Paragraphs 21-39 below describe the circumstances under which a reference can be made to the Tribunal regarding the refusal of a placing request to the host education authority. Paragraphs 40-50 describe the circumstances under which a reference can be made to the Tribunal regarding the refusal of a placing request to the home education authority.

**The home education authority have entered into arrangements with another education authority to have the child or young person educated in a school under the management of that education authority**



11. The home education authority may enter into arrangements with another education authority to have the child or young person, for whose school education they are responsible, educated in a school under the management of that other education authority, referred to here as the host education authority. Typically this situation arises because these arrangements enable the home education authority to fulfill their duty under the Act to make adequate and efficient provision for the additional support required for each child or young person with additional support needs for whose school education they are responsible. It may be that the home education authority lacks a specialist provision (eg special school provision or teachers with expertise in a particular aspect of providing for additional support needs) which the host education authority can provide. Or, a particular child or young person may be being looked after away from home and placed with foster parents in another local authority and attending a school in that local authority, and that includes, for example, a child or young person placed with foster parents outwith Scotland.

12. In all these circumstances, the home education authority retain responsibility for the child's or young person's school education even though the child or young person is being educated in a school in another education authority. Decisions about additional support needs are made by considering the provision, whether or not educational, which is additional to, or otherwise different from, the educational provision made generally for children or young people in schools (not special schools) under the management of the **home education authority** which are responsible for the child's or young person's education. The home education authority retain responsibility for identifying and keeping under review the additional support required, for preparing and reviewing co-ordinated support plans where these are required, and for providing mediation and dispute resolution. In addition, the home education authority are responsible for providing a psychological service should this be required but there is nothing to prevent the home authority arranging for the host authority to provide this service should that be more appropriate.

s29(3A)

### Mediation

13. The home education authority are responsible for providing access to independent mediation should this be required. However, the disagreement for which mediation is requested must relate to the exercise of the home education authority's functions under the Act. For example, a parent may consider that the additional support being provided for the child in the host education authority is inadequate and may request the home education authority to arrange with the host education authority to improve it. Failure on the part of the home education authority to do this could be referred for mediation.

### Dispute resolution

14. As with mediation, dispute resolution is provided by the home education authority. The disagreement must relate to the discharge of the home education authority's functions under the Act and it must be a specified matter in the Regulations. In the example, above, since failure to provide, or make

arrangements for the provision of, additional support (whether relating to education or not) required is a specified matter then the parent may access dispute resolution.

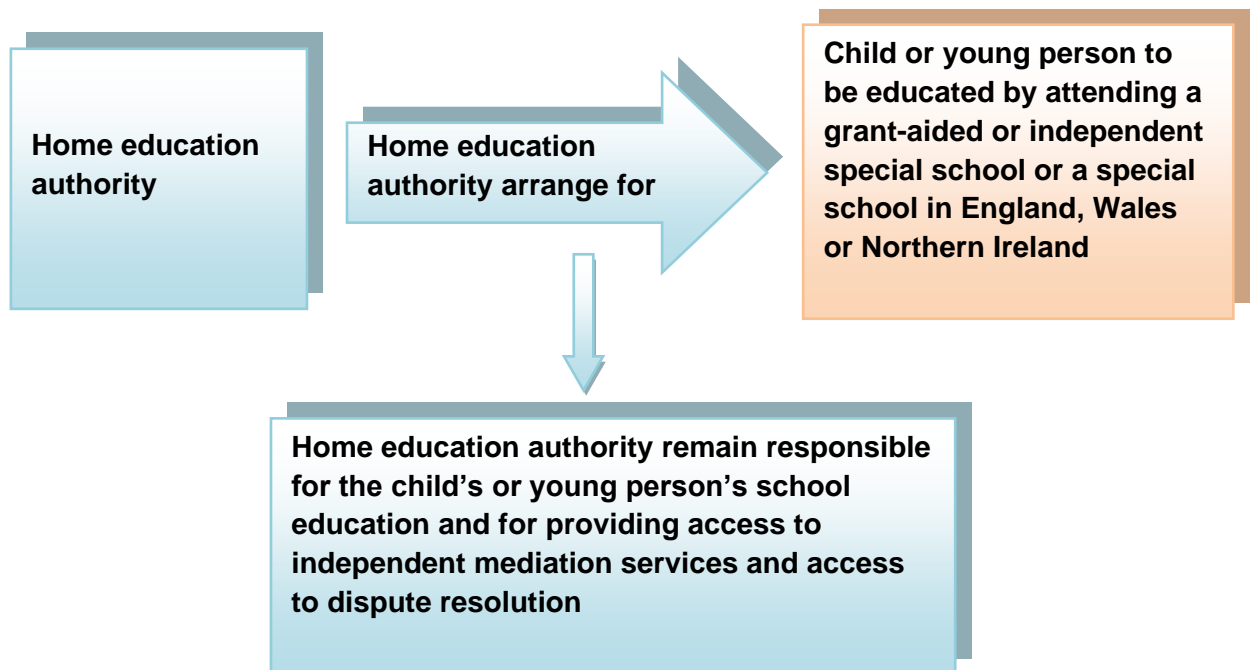
### Tribunal

15. References to the Tribunal may be made in respect of the decisions, information and failures of the home education authority that have been specified in section 18 of the 2004 Act. In summary, the Act enables the Tribunal to hear references from parents and young people on matters relating to co-ordinated support plans, school to post-school transitions and appeals involving refusals of placing requests to special schools. References to the Tribunal are considered in more detail in paragraphs 32-39 below and in chapter 8.

### Child or young person living in England but attending school in Scotland

16. There may be circumstances where a local education authority in England have entered into arrangements with a Scottish local authority to have a child or young person educated in a school under the management of the Scottish local authority. Here the English local education authority retain responsibility for the education of the child or young person and, therefore, none of the provisions of the Act apply.

### **The home education authority have arranged for the child or young person to be educated in a grant-aided or independent special school, or a special school in England, Wales or Northern Ireland**



17. The home education authority may have arranged for the child or young person to be educated in a grant-aided or independent special school, or a special school in England, Wales or Northern Ireland. As in paragraph 12

above the home education authority retain responsibility for the child's or young person's school education and are subject to all of the relevant duties in terms of the Act.

### Mediation

18. The home education authority remain responsible for providing mediation services as in paragraph 13 above.

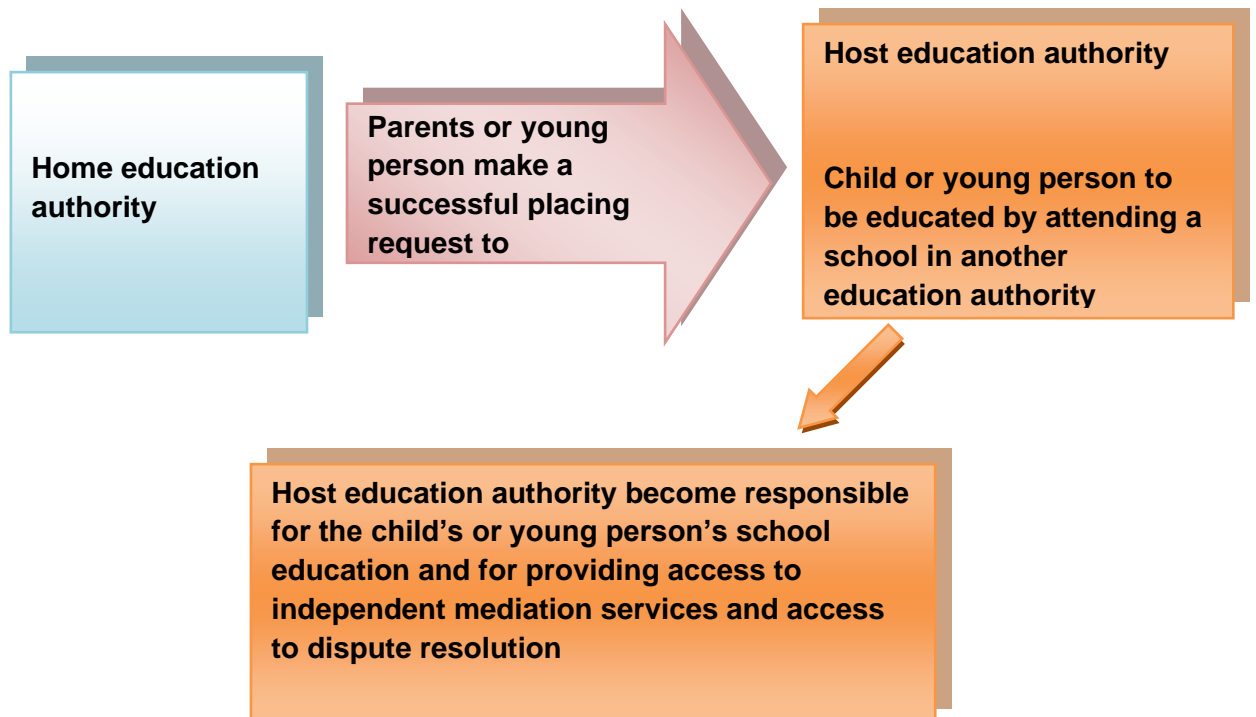
### Dispute resolution

19. Likewise, the home education authority retain responsibility for providing dispute resolution as in paragraph 14 above.

### Tribunal

20. As in paragraph 15 above, where references to the Tribunal are made these would be in terms of the same decisions, information and failures of the home education authority.

**The child or young person is being educated in a school under the management of another education authority as a result of a successful placing request made to that authority by the parents or young person.**





### Placing requests

Sch 2  
2(5) 21. The Act enables parents to make a placing request for their child to attend a school managed by an education authority, other than the authority for the area in which the child lives. The former is referred to as the host education authority, the latter as the home education authority. Young people with additional support needs have the right to make placing requests on their own behalf. Placing requests may be made whether or not children or young people have co-ordinated support plans. It should be noted that the placing request can be made **to the host education authority** for the child or young person to attend a primary school (including a nursery school), secondary school or special school (including a special class or unit) managed by the host education authority.

s29(3)(a) 22. Where a child or young person is being educated outwith his/her home authority as a result of a successful placing request then responsibility for the child's or young person's school education transfers to the **host authority** who are then responsible for all relevant duties under the Act. For example, where a child or young person requires provision of a psychological service then it would be the service from the host authority that would be involved.

s1(3) 23. Decisions about additional support needs following a successful placing request are made by considering the provision, whether or not educational, which is additional to, or otherwise different from, the educational provision made generally for children or young people of the same age in schools (not special schools) under the management of the host authority which are responsible for the child's or young person's education.

### Recovery of costs

s29(4) 24. The Act also provides that references to a child or young person belonging to an area are to be construed in accordance with section 23(3) of the 1980 Act. The provisions of section 23(2) of the 1980 Act on contributions from the home education authority to the host education authority apply as they do within the framework of the 1980 Act. These are that where an education authority have provided school education, with or without other services, for any child or young person, belonging to the area of some other authority, the **host** education authority, may, if a claim is made recover from that other **home** authority such contributions in respect of such provision as may be agreed between the authorities or as the Scottish Ministers may determine. There are two exceptions, however, relating to mediation and dispute resolution (see paragraphs 27 and 29 below).

Sch 3  
3(4) 25. Where the provision relates to additional support needs then it follows from paragraph 22 above that these needs are assessed against the educational provision generally made in schools (other than special schools) for children or young people of the same age in the host authority. It should be noted that following a successful placing request to a local authority there is no obligation on the host authority to provide transport between the child's home address and the school in question.

### Mediation

s15(1)  
s23(2A)  
(a)

26. Following a successful out-of-area placing request, parents and young people are able to access mediation from the host education authority regarding that education authority's functions under the Act. Also following the submission of an out-of-area placing request, parents or young people are able to access mediation from the potential host authority regarding the placing request.

1980 Act

27. However, where a child or young person is being educated outwith the area in which he or she lives as a result of a successful out-of-area placing request, the host authority cannot recover the cost of providing any mediation services from the authority for the area in which the child lives (the home authority).

### Dispute resolution

s16(1)

28. Following a successful out-of-area placing request, parents and young people are able to access dispute resolution from the host education authority in relation to the specified matters in the Regulations regarding the authority's functions under the Act.

s23(2A)  
(b) 1980  
Act

29. However, where a child or young person is being educated outwith the area in which he or she lives as a result of a successful out-of-area placing request, the host education authority cannot recover the cost of providing any dispute resolution from the education authority for the area in which the child lives (the home education authority).

### Co-ordinated support plans

s12(3A)

30. Following a successful out-of-area placing request for a child or young person with a co-ordinated support plan, the new host education authority are under a duty to seek and take account of information and advice from the (home) education authority from which the co-ordinated support plan was transferred as well as from any agencies or persons involved in providing support under the co-ordinated support plan prior to its transfer. This ensures that the new host education authority, and the previous education authority responsible for the school education of the child or young person, are in contact and that the new education authority has all the information necessary from the previous authority and the agencies previously supporting the child or young person. The aim is to make the transition from one education authority to another as smooth as possible. The Co-ordinated Support Plan Regulations<sup>34</sup> require that the plan be transferred to the host authority within 4 weeks of the child or young person leaving school education in the home authority, or no later than 4 weeks after they have become aware of the change.

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<sup>34</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005

s10(1)  
and(5A) 31. The duty to keep under review any co-ordinated support plan prepared by the original home education authority transfers to the new host education authority following the successful placing request, since the host authority are responsible for the school education of the child or young person. The host authority must then review the co-ordinated support plan as soon as possible after the date of any transfer of the co-ordinated support plan from the home authority to the host authority

#### References to the Tribunal

s18(3)  
(da) 32. Where an education authority decide to refuse a placing request in respect of a place in a Scottish special school then that decision may be referred to the Tribunal. This reference to the Tribunal applies whether or not a co-ordinated support plan is involved. However, a reference to a Tribunal cannot be made in respect of a refusal to grant a placing request regarding placement in pre-school provision where an authority have an arrangement with an independent provider.

33. A decision of an education authority to refuse a placing request may be referred to the Tribunal where:

- s18(4)
- a co-ordinated support plan has been prepared (and not discontinued) for the child or young person
  - no such plan has been prepared but it has been established by the education authority that the child or young person requires such a plan
  - no such plan has been prepared but the education authority have issued their proposal to establish whether a child or young person requires such a plan
  - the education authority have decided that the child or young person does not require such a plan and that decision has been referred to the Tribunal.

#### Repeat references to the Tribunal

s18(7) 34. References to the Tribunal on the decision to refuse a placing request can only be made once in each 12 month period unless any co-ordinated support plan has been reviewed in that period, or a Tribunal has ordered a coordinated support plan to be amended or prepared.

#### The Tribunal, sheriff and education authority appeal committee

s18(1)  
and Sch  
2 7(1A) 35. Appeals regarding refusals of placing requests should be made to the Tribunal rather than to the education authority appeal committee or the sheriff where one of the circumstances listed in paragraph 33 applies.

36. A decision made by an education authority appeal committee to refuse a placing request may be referred to the Tribunal if, before the expiry of the time limit for appeal to the sheriff court (28 days), a co-ordinated support plan is involved or being considered.

s18(3)(f)  
s18(4)  
Sch 2  
7(12)

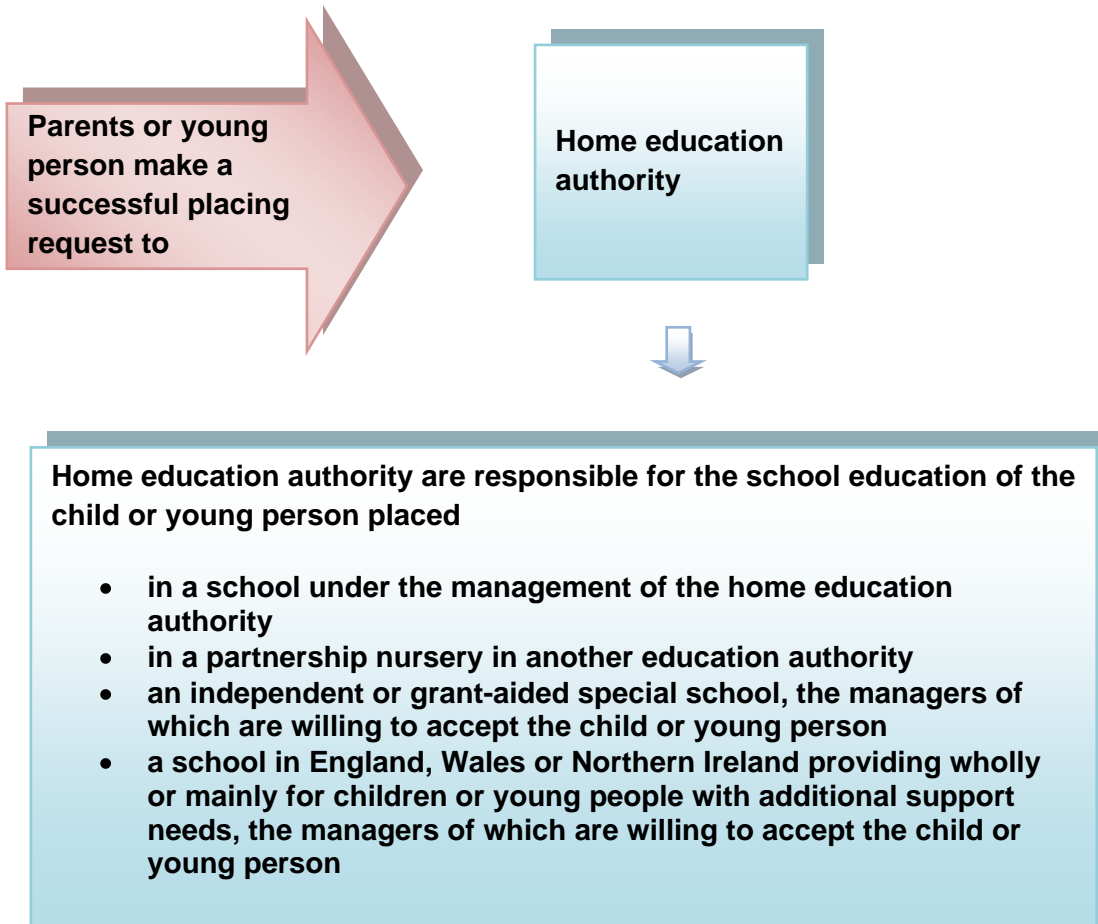
37. If, at any time before the education appeal committee or sheriff has made their final decision on a placing request appeal, a co-ordinated support plan has been prepared, it has been established that a plan is being considered or is required or the education authority have decided that the child or young person does not require such a plan and that decision has been referred to the Tribunal, the appeal is to be transferred to the Tribunal. Any reference transferred back to the sheriff from the Tribunal will be treated as if it were an appeal made directly to the sheriff in the first instance thus ensuring the sheriff has the power to deal with such a reference.

s19(5)  
(ba) and  
(d)

38. While the Tribunal has the discretion to transfer a placing request decision back to the education appeal committee or sheriff where it has been decided that no co-ordinated support plan is required, it is anticipated that in the majority of cases the Tribunal will make a decision on the placing request reference.

39. Where the placing request is made for the child or young person to attend a **mainstream school** in the host education authority, and none of the circumstances in paragraph 33 apply, then any appeal on the refusal to grant the placing request would be heard by the host education authority's appeal committee and, thereafter, by the sheriff, if there is an appeal against the decision of the education authority appeal committee. That is, there is no reference to the Tribunal in these circumstances.

**As a result of a successful placing request to the home education authority, the child or young person is being educated in a school (other than the catchment area school) in the home education authority, in a partnership nursery or in an independent or grant-aided special school in Scotland or a school in England, Wales or Northern Ireland**



[Sch 2](#)  
[2\(1\)](#)

40. The Act enables parents, or young people themselves, to make placing requests for the child or young person to attend a school, other than the catchment area school, in the area of the home education authority. This includes mainstream schools and special schools. In the event of a successful placing request the home education authority may provide transport but are not required to. The grounds for refusing placing requests are set out in the Act.

41. Parents or young people themselves are able to make placing requests to the home education authority for the child (or young person where appropriate) with additional support needs to attend:

- a school under the management of the home education authority
- an independent or grant-aided special school, the managers of which are willing to accept the child or young person

[Sch 2 2\(2\)](#)

- pre-school provision (within the categories for prescribed pre-school children- generally for 3 and 4 year olds) where the **home education authority** have an arrangement with a private provider, normally referred to as a partnership nursery, in that home or host education authority area<sup>35</sup>
- a school in England, Wales or Northern Ireland providing wholly or mainly for children or young people with additional support needs, the managers of which are willing to accept the child or young person.

[Sch 2 2\(3\)](#)

42. The grounds for refusing the placing request are set out in the Act. However, if the placing request is successful then the home education authority are responsible for fees and other necessary costs, such as transport, for the child's or young person's attendance at the school.

### Mediation

43. Parents and young people are able to access mediation from the home education authority regarding the education authority's functions under the Act.

### Dispute resolution

s16

44. Parents and young people are able to access dispute resolution from the home education authority in relation to the specified matters in the Regulations<sup>36</sup> regarding the education authority's functions under the Act.

### References to the Tribunal

s18(3)  
(da)

[Sch 2 5\(1\)](#) and  
7(1)

45. Where an education authority decide to refuse a placing request in respect of a place in a Scottish special school then that decision may be referred to the Tribunal. Similarly, the decision of an education authority to refuse a placing request in respect of a place in a school in England, Wales and Northern Ireland, which is a school making provision mainly or wholly for children or young people with additional support needs, the managers of which are willing to accept the child or young person, may be referred to the Tribunal. These references to the Tribunal apply whether or not a co-ordinated support plan is involved. However, a reference to a Tribunal cannot be made in respect of a refusal to grant a placing request regarding placement in pre-school provision where an authority have an arrangement with an independent provider (ie partnership nursery). In these circumstance any appeal against refusal to grant the placing request would be made to the education authority appeal committee and then sheriff.

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<sup>35</sup> As in the glossary, this refers to the circumstances where an authority have an arrangement with a private provider for the purposes of section 35 of the 2000 Act.

<sup>36</sup> The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005 (S.S.I. 2005/501)

s19(4A)

46. When hearing a placing request appeal in respect of a place in a special school, or a school in England, Wales or Northern Ireland, making provision wholly or mainly for children or young persons with additional support needs, whose managers are willing to admit the child, the Tribunal has the power to confirm the decision of the authority or overturn the decision of the authority. It has the power to specify by what date the child or young person should, as a result of a successful placing request commence attendance at the specified school and make any amendments to any co-ordinated support plan in place.

#### Repeat references to the Tribunal

s18(7)

47. References to the Tribunal on the decision to refuse a placing request can only be made once in each 12 month period unless any co-ordinated support plan has been reviewed in that period, or a Tribunal has ordered a coordinated support plan to be amended or prepared. Similarly, a period of 12 months will have to lapse before another reference can be submitted to the Tribunal regarding a decision to refuse a placing request to a Scottish special school or to a school in England, Wales and Northern Ireland which is a school making provision mainly or wholly for children or young people with additional support needs where any of those circumstances apply.

#### The Tribunal, sheriff and education authority appeal committee

48. The provisions in paragraphs 35-39 apply.

#### **Pre-school children and cross-boundary provision**

49. The duty on local authorities to secure pre-school education applies to all eligible children in their area. Most eligible children attend provision in their home education authority. There are cases, however, where parents of pre-school children may request a pre-school place with a partnership provider in a different local authority area. This often occurs when parents travel a distance to work or study and it is more convenient to attend a provision close to their place of work or of study.

[s23\(3\)](#)

50. Parents of children with additional support needs are able to make placing requests, as described in paragraph 41 above, to the home education authority for their child to be placed in pre-school provision (within the categories for prescribed pre-school children- generally for 3 and 4 year olds) in the host education authority's area where the **home education authority** have an arrangement with a private provider, normally referred to as a partnership nursery, in the area of the host education authority. Where the home education authority do not have such an arrangement then they may approach the potential host education authority requesting their help for the child to attend a partnership nursery which has entered into an arrangement with the host education authority.

## Chapter 5

### CO-ORDINATED SUPPORT PLAN

1. Previous chapters have considered the general provision for additional support needs that the Act requires education authorities to make. However, a number of children and young people have additional support needs arising from complex or multiple factors which require a high degree of co-ordination of support from education authorities and other agencies in order that their needs can be met. This support is co-ordinated through the provision of a co-ordinated support plan under the Act. This chapter explains the circumstances under which children and young people may require a co-ordinated support plan. The contents of a co-ordinated support plan are also considered.

2. The co-ordinated support plan is a statutory document which is subject to regular monitoring and review for those children and young people who have one. Education authorities must have arrangements in place to identify from among those children and young people for whose school education they are responsible, those children and young people with additional support needs who require a co-ordinated support plan and the particular additional support needs of the children so identified. Also, the Act, as amended, assumes that all looked after children and young people have additional support needs unless the authority are able to demonstrate that an individual looked after child or young person does not require additional support in order to benefit from school education. In addition, the Act, as amended, requires education authorities to consider whether each individual looked after child or young person requires a co-ordinated support plan.

[s6\(1\)](#)

s6 (1A)

3. The criteria for requiring a plan are as follows:

*2 - (1).....a child or young person requires a plan (referred to in this Act as a "co-ordinated support plan") for the provision of additional support if-*

[s2\(1\)](#)

*(a) an education authority are responsible for the school education of the child or young person,*

*(b) the child or young person has additional support needs arising from-*

*(i) one or more complex factors, or*

*(ii) multiple factors,*

*(c) those needs are likely to continue for more than a year, and*

*(d) those needs require significant additional support to be provided-*

*(i) by the education authority in the exercise of any of their other functions as well as in the exercise of their functions relating to education, or*

*(ii) by one or more appropriate agencies (within the meaning of section 23(2)) as well as by the education authority themselves.*



## Applying the criteria for a co-ordinated support plan

### An education authority must be responsible for the school education of the child or young person

s2(1)(a)

4. The first test for determining whether or not a child or young person requires a co-ordinated support plan is that an education authority must be responsible for the school education of the child or young person before one can be prepared. Children and young people for whose school education an authority are not responsible cannot have a co-ordinated support plan (see paragraph 10 below).

### *Early years and pre-school*

s5

5. In the early years those children below the age of a prescribed pre-school child (normally the age of 3 years) are not eligible for a co-ordinated support plan, since they are not eligible to receive school education. It follows, therefore, that looked after children below the age of a prescribed pre-school child are not eligible for a co-ordinated support plan. Nevertheless, as described in chapter 3, the authority may, in certain circumstances have a duty to provide additional support for learning to certain children, belonging to their area, who have been drawn to their attention as having additional support needs arising from a disability within the terms of the Disability Discrimination Act 1995 (c 50) even though a co-ordinated support plan cannot be provided. However, when the prescribed pre-school children are in pre-school provision managed by the authority, or in a partnership nursery, then they may have a co-ordinated support plan, provided the other criteria for having one are met.

6. Education authorities should not wait until children reach the age of entitlement to school education, at the age of 3 years approximately, before commencing the initial assessments to determine whether a co-ordinated support plan will be necessary, if they have grounds to believe that such a plan will be required. For some children who are about to start pre-school provision, such as nursery school, it may, therefore, be necessary to begin the assessment process for deciding whether a co-ordinated support plan should be prepared, or not, for a child of two years of age or, indeed, even earlier.

### *School age*

s4(1)

7. The education authority are responsible for the school education of children and young people belonging to their area who attend schools under the management of the authority (referred to here as the home authority). The authority are also responsible for the school education of children and young people attending independent or grant-aided special schools where the authority have made the arrangements for children and young people to attend these schools, for example, to enable the authority to discharge their functions to make adequate and efficient provision for the additional support required.

Children and young people may also be placed in independent and grant-aided special schools, and secure units, through the Children's Hearing system. In these cases the education authority are also responsible for the school education of children and young people belonging to their area. In any of these circumstances, the education authority will require to consider whether such individual children and young people require a co-ordinated support plan.

8. A child or young person may attend a school under the management of an education authority other than the education authority for the area to which the child or young person belongs. This former education authority are referred to here as the host education authority; the latter are the home education authority. The home education authority may enter into arrangements with another education authority, and arrange for that child or young person to be educated in a school in that host education authority, in order that the home education authority can discharge their duties under the Act. In such circumstances, the home education authority are responsible for the school education of the child or young person including being responsible for establishing whether that child or young person requires a co-ordinated support plan, for preparing the plan, as necessary, and for keeping under consideration the adequacy of any plan so prepared.

9. However, where a child or young person is attending a school in an authority other than the home education authority as a result of a placing request, then it is the host education authority which are responsible for the school education of that child or young person. The host education authority are responsible for ensuring that they fulfil all their duties under the Act, as required, where an education authority are responsible for the school education of a child or young person. These duties include being responsible for establishing whether that child or young person requires a co-ordinated support and for preparing the plan, as necessary.

s10(1)

10. Children and young people who have been placed in independent or grant-aided schools, by their parents or others, or are being educated at home, and for whose school education the authority are not responsible, are not eligible to have a co-ordinated support plan. In these circumstances, parents or the young person may ask the education authority to establish whether the child or young person has additional support needs, or would require a co-ordinated support plan, if the authority were responsible for the school education of the child or young person. The education authority may comply with the request but are not obliged to do so. Managers of independent and grant-aided schools may also request the education authority to establish if the child or young person would require a co-ordinated support plan, if the authority were responsible for the school education of the child or young person. Again, the education authority may comply with the request but are not obliged to do so.

[s7](#)

## Additional support needs arising from complex and/or multiple factors

11. To have a co-ordinated support plan a child or young person must have additional support needs arising from one or more complex factors or multiple factors and these needs must be likely to continue for more than a year. It should be noted that while the need for support arising from these factors should be likely to continue for more than a year the Act does not require that the “significant additional support” provided (see practical examples in Annex C) **must** last for more than a year.

[s2\(1\)\(b\) and \(c\)](#)

12. As noted in chapter 2 there is a wide range of factors which may lead to children and young people having additional support needs. The factors may be grouped into broad overlapping themes arising from the learning environment, family circumstances, disability and health issues, and social and emotional factors.

13. The Act states that a factor is a complex factor if it has, or is likely to have, a **significant adverse effect** on the school education of the child or young person. The Act does not define the length of time over which a complex factor has an effect (although the additional support needs arising from one or more complex factors have to be likely to last for more than a year for a child or young person to require a co-ordinated support plan), nor does the Act define the term “significant adverse effect”. However, since a complex factor is one that has a significant adverse effect on the school education of the child or young person, it is likely that it will affect most aspects of learning. Some examples of complex factors grouped according to the above themes could be the following:

[s2\(2\)\(a\)](#)

**Learning environment** – where the learning and teaching approaches and/or overall curriculum are significantly different from what the child or young person requires and are thus having a significant adverse effect on his/her school education. This may arise where the child or young person is attending a particular mainstream school and the learning and teaching approaches available there cannot, for whatever reasons, be suitably adapted to take account of the child’s or young person’s learning needs. In this example, a special school may provide a more effective education. Alternatively, a child or young person in a special school may require to be placed in a mainstream school. Or, the child or young person may have severe dyslexia which is having a significant effect on his/her ability to access the curriculum and, because the appropriate measures have not been put in place, this is adversely affecting the child’s or young person’s progress in school.

**Family circumstances** – where family life is disrupted, perhaps through parental alcohol, drug or domestic abuse or mental health problems, and the child or young person is not receiving the parental support, direction and guidance needed to make the most of school

education. Or, where for example, school attendance is very poor and is adversely affecting educational progress. The family may be under stress from external factors such as poverty or social circumstances which are impacting on the child's or young person's school education.

**Disability or health** – where the child or young person faces barriers to learning and development from, for example, blindness, or a physical disability such as cerebral palsy or other condition such as autism spectrum disorder, specific language impairment or developmental co-ordination disorder and requires measures to be put in place if the child or young person is to benefit from school education. In addition, some children or young people with a mental health problem such as attention deficit hyperactivity disorder, depression or anorexia may experience significant or frequent disruption to their school education.

**Social and emotional factors** – children or young people may have social and emotional difficulties, such as behaviour difficulties which may lead to offending or they may be being bullied, which prevents them attending school regularly or engaging effectively with the curriculum.

14. Multiple factors are factors which are not by themselves complex factors but, when taken together, have or are likely to have, a significant adverse effect on the school education of the child or young person. For example, a child may have a mild sensory impairment (disability or health), live in disadvantaged social circumstances where there are parental relationship difficulties, unemployment and low income (family circumstances) and may not be receiving appropriate education (learning environment) which takes account of the sensory impairment. Each of these taken separately may not have a significant adverse effect on the education of the child or young person, but the cumulative effect of these multiple factors is such that the school education of the child or young person is being adversely affected to a significant degree.

[s2\(2\)\(b\)](#)

15. In all cases it is how the factors impact on the child's learning and development that is important and it is assessment which determines this. Those well placed to decide whether or not factors are complex or multiple are those working with the child or young person, as well as the parents, and of course the child or young person. What may be complex, or multiple, factors with a significant adverse effect for one child or young person may not be for another. It is the effect of the factor(s) on school education that is important, not any diagnostic label alone. Every child or young person should be considered on an individual basis.

*A co-ordinated support plan may not need to last throughout a child's or young person's school career*

Adam has a specific language impairment which had led to a co-ordinated support plan being prepared during his pre-school year. He maintained a split placement between a language unit and mainstream primary school for the first three years of his primary schooling. During this time his needs required a high degree of co-ordination amongst the professionals involved and he received significant support from a speech and language therapist. In P4 he attended his mainstream school full time supported by an outreach teacher and a speech and language therapist. In working with the speech and language therapist, the school staff were able to develop new skills and appropriate strategies within class to meet his needs. At the next review of the co-ordinated support plan, it became clear that significant support from outwith education was no longer necessary and there was no longer a need for a co-ordinated support plan. The co-ordinated support plan was discontinued.

#### Additional support needs likely to continue for more than a year

s2(1)(c)

16. As noted above, in addition to deciding on whether the criteria of complex or multiple factors are met, professionals involved with the children and young people must determine for how long those additional support needs are likely to last. For a co-ordinated support plan to be required the view must be that these needs are likely to continue for more than a year. Importantly, although the need for additional support must last for more than a year there is no requirement under the Act for the additional support provided to last for more than a year if it is no longer needed.

#### Significant additional support

17. These additional support needs must also require the provision of significant additional support from an education authority, and (a) the local authority exercising their functions other than education (e.g. social work services) and/or (b) one or more appropriate agency/agencies<sup>37</sup>, within the meaning of the Act and the associated Regulations<sup>38</sup>, if a co-ordinated support

s2(1)(d)

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<sup>37</sup> These are: any other local authority, any NHS Board, Skills Development Scotland, further education colleges and higher education institutions in Scotland and the Scottish Agricultural College.

<sup>38</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 - <http://www.opsi.gov.uk/legislation/scotland/ssi2005/20050518.htm>

plan is to be required. One purpose of the co-ordinated support plan is to ensure that support is co-ordinated effectively when at least one service is required from outwith what the education authority provides as part of its educational functions. It is not unusual for health and social work service staff to be working in specialist provisions supporting children and young people with additional support needs and for questions to arise as to whether their support can be included under (a) and/or (b) above. The position is as follows:

- where the health staff are employed through an NHS Board, whether or not the education authority contribute financially to their costs of working in school education, then they count as belonging to an appropriate agency under the Act and are included under (b) above
- where the health staff are not employed through an NHS Board but are employed directly by the manager of an independent special school or education authority then they do not belong to an appropriate agency under the Act
- where the social work staff are employed by the local authority for the children and young people for whose school education the education authority are responsible then as far as the Act is concerned they are included under (a) above
- where the social work staff are not employed through a local authority but are employed directly by the school managers then they are not included under (a) above.

18. The Act does not define what “significant additional support” means but the issue has been considered in the Tribunal and courts. In particular, the opinion delivered by Lord Nimmo Smith in the Inner House of the Court of Session in the case of *JT* is particularly relevant and is binding here<sup>39</sup>. The use of the term “significant” signals that the scale of the support provided, whether it is in terms of approaches to learning and teaching (e.g. adaptation or elaboration of the curriculum) or personnel (eg provision of learning support assistant) or resources (eg specialist aid to communication or a special hoist), or a combination of these, stands out from the continuum of possible additional support. **Significant additional support may be provided to a child or young person with additional support needs on an individual basis, in a group setting with others or through personnel working under the direction and guidance of those from the appropriate agency.** The issue of significance thus refers to the extent of the provision. Judgments about significance have to be made taking account of the frequency, nature, intensity and duration of the support and the extent to which that support needs to be co-ordinated and is necessary for the achievement of the educational objectives which will be included in the plan. In particular, the support must be of sufficient duration to make it worthwhile preparing a co-ordinated support plan in order to ensure that it is co-ordinated properly.

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<sup>39</sup> Lord Nimmo Smith, Inner House, Court of Session , June 2007 - <http://www.scotcourts.gov.uk/opinions/2007CSIH52.html>

19. Where a child has several professionals involved from the one appropriate agency, such as from an NHS Board, then the **cumulative effect of these professionals' involvement may amount to significant additional support from that agency even although the input from each professional individually is not significant**. For example, a child may receive speech and language therapy and physiotherapy on a regular basis. Taken separately the additional support from each individual professional may not be significant but **taken together** their contribution may represent significant additional support from the NHS Board as an appropriate agency. A similar argument could apply to additional support provided by the education authority exercising its functions other than education. For example social work and occupational therapy from the local authority social work services may amount to significant additional support when considered together but not when considered separately. In considering the significance of the additional support then it is important to consider cumulatively what an appropriate agency is providing.

20. In Annex C a grid is provided with some case study examples which may prove useful in considering the issue of significance. Full-time placement in a special school or unit would count as significant additional support from the education authority, as would provision of personnel full-time to support a child or young person in a mainstream school, and provision of specialist aids to communication. However, judgements about whether children or young people meet the requirements for a having a co-ordinated support plan have to be taken on an individual basis applying all the criteria of the legal test, not just the one criterion of whether the additional support required is significant.

21. Where a child or young person is looked after and living away from home in a special school then that is certainly significant additional support. Where support is required from social work services to sustain the child's or young person's attendance at the school, and hence to enable him or her to achieve their educational objectives (see below), than that is likely to count as significant additional support (from the education authority exercising their functions other than education). In these circumstances, it is likely that the child or young person would require a co-ordinated support plan provided the other criteria are met. However, it is not possible to generalise as to what should count as significant and consideration has to be given to circumstances in individual cases.

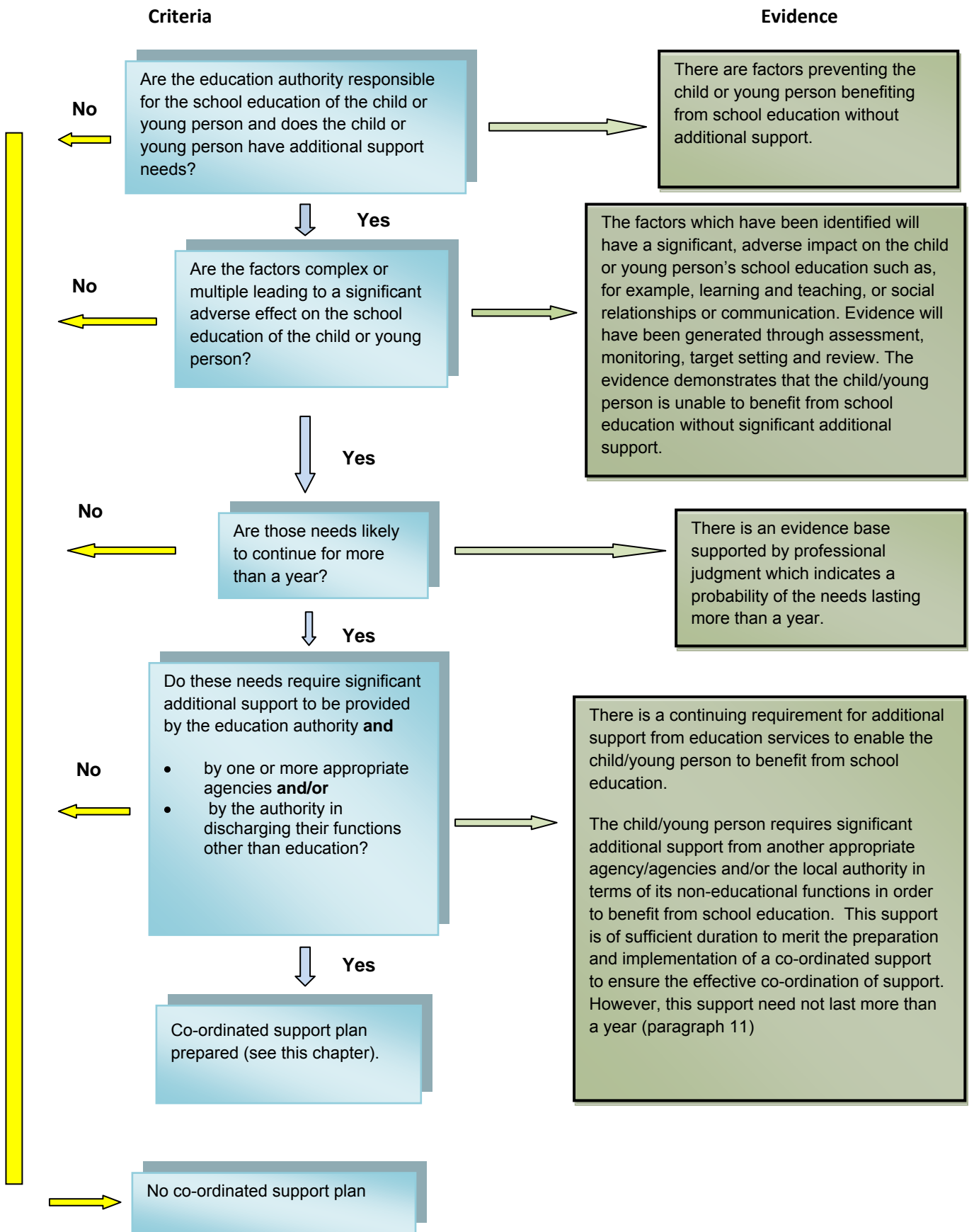
22. The following diagram provides a decision tree to help authorities to decide whether children and young people require a co-ordinated support plan. It should be read in conjunction with the Co-ordinated Support Plan Regulations<sup>40</sup>. This chart should be read as relevant to all appropriate agencies.

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<sup>40</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518) as amended.



## Is a co-ordinated support plan required?





## Seeking and taking account of views and providing information

23. When considering whether or not a co-ordinated support plan may be required, or in preparing such a plan, an education authority must seek and take account of relevant advice and information (including assessments) from appropriate agencies and other persons (for example, voluntary organisations) whom they think are appropriate. This advice and information may be, for example, from health services. The education authority must also take account of advice and information available from sources within the authority, other than from education. Such a source is most likely to be the authority's own social work services. They must also take account of information provided to them by, or on behalf of, the child or young person. For example, if the parents have privately commissioned an assessment or report on the child or young person, or the young person has commissioned the report himself/herself, then the authority must take that report or advice into consideration if provided to them. Also, the authority must seek and take account of the views of children and their parents, and young people themselves, throughout the process.

[s12\(2\)](#)

24. If an education authority identify a child or young person as requiring a co-ordinated support plan it is expected that the parents would want to, and will, participate in its preparation. Most parents are keen to do what is best for their child and do co-operate with education authorities. In some cases, parents may be concerned about the assessment process and may not co-operate. If the parent will not co-operate with the assessment process the education authority will require to decide whether they have enough information available to prepare a co-ordinated support plan. This is also the case where a child, or a parent on their behalf where the child lacks the capacity to consent, has refused to give consent to a medical assessment or examination. For most children or young people who require a co-ordinated support plan there will be detailed information available. Education authorities are still obliged to draw up co-ordinated support plans even where parents disagree that one should be prepared or where they refuse to co-operate. In circumstances where the parents disagree that a co-ordinated support plan is required it is open to them to refer the authority's decision to the Tribunal.

[s2\(4\) Age of Legal Capacity \(Scotland\) Act 1991](#)

25. Where an education authority propose to establish whether any child or young person requires a co-ordinated support plan they must, before proceeding, inform the parents (or young person). They must also inform the managers of independent or grant-aided schools, where they are responding to a request by them to establish whether a child or young person would require a co-ordinated support plan if the education authority were responsible for the child or young person's school education. When they have reached a view on whether a co-ordinated support plan is required the authority must also inform these persons about their conclusions and any rights to make a reference to the Tribunal regarding the authority's conclusions.

[s11\(1\), \(2\) and \(3\)](#)

## Requesting an assessment

26. As described in chapter 3, where an education authority are responsible for the school education of a child or young person they must meet requests made by a parent or young person to establish whether any child or young person has additional support needs, or requires a co-ordinated support plan, unless the request is unreasonable.

27. Where an education authority are not responsible for the school education of a child or young person they may meet requests made by the parents, young person or managers of an independent or grant-aided school to establish whether the child or young person would, if the education authority were responsible for the school education of the child or young person, require a co-ordinated support plan.

28. In the circumstances in the previous two paragraphs above, those making the request will be expected to provide sufficient information to explain why they think assessment is required. The education authority must notify the parents or young person, or the managers of the independent or grant-aided school (as appropriate), of a decision not to comply with the request. In the case of a child or young person for whose school education they are responsible, the education authority must notify the parents or the young person, before proceeding, of their proposal to establish whether the child or young person requires a co-ordinated support plan. In the case of a child or young person for whose school education the education authority are not responsible then where the education authority decide that a co-ordinated support plan would have been required, if they were responsible for the child's or young person's school education, they must provide the person who made the request with such information and advice about the child's or young person's additional support needs as they consider appropriate.

[s28\(2\)](#)

s7

29. Education authorities should notify the person making the request of either decision as quickly as possible but certainly no later than 8 weeks from when the request is received (see paragraph 37 below).

30. Where an education authority are responsible for the school education of a child or young person then their decision not to comply with a request to establish whether a co-ordinated support plan is required is treated as a decision of the education authority that the child or young person does not require a co-ordinated support plan. In notifying the parents or young person of their decision, they must also notify them of their right to make a reference to the Tribunal. A reference to the Tribunal can only be made where an education authority are responsible for the school education of the child or young person.

[s18\(5\)](#)

[s28\(2\)\(d\)](#)

31. Where a parent or young person has requested that the authority establish whether the child or young person requires a co-ordinated support plan and the authority have not responded to that request within 8 weeks the Act, as amended, provides that the failure to respond is treated as if it was a

s18(5A)

decision by the education authority that no co-ordinated support plan is required. In these circumstances the parent or young person can refer to the Tribunal the authority's deemed refusal to prepare a co-ordinated support plan. This 8 week timescale can be extended to 16 weeks where the request is made during a school holiday period of 4 weeks or more.

s18(5B)

32. Also, where an authority have notified a parent or young person that they will establish whether the child or young person requires a co-ordinated support plan but, after 16 weeks following that notification, the authority have not made a decision on the matter either way, the Act, as amended, enables that failure to be treated as if it were a decision of the education authority that no co-ordinated support plan is required. Decisions of an authority that no co-ordinated support plan is required can be referred to the Tribunal.

s8(1)

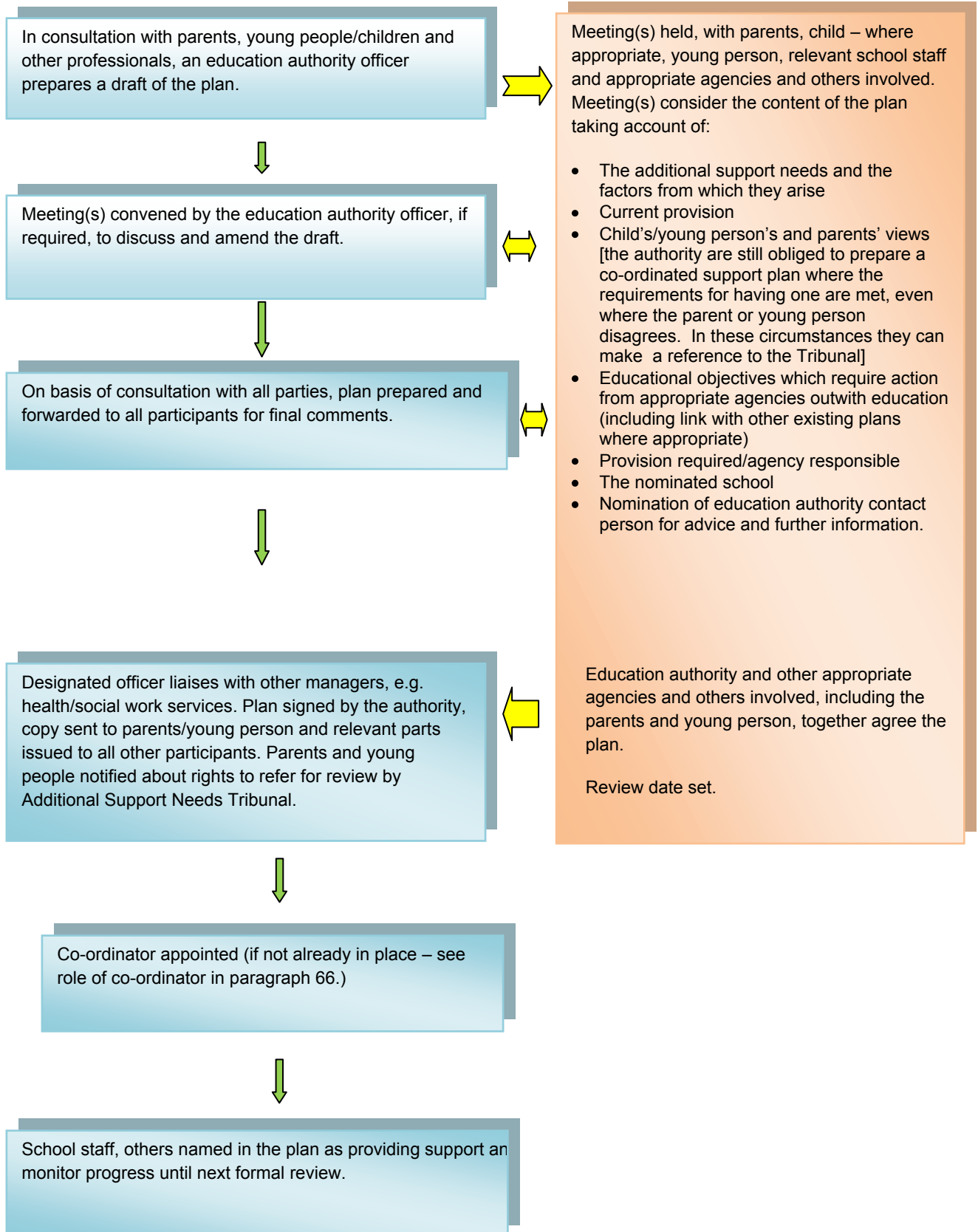
s8A

s7(2)(b)

33. Where an education authority propose to establish whether a child or young person has additional support needs or requires a co-ordinated support plan they must also comply with a request for an assessment or examination made by the parent or young person unless the request is unreasonable; as noted earlier, the Act, as amended, allows this request to be made at any time, not just when establishing whether a child or young person has additional support needs or requires a co-ordinated support plan. The parent or young person can request that the education authority arrange for the child or young person, referred to in the proposal, to undergo a process of educational, medical, psychological or other type of assessment or examination (or a combination of these) for the purposes of establishing if there is a requirement for a co-ordinated support plan. The managers of independent or grant-aided schools may request an assessment or examination where an education authority propose to establish whether a child or young person has additional support needs or a child or young person would require a co-ordinated support plan if the education authority were responsible for the child or young person's school education.

34. Educational assessments are an intrinsic part of day-to-day practice in schools. Education authorities should consider these when deciding whether a request for any additional or particular assessment or examination, not already contained in the proposal for establishing if there is a requirement for a co-ordinated support plan, is reasonable. They should consider also any other available assessments (for example, health or social work) and decide whether there is any requirement or need for further detail.

## Preparing a co-ordinated support plan



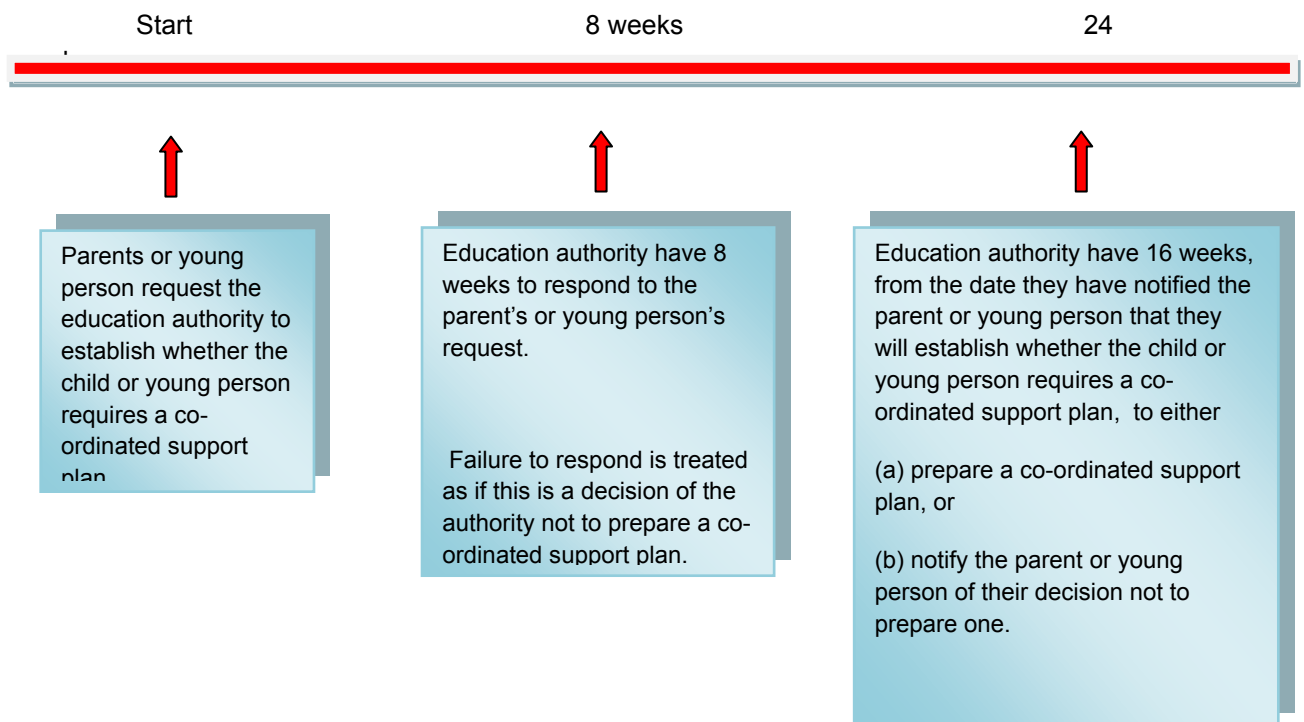
35. The flow diagram above describes the steps which may be taken to draw up a co-ordinated support plan. It is essential that the plan is prepared having sought and taken account of, and recorded on the plan where appropriate, the views of:

- the parents and child
- the young person
- representatives of those appropriate agencies, and any others, providing support.

36. Education authorities should have clear arrangements for joint working with those appropriate agencies and others involved in supporting children and young people with additional support needs<sup>41</sup>. These should include the arrangements under which support specified in the co-ordinated support plan can be approved and provided by the authority itself and appropriate agencies.

Timescale for responding to requests and drawing up the plan where one is required

*Timeline*



<sup>41</sup> See Guidance on partnership working between allied health professions and education. - <http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

s18(5A)

[s18\(3\)\(b\)](#)

37. Once the parent or young person has requested the education authority to establish whether the child or young person requires a co-ordinated support plan the authority have 8 weeks to respond to the request. At this stage the education authority do not have to provide the parent or young person with a decision on whether or not they will prepare a co-ordinated support plan. The education authority have simply, within that 8 week period, to inform the parent or young person that they will deal with the request. Failure to respond to the request is treated as if it is a decision of the education authority not to prepare a co-ordinated support plan. In these circumstances, the parent or young person can make a reference to the Tribunal regarding the education authority's decision not to prepare a co-ordinated support plan.

38. An education authority have 16 weeks, from the date they have notified the parent or young person that they intend to establish whether or not the child or young person requires a co-ordinated support plan, to inform the parent or young person of their decision either way. The date is the date on which information about the proposal is sent by the education authority. The education authority may ask an appropriate agency for advice. As noted in chapter 3 paragraph 18, the Appropriate Agency Request Period and Exceptions Regulations<sup>42</sup> made under the Act specify that appropriate agencies are expected to respond to requests for help within 10 weeks from the date the request is made by the education authority, subject to certain exceptions stated there. Within the 16 week timescale education authorities have to:

- seek and take account of the views and information provided
- consider whether the child or young person meets the criteria for having a co-ordinated support plan
- reach a decision
- notify the parents or young person of the outcome
- prepare the plan, if it has been established that one is required.

39. Where the education authority decide that a co-ordinated plan is required they must identify the educational objectives to be achieved, the support required and identify and liaise with the appropriate agencies and other persons that will provide the support. They must within the 16 week timescale produce a completed co-ordinated support plan as set out in the Co-ordinated Support Plan Regulations.

40. An education authority's proposal for establishing whether a co-ordinated support plan is required should also inform parents or young people about:

- the agencies, other departments of the authority and other people from whom the education authority propose to seek views, advice and information

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<sup>42</sup> The Additional Support for Learning (Appropriate Agency Request Period and Exceptions) (Scotland) Regulations 2005 (SSI 2005/26).

- any proposed assessments or examinations
- s8 ● their right to request particular assessment(s) relevant to the proposal
- s11 ● their right to provide advice and information relevant to the proposal
- s12 ● their involvement in the process
- a proposed timescale for the process
- their rights under the Act to make a reference to the Tribunal regarding the education authority's decision about whether or not a co-ordinated support plan is required
- their right to make a placing request if they disagree with the school nominated in any plan prepared.

41. The majority of children and young people being considered for requiring a co-ordinated support plan will previously be known to the education authority. Consideration for a co-ordinated support plan will have arisen from monitoring the child's or young person's additional support needs and his or her ability to benefit from the school education being provided. In most cases, education authorities would be expected to be able to reach a decision fairly quickly as to whether a co-ordinated support plan is required. There will be situations where reaching a decision will take longer, for example, where the child or young person has moved to the authority area from outwith Scotland and limited information is available, or where an appropriate agency cannot comply with a request for help quickly.

42. It will be in an education authority's best interests to ensure that the information about the proposal is as detailed as possible and that action is taken promptly to get the process underway, such as through contacting appropriate agencies, or others as appropriate, to seek and prepare to take account of information, advice or help. It is expected that the authority will have reached a decision and notified the parent or young person as soon as possible.

43. The statutory 16 week period ends on the date on which the education authority give the child's parents or the young person a copy of the completed co-ordinated support plan. This date is the date a copy of the co-ordinated support plan is sent by the education authority to the parent or young person by post and/or email. In good practice education authorities will confirm receipt of a co-ordinated support plan with the parent or young person. Alternatively, the statutory 16 week period ends on the date on which the education authority notify the child's parents or young person that they do not intend to prepare a co-ordinated support plan.

44. As in paragraph 32 above, if the authority have notified the parents or young person that they intend to establish whether or not a co-ordinated support is required and after 16 weeks have not made a decision on the matter either way then that failure will be treated as if the authority have decided that a co-ordinated support plan is not required. The parents and young person are able then to refer that decision to the Tribunal.



## Time limit exceptions

45. While an education authority will be expected to take all reasonable steps to ensure that the time limit is complied with, there will be circumstances outwith the education authority's control which make compliance impracticable. The Co-ordinated Support Plan Regulations<sup>43</sup>, therefore, set out the circumstances where it would be considered impracticable for an education authority to meet the usual 16 week timescale. The exceptions cover circumstances relating to both the establishing and preparing phases of the overall process. These include where:

- the child's parent or the young person has made a request for a particular type of assessment or examination and that cannot take place, or the results will not be available, before the end of the 16 week period
- the education authority have asked an appropriate agency or other persons for help and they have not been able to respond in time.

46. When an education authority become aware that the 16 week time limit is unlikely to be met, they must explain to the child's parents or the young person the reason for the delay and must set a new date for completion of the process. The Regulations require that the new time limit should not exceed the standard 16 weeks by longer than is reasonably necessary in the circumstances, which in any event must not be more than 24 weeks from the start date (see paragraph 38 above). This is to allow for the individual circumstances surrounding the delay to be taken into consideration and to allow an appropriate new timetable to be set in the light of these.

47. A parent or young person can make a reference to the Tribunal where, once it has been established that the child or young person does require a co-ordinated support plan, the education authority fail to prepare a plan by the 16 weeks statutory time limit unless one of the exceptions apply. Education [s18\(3\)\(c\)](#) authorities should have regard to this when considering applying any of the time limit exceptions. In some cases an education authority may have to proceed to reach a decision about the requirement for a co-ordinated support plan, or the actual content of a plan, on the basis of the information available.

### **What does a co-ordinated support plan contain?**

48. The Act and associated Co-ordinated Support Plan Regulations<sup>44</sup> set out the form and content for a co-ordinated support plan. The statutory parts of the plan and prescribed decisions, failure or information can be referred to the Tribunal for review. Plans must contain:

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<sup>43</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518).

<sup>44</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518).



[s9\(2\)\(a\)](#)

- the education authority's conclusions as to the factor or factors from which the additional support needs of the child or young person arise
- the educational objectives intended to be achieved taking account of those factors
- the additional support required to achieve these objectives
- details of those who will provide this support.

49. The plan must also contain:

[s9\(2\)\(b\)](#)  
[, \(c\)](#)  
[and \(d\)](#)

- the name of the school the child or young person is to attend
- the details of the person who will co-ordinate the additional support identified in the plan, or the details of any person nominated by the education authority to carry out the co-ordinator function, if not an education authority official
- the details of a contact person within the local authority from whom the parent or young person can obtain advice and further information.

50. The plan should be clear and succinct, and refer to needs that will, or are likely to, continue for more than a year. Short-term objectives would continue to be contained within personal learning planning or an individualised educational programme or other plan. In cases where there is an individualised educational programme or other planning approach in place, the co-ordinated support plan should refer to these but not duplicate the content of the plans unless this is required to meet the statutory requirements for the plan. Some may wish to use an individualised educational programme to break down objectives in a co-ordinated support plan into small steps to guide day-to-day learning and teaching. What is important is that the co-ordinated support plan contains those educational objectives which require the various forms of support to be co-ordinated if the educational objectives are to be achieved.

51. The co-ordinated support plan also contains other details in addition to those required by the Act and the Co-ordinated Support Plan Regulations<sup>45</sup>. These are:

- specified biographical and contact details of the child or young person
- specified contact details for the parents(s) or those adults who have, or share, responsibility for the care of the child or young person
- a profile - the purpose of this is to build a holistic pen picture of the child or young person. It should focus on the positive aspects of the child's/young person's life, for example, his/her skills and capabilities. It may also include information about the school attended or curriculum, other planning in place, his/her favourite activities, or how he/she likes to learn

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<sup>45</sup>. The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518).

- parents' and child's/young person's comments on any aspects of the co-ordinated support plan process as well as the plan itself
- a review timetable.

52. While the co-ordinated support plan details the factors giving rise to the child's or young person's additional support needs, the plan does not contain all the multi-agency reports, including assessment/examination reports that contributed to the education authority reaching these conclusions. How or where this information is kept or shared is a matter for all the professionals involved to consider while bearing in mind that some of this information may be sensitive or could cause distress to the child or young person or other family members. However, it is clearly important that the content of the plan is informed by these reports so that it takes good account of multi-agency views.

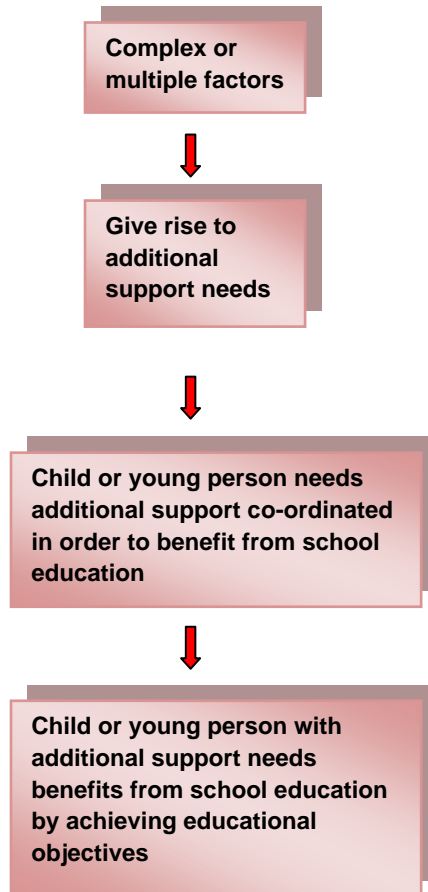
53. A co-ordinated support plan template containing guidance notes can be found at Annex B. It should be noted that the Regulations state that the plan must "...be in the form set out in the Schedule to these Regulations or a form substantially to the same effect..". In other words, education authorities have some scope to change how the co-ordinated support plan is presented provided the basic outline and purpose of the plan are maintained.

*The factors giving rise to additional support needs*

54. This part of the plan must state the complex factor or factors, or multiple factors giving rise to additional support needs. In some cases, the factors may be diagnostic terms such as autism spectrum disorder, learning disability or clinical depression. In other cases, the factor or factors may be more descriptive and related directly to the personal circumstances of the child or young person and family.

[s9\(2\)](#)  
[\(a\)\(i\)](#)

55. It should be clear from the assessment information which underpins the co-ordinated support plan what the complex and/or multiple factors are and how these are influencing the development of the child or young person and his/her ability to benefit from school education. All the complex and/or multiple factors involved should be stated in the co-ordinated support plan. The factors triggering the requirement for a co-ordinated support plan need to have, or be likely to have, a significant adverse effect on the school education of the child or young person.



### Educational objectives

s9(3) 56. The co-ordinated support plan is designed to enable children or young people to work towards achieving their educational objectives within the meaning of the Act. School education, within the meaning of the Act, includes, in particular, education directed towards the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential. Educational objectives should be set to secure that the child or young person benefits from the school education provided or to be provided. The objectives will cover relevant experiences beyond the classroom including those in the community, for example. They should be viewed in the widest sense as encompassing a holistic view of the child or young person. They should be specific to the child or young person and his or her additional support needs.

57. Educational objectives, for example, may include those required for personal and social development or for health and wellbeing. For some children or young people, legitimate educational objectives could be, for example, learning to travel independently or learning particular social skills concerned with, say, feeding or dressing. What is important is that the plan contains those educational objectives which require the various forms of support to be co-ordinated if the educational objectives are to be achieved. For example, a teacher and speech and language therapist may need to ensure

their support is well co-ordinated if the educational objectives to be achieved are related to improving the communication skills of a child with an autism spectrum disorder; a teacher and residential social worker may need to work together to ensure that a child looked after away from home is able to complete schoolwork assignments outwith school.

58. The educational objectives in the co-ordinated support plan must take account of the factor or factors giving rise to the child's or young person's additional support needs. The objectives will require the co-ordination of services if they are to be achieved. Children and young people will always be working to achieve other learning outcomes which are not documented in the plan and these will be outcomes which do not depend, for their achievement, on the level of co-ordination of support required by the plan. For example, a particular child with a co-ordinated support plan may have intended learning outcomes set for, say, language and mathematics and, apart from the usual support from the family, the school may feel that these will be achieved without any support from other agencies. These learning objectives will be documented through other school planning arrangements such as personal learning planning, an individualised educational programme, or another approach used by the school and will not be listed in the co-ordinated support plan.

59. **Decisions about what are appropriate educational objectives to be achieved to enable the child or young person to benefit from school education should be taken independently of the additional support required to achieve these objectives and should be informed by the assessment information available.** The starting point should be to establish what it is reasonable to expect the child or young person to achieve over the course of the next year, taking account of the assessment information available. The objectives should be described in terms that are specific enough to enable the education authority, and the other agencies involved in supporting the child or young person, to monitor and review progress over time. However, they should not be so overly specific that they narrow and constrain what should be learned. **When setting an objective, a question that needs to be answered is "How will we know the objective has been achieved?"** Since each co-ordinated support plan has to be reviewed on, at least, an annual basis then the objectives should be those which can be achieved in a year approximately or for which progression milestones will be identifiable within the year.

60. Annex C contains some examples of educational objectives. Those drawing up the educational objectives will find it useful to consider as a starting point the *Experiences and Outcomes in Curriculum for Excellence* because these apply across all schools in Scotland and are relevant for all children and young people as they pursue their school education.

### The additional support required by the child or young person

s9(2)(a)  
(iii)

61. The co-ordinated support plan must describe the additional support required to achieve the educational objectives stated. This support should include any short-term support provided so that its impact on the achievement of the educational objectives can be determined. The additional support will cover teaching and other staffing arrangements, appropriate facilities and resources, including information and communications technology, and any particular approaches to learning and teaching. It will also include any provision made outwith the educational setting but which will contribute to the child or young person achieving his/her educational objectives. The statement of support to be provided should be clear and specific and, wherever possible, should be quantified. Everyone should understand and be clear about what is being provided and why it is being provided. Statements such as “learning support as necessary” or “speech and language therapy as required” are too vague to be helpful. Statements such as the following provide a clearer idea about what is being provided:

- a named voluntary agency commissioned by social work services to provide group work in school for two hours per week, approximately, for one term
- attendance at a day mental health hospital facility for three afternoons a week continuing during school holidays.
- speech and language therapist and classroom assistant will provide weekly therapy within a small group setting for six weeks followed by a specific programme being supported within the mainstream curriculum by the teacher and classroom assistant with a review of outcomes at the end of term.

### The persons by whom the support is provided

s9(2)(a)(iv)

62. The plan must state the “persons” who should be providing the support. What is meant here are the agencies or professions providing the support, not the actual names of individuals. So, for example, terms such as “visiting teacher of the deaf”, “speech and language therapist”, “social worker”, “clinical psychologist”, and “Skills Development Scotland” are acceptable terms. It is neither desirable, nor necessary, to name, for example, the speech and language therapist, since while personnel may change the additional support provided need not.

### The nominated school

s9(2)  
(b)

63. The plan must state the name and address of the school it is intended that the child or young person will attend. If a child or young person is being educated at home under arrangements made by the education authority the plan must state this.

### The details of the person providing advice in the education authority

s9(2)(d) 64. The plan must state the name, address and telephone number of the person in the education authority responsible for providing advice and further information about the co-ordinated support plan to parents and young people.

### The contact details of the co-ordinator

s9(2)(c) 65. The plan should state the name, address and telephone number of the person responsible for co-ordinating the provision. The authority can arrange for another person to discharge their co-ordination responsibility and, if so, must provide their nominee's contact details.

### Role of co-ordinator

66. The co-ordinator is the person responsible for monitoring provision to ensure that the services required to deliver the additional support identified in the co-ordinated support plan are in place for the child or young person and for taking action to secure services when necessary. The co-ordinator may be the lead professional working with the family under the *Getting it right for every child* approach. Once a plan has been agreed, the co-ordinator should ensure that parents, young people and all those involved in providing additional support know what is required of them under the plan. The Co-ordinated Support Plan Regulations make provision for necessary information sharing between appropriate agencies and other parties to enable each to do their part in delivering the necessary support to meet the needs of the child or young person. The co-ordinator and anyone intending to share personal information about the child, young person or their family must consider how the Regulations and the wider legal framework for information sharing apply in each individual case.

67. The co-ordinator should be aware of the objectives set out in the plan and be closely involved in working with the team who support the child or young person. The co-ordinator should know the procedures to follow if there is a break in the delivery of necessary services to fulfil educational objectives. For example, if support from external services breaks down due to staff ill health or absence, the co-ordinator must then liaise with the relevant agency to seek to ensure a replacement of services without undue interruption to the provision of those services.

s18(3)(d) (iii) 68. The co-ordinator should note that the Act, as amended, enables parents and young persons to make references to the Tribunal where there is a failure by the education authority to provide, or make arrangements for the provision of, the additional support contained in a co-ordinated support plan which is necessary for the child or young person to achieve their educational objectives. s19(3) The Act, as amended, enables the Tribunal to require the education authority to take action to rectify the

failure by the authority to provide, or make arrangements for the provision of, the additional support contained in a co-ordinated support plan which is necessary for the child or young person to achieve their educational objectives. It also enables the Tribunal to specify a timescale within which such action must be taken.

*The role of the co-ordinator*

Danny is 10 years old and is looked after away from home and placed with foster carers. He exhibits behaviour difficulties in all situations and requires a high degree of co-ordinated support, for which a co-ordinated support plan is in place.

Danny's attendance at school is becoming increasingly erratic and he displays increasingly confrontational behaviour in class, leading to the possibility of exclusion from school. His class teacher asks his co-ordinator to find out if there is anything happening in Danny's home-life that may be affecting him. The co-ordinator's enquiries of colleagues in the multi-agency team reveal that the family support package has broken down following the departure of his social worker. The co-ordinator contacts the local social work manager and highlights the current difficult situation stressing the need for urgent support.

As an interim measure, the social work manager arranges for Danny to receive support from a children's service worker who has a base at the school. The worker is able to work on a one to one basis with Danny with the aim of calming him down sufficiently, to return to his mainstream class. The school also increases the level of in class support from a classroom assistant. The co-ordinator has arranged to meet with the social work manager in a month's time to review the situation.

69. In addition, the co-ordinator should:

- maintain regular contact with the child or young person and his/her family
- be familiar with the school within which the child's or young person's needs are met
- have a working knowledge of relevant service policies and practices
- have experience of working with children and young people with additional support needs

- have experience of compiling and implementing educational support plans (e.g. individualised educational programmes) or health and care plans
- understand the roles and ways of working of other agencies so that partnership working is seen as core business.

### Who can be a co-ordinator?

70. The education authority will appoint a co-ordinator, and this person could be from any agency contributing to the plan, but need not be. The choice of co-ordinator will depend on the nature of the additional support needs and the provision to be put in place for the child or young person. The Act does not require the education authority to have the parent's or young person's agreement to the person appointed as co-ordinator. However, it would be difficult to envisage how a co-ordinator could fulfil his/her role without having the confidence of the parent or young person. Education authorities should seek and take account of the views of the parent, child and young person when considering appointment of the co-ordinator. The co-ordinator may change in the light of circumstances, for example at transition from one stage of education to another. Where practicable, changes should be kept to a minimum. Where the co-ordinator does change, the co-ordinated support plan must be amended and details circulated. The parent or young person should receive a copy of the updated plan.

71. There are several stages in the preparation of a co-ordinated support plan. These include the discussion which results in the decision to prepare a co-ordinated support plan, the drawing up of the plan, the authorisation of the plan and the co-ordination to ensure the services are available. The co-ordinator could be appointed at any of these stages depending on the procedures in the local authority. Throughout the parent, young person or child should be kept fully informed as to the name and contact details for the person responsible for drawing up the plan, see flowchart following paragraph 34.

### **Review of the co-ordinated support plan**

72. The Act requires that the education authority responsible for the school education of child or young person must keep under consideration the adequacy of each co-ordinated support plan and must formally review each plan at least every 12 months, making appropriate amendments, as necessary. The education authority must have completed the review within 12 weeks of the expiry date which is the anniversary of the date on which the plan was prepared unless any of the various exceptions apply as prescribed in the Co-ordinated Support Plan Regulations<sup>46</sup>. A failure to carry out the review and to meet statutory timescales can be referred to the Tribunal.

s10(2)

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<sup>46</sup> Regulation 7 - The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518)



73. Education authorities should ensure that an appropriate review schedule is in place for each plan and that the appropriate agencies, and parents or young person, receive sufficient advance notice of review meetings as appropriate. Paragraphs 8 and 9 of this chapter describe the requirements where a child or young person is receiving school education in an education authority other than the one for the area to which the child or young person belongs.

74. Authorities may carry out a review earlier than 12 months if they feel it necessary or expedient to do so because of a significant change in the child's or young person's circumstances since the plan was prepared or last reviewed. Alternatively a child's parents or the young person may request a review before 12 months have elapsed and authorities must meet this request unless the request is unreasonable. An education authority has 4 weeks to respond to a request from a parent or young person to review a co-ordinated support plan (or 12 weeks where the request is made during a school holiday period of 4 weeks or more). Education authorities should give clear guidance to schools and their staff in this regard. Where, an education authority refuse a request under the Act, they must inform the person who made the request and provide reasons for their decision. They must also inform the person of the right to refer this refusal to the Tribunal.

[s10\(4\)](#)

[s18\(3\)\(d\)](#)  
[\(iv\)](#)

75. Before proceeding with any review, the education authority must notify the child's parents or the young person of their proposal and ask them for their views. Parents should be notified about what is likely to happen during the review, such as consideration of:

[s11\(1\), \(2\)](#)  
[and \(3\)](#)

- how far the educational objectives have been met
- the child's or young person's additional support needs
- the setting of new educational objectives, the support required and the agencies responsible for providing it.

76. The parents should also be informed of their right to request an assessment if they feel that what the authority is proposing does not include a particular assessment which they may feel is necessary. For example, a particular child may be receiving support from a physiotherapist and speech and language therapist. The parents may feel that an assessment by an occupational therapist and a clinical psychologist would be helpful and they could request the education authority to arrange this.

[s8\(1\)\(a\)\(ii\)](#)  
[and \(b\)](#)

77. Monitoring and review arrangements should be agreed amongst the professionals working with the child or family. A person who has regular contact with the child may be identified by the team to help the family to get the most out of the process. The co-ordinated support plan co-ordinator or contact person also has a role to play.

78. Following a review, the education authority must notify the child's parents, or the young person, of the outcome and of their rights to make a reference to the Tribunal. If the plan has been amended as a result of the review (or subsequent to a requirement made by the Tribunal), the education authority must give a copy of the amended plan to the child's parents or the young person as appropriate. The authority must then ensure that:

[s11\(5\)](#)

- the additional support they have to provide, as recorded in the plan, is provided, insofar as they have the power to do this
- the additional support others have to provide, as recorded in the plan, is provided, insofar as they have the power to do this
- the support above is co-ordinated
- all providing the support are informed about what the amended plan contains and the implications of this for them.

79. The Act, as amended, provides the President of the Tribunal with the power to monitor the implementation of Tribunal decisions. Following a decision of a Tribunal that requires an education authority to do anything, the President of the Tribunal may require the authority to provide him/her with information about the authority's implementation of the Tribunal decision. This includes information about whether an authority has amended a co-ordinated support plan as required by a Tribunal and carried out the action in paragraph 78 above.

Sch 1  
11A

80. The Act also provides the President with the power to refer the matter to the Scottish Ministers where the President is satisfied that the authority are not complying with the Tribunal decision. The President may issue directions to the Tribunals in connection with the exercise by the President of that power. The Scottish Ministers, in turn, have the power to direct an education authority (or authorities) regarding the exercise of their functions under the Act. Authorities must comply with such a direction. For example, if an authority has failed to amend a co-ordinated support plan following the decision of a Tribunal then it can be directed to do so by the Scottish Ministers.

Sch 1  
11A and  
12

[s27\(9\),  
\(10\) and  
\(11\)](#)

81. The arrangements described in paragraphs 75 and 78 for notifying parents and the young person about reviews and their outcomes apply also to the managers of independent or grant-aided schools where an authority have responded to their request to establish whether a child or young person would require a co-ordinated support plan if the education authority were responsible for the child or young person's school education

## **Custody, Transfer, Disclosure, Discontinuance, Preservation and Destruction of the co-ordinated support plan**

82. Specific provisions for the custody, transfer, disclosure and discontinuance of co-ordinated support plans are contained in the Co-ordinated Support Plan Regulations<sup>47</sup>. In the case of a co-ordinated support plan for a young person, requirements in the Regulations to notify the young person or obtain his or her consent are satisfied by notifying or obtaining the consent of his or her parents where the education authority considers that the young person does not have the capacity (understanding) to consent.

### Custody of the co-ordinated support plan

83. The education authority must keep a copy of a co-ordinated support plan, which they prepared, in a place the authority consider appropriate. This would normally be in the appropriate department at the authority's headquarters. The Act provides for a child's parents or the young person to receive a copy of the plan. However, they must also be told where they can inspect free of charge the authority's copy during normal business hours.

84. A copy of a co-ordinated support plan must also be kept at the school attended by the child or young person. How it is kept is a matter for the school to decide bearing in mind that it is a confidential document and should not be disclosed to anyone other than those authorised to see it or have copies of, or extracts from, it. The co-ordinated support plan will inform classroom planning and practice for the individual child or young person and forms part of the child's or young person's Pupil Progress Record.

### Transfer of the co-ordinated support plan

85. When a child or young person with a co-ordinated support plan transfers, without any immediate intention of returning, from a school under the management of one education authority to a school under the management of another education authority, the education authority which prepared the co-ordinated support plan must<sup>48</sup> transfer it to the new education authority. This transfer must take place within 4 weeks from either the date of departure notified on which the child or young person will be moving or, if the child or young person has already left the area, from the date the original education authority become aware the move has taken place. This duty applies whether the transfer is a result of a successful placing request or where the child's parents (and child) or young person have moved to reside in the area of another local authority.

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<sup>47</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518).

<sup>48</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518)

86. As soon as the plan is received, the new education authority must treat the plan as if they had prepared it and use it as the basis to provide for the child's or young person's additional support needs under the Act. As soon as reasonably practicable, the new education authority must notify the parents or, as appropriate, the young person of the transfer of the plan and inform them that, in future, responsibility for the co-ordinated support plan and for providing for the additional support needs of the child or young person rests with the new education authority. The new education authority must also inform the parents or young person about the co-ordinator within, or appointed by, the new education authority and the person within the new authority, from whom the parent or young person can obtain advice and further information. Where the young person lacks the capacity to understand this information then his/her parents should be provided with it. In addition, any persons mentioned in the plan as providing support to the child or young person should be notified that the plan has been transferred to the new education authority and they must be provided with the same information provided to the parents or young person, as above.

s12(3A)

87. The Act, as amended, requires that where a child or young person with a co-ordinated support plan transfers to a school in the new authority, as a result of a placing request or simply because the parents have changed their home address, then the new authority are under a duty to seek and take account of information and advice from the education authority from which the co-ordinated support plan was transferred as well as from any agencies or persons involved in providing support under the co-ordinated support plan prior to its transfer. This ensures that the new authority and the previous authority responsible for the school education of the child or young person are in contact and that the new authority have all the information necessary from the previous authority and the agencies previously supporting the child or young person. This should aim to make the transition from one authority to another as smooth as possible.

s10(1)

88. Where the transfer of the co-ordinated support plan has arisen because the child's parents (and child) or young person have moved to reside in the area of another local authority, then that local authority may, in good practice, wish to review the plan as soon as practicable, taking account of the provision in section 10 of the Act and in the Regulations. However, the position is different if the transfer of the plan has resulted from a successful out-of-area placing request. In these circumstances, the new host education authority **are under a duty** to review the plan. The Act, as amended, requires the new host authority to carry out a review of the co-ordinated support plan as soon as practicable after the date of any transfer of the co-ordinated support plan from the home authority to the host authority. Once the host authority have received the plan from the home education authority they must notify the child's parents or young person (or the young person's parents if he/she lacks the capacity to understand the information) that they propose to review the plan. This notification must take place as soon as reasonably practicable after they have received the plan from the home education authority. The home education authority then have 12 weeks from that date to conduct the review, unless it is

s10(5A)

not possible to meet this timescale as a result of the circumstances described in the Co-ordinated Support Plan Regulations.<sup>49</sup>

89. When a child or young person who has had a co-ordinated support plan in Scotland subsequently moves to England, Wales or Northern Ireland, the education authority which prepared the plan can disclose the plan or extracts from it to the relevant authority for that area, where the original authority considers it necessary to do so in the interests of the child or young person to whom the plan relates. Although the education authority do not have to seek the consent of the child's parents or the young person, it is recommended that they notify the parents or young person of their intentions.

#### Disclosure of the co-ordinated support plan

90. The co-ordinated support plan is a confidential document but for it to be effective, and by its very nature, the plan or information in it will require to be shared with a range of people. While consideration must be given to the effect sharing certain information may have for the child or young person and their family the co-ordinated support plan should not be a document that is locked away and rarely referred to. As a strategic planning document it should be used and referred to on a regular basis.

91. When education authorities prepare or amend a co-ordinated support plan they must tell the people involved in providing additional support for the child or young person about matters in the plan as they consider appropriate.

92. However, there will be certain persons who would require to have a copy of the actual plan or extracts from it depending on different circumstances. The child's or young person's teacher will need a copy of the plan to help inform planning and monitoring of progress. The appropriate agencies and other persons providing support to help meet the educational objectives may only require to have the part of the co-ordinated support plan containing that information. Education authorities will have to make these decisions based on the individual circumstances of the child or young person.

93. In addition to those providing additional support to the child or young person, the Co-ordinated Support Plan Regulations<sup>50</sup> set out those persons to whom education authorities can disclose a co-ordinated support plan or extracts from it without seeking the consent of the child's parents or the young person. These include:

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<sup>49</sup> Regulation 7 - The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518)

<sup>50</sup> The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005 (SSI 2005/518)

- those people the education authority think it necessary in the interests of the child or young person
- the person who will act as the co-ordinated support plan co-ordinator where that is not an education authority officer
- members of HM Inspectorate of Education
- the Principal Reporter.

94. In terms of good practice, however, it is recommended that education authorities notify parents or young people of their intention to share the plan or extracts and their reasons for disclosure. In making decisions about who should receive a copy of, or extracts from a co-ordinated support plan, education authorities must have regard to not only the Regulations but to the wider legislative framework that covers sharing information, such as the Data Protection Act 1998. Different legislation may apply depending on the individual circumstances of the child or young person, such as whether or not they have social work or health needs. The Resources section contains sources of guidance on information sharing.

95. In all other circumstances, education authorities must not disclose a co-ordinated support plan or extracts from it without first seeking the consent of the parents or young person. Education authorities should reserve the right to request the return of any copies or extracts of co-ordinated support plans.

#### Discontinuance, preservation and destruction of the co-ordinated support plan

96. Where a co-ordinated support plan is to be discontinued following a review, or where the education authority are no longer responsible for the child's or young person's school education, the discontinued plan must be preserved for a period of 5 years from the date of discontinuance which date must be noted on the plan.

97. If the plan is to be discontinued following a review, the education authority must inform the parents or young person of their decision. The education authority must not discontinue the plan before the expiry of the 2 month period parents and young people have in which to refer the decision to a Tribunal.

98. At the end of the 5 year period the co-ordinated support plan must be destroyed. The education authority should notify the parents or young person that this has happened as soon as reasonable practicable. It may be that after 5 years the whereabouts of the parents or young person are not known. If that is the case, the education authority should take reasonable steps to obtain contact details.

99. Where a Tribunal overturns the education authority's decision to prepare, or continue, a co-ordinated support plan, the education authority must notify the child's parents or the young person when the plan will be discontinued and ask them to let the authority know within 21 days whether they want it to be preserved for a period of 5 years or not. If the answer is yes then the plan must be preserved. If the answer is no, or there is no response, the education authority must destroy the plan and let the parents of the young person know this has happened.

100. During the period that the co-ordinated support plan is preserved, the arrangements for disclosure described in paragraph 90 to 95 above continue to apply.

## **Getting it right for every child and the co-ordinated support plan**

### The *Getting it right for every child* approach

101. In the *Getting it right for every child* approach, any child or young person who requires additional help should have a plan to address his/her needs and improve his/her wellbeing. This may be a single agency plan such as, for example, in education where a child may have an individualised educational programme because he/she needs support to overcome a learning difficulty. When two or more agencies are involved there will be a multi-agency "child's plan" co-ordinated by a lead professional.

102. Where necessary *Getting it right for every child* integrates and co-ordinates plans developed by different agencies. It looks to practitioners to work in accordance with legislation and guidance but also expects agencies to think beyond their immediate remit, drawing on the skills and knowledge of others as necessary and thinking in a broad, holistic way<sup>51</sup>. For example, a care plan for a child looked after by the local authority, a health care plan, or an individualised educational programme should be incorporated within the child's plan where the child's or young person's circumstances require this. An individual child or young person may have an action plan which incorporates the educational objectives in the co-ordinated support plan but which goes beyond these to address other aspects the child's or young person's development such as are encompassed by the *Well-being Wheel* as described in chapter 3. This means that a review of the child's plan avoids multiple meetings to review separate plans.

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<sup>51</sup> See Guidance on partnership working between allied health professions and education. <http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

103. Every plan, whether it is single or multi-agency, should in the *Getting it right for every child* approach include and record:

- reasons for the plan
- partners to the plan
- the views of the child or young person and their parents or carers
- a summary of the child or young person's needs
- what is to be done to improve a child or young person's circumstances
- details of action to be taken
- resources to be provided
- timescales for action and for change
- contingency plans
- arrangements for reviewing the plan
- lead professional arrangements where they are appropriate
- details of any compulsory measures if required.

#### Links with the co-ordinated support plan

104. The co-ordinated support plan is an educational plan which involves, and notes the commitments by, other agencies in providing significant additional support to enable the child or young person to benefit from education. It needs to be included along with the child's plan (or be readily extractable from the child's plan) as a stand alone document. The date of the co-ordinated support plan is based on the date it is sent to parents and young person where appropriate. Education authorities must be able to produce this stand alone document to demonstrate adherence to legally specified processes and timescales and also because copies have to be made available to a range of people including parents, children, young people, HM Inspectors of Education, the Tribunal and those whom the authority think should see the plan.

105. Clearly there are significant similarities between the contents of the child's plan and the co-ordinated support plan. However, one important difference is that the co-ordinated support plan is concerned with the additional support a child or young person requires in order to benefit from education. The child's plan, however, potentially covers a wider range of issues related to promoting a child's or young person's wellbeing and it will, therefore, refer to matters not contained in the co-ordinated support plan such as, for example, issues relating to compulsory care measures or child protection. However, it is important that the process of developing the co-ordinated support plan is integrated fully with the planning and review of the child's plan so that, for example, the annual review of the co-ordinated support plan dovetails with the review of the child's plan and so that assessment is carried out in a holistic way as illustrated by the *My World Triangle* in Chapter 3. As noted in paragraph 66, the co-ordinator may be the lead professional working with the family under the *Getting it right for every child* approach.



## Chapter 6

### TRANSITIONS

1. School education is organised in such a way that all children and young people experience transitions as they move through the various stages of schooling. These transitions include entry to pre-school provision, transfer to primary school and through the different stages of primary and secondary school and, in particular, to post-school provision. Some may experience changes in their school education at other times with a transfer to another school or a break in their school education. Early or timely planning is required to ensure continuity and progression between stages or breaks in education. This chapter considers the requirements on education authorities and others under the Act in relation to transitions.

2. Some changes in school education may involve irregular transition experiences through, for example, exclusions and permanent school closures. Where these involve a child or young person with additional support needs, the education authority and other agencies should take account of the way these changes affect the provision of the additional support required by the child or young person.

#### Planning for changes in school education

3. Education authorities should have appropriate arrangements in place to ensure that changes in school education for all children and young people can be as smooth as possible. Effective planning helps to promote shared understanding and close communication among all relevant persons and above all helps to ensure that any required action is co-ordinated appropriately. An education authority's routine arrangements should enable schools to provide sufficient support for the majority of children and young people faced with changes in school education. In some circumstances, education authorities will require to involve other agencies to ensure that the transition process is effective for certain children and young people with additional support needs. In particular, the duties of appropriate agencies in helping the education authority to fulfil their duties under the Act are explained in chapter 3, paragraphs 11-29.

4. The Act is supported by the Changes in School Education Regulations which are referred to here<sup>52</sup>. The Regulations specify the action that the education authority must take at various transition points in a child's or young person's school career.

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<sup>52</sup> The Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005

5. There will be some circumstances where transition planning is taking place alongside a parental placing request for a particular school and this can, potentially, lead to difficulties in meeting the timescales for transition planning and/or resolving any placing request difficulties. The timescales for transition planning set out in the Act refer to the **latest times** by which a particular stage of the transition planning process should have been completed. For example, for a child with additional support needs transferring from primary to secondary school, to whom the transition arrangements apply, then **no later than 12 months before** the child is due to start secondary school the education authority must seek and take account of information and advice from appropriate agencies or others. However, in many cases it will be better to start this process earlier than 12 months before the expected transfer date to allow all those involved sufficient time for planning and this should help to avoid difficulties over timing with transition arrangements. Similarly, with planning for post-school placements it will often be better to start the transition planning much earlier than the latest timescale required by the Act, perhaps even in the early years of secondary school, so that there is sufficient time for post-school planning.

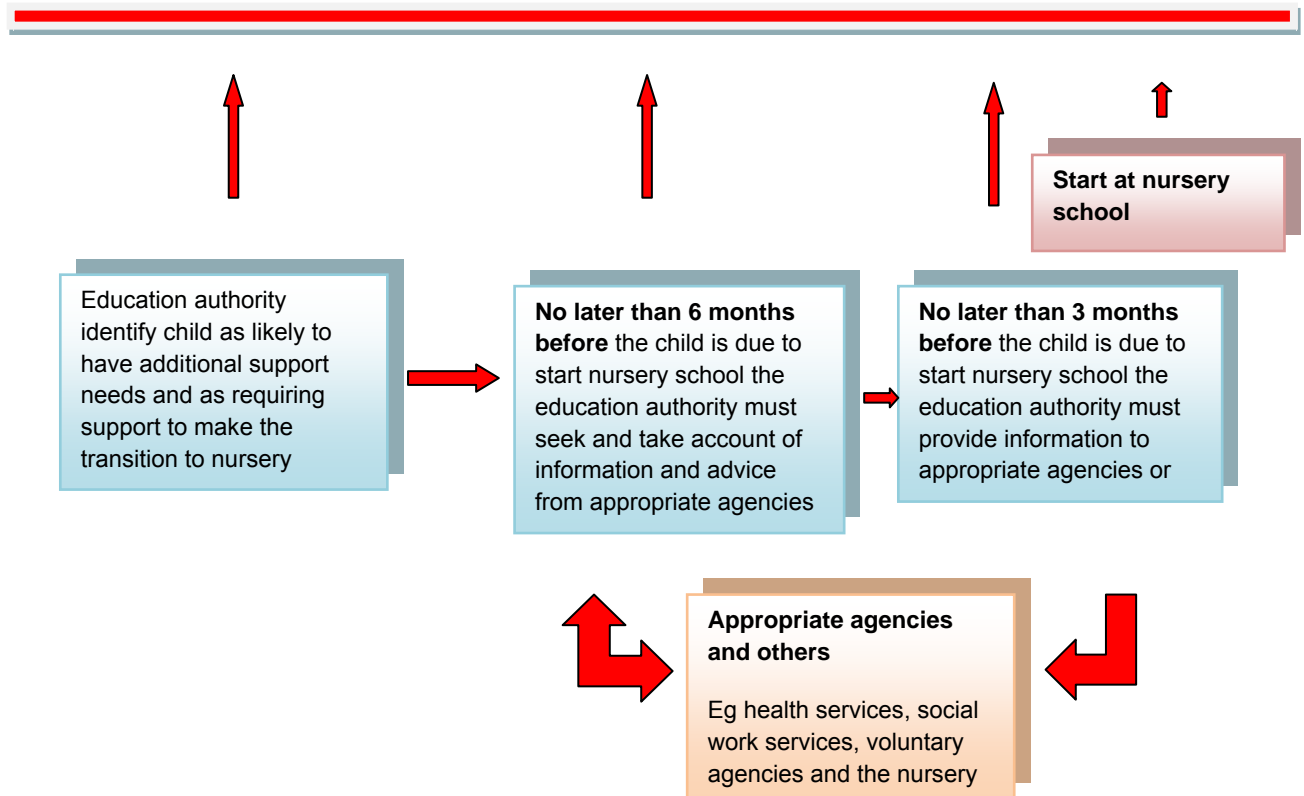
6. Transition planning needs to be co-ordinated by one person and when there is multi-agency involvement then a lead professional should be involved.

7. It should be noted that in setting out below the duties and arrangements for transitions the education authority have some discretion about the particular children or young people to whom these duties apply under the Act. The reason for this is that it would be burdensome and unnecessary to apply these duties and arrangements to **every** child and young person with additional support needs given that some additional support needs may be transitory and/or relatively minor. It will be for those working with the child taking into account the views of the parents and child, and the particular circumstances, to decide whether the duties described below apply; young people have the same rights as parents under the Act. Education authorities will wish to consider for each child or young person with additional support needs whether the transitional duties should apply. It is anticipated that the transitional duties will certainly apply to all those children and young people with additional support needs where one, or more, of the following circumstances apply. They:

- have a co-ordinated support plan
- are in a specialist placement such as a specialist unit or a day or residential special school
- have additional support needs arising from a disability within the meaning of the Disability Discrimination Act 1995
- are otherwise at risk of not making a successful transition.

## Starting nursery school

### Timeline



8. Before they start receiving school education in pre-school provision some children will have been identified as being likely to require additional support to enable them to benefit from school education. This school education may be provided in a school under the management of an education authority or, where an education authority have entered into arrangements with an establishment to provide school education, in a partnership nursery. In these circumstances, the Regulations require that the education authority must seek and take account of relevant advice and information from appropriate agencies and other persons before the child is expected to begin receiving school education. The appropriate agency most likely to be involved is an NHS Health Board. Advice should also be sought from the authority's own social work services, if necessary, and from the pre-school provision or nursery school to which the child will transfer.

[Reg 3 \(1\) and \(2\)](#)

9. The education authority should take the above steps **no later than 6 months** before the child is due to start at the pre-school provision; they may do it earlier if they wish. However, if they only become aware of the circumstances less than 6 months before the child is due to start at the pre-school provision then they should take action as soon as possible.

10. The requirement to seek relevant information and advice applies to such agencies and other persons as the authority consider appropriate (see paragraph 7 above). That is, the authority have discretion about whether or not to engage with an appropriate agency regarding a particular child. Where the education authority seek advice and information from appropriate agencies or other persons then the Regulations require the education authority also to seek and take account of the views of the child (unless the child lacks the capacity to express a view) and the child's parent before starting school. The education authority have the discretion about whether or not to seek the views of a particular child and clearly it may be considered that a very young child lacks the capacity to provide an informed view and should, therefore, not be asked for one. Advice on working with children and families is considered in more detail in chapter 7.

[Reg 3  
\(2\) and  
\(4\)](#)

11. The advice and information is relevant where it is likely to assist the education authority in:

[Reg 3 \(3\)](#)

- establishing the child's additional support needs
- determining the provision of additional support required
- considering the adequacy of the additional support provided.

12. No later than 3 months before the child is due to commence at pre-school provision the education authority must inform these agencies about:

[Reg 4](#)

- the date education is due to commence
- the child's additional support needs
- the additional support provided to the child during the 3 months immediately prior to providing the information to the appropriate agency.

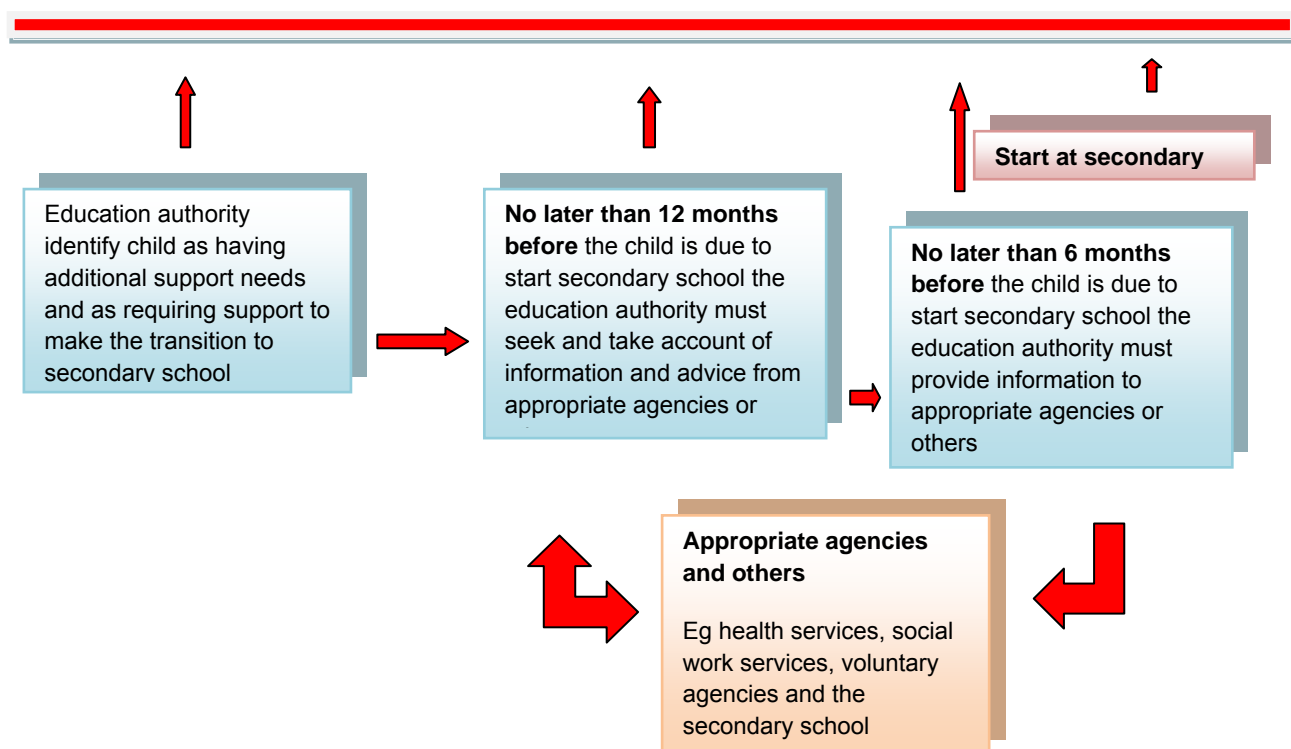
13. As above, if they only become aware of the circumstances less than 3 months before the child is due to start at the pre-school provision then the education authority should take action as soon as possible.

14. The education authority must seek the consent of the child's parents before passing on information. Copies of any information passed on to an appropriate agency should be sent to the parents at the same time as it is sent to the appropriate agency.

[Reg 4  
\(4\)](#)

## Pre-school to primary school; primary school to secondary school

### *Timeline: primary to secondary school*



[Reg 3](#)

15. The above duties in paragraphs 8 -14 apply also to children with additional support needs transferring from **pre-school provision to primary school and from primary school to secondary school. The timeline above for primary school to secondary school applies equally to these other transition and to the ones described in paragraph 16.** However, the timescales are different. The duty to seek and take account of relevant information and advice from appropriate agencies or other persons should be completed **no later than 12 months** before the change of school is anticipated, not 6 months as above. The advice and information is relevant where it meets the criteria set out in paragraph 11. The duty to provide information should be completed **no later than 6 months** before the anticipated change of school, not 3 months as above, and the information to be provided is as set out in paragraph 12. As above, if the education authority cannot meet these timescales because they were not made aware of the proposed change in school education in time then they should take steps to fulfil the requirements as soon as possible.

[Reg 4](#)

16. Where an education authority transfer a child with additional support needs to another school under their management, or where there are arrangements proposed for the child to transfer to a school in another local authority, then the above duties also apply, whether or not a placing request is involved. Where a placing request is involved, an appropriate agency involved would be the local authority managing the school to which the child was due to transfer.

[Reg 3](#)

[Reg 4](#)

17. As above, where the education authority seek advice and information from other appropriate agencies or other persons then the Regulations require the authority also to seek and take account of the views of the child (if the child is able to express a view) and the child's parent before starting the new provision. The education authority must also seek the consent of the child's parents before passing on information to an appropriate agency. Copies of any information passed on to an appropriate agency should be sent to the parents at the same time as it is sent to the appropriate agency. Young people have the same rights as parents under the arrangements for transitions, in particular with regard to giving consent for the sharing of information regarding their additional support needs.

#### Co-ordinated support plan

18. There are particular requirements applying to children and young people with co-ordinated support plans who transfer from a school in one authority to a school in another authority either as a result of a placing request or because of a change of residence. These are referred to in chapter 5, paragraphs 85-89.

#### Good practice

19. Education authorities should take account of the following principles of good practice whenever a child or young person with additional support needs is approaching a transition point in their school education:

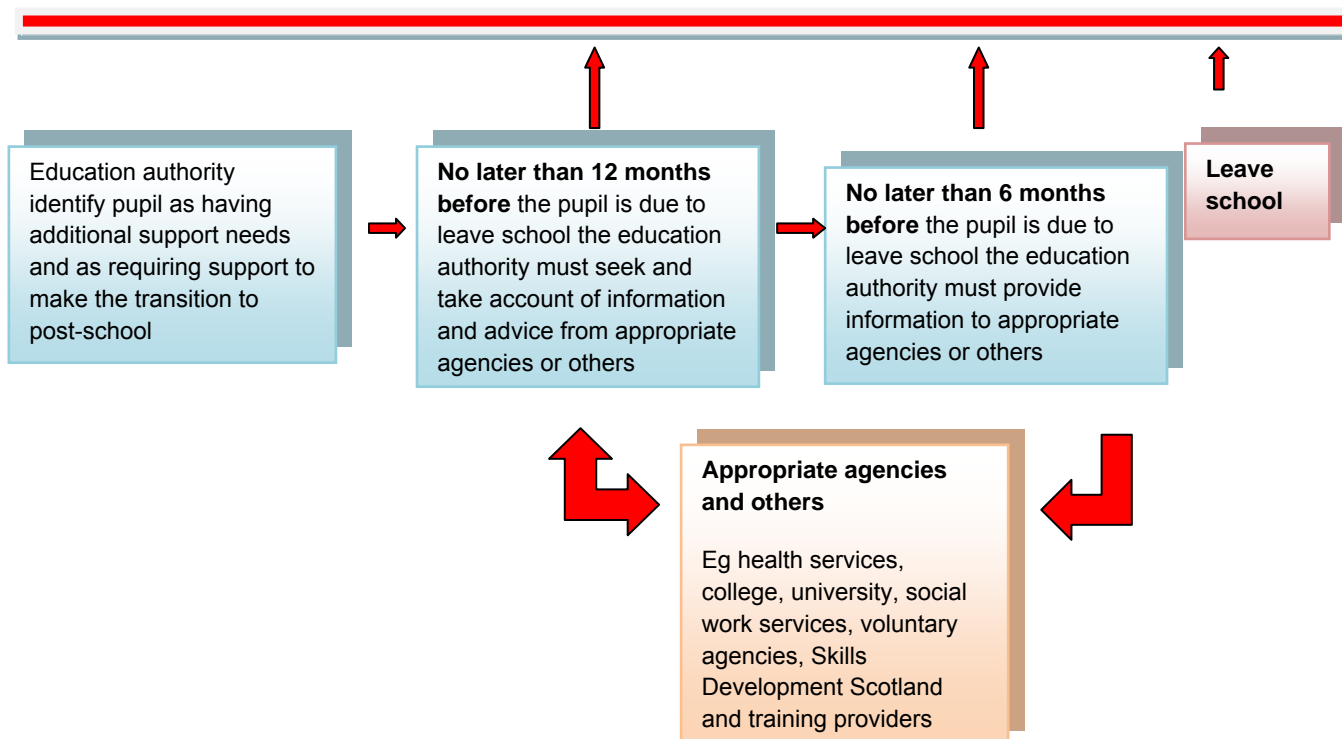
- transition planning should be embedded within the education authority's policies and procedures for additional support needs and the more universal policies and procedures for children and young people
- other agencies, such as health and social work services, Skills Development Scotland (Careers), further education colleges and institutions of higher education should also be involved in transition planning where required
- the child's or young person's views should be sought and taken into account when discussing changes in school education
- parents should be part of the planning process, and their views should be sought, and taken account of, and they should receive support, as required, during the transition process
- early consultation should take place with the school or post-school provision, which the child or young person will be attending
- schools should plan to ensure that the necessary support is in place for children and young people who have additional support needs to help them through the transition phase to their new school or provision
- professionals from all agencies working with the child, young person and family should plan in good time for transition to future services
- transition should be co-ordinated by a relevant person known to the child or young person and their family

- where a child or young person has a co-ordinated support plan then any anticipated change in the statutory co-ordinator should be discussed with the child or young person, and parents, as far in advance of the change as possible.

Sarah had a straightforward primary school experience and untroubled family life until the start of P7 when her mother died unexpectedly. Sarah's schoolwork suffered and she became withdrawn. Her father became concerned about how she would cope with transferring to secondary school. Relevant staff in the secondary school, who prior to transfer routinely visited all P7 classes of associated primary schools, were made aware of the situation. Advice was sought from the secondary school about what support was available to Sarah on transfer. The secondary school staff arranged that Sarah would be in a form class along with some of her close friends when she transferred and agreed to pay particular attention to her over the initial stages of the transition.

## Preparing for adulthood

### Timeline



20. Education authorities and schools should be able to address the requirements of most pupils with additional support needs, as they approach the end of their school education, through the school's arrangements for personal

support and personal and social education. Through its Partnership Agreement with each secondary school, Skills Development Scotland provides a universal service to all pupils and targeted support to those identified as requiring it. Preparation for adulthood should involve explicit recognition of the strengths, abilities, wishes and needs of each pupil as well as identification of relevant support strategies which may be required. It is essential that there is good communication between the school leaver and parents and all supporting agencies. Information should be shared promptly and effectively, with the parents' or young person's consent. All pupils should be asked for their consent unless it has been established that they have insufficient capacity to grant or deny it.

21. In their final years at school, those with additional support needs should engage personally in the transition planning process to help them to prepare their plans for the next stage in their education, training or employment. For example:

- some pupils may need to develop independence skills so that they manage money more effectively, learn to travel independently to placements, check a bus timetable and ask for information
- some may need help to organise how they will manage their new educational arrangements and/or their work commitments
- others with significant disabilities will need community-based services involving social, work health and the voluntary sector when they leave and may need to experience some of these services in preparation for leaving.

22. Whatever prospective school leavers require to learn in order to make the transition successful should, in good practice, be planned for carefully and in a timely manner.

Zahir is following an HNC programme in information systems. He has Asperger's Syndrome. He came from a mainstream school where he received 1:1 support and achieved Standard Grades at General level. A year prior to leaving school he applied to attend a further education college. A transition programme was agreed by Zahir, his parents, teachers, social worker and college learning support staff. Short and long term targets were agreed for a structured transition period and regular meetings were held with all relevant parties. As a result the school was able to help Zahir to make a successful transition to college and the college was able to prepare a learning programme and support arrangements appropriate for his learning needs.



23. Effective transition can involve a range of strategies. The school should ensure that the prospective leaver has sufficient information and understanding, within his/her programme of learning, on which to base decisions about the relevant choices of training or work placements, college or higher education courses and other day supports and services. This process of transitional planning should start at an early point in his/her secondary schooling, for example, prior to subject choices being made for externally validated course work. Opportunities to sample options should be made available through visits or work experience relevant to the pupil's aspirations and interests in order that he/she can be involved in making fully informed choices. A phased entry to college, training placement or workplace, for one or two days a week, while continuing at school for the remainder of the week would be an appropriate approach to making this transitional step less threatening for the pupil than an abrupt change to full-time attendance at a new provision.

### More Choices More Chances

24. Many of those at risk of becoming disaffected, of underachieving and of leaving school with few, or any, qualifications will have additional support needs and will benefit from the transitional arrangements required by the Act. Encouraging all young people to stay in learning post-16 is the best way of ensuring their long-term employability and contribution to society. *16+ Learning Choices*<sup>53</sup> and the entitlement to a Senior Phase of Education support this aspiration within *Curriculum for Excellence*. There are three key elements:

- the right **learning provision** must be in place - a range of options, including staying on at school, entering further or higher education, participating in the national training programmes, or taking part in personal and social development opportunities offered through community learning and development, must be available to each young person, or a flexible programme sharing several of these elements
- the right **financial support** must be available to ensure that young people make choices based on the most appropriate learning for them, rather than on the amount of money offered
- the right **information, advice and guidance** must be available early enough to make sure that young people know what opportunities are on offer, how those fit with their own needs and ambitions, and how they will be able to progress through and beyond these opportunities to sustain positive life outcomes.

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<sup>53</sup> Reference: <http://www.scotland.gov.uk/Topics/Education/Life-Long-Learning/16581/newpage4>

### **More Choices, More Chances**

More Choices, More Chances<sup>54</sup>, the Government's strategy to reduce the proportion of young people not in education, employment and training, recognises key features of effective school to post-school transition:

- identifying every young person<sup>55</sup> (in school; not attending/excluded from school; in alternative provision) before they reach the stage where they will be progressing beyond schooling, at a time most appropriate to their needs, and ensuring they receive the information, advice and guidance they need to secure an appropriate opportunity to progress post-16
- where the young person has additional support needs, using the statutory measures in the ASL Act, and the advice in the code of practice, to ensure the arrangements for school to post-school transition are planned well in advance; that these arrangements are clear and well-understood by all involved
- making an offer, well in advance of a young person's intention to progress beyond secondary schooling, of a programme of learning - which could include staying on at school as all or part of the programme offered to them- taking into account their individual learning and support needs and appropriate financial support
- ensuring there is sufficient, appropriate provision to meet the needs of all young people in the local area; in particular, identifying and filling gaps between what young people want and the currently available programmes and measures of support
- supporting the transitional planning and providing continued support to monitor and sustain positive progressions, including early warning systems to prevent drop-out.

25. For most pupils with additional support needs, the transition process is helped by the involvement of a lead professional to co-ordinate planning. This might be a teacher, careers adviser, social worker, community education worker or someone from another agency. The lead professional can then assist the child or young person to make a smooth transition to employment, training, further or higher education, or other services. Where a pupil has a co-ordinated support plan, their co-ordinator should take the lead in ensuring that all relevant agencies are brought together to plan for transition to post-school and plan for the transfer of the lead person to someone who will effect that transfer.

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<sup>54</sup> Reference: <http://www.scotland.gov.uk/Topics/Education/Life-Long-Learning/16581>

<sup>55</sup> In this quotation the term "young person" refers to pupils of secondary school age. It does not refer to "young person" as defined in the 1980 Act, and as the term is used in this code, as someone over school leaving age who has not yet attained the age of 18 years.

Carrie, a 14 year old girl, has a co-ordinated support plan and attends a special school. She requires 1:1 support to engage with those around her. She has a profound learning disability, a visual impairment, epilepsy and is a wheelchair user who requires regular postural changes. Carrie receives nutrition via a gastrostomy. She enjoys a sensory curriculum and particularly likes the music and drama class. The priorities for Carrie and her family at the transition planning review, at which her co-ordinated support plan was also reviewed, at the end of S3 were to ensure that once she leaves the education system she has the opportunity to continue her personal development through meaningful day activities/supports and therapies. Carrie will not be seeking employment. Her social worker took on the role of the lead professional to co-ordinate the planning for transition. It was agreed that:

- Carrie should stay on at school until end of S6.
- A social worker from the Children and Families team will complete a full assessment report for Carrie in the next 6 months as this information has not been updated for some time. This will require liaison with Carrie's parents and a range of allied health professionals.
- The appropriate social worker from the adult learning disabilities team will be invited to the next review.
- Carrie will be introduced to opportunities to take part in community activities once every two weeks within her school timetable.
- Her speech and language therapist will work on a personal communication passport for Carrie over the next 6 months.
- Her paediatric consultant will be asked to clarify arrangements with Carrie's family for transferring support with gastrostomy care, neurology and orthopaedics to adult healthcare within the next 6 months.
- The educational objectives in her co-ordinated support plan would be updated over the following month to take account of the arrangements for transition planning.

### Looked after children and young people

26. The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003<sup>56</sup> set out particular duties placed on local authorities to provide advice, guidance and assistance to children and young people who are looked after or to young people who have ceased to be looked after over school age. As well as stressing the need for education and social work staff to work closely together to ensure that children and young people achieve their

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<sup>56</sup> <http://www.opsi.gov.uk/legislation/scotland/ssi2003/20030608.htm>

maximum potential whilst within the education system, local authorities are also encouraged to work closely with Skills Development Scotland (Careers) to support children and young people in making their choices for education, training or employment.

#### Duties on education authorities and others under the Act: school to post-school transition

27. The Act requires education authorities to take specific action to help prospective school leavers with additional support needs to make the transition from school to post-school life successfully. It places a duty on the education authority to request information from an appropriate agency or agencies, if any, which are likely to be involved with the prospective school leaver on leaving school. The information relates to the provision likely to be made for the leaver by the appropriate agency or agencies. The education authority must also take account of that information, the purpose of this being to help the leaver make the transition successfully, for example, through the types of activities described in paragraph 21. The appropriate agencies, all in Scotland, which may be involved are:

s12(6)

- any NHS Board
- any other local authority
- Skills Development Scotland
- any further education college
- the Scottish Agricultural College
- any institution of higher education.

28. The duties apply to prospective school leavers with additional support needs for whose school education the authority are responsible but the duties **do not apply to all leavers** with additional support needs. The Act gives the education authority discretion about which appropriate agency (if any) requires to be approached to provide information. The authority should seek information from an appropriate agency or agencies whose help will assist the school leaver with additional support needs in the move to post-school provision. Although voluntary organisations and training providers are not appropriate agencies as defined in the Act they should also be involved in transitional arrangements where they may be making provision for young people when they have left school. **As noted in paragraph 7, it is anticipated that education authorities will carry out their duties to plan the post-school transitions of those leaving school who:**

- **have a co-ordinated support plan**
- **are in a specialist placement such as a specialist unit or a day or residential special school**
- **have additional support needs arising from a disability within the meaning of the Disability Discrimination Act 1995**
- **are otherwise at risk of not making a successful transition.**

29. The education authority must seek and take account of the views of the leaver unless it has been clearly demonstrated that he/she lacks the capacity to provide one (or the young person's parent where the young person lacks the capacity to express his/her views). Although the Act does not require that information should only be sought with the consent of the parent or the young person (or the young person's parent where the young person is not able to give consent) in good practice education authorities working in partnership with parents and young people should aim to secure consent. A situation could arise where the child wishes information sought from another appropriate agency, or agencies, and the child's parents do not (or vice versa). The education authority should, in deciding what course of action to take under the circumstances, consider the best interests of the child or young person as well as the child's or young person's capacity to express a view, and act accordingly.

s12(6)  
(c)(ii)

30. As noted in paragraph 27, the purpose of obtaining such information from an appropriate agency, or agencies, is to enable the education authority to consider the adequacy and appropriateness of additional support provided by the education authority and other services in the period up to the child or young person progressing beyond school; ultimately this is to support the process of ensuring a good match between his/her needs and options for subsequent support. These options include provision which may be made by an appropriate agency, or agencies, as well as any provision which the local authority make for the child or young person on leaving school; this provision includes, for example, that made by social services or housing.

[s13\(2\)\(b\)\(i\)](#)

[s12\(6\)\(c\)\(i\)](#)

31. This process of seeking and taking account of information from an appropriate agency, or agencies, and the other requirements referred to above, must be completed no later than 12 months before the date a prospective school leaver with additional support needs is expected to cease receiving school education. However, this means that the process will require to be started well in advance of the 12 month period to be carried out effectively for the benefit of the leaver. There will be circumstances, where the education authority have less than 12 months to carry out these functions in which case they should be carried out as soon as reasonably practical after they become aware of the fact that the child or young person is to cease receiving school education.

s12(5)

32. The Act also requires the education authority to pass on information to appropriate agencies (if any), no later than 6 months before the leaver is expected to progress beyond school. Where an authority find that a pupil is expected to leave school within 6 months, then it must pass that information on to appropriate agencies as soon as is reasonably practicable after they become aware of the fact. This information includes:

[s13\(1\)](#)  
[and \(2\)](#)

- the leaver's expected date of progression beyond school
- any provision the local authority may make when the pupil leaves school such as, for example, through social work or housing
- any other information that the authority thinks will help appropriate agencies to make provision.

33. However, any information can only be provided with the consent of the parent or the young person or the young person's parent where the young person is not able to give consent.

[s13\(5\)](#)

34. The Act, as amended, places education authorities under a duty to seek and take account of the child's views (unless the authority are satisfied that the child lacks capacity to express a view) in relation to any information to be provided to an appropriate agency or agencies under the Act regarding the child leaving school

s13(4A)

### **Monitoring and review**

35. Education authorities should ensure that the arrangements required for transition to post-school are clear so that the leaver, and all those involved, know exactly what is happening, when it is happening, and who is responsible. The effectiveness of the action required should be monitored by a lead person and reviewed if there is a change of circumstances, or if the child or young person requests a change. Where the school leaver has a co-ordinated support plan the education authority have a duty to review any co-ordinated support plan at least every 12 months. Such a review should help inform action to be taken prior to a child or young person, with a co-ordinated support plan, progressing beyond school. All relevant information in the co-ordinated support plan should be incorporated into the transition planning process.

### **Tribunal**

36. The Act, as amended, allows the Tribunal to consider references in relation to an authority's failure to comply with any of its duties in terms of post-school transitions under sections 12(5) and (6) and 13 of the 2004 Act and described in paragraphs 27-34 above. The exception to this would be where the parents or young person have not given permission for the education authority to provide information to an appropriate agency or agencies. A reference to the Tribunal can only be made where an education authority have responsibility for a child's or young person's school education so once the leaver has left school a reference cannot be made to the Tribunal.

s18(3)  
(9)

[s18\(1\)](#)

### **Mediation and dispute resolution**

37. The Act also enables parents and young people to use the arrangements in place for mediation and dispute resolution where they have concerns about how an authority has carried out their arrangements for all transitions (see chapter 8). However, once the leaver has left school then the education authority no longer have any functions to exercise under the Act in respect of the leaver and so the arrangements for mediation and dispute resolution do not apply in these circumstances.

Stuart is in a stable long term foster placement. At Stuart's transitional review meeting at the end of S3, it was agreed in discussion with Stuart and his foster parents that he would like to pursue a career in gardening and landscaping. Stuart was still developing his skills in literacy and numeracy, particularly in the use and handling of money. It was agreed with Stuart and his foster parents that he should:

- stay on at school beyond 16 on a part-time basis to continue developing his literacy skills.
- consider attending college part-time to pursue his horticultural studies and to continue to develop his numeracy skills.
- have extended work experience with the council landscaping department in conjunction with his college course.
- continue to have support from the transitions social worker in relation to coordinating the community activities for Stuart, linking with the college facilities for sport and leisure.

With his foster parents' permission it was agreed that the college would be sent information about Stuart's progress in school, his interest in pursuing a course at college and the transitional arrangements being put in place. The college will be asked about the arrangements which may be made for Stuart in college and about what provision should be made in school to prepare Stuart for attending college and having a successful transition.

# Chapter 7

## WORKING WITH CHILDREN AND FAMILIES

1. This chapter of the code describes how children, young people and their parents can be successfully involved in education and learning and describes the Act's provisions regarding supporters and advocacy.
2. All children and young people should have the opportunity to make their views known about decisions which affect them. They should have the opportunity to express their opinions and have these opinions taken seriously. They should be encouraged to contribute to decision-making processes, the setting of educational objectives, the preparation of learning plans, reviews and transition planning. They need to know that what they have to say will be respected, listened to and, where appropriate, acted on.
3. Parents must also be encouraged and have the opportunity to be involved fully in discussions and decisions about their child's learning. Most parents want what is best for their children and have unique knowledge and experience to contribute to understanding and meeting their child's additional support needs. They, therefore, have a key role to play in their child's education and account must be taken of their views and the perspective they bring.
4. Professionals need to involve parents and take account of their views on their child's development and education at the earliest opportunity. Partnership with parents is, therefore, central to ensuring that children and young people with additional support needs benefit fully from school education. The Act serves to strengthen further the involvement of children, young people and their parents in working with authorities to reach decisions which are best for children's and young people's learning.

### Views of children and young people

5. The 2000 Act places a duty upon education authorities, where they are responsible for the school education of a child or young person, to secure that the education is directed towards the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential. In so doing, the authority must, so far as is reasonably practicable, have regard to the views of children and young people (if there is a wish to express them) in decisions that significantly affect their education.
6. The Act builds on the above duty by placing a duty on the education authority to seek and take account of views of children and young people as the authority consider appropriate under specific circumstances. These circumstances include where the authority are seeking to establish whether the child or young person has additional support needs and when they are determining what additional support the child or young person may require. The

2000 Act  
[s2\(2\)](#)

[s12\(2\)](#)  
[and \(3\)](#)



authority have some discretion in whether they seek the views of such children or young people. The purpose of this provision is, primarily, to avoid over-formalising the dialogue between professionals, teachers especially, and children and young people by requiring the authority to take account of, and record, children's and young people's views **every** time they are considering whether children or young people have additional support needs. All children should be encouraged to take part in personal learning planning processes and in discussing, monitoring and evaluating their learning. It is expected that, except under exceptional circumstances, children and young people who have additional support needs should have the opportunity to discuss their needs and the support to be provided to meet those needs.

[s12\(1\),  
\(2\) and  
\(3\)](#)

7. In addition to the general good practice in involving children and young people in making decisions about their school education, under the Act an education authority must seek, and take account of the views of children and young people (unless the child or young person is not able to provide a view; then the views of the parents are sought) when they are:

- establishing whether a co-ordinated support plan is required
- preparing a co-ordinated support plan
- reviewing whether the child or young person still requires a co-ordinated support plan.

### Expressing views

8. In order to express views, children and young people need to have experience of being asked for their views, being listened to, making some choices and having some influence over what they do. Schools and early years settings should create a climate where seeking children's views and encouraging participation in decision-making are part of everyday activities. It should be noted that the Act does not require the education authority to have parental consent before seeking and taking account of children's views. Even where the parents do not wish their child's views to be sought the education authority are still under a duty to seek and take account of the child's views; where a child is concerned, education authorities are to seek and take account of the views of both the child and the parent unless they are satisfied that the child lacks the capacity to express a view. In that event, the views of the parent only are to be sought. In the case of a young person, if the education authority are satisfied that the young person lacks the capacity to express a view, then it is only to seek and take account of the views of the young person's parent.

9. Some children and young people with additional support needs will be able to express themselves clearly and directly. All they may need are the opportunities and the encouragement to do so. Others may need support with communication or to gain confidence to express their views. Very few will be unable to express a view at all.

10. The education authority may have to make specific arrangements to seek out the views of some children and young people such as, for example, children with complex communication support needs. They may need to make arrangements for those who require an interpreter; or whose first language is not English; or who have behavioural difficulties and are unwilling to co-operate. But it is just as important and relevant for these children and young people to have their views listened to as it is for those who can more easily express views. A range of approaches will need to be considered to determine their views including, for example, the use of alternative or augmentative communication systems, including signing, the use of interpreters, and engaging the views of others such as family members, foster carers, social workers and other professionals who know the child or young person.

Jamie is 13 years old and has depression. A meeting was convened to discuss his additional support needs but he made it clear that he would not attend. He agreed with his guidance teacher that a video could be made of them discussing what additional support he would find helpful.

#### Communication with children and young people

11. Good communication with children and young people is essential in order to enable them to influence decisions about their learning. This applies equally to education generally and at specific points related to matters concerning co-ordinated support plans. There are many reasons why a child or young person may have difficulty in expressing his/her views. For example, communication with young children requires a range of different strategies which could include play, art, and the use of audio and video technology. Education authorities should take account of the good practice points at the end of this chapter.

12. Representatives of appropriate agencies may be able to provide guidance and support to children and young people to help them express their views. They may also be able to provide guidance and support to other people involved in meetings to help them access the best method of communication. For example, a speech and language therapist may offer guidance on the best communication approach to use to ensure that the child or young person understands the discussion and on how best to facilitate and support his/her response.

13. When noting views, particularly where the child or young person has communication support needs, it is helpful to consider two factors. Firstly, what the child or young person actually expressed, whether through speech, in writing, audio recording, sign or other form of communication such as facial expression or body posture. Secondly, what interpretation was made of the child's or young person's view and by whom. Both should be noted.

### Taking account of views

14. Having sought the child's or young person's views, and recorded what these are, education authorities need to consider what weight to give to them. Taking account of these views does not mean education authorities have to accept and implement everything. At the same time, once sought and expressed, these views should not be disregarded and due weight should be given with consideration of the following:

- the child's or young person's capacity to understand the information on which his/her views were based
- the ability of the child or young person to express his/her own views
- the child's or young person's understanding of the range of options
- how well the people reporting the child's or young person's views know him/her.

15. It is important that a balance is struck between what a child or young person may want and what is realistic and appropriate. Where an education authority are unable to act on a child's or young person's views, reasons for this should be provided to them as appropriate.

### Children and young people who lack capacity

16. The Act refers to children and young people who may lack capacity to do something for any of the following reasons: where they are incapable of doing something by reason of mental illness, developmental disorder, or learning disability, or are unable to communicate because of a physical disability. However, the Act makes it clear that children or young people should not be treated as lacking capacity by reason only of a lack or deficiency of communication where an alternative means of communication or interpretation, human or technological/mechanical, would assist the child or young person to make his/her views known.

s3

17. The question of whether children or young people have the capacity to do something must be considered at each stage of their involvement. When asked for a view, the child's or young person's capacity should be judged at that point and in relation to their ability to express a view with regard to the particular circumstances. For example, it should not be assumed that because children lack the capacity to request the authority to establish whether they have additional support needs that they lack the capacity to understand, or hold a view on, the support considered appropriate.

### Young people who may lack capacity

18. Questions of capacity arise particularly for young people, that is, people aged 16 or over but who are not yet 18. Young people enjoy the same rights as parents under the Act unless they are considered to lack capacity to exercise their rights. It is, therefore, important to consider carefully whether in individual

cases a young person may lack capacity. The Act, as amended, provides a test which authorities can use to determine whether a young person lacks capacity.

s26(1) 19. The Act requires education authorities to publish and keep up-to-date certain information about a range of matters concerned with additional support needs, as described in paragraph 21 below. In particular, the Act, as amended, s26(1)(d) requires education authorities to provide all parents of all children with additional support needs (and young people with additional support needs), for whose school education the authority are responsible, with all the information authorities are required to publish.

s26(2A) 20. The Act, as amended, specifies that where the education authority are satisfied that the young person lacks the capacity to understand the information which is published under the Act, that information should be sent instead to the young person's parent. (ii) **The test to be used by education authorities in establishing whether a young person lacks capacity relates to the young person's ability to understand the information published.**

21. The Act, as amended, requires an education authority to publish information about:

- s26(2)
- the authority's policy in relation to provision for additional support needs
  - the authority's arrangements for identifying children and young people with additional support needs and those who may require a co-ordinated support plan together with the particular additional support needs of those so identified
  - the role of parents, children and young people in any of these arrangements
  - arrangements for monitoring and reviewing the adequacy of additional support for children and young people with additional support needs
  - arrangements for independent mediation services, including details of the service and how to access it
  - procedures for dispute resolution, including details of the service and how it may be accessed
  - the officer(s) in the authority from whom parents of children having additional support needs, or young people who have these needs, can obtain further information and advice
  - information about any NHS Board in their area or part of the area from whom parents of children having additional support needs, or young people who have these needs, can obtain further information and advice<sup>57</sup>
  - such other recognised agencies or organisations that can provide further support, information and advice to parents and young people that it considers appropriate, including information about support and advocacy.

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<sup>57</sup> The Act was amended to include this point and the following one by The Additional Support for Learning (Publication of Information) (Scotland) Regulations 2005

- any other persons specified in an order made by the Scottish Ministers from which parents and young people can obtain further advice, information and support in relation to the provision for additional support needs, including information about support and advocacy.

s26(2A)

22. Clearly in applying the test, as to whether the young person is able to understand this information, the education authority will discuss the matter with the young person, where possible and appropriate, and certainly with those who know the young person well, such as the parents, and those who have the professional expertise to assess his/her capacity to understand the information published by the education authority under the Act. **To demonstrate capacity, it is not necessary for the young person to be able to read through the published information nor is it even necessary for the young person to be able to demonstrate detailed knowledge about all of the published information.** However, if the young person has to make decisions on his/her own behalf then he/she must be able to understand how the education authority makes provision for additional support needs and what his/her rights and responsibilities under the Act are. Some young people with additional support needs will be able to understand the published information without requiring much, if any, help. Others will be able to understand it if an adult spends time discussing it with them. Clearly there will be others who will not be able to understand the published information irrespective of the support provided. In these circumstances to demonstrate lack of capacity the education authority have to satisfy themselves that the young person is unable to understand the information, in which case the parent is responsible for acting on the young person's behalf under the Act.

### The role of parents

s12(2)

23. The Act allows parents to speak and act for their child, or young person, where the child or young person lacks capacity to express a view. Nevertheless, it is important to continue to support the child's or young person's participation in decision-making, at an appropriate level, at the same time as seeking the views of their parents.

24. Those who are closest to the child or young person can often give an informed view on whether or not he/she can understand a particular matter. These could include parents, foster carers, teachers, allied health professionals or social workers. A speech and language therapy assessment of comprehension should inform this process where there are differences in opinion or significant uncertainty about comprehension. The education authority should consider all these views when being called on to make a decision about capacity. It is best to reach such decisions by consensus recording clearly why such a view was reached and how it was arrived at. Where a parent, child or young person disagrees with the authority's decision this should be recorded.

25. An education authority will also need to take note of the arrangements for decision-making under the Adults with Incapacity (Scotland) Act 2000 and any persons with legal powers in respect of an adult for whom the authority is providing school education. An adult under this legislation is someone aged 16 and over.

### **Good practice in communicating with children and young people**

#### **A child or young person may benefit from:**

- being given enough time to prepare and to go over the ideas and material to be discussed
- being given information in a form which is readily understood
- a teacher or other helper to help understand the meaning of key terms and concepts
- a supportive communication facilitator to tease out the full meaning of all of the issues
- specialised or new vocabulary (perhaps in sign or symbol form) in order to discuss a particular topic
- support to go over ideas, perhaps on several occasions
- help to understand outcomes and agreements.

#### **Issues related to language:**

- if spoken English is not the child's or young person's first language, consider using an interpreter, preferably not a family member to avoid any conflict of interests
- consider using a facilitator for those with language or speech difficulties
- use appropriate alternative or augmentative communication systems such as visual aids and/or sign language for deaf and/or communication impaired children or young people
- take account of any cultural preferences
- take time to explain what decision has to be made, why it's important and how the child or young person can influence it.

### **Supporting parents**

26. All professionals, schools, education authorities and appropriate agencies should seek actively to involve parents in their work with children. They should recognise and value parents' unique contribution, take their views into consideration and regard them as vital partners in their children's learning. Professionals must take responsibility for encouraging good relationships with families based on trust, openness and effective communication. Education staff and other professionals must work together to ensure that they give clear,

honest and consistent messages to parents. For example, parents may need to be given support and information to help them understand their rights and those of their child; or, where appropriate, given an explanation of one purpose of a co-ordinated support plan as being a tool for co-ordinating support rather than a key to accessing services; or provided with explanations of the types of support provided by allied health professionals<sup>58</sup>. The Act serves to strengthen further the involvement of children, young people and their parents in working with authorities to reach decisions which are best for children's and young people's learning. This can be best achieved by strong relationships, good communication and when parents share an understanding of the framework, planning arrangements and systems of support available.

27. In good practice, authorities and other agencies will ensure that parents are fully aware of the processes for assessing and providing for children's additional support needs, understand the planning approaches and are familiar with the support services available from the school, the education authority and from other agencies, including voluntary organisations. Wherever possible, a partnership approach should be extended to include older children and young people.

28. Access to information and advice is central. The Act requires education authorities to publish information about certain specified matters as noted in paragraph 21. They should ensure, in discharging their statutory information duties, that they use accessible language and take account of the young person's and parents' rights to information and advice about the authority's provision for additional support needs. Some young people and parents may need information presented in permanent forms other than writing such as by using audio or video technology. The authority should have a named contact person for additional support needs who can provide parents with information on the availability of supporters and advocates. Education authorities should also be aware of the valuable role the voluntary sector has in supporting parents and should aim to establish links and support effective working, wherever possible.

s26

[s31](#)

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<sup>58</sup> Reference to partnership working between allied health :professionals and education:  
<http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

### *Working with children and families*

Naomi, aged 6, lives with her father John and 4 older brothers and sisters. She sees her mum only very occasionally as she lives in England. Naomi has additional support needs arising from a number of factors: she finds it difficult to concentrate for long periods in class and she gets extra support to help keep her on task. She is in a nurture class in school and also attends a small communication group run by the speech and language therapist. The family has a social worker.

The school has regular meetings with John to discuss her progress and her targets in her IEP. Due to the difficult family circumstances, John has been asked when and where he would like meetings to take place, whether he wants written as well as spoken accounts of Naomi's progress, and whether he wants to bring a friend or relative with him to meetings. The school have taken time to explain about Naomi's additional support needs and how they, the local authority and speech and language therapist are supporting Naomi. John has been asked what help he thinks Naomi needs and what type of help he and others can give her at home. Suggestions for what he can do at home are discussed and included in Naomi's IEP. He has been given the contact details for *Enquire* as somewhere he can go for independent advice. He has also been informed that there is a free local advocacy service which can help him prepare and support him in getting his points across at meetings. At the beginning of each meeting, John is asked for his views on Naomi's progress and asked if he has any questions or concerns. His views are taken into account and reflected in any future targets and plans for Naomi. At times, the school and other professionals disagree with him but a compromise is reached which respects his views and understanding of Naomi's needs. This is explained clearly to John to ensure that he understands not only why any decision is taken but also what he can do, if he still disagrees with it. He is made fully aware of rights under the Additional Support for Learning Act.

As well the IEP meetings, the Deputy Head in the school calls John every fortnight to let him know how Naomi is getting on, and makes a point of mentioning good progress as well as any issues that are being addressed. He is invited in for an informal coffee morning with other parents every month. There is home/school diary which keeps him informed of Naomi's daily progress

### **Supporters and advocacy**

29. Supporters and advocates can help by making sure that a parent's or young person's view is understood, put across and taken account of in discussions where parents or young people feel unable or less confident to do so themselves.

30. The Act provides young people and parents with the right to have a supporter or advocate present at any discussions or meetings with an education authority in regard to the authority's functions under the Act. Education authorities should, as a matter of good practice, make parents and young



people aware of this right and how they can find out how to access such services.

31. The education authority must comply with the wish to have a supporter or advocate present unless the wish is unreasonable. Judgements about what an education authority may view to be unreasonable will depend very much on the particular circumstances being considered. An education authority may consider it unreasonable to include a supporter or advocate in discussions where the supporter or advocate is unable to represent the parent or young person appropriately. In such circumstances, the education authority should provide the parent or young person with their reasons for taking this view and for deciding that a particular supporter or advocate should not be present during discussions.

32. Although a child does not have a right to have a supporter or advocate present, and the education authority does not have a duty to allow it, there is nothing to stop a child making such a request and an education authority agreeing to it where it would be in the interest of the child.

### Supporters

33. A supporter can be anyone the parent or young person wants to nominate. A supporter could be a relative, friend, befriender or voluntary organisation worker or other person. The supporter could also be a professional working with the family provided there is no conflict of interest with that professional's duty under the Act or his/her responsibilities as an employee. A supporter can attend discussions with the parent or young person. The supporter may assist in a number of different ways, including:

- acting as a sounding board for the parent in preparing for the meeting
- taking notes so that the parent or young person can participate more fully in the discussions
- suggesting points for further clarification, questions to ask or giving advice to the parent during the meeting.

### Advocates

34. The Act allows for a parent or young person to appoint a person to conduct all or part of any discussion with the education authority or make written or other representation to the authority on their behalf. This person, known as an advocate, can come from a range of backgrounds, including:

[s14\(1\)\(b\)](#)

- someone who has acted, or is already acting, as a supporter to the parent or young person – the parent or young person may wish the supporter to speak on his or her behalf
- a person not trained in advocacy but who is aware of education and other legislation and/or the needs of the child or young person who has additional support needs

- a voluntary organisation which need not be an advocacy organisation
- a formal advocacy service or agency, with trained advocates, possibly operating to its own guidelines or code of practice.

35. The main objectives of an advocate should be to speak up on behalf of the parent or young person and to represent the parent or young person at discussions<sup>59</sup>.

36. Education authorities do not have a duty to provide or pay for a supporter or advocate. They should include, in their information for parents, details about the right to have an advocate or a supporter involved and how parents or young people can find out what services are available in their area.

### The Tribunal

s14A

37. The Act, as amended, requires the Scottish Ministers to make an advocacy service available on request and free of charge to support parents and young people in Tribunal proceedings. By advocacy service in this context the Act means “*a service whereby another person conducts discussions with or makes representations to the Tribunal or any other persons involved in the proceedings*” on behalf of the parent or young person. The service becomes available when a parent or young person is considering making a reference to the Tribunal. It is expected that there would be discussions or meetings between the parent(s) or young person and the advocate prior to appearing before the Tribunal. The service is also available to support parents or young persons in formulating their application and in related discussions with local authorities<sup>60</sup> as well as to provide support at the actual Tribunal hearing.

38. As a matter of good practice, education authorities should inform parents about the advocacy service when they become aware that a parent or young person is considering making a reference to the Tribunal. They should also refer to the service in the information they publish about additional support needs under the Act.

39. Parents will be able to obtain information about how to access the advocacy service from the Tribunal secretariat and from the national helpline *Enquire*<sup>61</sup>. The arrangements for providing the service have still to be finalised and further information about it will be available later in the year.

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<sup>59</sup> The *Partners in Advocacy* website provides useful information and advice about advocacy services <http://www.partnersinadvocacy.org.uk/index.html>

<sup>60</sup> Existing powers are being used to extend the range of service to be provided beyond solely representation at the Tribunal.

<sup>61</sup> *Enquire* website <http://www.enquire.org.uk/>

## Good practice in communicating with parents

40. Education authorities should take account of the following good practice points when working with parents.

### **Professionals should:**

- acknowledge and draw on parental knowledge and expertise in relation to their child
- consider the child's strengths as well as additional support needs
- recognise the personal and emotional investment of parents and be aware of their feelings
- ensure that parents understand procedures, are aware of how to access support and are given documents to be discussed well in advance of meetings
- respect the validity of differing perspectives and seek constructive ways of reconciling different viewpoints
- cater for the differing needs parents may have, such as those arising from a disability, or communication and linguistic barriers.

### **Information should be:**

- clear and understandable and avoid jargon
- provided easily in accessible formats
- readily available and provided automatically without a charge and without a fuss.

### **Communication works well when:**

- people have the interpreters they need
- someone in authority takes responsibility for keeping parents up-to-date
- people are told what has been happening between meetings
- any information provided by parents is acknowledged
- formal references to statutory procedures are avoided.

### **Effective working relationships develop when:**

- contact with parents is sensitive, positive, helpful and regular
- parents feel included and are encouraged to contribute to discussions
- positive, clear and easily understood language is used
- parents are involved and processes and roles are explained from the beginning
- parents are told what to expect and the next steps
- times of meeting take account of parents' availability.

**Meetings work best when:**

- parents are asked what times and places suit them best, taking account of any access need or family responsibilities
- notes from meetings, and any papers to be considered, are sent out in good time
- parents are invited to add points to the agenda, at the same time as everyone else
- people attending are aware of their roles and the roles of others and they understand the child's or young person's additional support needs
- there are no hidden issues, and no last minute surprises
- decisions are made when parents are at the meeting, or agreed with them before meeting takes place, not after the meeting has closed, unless further consultation takes place with them
- ample time is given to allow people time to raise concerns, so that decisions are not rushed.

**Identifying the way forward works well when:**

- all views are taken on board – including those of the child or young person
- people are interested in learning from each other
- people show an interest in general family priorities and take them on board
- services are identified in agreement with the family and are responsive to individual needs.

**Accountability and involvement:**

- who is responsible for what is clearly defined and understood
- parents concerns are responded to quickly
- decisions are open to scrutiny
- parents have a clear point of contact who can answer questions, make decisions and ensure that agreed actions are taken
- people do what they agreed within the timescale committed to – if a decision is likely to take time, parents are told and given some idea of when a decision is likely.

## Chapter 8

### **RESOLVING DISAGREEMENTS**

1. Use of the good practice guidance in chapter 7 can help to avoid disagreements or prevent them from escalating into more serious disputes. This chapter considers provisions under the Act for resolving disputes where these do arise. The Act makes provision both for mediation services and arrangements for external independent adjudication (dispute resolution) to resolve disputes. It also provides parents and young people with rights to refer particular matters to the Additional Support Needs Tribunals for Scotland (“the Tribunal”).

#### **Resolving disagreements through the school and local authority**

2. Under the Scottish Schools (Parental Involvement) Act 2006 all education authorities are required to have a strategy setting out their policies for parental involvement. They should consider how that strategy links with policies relating to meeting children’s and young people’s additional support needs.<sup>62</sup> They must have a complaints procedure in place to deal with complaints relating to how the education authority carry out their functions under the 2006 Act. As the guidance to the 2006 Act makes clear it is expected that most complaints will be handled at a local level without recourse to formal procedures. The same position holds for disagreements about how the education authority are discharging their functions under the Act, as amended. It is expected that most disagreements will be resolved at school and education authority level with only a small number going to formal review procedures. Education authorities and schools should have clear in-house procedures in place for resolving disagreements under the Act and with named contacts at each stage. The diagram following paragraph 54 outlines how the Act’s provisions sit within an overall framework for avoiding and resolving disagreements.

3. The following paragraphs consider each of the three approaches: mediation, dispute resolution and the Tribunal. Previous chapters of the code have discussed these approaches in some detail and reference will be made to these earlier discussions, where appropriate, to avoid repetition here. This purpose of this chapter is to draw together the various approaches for resolving disagreements and illustrate their similarities, differences and links.

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<sup>62</sup> Guidance on the Scottish Schools (Parental Involvement) Act 2006 is available at : <http://www.scotland.gov.uk/Publications/2006/09/08094112/0>

## Mediation

### Mediation services

*s15(1) Every education authority must make such arrangements as they consider appropriate for the provision of independent mediation services for the purposes of seeking to avoid or resolve disagreements between the authority and-*

s15(1)

*(a) the parents of any children,  
(b) any young persons, or  
(c) in relation to any young persons who lack capacity to express a view or make a decision for those purposes, their parents,  
concerning the exercise by the authority of any of their functions under this Act in relation to the children or young persons.*

### Aims and benefits

4. The Act, as amended, requires every education authority to have independent mediation services in place for resolving disagreements relating to matters concerning the exercise of any of the authority's functions under the Act in relation to children and young people. Those accessing the mediation services may belong to the area of the authority but they need not. Under the circumstances described in paragraph 15 below parents and young people are able to access the mediation services of an education authority other than the one to which they belong.

5. Mediation provides an option for avoiding, resolving or narrowing the area of disagreement between the authority and parents or young people. It allows disputing parties to seek to resolve their differences with the assistance of a mediator acting as an impartial third party.

6. 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 conflicts that arise out of misunderstandings or lack of shared information by helping parents, teachers, education authority officials and others involved to communicate directly with one another. The overriding principle is that the disputing parties come to a shared agreement themselves on how to resolve their disagreement.

7. Mediation can be used at any time in the life of a disagreement between an education authority and parents or a young person. The process can be used more than once as it can be useful for resolving parts of a disagreement, as well as the whole of a disagreement. It can improve strained relationships among individuals who have experienced conflict in the past and it can prevent the escalation of disagreements.

8. Mediation may not be appropriate in all cases. For example, mediation is voluntary and the parents or young person may not wish to engage in it. In addition, the provision of mediation under the Act is not the appropriate route for

parents who have disagreements with the school about issues other than additional support needs. In such situations parents should follow normal school and authority complaints procedures.

9. The education authority should it make it clear to parents and young people that taking a disagreement to mediation in no way affects their entitlement to refer any competent matter to other appropriate formal or statutory review routes. For example, the parents or young person may wish to make a reference to the Tribunal in respect of relevant matters concerning a co-ordinated support plan and their ability to do this is not affected by whether or not they have engaged in mediation.

10. The education authority's mediation services must be available, free of charge, to parents or young people. If the young person lacks the capacity to express a view or make a decision, then parents can pursue mediation on behalf of the young person.

### Independent services

s15(2)

*s15(2) Mediation services are independent... if the person providing the services has no involvement in the exercise by or on behalf of the authority of their functions relating to education or any of their other functions (apart from this section).*

11. The Act, as amended, requires education authorities to provide mediation services which are completely independent of the local authority. That is, the local authority cannot choose to offer as mediators local authority employees or anyone else involved in conducting any other work on behalf of the authority. It is most likely that the authority may choose to contract with a mediator or a mediation provider using a service level agreement or to employ a freelance mediator on a case-by-case basis. When giving thought to engaging an independent mediation service provider, relevant information and guidance is available from the Scottish Mediation Network.<sup>63</sup>

12. Objectivity and impartiality are key principles for whichever option is chosen. All parties concerned need to be satisfied that the mediator is truly independent. All parties should be assured that mediators are appropriately trained, engaged in continuing professional development and operate to recognised standards such as are in accordance with the Additional Support Needs (ASN) Scottish mediation service providers quality standards, which are available from the Scottish Mediation Network. Appropriate disclosure checks should be carried out on all mediators.

s14(1)

13. The Act gives parents and young people the right to have a supporter or advocate present at any discussions or meetings with the education authority. This should apply equally to mediation sessions although it is important that mediation remains as a joint problem-solving process rather than an adversarial

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<sup>63</sup>Weblink: [www.scottishmediation.org.uk](http://www.scottishmediation.org.uk)

forum. It is not envisaged that the parties would bring legal representation to mediation. All participants, including the child, need to feel confident that their views and concerns will receive equal respect. The purpose of mediation is to achieve a solution to a difference of views and it is not about apportioning blame.

s15(1) 14. Parents of children for whose school education an authority are not responsible have access to an education authority's mediation services. This applies to, for example, parents who are educating their child at home or who have placed their child in an independent school. Young people have access in their own right. **However, mediation is available only where the disagreement relates to the authority's exercise of their functions under the Act** (see chapter 4 paragraph 8 for an example). Parents would not be able to use the mediation services to resolve a disagreement which did not involve the education authority's functions under the Act, such as a disagreement with the independent school itself over the provision to meet additional support needs.

s15(1) 15. Following a successful out-of-area placing request, parents or a young person are able to access mediation from the host authority regarding that authority's functions under the Act. Also following the submission of an out-of-area placing request, a parent or young person is able to access mediation from the potential host authority regarding the placing request.

Sch 2 2

s26(2)(e) 16. The Act requires education authorities to publish information on the independent mediation arrangements they have in place within their area. This information should be kept up-to-date and under review and be widely available for authority staff and parents and young people. There should also be administrative support for arranging mediation meetings at a neutral venue with all the relevant people. Arrangements should be made for recording outcomes and providing a copy of these to the parents or the young person.

17. The education authority should have clear procedures in place to evaluate and monitor arrangements for their mediation services. Further detail on the features of mediation services, performance issues and sources of information are referred to in Annex D and the Resources section.

Mrs Campbell's son, Alex has had a succession of supply teachers this term and she is concerned that his work is suffering due to the lack of continuity. She spoke to the current supply teacher who was not able to reassure her. The school had already issued information on resolving disagreements to which she referred. Mrs Campbell met with the head teacher in the first instance who listened to her concerns. The head teacher provided Mrs Campbell with some examples of Alex's work which showed that he was making suitable progress with his learning. Mrs Campbell was happy with this outcome.



Mr & Mrs Jacks have a son Paul, aged 14, who has been diagnosed with Asperger's Syndrome. The transition from his local mainstream primary school to secondary school proved very difficult. Increasingly frustrated by what they saw as the school's inability to meet Paul's needs, his parents withdrew him from school and educated him themselves at home.

Although the home education programme was working out very well, his parents felt that Paul was socially isolated from his peers and would benefit from returning to school. Agreement with the home education authority over a suitable school proved difficult and over time the positions of both parties had become increasingly entrenched, with a lot of distrust and negative feelings building up. Both parties agreed to explore further discussions with the help of an independent mediator.

Following discussion, both parties agreed that Paul's home education programme would continue, and that an additional support needs teacher from Paul's local school with autism specific training would begin some outreach support work with a view to helping Paul work towards attending his local school. Initially this was on a part-time basis, until if, and when, Paul and his parents were comfortable with this step.

Lorna is 8 years old. She has significant physical disabilities and learning difficulties, and attends her local primary school with the support of an auxiliary. Her mother, Cathy, was generally pleased with the placement but became anxious about the increasing gap between Lorna's learning and that of her peers.

Cathy began speaking to the class teacher daily about Lorna's progress. The teacher found this difficult to manage. In an effort to support her staff, the head teacher asked Cathy to stop the daily meetings. Cathy took offence at this and complained about the head teacher's attitude to various people in the education authority including the Director of Education.

Both sides agreed to explore the issues in a mediation session. With help of the mediator they were able to reach an acceptable outcome. Cathy's need for communication about Lorna's progress would be met by the use of a daily home-school diary. The classroom auxiliary would take responsibility for this with guidance from the teacher. Cathy and the teacher would meet up once a month for one hour and if Cathy had any problems she wished to discuss she could telephone the head teacher. Everyone agreed that they would meet again to review these arrangements after 6 months.

## Dispute resolution

[s16\(3\)\(a\)](#)  
[\(ii\)](#)

18. The Act, as amended, enables the Scottish Ministers to require education authorities to put in place procedures to resolve disputes which arise between the authority and any parents or young people regarding the authority's exercise of any of their functions under the Act, as prescribed in Regulations<sup>64</sup>. The procedures must be free of charge. Parents, and young people, cannot be compelled to use any dispute resolution procedure put in place. Also the use of dispute resolution does not affect their entitlement to make a reference to the Tribunal, or any other statutory review system, where appropriate.

19. The Dispute Resolution Regulations prescribe which disputes relating to particular functions of the authority under the Act will be capable of reference to dispute resolution and timescales for the process.

20. In the context of the Act, the procedure for 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 for all parties.

### What does it cover?

21. The service is for disagreements about the way the authority are exercising their functions under the Act, as prescribed in the Regulations, as these relate to the education of individual children or young people.

22. Disagreements may be about:

- whether or not the child or young person has additional support needs
- in the case of a child or young person with additional support needs, the accuracy of the description of these needs
- the refusal of the education authority to respond to a request from the parent or young person to establish whether a child or young person, for whose education they are responsible, has additional support needs
- the refusal of an education authority to respond to an assessment request from the parents or young person
- the person carrying out an assessment or examination or the method of carrying it out
- the failure of the authority to provide, or make arrangements for the provision of, the additional support required by the child or young person, whether educational provision or not
- the failure of the education authority to request help from an appropriate agency<sup>65</sup>.

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<sup>64</sup> The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005

<sup>65</sup> These are: any other local authority, any NHS Board, Skills Development Scotland, all colleges of further education and all institutions of higher education in Scotland and the Scottish Agricultural College.

23. As with mediation services, under the Act, as amended, access to an education authority's dispute resolution arrangements are not restricted to parents of children or young people belonging to the area of the authority. In particular, following a successful out-of-area placing request, parents and a young person are able to access dispute resolution from the host authority in relation to the specified matters in the Regulations regarding the authority's exercise of their functions under the Act, as amended.

#### What does it not cover?

s18(3)(d)(i)  
a) 24. The Act, as amended, enables a reference to be made to the Tribunal where there is an alleged failure to provide or make arrangements for the provision of the additional support identified in the co-ordinated support plan.

s18(3) 25. Dispute resolution also does not cover disagreements relating to the refusal of a placing request made under Schedule 2 of the Act. Such a disagreement can be taken to the education authority appeals committee and subsequently to a sheriff. Or, a reference could be made to the Tribunal if a co-ordinated support plan is involved, or where an education authority have refused a placing request to a special school in Scotland (or to a similar type of school in England, Wales or Northern Ireland – see chapter 4) or where the dispute concerns failures of the education authority regarding the provision made under the Act for a child or young person to transfer from school to post-school provision. Education authority appeal committees will continue to deal with issues concerning exclusions.

26. In addition, dispute resolution is not for issues relating to broader strategy or policy matters (for example, such as an education authority's overall policy for allocating support for learning staff to schools) or about allegations of misconduct or, for example, school closures. It is also not intended to be for personal disputes between parents and any member of staff at the school or education authority. All such matters should continue to follow established local authority complaint procedures.

#### Information on dispute resolution

s26(2)  
(ea) 27. The Act, as amended, requires education authorities to publish information on their dispute resolution procedures and keep that information up-to-date and under review. This information should be readily available to parents and young people.

#### Process of dispute resolution

28. All requests for dispute resolution by parents or young people are to be made to the Scottish Ministers. An advocate, supporter or member of a

voluntary organisation may help the parent or young person to complete the application. Within 5 working days of receipt of the referral, Scottish Ministers will refer the application to the relevant education authority for consideration. Within a period of 10 working days<sup>66</sup> from the date of receipt of such an application, the authority must either accept the application and write to Scottish Ministers for nomination by them of an individual to act as an independent adjudicator or send the applicant notice of their decision not to proceed with the application and their reasons for that decision. Where the request relates to a matter covered by the Dispute Resolution Regulations, the Scottish Ministers will nominate an external adjudicator to consider the case and will advise the education authority and parent or young person accordingly. There is a statutory 60 day timescale for carrying out the process of dispute resolution, as in paragraph 32 below..

29. The education authority should review the case with a view to establishing that all appropriate steps have been taken to resolve the disagreement. They should prepare all appropriate papers for forwarding to the adjudicator and the applicant<sup>67</sup>. In addition, they should inform parents about how they can present their case to the adjudicator and what support is available to help them do this.

30. The role of the external independent adjudicator is to review, objectively and independently, all the information relating to the case, and make recommendations for both parties on the best way forward to ensure that the child's or young person's learning is supported with reference to the terms of the Act. The adjudication process is a paper exercise. However, the independent adjudicator will be able to ask for further information or clarification if required. Exceptionally, the adjudicator may arrange to meet the parties, for example, if the adjudicator is concerned that one party, or both parties, may have been disadvantaged by the way the case has been presented.

31. The expectation is that both parties will accept the outcome of the process. Education authorities do not have a legal duty to implement the recommendations of the adjudicator. However, it is expected that generally the authority will do so provided these recommendations are not incompatible with their statutory or other duties or would unduly prejudice the discharge by the education authority of any of its functions. Recommendations, therefore, should be accepted in all but exceptional circumstances. The education authority should give reasons for their decision to accept or reject the adjudicator's recommendations. Where recommendations are not accepted parents, or the young person, may refer the matter to the Scottish Ministers under section 70 of

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<sup>66</sup> The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005, regulation 4.

<sup>67</sup> The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005, regulation 7.

the 1980 Education Act if they believe that the education authority have failed to carry out a statutory duty imposed on them by education legislation (see paragraph 53 below).

### Timescales

32. The process of dispute resolution must not normally take more than 60 working days from the time an education authority have confirmed acceptance of an application to the parent receiving the independent adjudicator's report and the education authority's decision. A working day means any day which is not a Saturday, Sunday, a day from 27 December to 31 December inclusive, a day in July, or a day specified as a bank holiday in Scotland. The independent adjudicator will encourage the parties to meet the timescales in the Regulations for the exchange of information about each party's case and their comments on the other party's proposals to resolve the areas of disagreement.

### Processing the application for dispute resolution

33. The Scottish Ministers will keep a record of all applications for dispute resolution and will contact an education authority directly if, after 10 working days, the Scottish Ministers have not received a request from the authority for the nomination of an independent adjudicator. However, it is not intended to amend the Regulations to reflect these simple steps in the process. It is considered proportionate for the Scottish Ministers to contact the authority to establish whether, in their view, the application is competent and the authority, therefore, is in breach of the statutory 10 working day timescale, **or** the application is, in the education authority's view, not competent and the authority have written to the parent to advise them of this.

Mr and Mrs Smith had been in a long running and acrimonious dispute with their education authority on the education of their son, Mark, aged 13 years. As a result of the suggestion of an education officer, Mr and Mrs Smith made an application for dispute resolution. The education officer explained to the parents how the process of dispute resolution worked and helped them to express their concerns in terms of the Dispute Resolution Regulations. The parents, in their application, specified that, in their view, the education authority were failing “to provide, or make arrangements for the provision of, the additional support” required by Mark.

In order to present their arguments and evidence to the independent adjudicator, each of the parties had to clarify their views of Mark’s additional support needs and how well they were being met. Each, also, had to consider how they thought the dispute should be resolved. Mark gave his own views through an intermediary. While he reported enjoying practical subjects and debating in school, he covered up his difficulties in comprehension, writing and spelling by misbehaving and sometimes truanting.

In reviewing the evidence, Marion, the independent adjudicator, established that, while both parties agreed that Mark had a form of dyslexia, they did not agree on the nature and impact of his learning difficulties. There was no detailed up-to-date assessment evidence specifying the precise nature of Mark’s learning difficulties, and the targets set in his personal learning plan were not sufficiently comprehensive or precise. Marion noted that Mark was anxious about the way in which the dispute was drawing attention to him.

In Marion’s report, she reviewed the cases presented. Her recommendations as to how the dispute should be resolved included that:

- Mark should have a specialist assessment to establish the precise nature of his learning difficulties and advice on overcoming them
- the education authority should prepare a clearly delineated individualised educational programme, agreed and regularly reviewed by all parties and Mark himself
- Mark should work with a mentor to understand his learning needs and his own part in addressing them.

The education authority accepted the recommendations and appointed John, an educational psychologist who had not previously been involved in the dispute, to co-ordinate the implementation of the recommendations. Through John’s intervention Mr and Mrs Smith and staff in the school began to work together to Mark’s benefit.

## Additional Support Needs Tribunals

34. The Act, as amended, enables the Tribunal to hear references from parents and young people on matters relating to:

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

s18

35. A reference can only be made in relation to a child or young person for whom an education authority are responsible. So, for example, parents who have placed their child in an independent school, and where an education authority have no responsibilities for the child's education, are not able to make a reference to a Tribunal.

36. The Tribunal's statutory functions, decisions and dealings with its users and the public are independent of national and local government. The aims of the Tribunal are:

- to provide independent and expert adjudication, operating impartially, efficiently and effectively, in accordance with the Act
- to be user-friendly through informal and flexible proceedings and being accessible to users
- to facilitate an appropriate opportunity for parties to be heard on the issues where no agreement has been reached
- to try to ensure that the only hearings which proceed are those where parties are otherwise unable to agree a solution to the matter in dispute
- to make decisions which, within the framework of the Act, reflect best practice in relation to providing for additional support needs.

37. In exercising its powers in relation to a reference made to it, the Tribunal must take account of the code of practice. When considering the facts of a case, the Tribunal will take account of the extent to which the education authority (and other bodies) have had regard to the code prior to the hearing. When determining the content of a decision, the Tribunal will be informed by the code. The Tribunal decision may require an education authority to take action within a timescale set by the Tribunal.

[s19\(7\)](#)

38. The Act, as amended, provides the President of the Tribunal with the power to monitor the implementation of Tribunal decisions. Following a decision of a Tribunal that requires an education authority to do anything, the President of the Tribunal may require the authority to provide him/her with information about the authority's implementation of the Tribunal decision. This includes information about any decisions relating to co-ordinated support plans, placing requests (in relation to special schools and/or where co-ordinated support plans are involved) or school to post-school transitions. The President may comment on the implementation of decisions and on this power in the Annual Report presented to the Scottish Ministers.

Sch 1  
11A

39. The Act also provides the President with the power to refer the matter to the Scottish Ministers where the President is satisfied that the authority are not complying with the Tribunal decision. The Scottish Ministers, in turn, have the power to direct an education authority (or authorities) regarding the exercise of their functions under the Act. Authorities must comply with such a direction. For example, if an education authority have failed to amend a co-ordinated support plan following the decision of a Tribunal then it can be directed to do so by the Scottish Ministers.

#### Co-ordinated support plan

s18

40. The Act and associated procedural rules make provision for parents and young people to make references to the Tribunal in the following circumstances. Any parent or young person, or where the young person lacks capacity, the parent, may refer to the Tribunal the following decisions or failures of an education authority including:

- a decision to prepare a co-ordinated support plan
- a decision not to prepare a co-ordinated support plan
- a decision to continue a co-ordinated support plan following a review
- a decision to discontinue a co-ordinated support plan following a review
- a failure to meet the timescales for preparing the co-ordinated support plan
- a decision not to comply with a request to establish whether a child or young person has additional support needs requiring a co-ordinated support plan.

41. In addition, they may make a reference to the Tribunal, where a co-ordinated support plan exists, regarding:

- the information contained in the co-ordinated support plan by virtue of section 9(2)(a) of the Act
- the failure of the authority to review the co-ordinated support plan by the expiry date (ie 12 months from the date it was prepared) or within the timescale set by regulations
- the decision of the authority to refuse a request from a parent or young person to review the co-ordinated support plan
- the failure by the education authority to provide, or make arrangements for the provision of, the additional support contained in a co-ordinated support plan which is necessary for the child or young person to achieve their educational objectives.

s19(3)

42. On the last point above, the Act, as amended, gives the Tribunal the power to require the education authority to rectify its failure to provide, or make arrangements for the provision of, the additional support contained in a co-ordinated support plan which is necessary for the child or young person to achieve his/her educational objectives. It also enables the Tribunal to specify a timescale within which such action must be taken.



43. The Act, as amended, also allows a reference to a Tribunal where there are certain procedural failures (described in paragraphs 30 and 32 of chapter 5) of an authority:

- failure to respond to a request to establish whether a co-ordinated support is required
- where they have said they intend to establish that one is required but have failed to respond in the time specified in Regulations.

#### Placing requests

44. References to the Tribunal regarding placing requests are considered in detail in chapter 4.

#### School to post-school transitions

45. The circumstances under which a reference can be made to the Tribunal concerning school to post-school transitions are considered in chapter 6 paragraph 36.

#### Parental right to make a reference

46. The relevant education authority are responsible for informing parents of their right to make a reference to the Tribunal, whenever the authority make a decision in relation to any of the matters listed above. Education authorities should explain this right to make a reference in any relevant documentation such as, for example, that which accompanies a co-ordinated support plan. The education authority should also make it clear to parents that they may bring a supporter or advocate to the Tribunal hearing as well as to other discussions with the authority (subject to any restrictions in the Tribunal rules of procedure). They should also advise them of the requirements on the Scottish Ministers to provide a free advocacy service to support them at Tribunal proceedings (chapter 7 paragraphs 37-39).

47. The President of the Tribunal has produced detailed guidance for parents, education authorities and others on how to make a reference and on how the Tribunal operates. Details can be found on the Tribunal website<sup>68</sup>. The code of practice does not address these aspects.

#### Tribunals and dispute resolution

48. The Act and Regulations relating to dispute resolution broadly cover matters which are outside the Tribunal's remit. These are principally cases in which the child or young person has additional support needs but does not require a co-ordinated support plan. Dispute resolution arrangements are not intended for matters which are within the jurisdiction of the Tribunal.

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<sup>68</sup> Website address: [www.asntscotland.gov.uk/](http://www.asntscotland.gov.uk/)

[s16\(3\)\(b\)](#)

49. However, the use of dispute resolution procedures does not in any way affect the parents' entitlement to take a matter to the Tribunal. Where a child's or young person's circumstances change such that they fall within the remit of the Tribunal, previous discussions held as part of the process of dispute resolution are to be treated in confidence unless otherwise agreed. However, the *outcome* of previous dispute resolution may be relevant to the Tribunal and may be brought to the attention of the Tribunal.

#### Tribunal and mediation

[s15\(3\)\(b\)](#)

50. The use of mediation procedures does not in any way affect the parents' entitlement to take a matter to the Tribunal. Conversely, the making of a reference to the Tribunal does not in any way affect their entitlement to use mediation services. The education authority should make this clear to parents when the possibility of mediation is raised by parents or the authority.

51. Discussions held as part of mediation should be treated in confidence unless otherwise agreed. This means they are not to be disclosed by education authorities in the papers for, or in the course of, the Tribunal's proceedings.

#### Tribunal rules and regulations

[Sch 1 12](#)

52. The Act provides for the Tribunal to be governed by rules of procedure separate from the code of practice. The qualifications, training and experience required by the President, conveners or members of the Tribunal are set out in the Additional Support Needs Tribunals for Scotland (Appointment of President, Conveners and Members and Disqualification) Regulations 2005. Procedural matters are detailed in the Tribunal rules of procedure. The President has powers under the Act to make directions about the practice and procedure to be followed by Tribunals in relation to any matter. The President's Annual Report to the Scottish Ministers provides information about the performance of the Tribunal during that particular year.

#### **Further recourse**

53. Application of good practice and the arrangements described above should be sufficient to resolve, or determine, almost all cases of disagreement between parents, young people and education authorities. Exceptionally, there may be a few cases where parents or young people will seek recourse elsewhere in certain circumstances. This includes the right to refer alleged failings to carry out a statutory education duty to Scottish Ministers under section 70 of the Education (Scotland) Act 1980. Section 70 gives a discretionary power for Scottish Ministers to intervene where they are satisfied that an education authority or others have failed to discharge any duty imposed on them by education legislation. In considering any complaint under section 70 Scottish Ministers will wish to consider whether other more local forms of resolving disagreement have been tried although the Ministers will not seek to intervene in relation to confidential discussions which take place in mediation or dispute resolution procedures under the Act or take account of such discussions

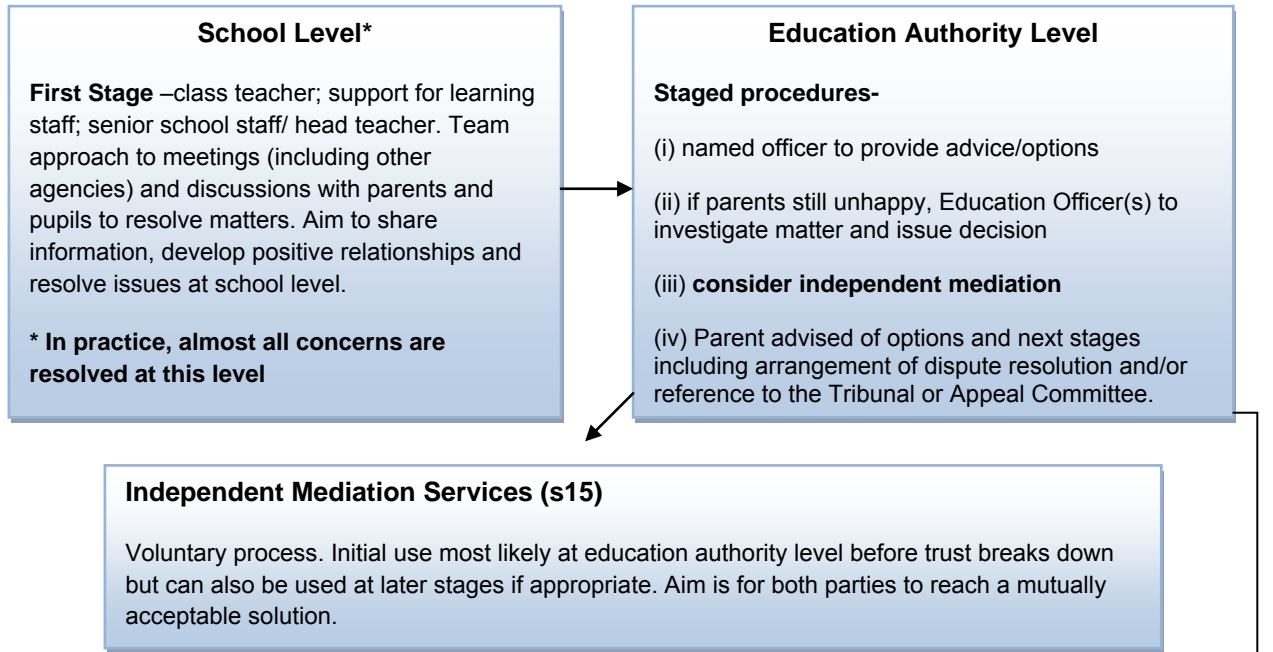
in reaching any decision under section 70 of the 1980 Act except where all parties agree to this being made available to the Ministers

### **Monitoring**

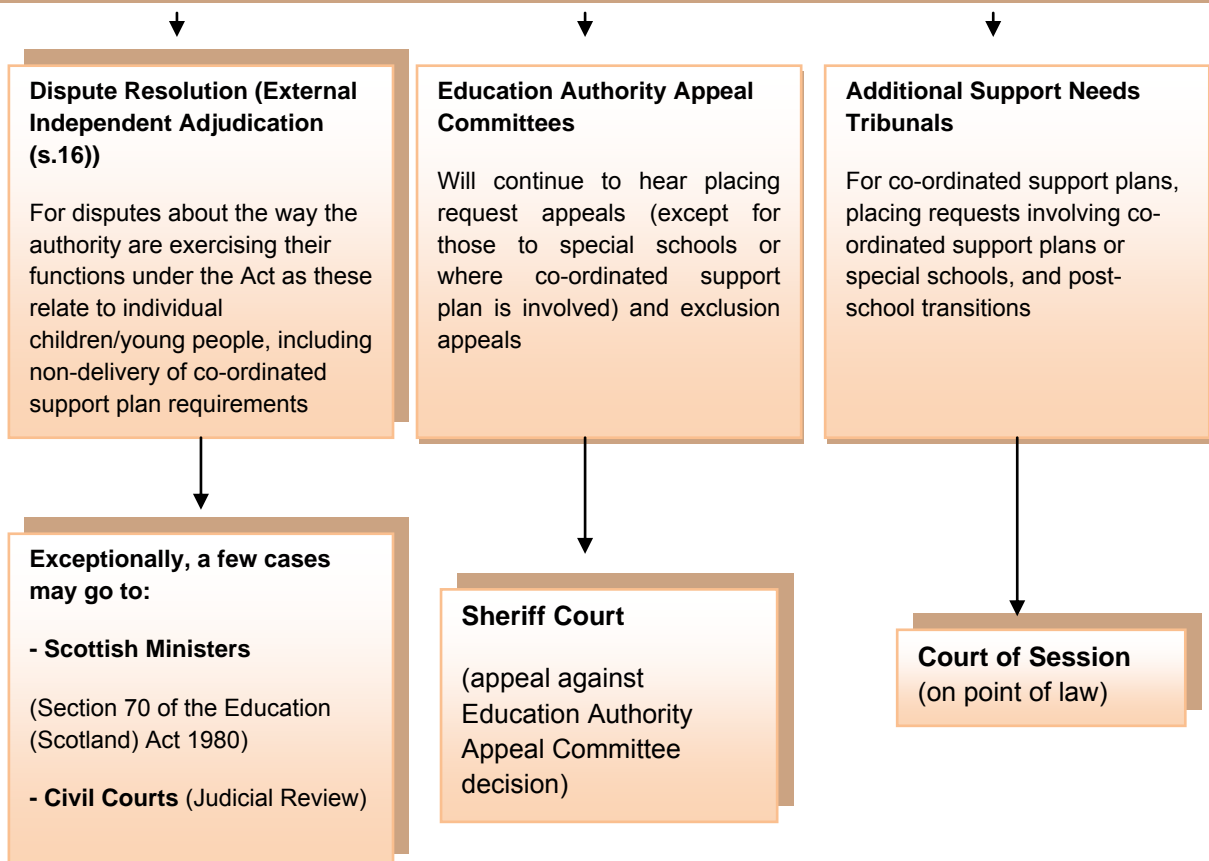
54. Education authorities should record the number of cases referred to mediation, dispute resolution and the Tribunal. They should note their outcomes for monitoring purposes. Further information is available in the Scottish Executive procedural guidance on provision for resolving disputes.

# FRAMEWORK FOR RESOLVING DISAGREEMENTS

## PARTIES REACH AGREED OUTCOME



## THIRD PARTY REVIEW AND OUTCOME



## Chapter 9

### GENERAL PROVISIONS

1. This chapter considers further provision relating to placing requests as well as a range of miscellaneous provisions in the Act not covered in earlier chapters of the code.

#### Placing Requests

2. The system relating to placing requests where the child has additional support needs is set out in schedule 2 to the Act. Whilst the scheme set out in schedule 2 broadly replicates that which operates where the child does not have additional support needs (which is contained in sections 28A to G of the Education (Scotland) Act 1980) there are some notable differences. The more important of these differences are highlighted below and have been discussed in detail in chapter 4. Young people with additional support needs have the same placing request rights as parents of children with additional support needs unless the education authority are satisfied that they lack the capacity in which case the parents can act on their behalf. For ease of reference the following refers to parents but young people also have these rights in their own name.

3. Parents of a child with additional support needs can make a placing request:

- to the home education authority for their child to attend a school, outwith their catchment area, managed by the home education authority
- to another education authority for their child to attend a school managed by that other education authority
- to the home education authority for their child to attend an independent or grant-aided special school in Scotland or a school in England, Wales or Northern Ireland the managers of which are willing to admit the child and the school makes provision wholly or mainly for children or young people with additional support needs
- to the home education authority for their child to be placed in pre-school provision (within the categories for prescribed pre-school children, generally for 3 and 4 year olds), normally referred to as a partnership nursery, in that home or a host education authority area.

4. School means any school, including a nursery school and a partnership provider where an authority have entered into arrangements for other persons to provide pre-school education. **Under the Act parents are not able to make a placing request for an independent or grant-aided school which is not a special school.**

## Outwith the United Kingdom

s25

5. The Act does give the power to an education authority to make such arrangements as they consider appropriate to enable a child or young person with additional support needs to attend an establishment, whether or not a school, outwith the United Kingdom. The establishment has to make provision, wholly or mainly, for children or young people with additional support needs. However, there is no duty upon an education authority to comply with a request for a child to attend such an establishment. Education authorities have discretion as to what arrangements they consider appropriate and the power allows an education authority to meet wholly or partly the fees payable, or the travelling, maintenance and other expenses in respect of the child's or young person's attendance at the establishment. They can also meet similar expenses for the parents or some other person, where they consider it to the advantage of the child or young person that one or other of the parents or some other person was present during the time the child or young person is attending the establishment.

## Costs of placement

Sch 2  
2(2)

6. When a child or young person with additional support needs attends a school, which is not an education authority school, as a result of a placing request, the education authority must meet the fees and other necessary costs of the placement. Where a child or young person attends a school under the management of a host education authority as a result of a placing request (the host authority is not the education authority in which the child or young person lives – that is the home education authority), then the host education authority may recover certain costs from the home education authority, as described in paragraphs 24 and 25, chapter 4.

## Timing of placing requests

7. Parents of children with additional support needs can make a placing request at any stage of a child's education. The authority should notify them of that right where a child is due to start at one of its schools, or where the authority propose that the child should, for any reason, be moved to a new or different school. An education authority should invite parents to take part in consultations leading to the school placement for children with additional support needs. They should also provide parents with the opportunity to visit the school or schools proposed.

## Rights of young people

8. Young people have the same rights to make placing requests on their own behalf as parents have for their children. Where the education authority are satisfied that a young person lacks the capacity to make a request then the young person's parents have the right to make a placing request for the young person.

## Grounds for refusing placing requests

9. An education authority must comply with a placing request unless one or more of the exceptions contained in paragraph 3 of schedule 2 to the Act apply. For example, an education authority may refuse a placing request if the specified school is a special school (or special class or special unit) and for the authority to place a child there would cause it to be in breach of its duty to provide mainstream education<sup>69</sup>.

10. A request may be refused if to comply with it involves significant expenditure on extending or otherwise altering the accommodation or facilities at the school. In refusing a request under these grounds, an education authority would have to act reasonably in assessing what amounts to significant expenditure. For a complete list of all the potential grounds of refusal, users of the code should have regard to the provisions in paragraph 3 of schedule 2 of the Act.

## Refusal of a request involving a school not under the management of an education authority

11. Additionally, an education authority do not have to comply with a placing request for an independent or grant-aided special school in Scotland (or a school in England, Wales or Northern Ireland making provision for children, or young people, with additional support needs) where, for example, all of the following apply:

- the authority are able to make alternative provision for the child's or young person's additional support needs (which may or may not be in one of their schools) other than in the specified school (ie the school for which the placing request is made)
- it is not reasonable to place the child or young person in the specified school, having regard to both the respective suitability and cost of the provision for his /her additional support needs there and in the school which he/she would otherwise attend and in which a place has been offered.

[Sch 2  
3\(1\)\(f\)](#)

12. As noted in paragraph 14 below, even where the education authority conclude that the grounds in paragraph 3(1)(f) of schedule 2 to the Act apply they are still able to place the child or young person in the school requested. In weighing up their decision an education authority will wish to consider carefully whether, for example, any high quality provision made in the specified school can offset the additional costs of attendance there.

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<sup>69</sup> Under section 15, Standards in Scotland's Schools etc. Act 2000

13. There are also other grounds for refusing such a request, for example, as described in paragraph 9 above or where the school in question is not suited to the age, ability or aptitude of the child.

#### Power to accept a placing request

14. Schedule 2 gives an education authority the power to accept a placing request notwithstanding the fact that the grounds for refusal provided for in schedule 2, paragraphs 3(1)(a) – (e) exist.

#### Reserved places

15. An education authority can also refuse a placing request, in certain circumstances, in respect of a child who is resident outwith the catchment area of the specified school. This is where accepting the placing request would prevent the authority retaining places (known as “reserved places”) at certain schools for incomers to the area served by the school.

#### Appeals on refusal to grant a placing request

16. An education authority must inform parents in writing of their decision on a placing request. Parents or young people can then proceed to appeal where a placing request has been refused. In complying with a successful placing request, an education authority should update, where appropriate, the nomination of the school in a child’s, or young person’s, co-ordinated support plan.

17. An education authority will be deemed to have refused a placing request made in accordance with schedule 2 paragraph 2 of the Act if:

- they have not informed the parent or young person in writing of their decision by 30 April on a request made on or before 15 March for a school placement at the start of the school year in the following August or
- in the case of any other placing request, on the expiry of the period of 2 months immediately following receipt by the authority of the placing request.

#### Appeal routes

18. Parents of a child with additional support needs can refer a decision by an authority to refuse a placing request to the education authority appeal committee, set up under the 1980 Act. However, the Act, as amended, makes specific provision for appeals against refusals to grant the placing request in which there is an issue relating to the co-ordinated support plan and/or a special school. These issues are considered in chapter 4 but are summarised here.



The decision of an authority to refuse a placing request may be referred to the Tribunal where:

- s18(3) (da) • the request is in respect of a special school in Scotland managed by an education authority
- s18(4) • the request is in respect of an independent or grant-aided special school in Scotland or a school in England, Wales or Northern Ireland, making provision wholly or mainly for children or young persons with additional support needs, in all cases whose managers are willing to accept the child or young person
- a co-ordinated support plan has been prepared (and has not been discontinued)
- the education authority have decided that the child or young person does not require such a plan and that decision has been referred to the Tribunal
- no such plan has been prepared but it has been established by the education authority that the child or young person requires such a plan
- the education authority have advised the parents or young person that they intend to establish whether a co-ordinated support plan is required.

19. In the last four circumstances in paragraph 18 above, there may be an appeal against the education authority's decision to refuse a placing request. Where an appeal against that refusal has yet to be determined, either by the education authority appeal committee or by the sheriff, then it will be transferred to, and considered by, the Tribunal.

#### Education authority appeal committee

20. An appeal committee, set up, under section 28D of the 1980 Act, can confirm or refuse to confirm an authority's decision to refuse a placing request. Where they refuse to confirm the authority's decision, the appeal committee must require the authority to place a child in the public school specified in the request, or, as appropriate, require the authority to meet the fees and other necessary costs of a child's attendance at the specified special school which could be an independent or grant-aided special school, a school in England, Wales or Northern Ireland which caters for children and young people with additional support needs or a school where education is provided by the education authority under arrangements made under section 35 of the 2000 Act (that is, where the education authority have entered into arrangements with a provider of pre-school education). The authority must comply with a decision of the appeal committee. Where an appeal committee uphold an authority's decision to refuse the placing request, they must notify the parents of their right to make an appeal to a sheriff or to the Tribunal as appropriate, as in paragraph 21 below.

s18(3) (f) 21. If any of the last four circumstances in paragraph 18 apply before the education authority appeal committee have made their final determination the appeal should automatically be transferred to the Tribunal. If the education authority appeal committee have made their decision and within 28 days of that

Sch 2  
7(8)  
and (9)

decision, one of the last four circumstances apply, the correct route of appeal would be to the Tribunal rather than the sheriff. The appeal committee are not required to take any further action until the Tribunal's decision on the co-ordinated support plan is made. However, if the appeal has been made to the sheriff and it has not been disposed of then the sheriff must transfer the appeal to the Tribunal.

s19(5)  
(ba) and  
(d)

22. While the Tribunal has the discretion to transfer a placing request decision back to the education appeal committee or sheriff where it has been decided that no co-ordinated support plan is required, it is anticipated that in the majority of cases the Tribunal will make a decision on the placing request reference.

23. An appeal committee will be deemed<sup>70</sup> to have confirmed the decision of the education authority if they have:

- failed to hold a hearing within 2 months immediately following receipt by them of the reference
- failed, within the period of 14 days immediately following an adjournment of a hearing, to fix a date for a resumed hearing of the reference
- failed to notify the parents or young person who made the reference and the education authority of their decision and the reasons for it within the period of 14 days immediately following the conclusion of the hearing.

#### Appeals to the sheriff from the appeal committee

24. A parent who has made a reference to an appeal committee may appeal to the sheriff against the decision of the appeal committee on that reference. In such a case, the education authority, not the appeal committee, may be a party to the appeal to the sheriff. An appeal must be made by way of summary application and lodged within 28 days from the date of receipt of the appeal committee's decision. The sheriff may hear an appeal, in the event of a late application, if the parents can show good cause for the delay in submitting the appeal.

25. The sheriff can confirm or refuse to confirm the authority's decision to refuse a placing request. Where the sheriff refuses to confirm the authority's decision, the sheriff must require the authority to place the child in the specified public school requested or to meet the fees and other necessary costs of a child's attendance at the specified special school in England, Wales or Northern Ireland as appropriate. The authority must comply with a decision of the sheriff. The sheriff has the power to make an order as to the expenses of an appeal to

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<sup>70</sup> As determined by The Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005

the sheriff as she or he sees fit. The judgement of a sheriff on an appeal is final.

26. The circumstances under which appeals are transferred from the education authority appeal committee or the sheriff to the Tribunal, and from the Tribunal to education authority appeal committee or sheriff, are considered in chapter 4 paragraphs 35-39.

## **Publishing information**

27. The Act, as amended, requires an education authority to publish information about a range of specified matters relating to additional support needs. Those specified matters include information about:

- the authority's policy in relation to provision for additional support needs
- the authority's arrangements for identifying children and young people with additional support needs and those who may require a co-ordinated support plan together with the particular additional support needs of those so identified
- the role of parents, children and young people in any of these arrangements
- the arrangements for monitoring and reviewing the additional support needs of, and the adequacy of additional support provided for, each child and young people with additional support needs
- arrangements for independent mediation services, including details of the service and how to access it
- procedures for dispute resolution, including details of the service and how to access it
- the officer(s) in the authority from whom parents of children having additional support needs, or young people who have these needs, can obtain further information and advice
- information about any NHS Board in their area or part of the area from whom parents of children having additional support needs, or young people who have these needs, can obtain further information and advice<sup>71</sup>
- such other recognised agencies or organisations that can provide further support, information and advice to parents and young people that it considers appropriate, including information about support and advocacy
- any other persons specified in an order made by the Scottish Ministers from whom parents and young people can obtain further advice, information and support in relation to the provision for additional support needs, including information about support and advocacy.

s26(2)

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<sup>71</sup> The Act was amended to include this point and the following one by The Additional Support for Learning (Publication of Information) (Scotland) Regulations 2005

28. Education authorities should also include information on practice for:

- the management of reviews
- arrangements for support for learning
- how parents or young people can make requests for assessment
- the types of support available.

29. The authority should also publish information about its arrangements for resolving disagreements between the authority and parents of children belonging to the area of the authority, or young people belonging to the area of the authority, in respect of any of the authority's functions under the Act. This information should set these arrangements in the overall context of the arrangements which a particular authority has for preventing disagreements arising, and resolving them when they do arise. All of this information should be provided in a range of easily accessible formats.

30. The Regulations amend the Act and require that education authorities must also publish information about any NHS Board in their area or part of the area and such other recognised agencies or organisations that can provide further support, information and advice to parents and young people that it considers appropriate and where this information is already known to the education authority or is easily obtainable. This could be contact details for the speech and language therapy service, for social work services or for local and national voluntary organisations, including support and advocacy services under section 14 of the Act.

s26(2)(g)  
and (h)

#### Availability of information

31. The Regulations also state that the information should be available on request in alternative forms such as on audio tape, in Braille or through video recording so that sign language, such as British Sign Language can be used to provide information. Voluntary organisations are often in a good position to provide advice about developing, publishing and disseminating information in accessible formats.

32. Education authorities must also keep that information under review and revise and publish that revised information as necessary or appropriate.

33. The Act, as amended, requires education authorities to provide all parents of all children with additional support needs (and young persons with additional support needs), for whose school education the authority are responsible, with all the information authorities are required to publish as noted in paragraph 27 above. Where the authority are satisfied that the young person lacks capacity to understand the information then the information should be

s26(1)(d)

made available to the young person's parent. It is for each individual authority to decide how to meet this requirement but having the information set out in one handbook or available on a USB Pen Drive may be ways to meet this requirement effectively and efficiently.

s26(1)(e) 34. Authorities are under a duty to ensure that a summary of the information published under section 26 of the 2004 Act is available, readily and free of charge, from each place in the authority's area where school education is provided, regardless of whether the school is under the management of the education authority. School in this context includes nursery schools and other pre-school education providers.

s26(1)(e) 35. The Act, as amended, requires education authorities to provide this summary in any handbook or other publications provided by any school in the authority's area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and on any website maintained by any such school or the authority for that purpose.

s26(2)(i) 36. The Act, as amended, enables the Scottish Ministers to make an order specifying certain persons from which parents and young people can obtain advice, further information and support in relation to the provision for additional support needs, including support and advocacy services as referred to in section 14 of the 2004 Act and places education authorities under a duty to publish information as to those persons. In broad terms the Act allows the Scottish Ministers to name national bodies providing these services and information about these bodies would then have to be included in the information published by the authorities. The Sources of Information Order<sup>72</sup> will specify 'Children in Scotland: Working for Children and Their Families, trading as Enquire' and 'The Scottish Independent Advocacy Alliance Limited'.

### **Requests under the Act**

s28 37. The Act uses the word "request" in a number of different provisions and the term has been specifically defined. This provision allows authorities to be clear as to the reasons for the requests being made. A "request" is one which is in writing, or another form which can be used for future reference, for example, where the request has been recorded in audio or video format. The reasons for making the request must be given. Where, an education authority refuse a request under the Act, they must inform the person who made the request and provide reasons for their decision. They must also provide details of their arrangements for mediation and/or dispute resolution procedures except where the request is from the managers of an independent or grant-aided school in relation to a child or young person being provided with education there.

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<sup>72</sup> The Additional Support for Learning (Sources of Information) (Scotland) Order 2010

38. Where the request is a placing request, the education authority must inform the person who made the request of their right to either refer the decision to an appeal committee or to the Tribunal where appropriate.

39. When education authorities are replying to, or informing, parents or young people they must do so in writing which could include e-mail if the parents or young person agree or another form as the parents or young person may require which can be used for future reference. Where a parent or young person has made a “request” in a particular form such as e-mail then the education authority should reply similarly or at least in a form that meets any particular known needs or preference of the parent or young person.

### **Collection of data on additional support needs**

40. The Act, as amended, requires the Scottish Ministers to collect from education authorities, and to publish annually, specified information about additional support needs. That includes information about:

s27A

- the number of children and young people with additional support needs for whose school education the authority are responsible
- the principal factors giving rise to the additional support needs of these children and young people
- the types of support they are provided with
- the cost of providing that support.

41. Further details about the arrangements for collecting this data, and any secondary legislation required, will be made available in due course.

### **Information about additional support needs**

42. The Act, as amended, requires that for the first five years after commencement of the Act, the Scottish Ministers must report to the Scottish Parliament on what progress has been made in ensuring that sufficient information relating to children and young people with additional support needs is available to monitor the implementation of the Act.

s26A

## LINKS TO OTHER LEGISLATION, POLICIES AND GUIDANCE

The Act should be read alongside other legislation and policy supporting children and young people in Scotland. Some of the main aspects of these are set out below.

### Legislation

#### Equality issues

Equality for all underpins the Act. It allows schools, local authorities and other agencies to address additional support needs which may arise as a result of inequality and discrimination. A number of pieces of legislation outlaw discrimination on grounds of disability, sex, race, sexual orientation and religion and belief.\*

The [Human Rights Act 1998](#) incorporates many of provisions of the European Convention on Human Rights into Scots law. It supports the requirement for local authorities and other bodies not to discriminate on grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status in securing the enjoyment of any of the rights set out in the ECHR. The right to education is set out in Article 2 of the First Protocol to the Convention.

Article 14

The [Disability Discrimination Act 1995](#)<sup>73</sup>, as amended, outlaws discrimination against disabled people and requires local authorities and schools not to treat disabled pupils less favourably and to make reasonable adjustments to avoid putting them at a substantial disadvantage.

The disability equality duty, introduced through the above Act places a general duty on public bodies, including education authorities in respect of schools they manage. The [The Disability Discrimination \(Public Authorities\) \(Statutory Duties\) \(Scotland\) Regulations 2005](#) requires that education authorities and Managers of grant-aided schools promote equality of opportunity for disabled people and publish a Disability Equality Scheme every 3 years. Authorities and the managers of grant-aided schools must also make arrangements for each school under its management to: assess the impact of its policies and practices on equality for disabled pupils; gather information on the opportunities available to, and on the achievements of disabled pupils.

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<sup>73</sup> The Disability Discrimination Act 1995 will be repealed by the Equality Act 2010.

The [Education \(Disability Strategies and Pupils' Educational Records\) \(Scotland\) Act 2002](#) places a duty on education authorities, managers of grant-aided schools and the owners of independent schools to prepare a strategy to increase, over time, the physical accessibility of the school environment and the accessibility of the curriculum for pupils with disabilities and prospective pupils with disabilities. The strategy must also provide for the improvement of communication with pupils with disabilities, especially in relation to the provision of school information.

The race equality duty, introduced through the **Race Relations (Amendment) Act 2000**, places a general duty on public bodies, including education authorities in respect of schools they manage, to eliminate unlawful racial discrimination and to promote equality and good race relations. Education authorities must publish a race equality scheme setting out their race equality policy and the arrangements for schools to monitor and assess the impact of their policies on pupils, staff and parents from different racial groups, including in relation to attainment.

The gender equality duty, introduced through the [Equality Act 2006](#), places a general duty on public bodies, including education authorities in respect of schools they manage, to eliminate unlawful discrimination and harassment, and promote equality of opportunity between men and women. Education authorities must publish a gender equality scheme and make arrangements for schools to monitor and assess the impact of their policies on male and female pupils, staff and parents, including in relation to attainment.

The [Equality Act 2006](#)<sup>74</sup> also makes it unlawful to discriminate on grounds of religion or belief (including lack of religion or belief) when goods, facilities and services are being provided. These provisions extend to the delivery of education and other services by schools.

The [Equality Act 2010](#), which received Royal Assent on 8 April 2010, aims to harmonise discrimination law and to strengthen the law to support progress on equality. It consolidates and harmonises existing equality legislation. In Scotland, it will transfer jurisdiction in all cases of disability discrimination affecting school pupils from the Sheriff Court to the Additional Support Needs Tribunals for Scotland (ASNTS). The Tribunal will hear disability discrimination cases on the provision of education and associated services in all Scottish schools as well as cases relating to admissions and exclusions.

The [The Equality Act \(Sexual Orientation\) Regulations 2007 No. 1263](#)<sup>75</sup> make discrimination on the grounds of sexual orientation unlawful in a number of areas including education in schools. Schools therefore need to make sure that gay or lesbian pupils, or the children of gay or lesbian parents do not receive different and less favourable treatment from that given to other pupils.

s23

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<sup>74</sup> The Equality Act 2006 will be amended by the Equality Act 2010.

<sup>75</sup> The Equality Act 2006 (Sexual Orientation) Regulations 2007 are to be repealed by the Equality Act 2010.



The [Children \(Scotland\) Act 1995](#) establishes the responsibilities of service providers and parents in matters affecting children's care and welfare. Local authorities must provide services designed to minimise the impact of disabilities on children and to allow them to lead lives which are fulfilling. Children's views must be sought and taken account of in key decisions that affect them.

### School education

Under the [Education \(Scotland\) Act 1980](#) education authorities must provide adequate and efficient school education for children of school age within their area. The [Standards in Scotland's Schools etc. Act 2000](#) places education authorities under a duty to secure that the education provided is directed towards the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.

Education authorities should provide education to school age pupils in a mainstream setting unless certain exceptions apply. Education authorities must make special arrangements for pupils who are unable, or where it would be unreasonable to expect them, to attend school through prolonged ill-health.

s14(1)(b)  
and s40  
2000 Act

Education legislation gives certain rights to parents and young people rather than to **children** in their own right. However, the 2000 Act recognises that children should have the right to express views on issues that affect them. Chapter 6 of the code describes where children's views should be taken into account under the new Act.

s2(2) 2000  
Act

The Act also sits alongside legislation which recognises that children with legal capacity are able to make some decisions on their own behalf. For example, a child over 12 may consent to any medical procedure or treatment and instruct a solicitor in relation to civil matters so long as he or she is considered capable of understanding the nature and possible consequences.

s2 [Age of Legal Capacity \(Scotland\) Act 1991](#)

**Young people** (young persons in legislation) have similar rights to parents regarding school education. They may also express their views on, and take decisions about, their school education.

The law provides for decisions to be made on behalf of adults who lack legal capacity to do so themselves because of mental disorder or inability to communicate. Adults are defined as being over 16 years of age. The decisions concerned may be about the adult's property or financial affairs, or about their personal welfare, including medical treatment. Professionals carrying out functions under the Additional Support for Learning Act should have due regard to the provisions of the Adults with Incapacity Act.

[Adults with Incapacity \(Scotland\) Act 2000](#)

The [Schools \(Health Promotion and Nutrition\) \(Scotland\) Act 2007](#) places education authorities under a duty to ensure that all schools are health promoting. A school is health promoting if it provides activities and an environment and facilities which promote the physical, social, mental and emotional health and wellbeing of pupils. Guidance on the provisions of the Act is available at <http://www.scotland.gov.uk/Publications/2008/05/08160456/0>.

s15 Schools (Health Promotion and Nutrition) (Scotland) Act 2007

Nutritional guidelines to support schools in meeting nutritional requirements are available from <http://www.scotland.gov.uk/Publications/2008/09/12090355/0>.

s30 1980

**Parents**, under the 1980 Act, must ensure that their children of school age receive adequate education suitable for the age ability and aptitude of their child, either by sending their child to a school managed by the education authority, or by other means, for example an independent school or home education.

[Children  
\(Scotland\)  
Act 1995](#)

s1

Parents must, where it is the interests of the child and is practicable, safeguard and promote their child's health, development and welfare. This also applies to anyone over 16 who has care or control of a child under the age of 16. In addition, parents can provide their children who are under 18 years of age, with appropriate direction and guidance. They should maintain personal relations and direct contact with their son or daughter on a regular basis, if they do not live with their child. Parents can also act as their child's legal representative. Where a person takes a major decision in fulfilling a parental responsibility or right under the 1995 Act they must have regard to the views of the child, taking account of the child's age and maturity and whether the child wishes to express a view.

The [Scottish Schools \(Parental Involvement\) Act 2006](#) places a duty on Scottish Ministers to promote parents' involvement in their child's education. Because parents have such a vital role to play in their children's education, the Act aims to make it easier for parents to become involved in their own child's education and in their child's school more generally. To help achieve these aims, all parents will automatically be members of the parent's forum at their child's school and will be entitled to have a say in what happens at the school. This Act made changes to the arrangements for parental representation in all schools. Since August 2007 Parent Councils have been the representative body for parents. The Act also places a duty on education authorities to promote the involvement of parents in school education. This includes authorities giving advice and information to parents about their own child in response to reasonable requests.

### Other legislation

The [National Health Service Reform \(Scotland\) Act 2004](#) required NHS Boards to submit schemes of establishment for Community Health Partnerships to Scottish Ministers for approval by December 2004. Schemes had to comply with The Community Health Partnerships (Scotland) Regulations 2004<sup>(76)</sup> and the Statutory Guidance issued in October 2004.

The [Protection of Children \(Scotland\) Act 2003](#) introduced safeguards to prevent unsuitable people from working with children. The Act covers a range of childcare positions defined in the 2003 Act (as amended), not just those

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<sup>76</sup> S.S.I. 2004/386

involved in directly caring for, training, supervising or being in sole charge of children. It includes those whose normal duties include work in a school; a further education institution; a hostel used mainly by pupils attending a school or further education institution; or in hospitals which are mainly for children.

Professionals carrying out functions under the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) should have due regard to the provisions within education legislation, as there may be instances where there is some cross over between them.

The [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) introduced and built upon a number of measures designed to tackle antisocial behaviour. It defined what antisocial behaviour is for the purposes of that Act; made provisions with regard to ASBOs; provided powers to take action on premises where there is significant and persistent disorder or serious nuisance to the local community; and also introduced, amongst other things, on the spot fines for a range of low level antisocial behaviour, and powers to seize vehicles being driven antisocially.

The [Further and Higher Education \(Scotland\) Act 1992](#) requires that adequate and efficient provision of further and higher education is made in Scotland. Due regard should be given to the requirements of those over school age who have a learning difficulty or disability which may affect their education. In preparing young people for leaving school, teachers should be aware of legislation covering further and higher education. Under the [Further and Higher Education \(Scotland\) Act 2005](#), the educational and related needs of students and prospective students of further education colleges and higher education institutions must be regarded.

The **United Nations Convention on the Rights of the Child** (UNCRC) applies to everyone under 18. It recognises that all children and young people have rights. There are 42 articles that describe specific rights, 4 of which are described as the underpinning principles: non-discrimination (article 2); commitment to the best interests of the child (article 3); the right to life, survival and development (article 6); and respect for the views of the child (article 12). The UNCRC is reflected in legislation relating to children and young people e.g. the Children (Scotland) Act 1995 and the Scottish Government has made clear its ongoing commitment to the UNCRC and to promoting and supporting the rights of all children in Scotland as a key strand of our activity to improve outcomes for all. On 1 September 2009 the Scottish Government published its response to the 2008 recommendations from UN Committee on the Rights of the Child. This publication, 'Do the Right Thing', set out specific actions the Scottish Government will take in 21 priority areas relating to children's rights.

The [Adoption and Children \(Scotland\) Act 2007](#) provides the legislative framework for adoption and permanence for children in Scotland who can no longer live with their natural parents. The Act restates the duty of a Local

Authority to provide an adoption service for placing children with adopters and assessing adopters and widens the range of people who are able to adopt. The Act introduces a court order for accommodating children who cannot live with their natural parents (a "permanence order") and also improves access to a broader range of support services for people affected by adoption, including members of adoptive and original families.

## **Policy**

The Scottish Government has a wide range of policies which supports the development and well-being of Scotland's children and young people. The broad definition of additional support needs means that application of the Act's provisions requires effective interaction across policies in a number of areas. The following paragraphs describe some of these policy areas.

### Overview

The Act complements Scottish Ministers' high expectations and aspirations for all of Scotland's children and young people. These expectations and aspirations apply across agency, service and professional boundaries. Ministers' aspiration for all children and young people in Scotland is that they should be successful learners, confident individuals, responsible citizens and effective contributors to society and at work. Ministers believe that children and young people should be:

**Healthy** ... experiencing the highest standards of physical and mental health, and supported to make healthy safe choices

**Achieving** ... receiving support and guidance in their learning - boosting their skills, confidence and self-esteem

**Nurtured** ... having a nurturing and stimulating place to live and grow

**Active** ... offered opportunities to take part in a wide range of activities - helping them to build a fulfilling and happy future

**Respected** ... to be given a voice and involved in the decisions that affect their well-being

**Responsible** ... taking an active role within their schools and communities

**Included** ... receiving help and guidance to overcome social, educational, physical and economic inequalities; accepted as full members of the communities in which they live and learn

**And above all, to be safe** ... protected from abuse, neglect or harm.

## Getting it right for every child

The *Getting it right for every child* programme builds from universal health and education services to achieve these outcomes for children. It drives developments to change the way adults think and act to help all children and young people grow, develop and reach their full potential. It requires a positive shift in culture, systems and practice across services for children, young people and adults. It is a fundamental way of working that builds on research and practice evidence to help practitioners focus on what makes a positive difference for children and young people and act to deliver these improvements. *Getting it right for every child* threads through existing policy, practice, strategy and legislation affecting children, young people and families. The *Getting it right for every child* approach with its emphasis on meeting the needs of the child is entirely congruent with the additional support needs agenda.

The *Getting it right for every child* approach is particularly helpful when professionals from more than one agency need to work together to provide effective support. That multi-agency practice in the field needs to be matched by effective strategic planning mechanisms. The Single Outcome Agreements agreed between Community Planning Partnerships, consisting of local authorities and their partner agencies, and the Scottish Government under the Concordat with local government form an effective mechanism for doing so at the strategic level and will be underpinned by more detailed joint operational plans such as the integrated Children's Services Plans provided for in the Children (Scotland) Act 1995.

## Education

The [Standards in Scotland's Schools etc Act 2000](#) requires that Scottish Ministers should set national priorities in education. Five **National Priorities in Education** underpin the Scottish Government's education policies. These are:

**Achievement and Attainment:** To raise standards of educational attainment for all in schools, especially in the core skills of literacy and numeracy, and to achieve better levels in national measures of achievement including examination results.

**Framework for Learning:** To support and develop the skills of teachers, the self discipline of pupils and to enhance school environments so that they are conducive to teaching and learning

**Inclusion and Equality:** To promote equality and help every pupil benefit from education, with particular regard paid to pupils with disabilities and special educational needs, and to Gaelic and other lesser used languages.

**Values and Citizenship:** To work with parents to teach pupils respect for self and one another and their interdependence with other members of their neighbourhood and society, and to teach them the duties and responsibilities of citizenship in a democratic society

**Learning for Life:** To equip pupils with the foundation skills, attitudes and expectations necessary to prosper in a changing society, and to encourage creativity and ambition.

All five priorities are relevant to ensuring that children and young people with additional support needs receive the help they require. The priorities are delivered in a range of educational settings, but the overarching context is one of schools developing their capacity to provide for the full range of children and young people within education.

The government's reform programme of education, *Curriculum for Excellence* encompasses the five national priorities for education in that it provides a better quality of teaching and learning, increased attainment and achievement for all children and young people in Scotland with a focus on literacy and numeracy and health and wellbeing throughout. This curriculum framework will enable all young people in Scotland to gain the knowledge and skills for learning, skills for life and skills for work which will help them become successful learners, confident individuals, responsible citizens and effective contributors. *Curriculum for Excellence* is intended to be for all learners. It should lead to improved quality of learning and teaching and increased attainment and achievement for all children and young people including those in need of more choices and more chances.

The Scottish Government places a high priority on getting it right in the early years. The *Early Years Framework* was published in December 2008, with a focus on maximising the opportunities for all our children to get the best start in life, no matter what their background or circumstances. The Framework is built on the principles of early intervention – a shift from intervening only when a crisis happens to prevention and early intervention. The *Framework* sets out a list of priorities for action that need to be taken forward in partnership over the next 10 years, some short term, some medium term and some long term. The *Framework* was developed through partnership and can only be effectively delivered through partnership. Scottish Government and COSLA will continue to work together with other partners to implement and deliver the framework.

The Scottish Government believes that good relationships and positive behaviour across whole school communities are fundamental to the successful delivery of *Curriculum for Excellence*. The government is committed to supporting schools create and maintain peaceful and positive learning environments, working with local authorities to introduce the most effective approaches to promoting positive behaviour. There is a wide range of approaches from universal whole school approaches to more targeted or additional approaches through school and multiagency assessment, planning and provision for children and young people with behavioural needs. Provision includes that beyond the classroom to address needs and keep children and young people included, engaged, and involved in their education.

The Scottish Government also has a wide range of policies across health, social work and other agencies which support children and young people who have additional support needs.

*Curriculum for Excellence* aims to achieve transformational change within the Scottish education system by providing a coherent more flexible and enriched curriculum which will provide more choices and more chances for those young people who need them. The design of *Curriculum for Excellence* enables schools and their partners to build a flexible system that offers personalisation and choice to meet the needs of all children and young people, **wherever** their learning is taking place. It also provides clear and supported pathways for young people to make successful transitions and to continue learning beyond compulsory schooling.

The new qualifications framework will facilitate a smooth progression for learners at different rates and in different ways. The recognition of wider achievements in addition to formal qualifications will also allow learners at all levels to gain recognition for a much wider variety of skills and abilities.

A robust system of assessment that reflects the values, purposes and principles of *Curriculum for Excellence* is needed to provide good quality information about learning and teaching. Later this year, we will publish a statement setting out the key elements of the proposals to support assessment in *Curriculum for Excellence*. In addition to this, we will provide more detailed guidance through the publication of a *Framework for Assessment*, which will outline our plans in greater detail and give detailed advice for educational planners, managers and practitioners.

Developments in assessment will also be supported by the new National Assessment Resource, an online system to support assessment for ages 3 through to 18. The first stage of the development of this resource is expected to be completed in the summer of 2010.

Updates on Assessment will be made available through the Curriculum for Excellence website at:

<http://www.ltscotland.org.uk/curriculumforexcellence/index.asp>

## **Health**

There are 40 **Community Health Partnerships** across Scotland. These partnerships lead the planning and delivery of person-centred and integrated community based services. They are a focus for providing better primary and specialist health services for adults and children locally and joint services with Local Authorities. They also have a significant role in improving health and reducing health inequalities set within the context of community planning.

The Scottish Government published the *Better Health. Better Care: Action Plan* in 2007. Community Health Partnerships are at the heart of this agenda, shifting the balance of care by improving access, managing demand, reducing unnecessary referrals and providing better community care services.

The Scottish Executive 2003 review of speech and language therapy, physiotherapy and occupational therapy services for children called on service providers to develop new methods of working in non-traditional and inclusive settings, such as mainstream schools and nurseries and other community



settings. Other recommendations called on local authorities and NHS Scotland to develop integrated approaches to the provision of therapy and other related interventions for children.

The Scottish Government **Allied Health Professions and Education Working in Partnership National Guidelines**, which are scheduled to be published in June 2010, will further promote and support partnership working primarily between speech and language therapy, occupational therapy and physiotherapy these being the professions most closely involved in supporting children and young people within school, and education staff at all levels. The guidelines, based on extensive engagement with stakeholders, document evidence-based good practice and include exemplars, tools, continuous professional development resources and the service user's perspective. The guidance intends to improve understanding about the role and working practices of AHPs and how AHPs contribute to supporting education of children and young people, including those with additional support needs. For up-to-date information see:

<http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

**Health for All Children (Hall 4)** guidance was issued to NHS Boards in 2005 following the review of child health screening, surveillance and health promotion activity by the Royal College of Paediatrics and Child Health. The guidance sets out the core programme of screening, surveillance and health promotion contacts which every child should receive and recommends tiered levels of support according to assessed need.

The Scottish Government's *Framework for Nursing in Schools* sets out the direction for school nursing in Scotland. The framework sets out in clear terms the nursing service that should be delivered to children and young people in Scottish schools. The concept of the Health Promoting School underpins the entire framework. There is a change in focus, away from surveillance and towards proactive assessment of the health needs of each school. While there are specific sections in the framework on health promotion, highlighting key priority areas, the starting point is that the school nursing service focuses primarily on promoting health and well being as part of an integrated cross school approach, with a focus on the needs of the child as an individual is central to the new approach.

The Scottish Government has also commenced a two year project to increase healthcare capacity in schools starting in communities that have the highest number of vulnerable children & young people. The delivery of care will be developed in an integrated way using a partnership approach between partners involved. The model will harness existing skills whilst at the same time develop new roles. This new model will not be more of the same but it is an opportunity to redesign services that will provide effective healthcare to children young people and their families particularly at key transition stages. The project will run until March 2011 and will be independently evaluated.

*The Mental Health of Children and Young People: A Framework for Promotion, Prevention and Care* sets out a range of activities and approaches to support



children and young people's mental health and wellbeing. The framework was developed to support integrated approaches to children and young people's mental health, across mental health promotion, prevention of mental illness, and care and treatment for those with mental health problems. It highlights mental health promotion and stresses the importance of considering the child's global environment, recognising elements which support mental health and wellbeing as well as those factors which may increase the risk of mental health problems, including the potential impact of a parent's ill health on their child.

The framework promotes a "mainstream" approach to mental health and wellbeing, which equips a range of health and other children's services professionals with the basic skills to be able to support parents in developing a basic understanding of risk and protective factors that may affect their child's mental health and wellbeing. To support this, NHS Education for Scotland has published a mental health competency framework for all those involved in supporting children, young people and their families. This framework is about to be revised by NES in conjunction with the Scottish Government Mental Health and Workforce Divisions and Skills for Health. Education policy and practice already has a strong focus on promoting and supporting emotional wellbeing, and the **Health Promoting Schools** concept broadens this focus beyond the curriculum to a "whole school approach".

*Towards a Mentally Flourishing Scotland*, the recently published policy and action plan for mental health improvement, also includes a focus on the mental health of infants, children and young people.

The mental health and wellbeing of children is part of all aspects of health care and is also an underpinning part of *The Early Years Framework, Getting It Right for Every Child, The Curriculum for Excellence and Health for all Children (HALL 4)*.

## **Children and families**

The Scottish Government continues to work closely with the 30 **Child Protection Committees** set up throughout the country to improve the protections offered to children and young people in our communities. These Child Protection Committees (CPCs) developed into their current structure following the child protection reform programme completed in 2006, are responsible for the delivery of effective child protection measures in their area.

Work continues to be undertaken by the Scottish Government and its partners to introduce a common overall approach to the most significant operational aspects of protecting children from harm and to embed best practice from the child protection practitioner community into day to day practice across the country. Progress is also being made in the implementation of the "Getting it Right for Every Child" agenda for children's services, as it applies to children who are at risk of significant harm.

Following careful consideration of responses to the consultation *Strengthening for the Future* on the reform of the Children's Hearings system which finished in

October 2008, the Scottish Government are bringing forward proposals to reinforce and modernise the Children's Hearings system. The Draft Children's Hearings (Scotland) Bill was published on 26 June 2009. The key proposals contained in the Draft Bill are:-

- The creation of a new national body, Children's Hearings Scotland, to drive up standards across Scotland.
- Changes in functions and practice to improve support for both professionals and panel members, leading in turn to improving better outcomes for children and young people.
- Legal and procedural changes to increase efficiency and ensure that children's rights continue to be properly upheld.

Under these proposals, the Children's Hearings Scotland will be responsible for all functions associated with the Children's Panel, including recruitment, selection and training of panel members. The Scottish Children's Reporter Administration will deliver the Children's Reporters service. People will continue to be recruited, selected, trained and sit on hearings on a local basis.

The Scottish Government's aim is that there should be no difference between the outcomes for children and young people who have been Looked After and their peers who have not, particularly in relation to educational achievement. Historically, this has been far from the case. *Looked After Children and Young People: We Can and Must Do Better* (Scottish Executive 2007) sets out a framework for action, most of which was completed during 2008. The web site:

<http://www.ltscotland.org.uk/lookedafterchildren/index.asp> contains all the relevant publications as well as providing opportunities for practitioners and others to participate in online discussions. The key publications are:

- *These Are Our Bairns – guidance for community planning partnerships on how to be a good corporate parent* which sets out the responsibilities of all members of the extended corporate family and how they can measure their success.
- *The We Can and Must Do Better Training Materials* – a comprehensive revision of the *Learning With Care* materials comprising an award-winning interactive DVD rom.
- The national evaluation of educational outcomes of Looked After children pilots, with an accompanying practical guide for practitioners.
- Core Tasks for Designated Managers in Educational and Residential Establishments which up-dates the previous *Learning With Care* provisions.
- The Resource Pack for Care Leavers – a DVD for local authorities to customise to provide accessible advice to young people leaving care.

HMIE has published a self evaluation toolkit – *How Good is Our Corporate Parenting* – which will support councils and other providers in assessing the services they provide to Looked After children and young people and care leavers.

The 2009 revisions to the Additional Support for Learning Act include a requirement for all Looked After children and young people to be considered to have additional support needs and to require a co-ordinated support plan unless the education authority for the area to which they belong determine that they do not..

In addition, the Looked After Children Regulations are currently being up-dated, and Getting It Right For Every Child in Kinship and Foster Care, the Securing Our Future Initiative and the National Residential Child Care Initiative are focused on the needs of particular groups of children and young people within the care system.

The Youth Justice framework, *Preventing Offending by Young People - A Framework For Action* was launched in June 2008. The framework is jointly owned by Scottish Government, the Convention of Scottish Local Authorities, the Association of Chief Police Officers Scotland, the Scottish Children's Reporter Administration and the Crown Office and Procurator Fiscal Service, as key delivery agencies. The Framework is broad in its scope, spanning prevention, diversion, intervention and risk management with reference to the individual, the family and the wider community. The Framework reaches from pre-birth and early years through to the transition to adult service.

The new antisocial behaviour framework *Promoting Positive Outcomes: Working Together to Prevent Antisocial Behaviour in Scotland* was published in March 2009. This Framework provides the strategic direction nationally and locally for tackling antisocial behaviour and provides a platform for future work. It aims to promote positive outcomes through more prevention, better partnership working, enhanced community engagement and improved communication. The review aims to build upon past successes and will seek to improve the 2004 Act rather than repeal it. An implementation plan for the framework will be published later this year.

Tackling parental substance misuse and its effects on children is a key priority for the Scottish Government. Chapter 5 of the National Drugs Strategy - *The Road to Recovery: A New Approach to Tackling Scotland's Drug Problem* - includes a range of measures aimed at protecting children affected by parental substance misuse (CAPSM).

The CAPSM actions centre on prevention & early intervention, with a strong focus on strengthening support for families & management of immediate risk which is consistent with the wider Getting it right for every child (GIRFEC) approach. GIRFEC sets out the principles and values for professionals dealing with children & includes the child's safety - putting the child at the centre - and working in partnership with families.

A CAPSM Project Board has been established to support the delivery of the CAPSM priority actions which were identified in Chapter 5 of the Road to Recovery. It includes representation from the Scottish Government, Local Authorities & the voluntary sector.

**More Choices, More Chances** aims to better prepare vulnerable young people for adult life and work. Providing the right support, choices and chances to young people is central to its overall purpose. MCMC is located in a strategic framework that comprises Getting it Right for Every Child, Curriculum for Excellence (16+ Learning Choices is the new model for supporting the planning and delivery of the Senior Phase of Curriculum for Excellence) and Skills for Scotland and which underpins Government's commitment to improve outcomes for all young people – with more choices and chances for those who need them. The strategy has five key approaches to resolving this:

- by ensuring that Curriculum for Excellence provides opportunities to young people under 16 that are tailored to individual need, with flexibility and appropriate support for every young person – intervening as early as possible to ensure that;
- by ensuring that every young person has a clear 16+ Learning Choices pathway from school into learning post-16, with supported transitions and sustained opportunities;
- by ensuring that learning is a financially viable option, by considering the financial support available to young people;
- by ensuring that the right support is available to young people to find out about, engage with and sustain learning and employment;
- by making a joint commitment to action between central and local government, employers, learning providers and support agencies to develop the service infrastructure required to meet the needs of vulnerable young people;

### **Post school education services**

Following the report of the Beattie Committee *Implementing Inclusiveness: Realising Potential* (1999) the then Executive endorsed the principle that Inclusiveness should underpin all post-school education. Inclusiveness is about providing learning opportunities that give the best match to the needs of the individual. The Scottish Government's approach to participation in lifelong learning is focussed not only encouraging all colleges and universities in Scotland to continue to develop inclusive, learner centred policies but also to remove barriers which prevent students from participating in lifelong learning. That is why the Scottish Government is moving from a widening access agenda to the widening of the mainstream.

To assist with this process the Scottish Government has recently updated *Partnership Matters*:

<http://www.scotland.gov.uk/Topics/Education/UniversitiesColleges/17135/PartnershipMatters>

This provides guidance to local authorities, NHS Boards and voluntary organisations on supporting students with additional needs in further and higher education. The guidance sets out the roles and responsibilities of all the agencies involved and encourages a partnership approach to cross-agency working. It recognises that young people may experience barriers in accessing

and participating in learning and that colleges, universities and schools may be required to work together to plan for and prepare the young person for transition from school to post school education

As part of the commitment to providing learning opportunities that give the best match to the needs of the individual the Scottish Government is working alongside the Scottish Funding Council to improve further education in Scotland for students with complex needs.

*The same as you?* review of services for people with learning disabilities called for an inclusive approach to services for children, young people and adults with learning disabilities and autism spectrum disorders. It highlighted how the transition phase between child and adult services is crucial and the need for partnership between local authorities and NHS Boards in planning services. Recommendations from a follow up report *Working for a change?* have led to a national focus on employment for people with learning disabilities within the Workforce Plus agenda. *The same as you?* implementation group have also produced a report, *Changing Childhoods*, outlining appropriate service models for children and young people with learning disabilities.

### **HM Inspectorate of Education (HMIE)**

HMIE has responsibilities to evaluate the quality of pre-school education, all schools, teacher education, community learning and development, further education and local authorities. HMIE also publish reports of interest to the public and professionals about services for children and evaluate child protection services. Included in their publications are reports on additional support needs including a report on the evaluation of the implementation of the Additional Support for Learning Act published in 2007. All reports are available from: [www.hmie.gov.uk/](http://www.hmie.gov.uk/).

### **The Scottish Commission for the Regulation of Care**

The Care Commission regulates the quality of care services in Scotland and this includes services for children and young people. A range of publications, including National Care Standards for services for children and young people and self assessment tools available for care services regulated by the Care Commission, is available from their website: [www.carecommission.com/](http://www.carecommission.com/) .

In particular, the Care Commission regulates the following range of services which includes, where appropriate, services for children and young people with additional support needs:

- adoption agencies
- care homes for children and young people
- childcare agencies
- early education and childcare up to the age of 16
- foster care and family placement services
- school care accommodation services.

## CO-ORDINATED SUPPORT PLAN TEMPLATE

1. The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005<sup>77</sup> (Scottish Statutory Instrument 2005 No. 518) set out as below what the co-ordinated support plan must contain and they set out in the Schedule a template or form for the co-ordinated support plan.

### The plan

3. —(1) Every plan must—

(a) be in the form set out in the Schedule to these Regulations or a form substantially to the same effect;

(b) contain information on—

(i) the name, address, contact telephone number, date of birth, gender, preferred language or form of communication, school currently attended and date of entry to that school of the child or young person to whom the plan relates;

(ii) the name, address, contact telephone number and relationship to the child or young person to whom the plan relates of each parent and that parent's preferred language or form of communication;

(iii) a profile of the skills and capabilities of, and any other relevant information relating to the child or young person;

(iv) any views on the plan expressed by the child or young person and by a parent of the child or, where applicable, the young person;

(v) the review timetable for the plan in accordance with the provisions of section 10 of the Act; and

(c) be dated and signed by a duly authorised officer of the education authority.

(2) Every plan continued following review under section 10 of the Act must contain such amendments of the information specified in paragraph (1)(b) as the authority consider necessary or appropriate in consequence of the review of the plan and retain such other information from the then current plan as the authority consider relevant to the future provision of additional support for the child or young person.

2. Regulation 3(1)(a) allows education authorities a measure of flexibility over the appearance of the co-ordinated support plan when it states “..or a form substantially to the same effect.”. In other words, provided the contents of the

<sup>77</sup> <http://www.opsi.gov.uk/legislation/scotland/ssi2005/20050518.htm>

plan contain the information required under Regulation 3 education authorities are free to alter, for example, the text font used in terms of type of font, weight of font (**bold** or normal) or whether block or lower case letters are used (although extensive use of block capitals is not recommended). They are free too to alter the size of the boxes used to contain information and are free to alter the orientation of the document between landscape or portrait. **What is important is that the plan is presented in a way that makes it easy for those using it to access the information it contains.**

3. The template which follows switches orientation between portrait and landscape in order to accommodate the comments made within each section.

## Co-ordinated support plan template

Here insert the Unique Pupil Identifier (UPI) for the child or young person

### Schedule

Official use:

Date of first co-ordinated support

### Confidential

Set out name of authority

### Co-ordinated support plan

for [insert forename(s) and family name of child/young person]

The address where the child resides the majority of the time and where a parent or recognised carer for the child also lives

Home Address:

Contact Telephone Number:

Date of Birth:

Gender:

Preferred language/communication method

the child's language of preference/method of communication used to make himself/herself understood i.e. signing, lip-speaking, by using communication aids or symbols, audio equipment, Braille

School currently attended:

Date of Entry to Current School:



**Parental Details:**

Details of the child's parent(s) and/or those adults who have or share responsibility for their care, such as foster carers, a relative or social work services should be recorded here. The template only contains 2 boxes but additional boxes can be added as required

Surname:

Forename(s):

Relationship to child/young person:

Contact Telephone Number:

Preferred language/communication method: [as above]

Surname:

Forename(s):

Relationship to child/young person:

Address (if different from child's/young person's)

**Profile**

(here set out a summary of the child's/young person's skills and capabilities and any other relevant information)

The purpose of the profile is to build up a holistic pen-picture of the child or young person. It should focus on the positive aspects of the child's/young person's life, for example his/her skills and capabilities. It may also include information about the type of placement or curricular guidelines he/she follows, the other plans he/she has as well as the activities he/she likes to do or how he/she likes to learn. The person responsible for drawing up the co-ordinated support plan will have to summarise information provided by the child or young person, their parents and the other people who know/work with the child or young person. The result should be a summary that encapsulates the child or young person.

**Factors giving rise to additional support needs**

(here set out the factors which give rise to the child's/young person's additional support needs)

The complex or multiple factor or factors may be diagnostic labels such as autistic spectrum disorders, learning disability or clinical depression. In other cases the factor or factors may be more descriptive and related directly to the personal circumstances of the child or young person or family. All factors should be included. (The four broad themes described in chapter 2 are factors relating to the learning environment, family circumstances, disability or health need, or social and emotional factors.)

<p><b>Educational Objectives</b></p> <p>(here set out the educational objectives that require co-ordination of support for the child/young person, taking account of the</p>	<p><b>Additional Support Required</b></p> <p>(here set out the additional support required by the child/young person to achieve each of the educational objectives)</p>	<p><b>Persons providing the additional support</b></p> <p>(here specify the persons/professions by whom the additional support shall be provided)</p>
<p>Educational objectives should be viewed in the widest sense as encompassing a holistic view of the child or young person. Objectives can include, for example, those required for personal and social development or to improve communication skills (see chapter 5 of the Code for more details).</p> <p>The objectives should be specific and should be set for a year approximately but this could be longer depending on the individual circumstances of the</p>	<p>This will include teaching and other staffing arrangements, appropriate facilities and resources, including information and communications technology, and any particular approaches to learning and teaching to be used.</p> <p>The statement of the support to be provided should be clear and specific</p>	<p>These will be the agencies or professions providing the support i.e. 'speech and language therapist', 'social worker', 'but <u>not</u> the actual names of the individuals.</p>

**Nominated school**

this should be the name and address of the school it is intended that the child or young person will attend

Name of School:

Address:

**Parental comments**

(here set out the views of the parent on the Plan)

The views, if any, of the parent(s) on any aspects of the co-ordinated support plan process as well as the plan itself should be recorded here. Parents should, wherever possible, complete these themselves or they could provide the education authority with written or verbal comments to be inserted. Alternative forms of communication can be used, such as a CD-ROM or the use of signs or symbols. Parents should consider areas such as their involvement in the process, including the drafting of the plan, and whether their views have been adequately taken into account.

**Child's/young person's comments**

(here set out the views of the child or young person on the Plan)

The views, if any, of the child or young person on any aspects of the co-ordinated support plan process as well as the plan itself should be recorded here. Children and young people should be enabled to complete these themselves or they could provide the education authority with written or verbal comments to be inserted. Alternative forms of communication can be used, such as a CD-ROM or the use of signs or symbols. Children and young people should be encouraged to consider areas such as their involvement in the process, including the drafting of the plan, and whether their views have been adequately taken into account.

**Co-ordinated support plan review timetable**

Date Co-ordinated Support Plan made/amended:

(delete as applicable)

Date by which review must begin:

(on the expiry of 12 months from the date the Plan was made/amended)

Date by which review must be completed:

(within 12 weeks of the date on which the review began)

**Education authority contact points**

**Additional Support Provision Co-ordinator**

This person is responsible, on behalf of the education authority, for co-ordinating the additional support required by the child/young person as detailed in this co-ordinated support plan.

Surname:

Forename(s):

Contact Address:

Contact Telephone Number:

Work Position/Title:

**Parental Advice and Information Officer on the Co-ordinated Support Plan**

The parent of a child with a Co-ordinated Support Plan or a young person with a co-ordinated support plan may obtain advice and further information from the following person:

Surname:

Forename(s):

Contact Address:

Contact Telephone Number:

Work Position/Title

In accordance with section 11 of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the Act”) and the Education (Co-ordinated Support Plan) (Scotland) Regulations 2005 (“the Regulations”), this Co-ordinated Support Plan is made/amended (delete as applicable) by [insert name of education authority] on [insert date] in respect of [insert name of child or young person].

Name:

Work Position/Title:

Signed (authorised officer of the authority)

## **Making decisions about whether or not the additional support required is significant**

1. Chapter 5 of the code of practice describes in detail the circumstances under which co-ordinated support plans have to be prepared. In particular, section 2 of the Act sets out the following requirements to be met for a co-ordinated support plan to be prepared. In practice, there can be particular difficulties in deciding when *significant additional support* (see (d) below) requires to be provided. Chapter 5 discusses the issue of significance in detail. The purpose of the case studies below is to consider in practical terms how the issue of significance may be considered. For the purposes of Annex C it is assumed that all the case studies fulfil the requirements (a), (b) and (c) below. What then is being considered is whether (d) holds in which case a co-ordinated support plan is required. If (d) does not hold then a co-ordinated support plan is not required.

*.....a child or young person requires a plan (referred to in this Act as a “co-ordinated support plan”) for the provision of additional support if-*

*(a) an education authority are responsible for the school education of the child or young person,*

*(b) the child or young person has additional support needs arising from-*

*(i) one or more complex factors, or*

*(ii) multiple factors,*

*(c) those needs are likely to continue for more than a year, and*

*(d) those needs require significant additional support to be provided-*

*(i) by the education authority in the exercise of any of their other functions as well as in the exercise of their functions relating to education, or*

*(ii) by one or more appropriate agencies (within the meaning of section 23(2)) as well as by the education authority themselves.*

In considering the examples below it should be noted that:

- the education authority decide on whether support from the appropriate agency or agencies is significant, not the appropriate agency or agencies, although clearly those involved will discuss this



- significance itself relates to the dimensions of the support provided not to the effect of that support on the child or young person
- the support from the appropriate agency or agencies is required to help the child benefit from school education and achieve his or her educational objectives and the question to be answered in these examples is whether or not that support is significant and, therefore, triggers the preparation of a co-ordinated support plan.
- In the grids below the term **agency(ies)** is used to mean (a) **appropriate agencies** as defined in the Act (appropriate agencies can be any other local authority, any NHS Board, Skills Development Scotland, further education colleges and higher education institutions in Scotland, and the Scottish Agricultural College **and** (b) those parts of an education authority which carry out functions relating to the provision of additional support but which are not functions relating to the provision of school education (eg housing, social work services,...)

**Extracts from chapter 5 – paragraphs 18 and 19**

18. The Act does not define what “significant additional support” means but the issue has been considered in the Tribunal and courts. In particular, the opinion delivered by Lord Nimmo Smith in the Inner House of the Court of Session in the case of *JT* is particularly relevant and is binding here<sup>78</sup>. The use of the term “significant” signals that the scale of the support provided, whether it is in terms of approaches to learning and teaching (e.g. adaptation or elaboration of the curriculum) or personnel (eg provision of learning support assistant) or resources (eg specialist aid to communication or a special hoist), or a combination of these, stands out from the continuum of possible additional support. **Significant additional support may be provided to a child or young person with additional support needs on an individual basis, in a group setting with others or through personnel working under the direction and guidance of those from the appropriate agency.** The issue of significance thus refers to the extent of the provision. Judgments about significance have to be made taking account of the frequency, nature, intensity and duration of the support and the extent to which that support needs to be co-ordinated and is necessary for the achievement of the educational objectives which will be included in the plan. In particular, the support must be of sufficient duration to make it worthwhile preparing a co-ordinated support plan in order to ensure that it is co-ordinated properly.

19. Where a child has several professionals involved from the one appropriate agency, such as from an NHS Board, then the **cumulative effect of these professionals’ involvement may amount to significant additional support from that agency even although the input from each professional individually is not significant.** For example, a child may receive speech and language therapy and physiotherapy on a regular basis. Taken separately the additional support from each individual professional may not be significant but **taken together** their contribution may represent significant additional support from the NHS Board as an appropriate agency. A similar argument could apply to additional support provided by the education authority exercising its functions other than education. For example social work and occupational therapy from the local authority social work services may amount to significant additional support when considered together but not when considered separately. In considering the significance of the additional support then it is important to consider cumulatively what an appropriate agency is providing.

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<sup>78</sup> Lord Nimmo Smith, Inner House, Court of Session, June 2007 - <http://www.scotcourts.gov.uk/opinions/2007CSIH52.html>

### Case study 1: A P3 pupil

John, in P3, finds it very hard to settle to work and to concentrate in class. His relationships with other pupils are poor, his self esteem is very low and he reacts regularly to frustrations by kicking or hitting out. He is very demanding of his primary teacher's attention. John is on the child protection register and his educational psychologist is concerned about John's attachment difficulties. John attends a day psychiatric facility attached to the local children's hospital for 3 days each week, returning to his primary school for the remaining 2 days. In the hospital he attends classes with a small group of other pupils in the morning and carries out a range of therapeutically-based activities with health personnel in the afternoons. He has been in the facility for 1 month.

Agency/ies involved in addition to education	Frequency	Nature	Intensity	Duration	Test	Is a co-ordinated support plan required?
	[How often is the support provided?]	[Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	[Degree of involvement: 1-1, small group, large group]	[How long for? over weeks / terms / years]	[Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	
<b>NHS Board</b>						
Psychiatrist Nurses Psycho-therapists	3 days per week while in mental health facility.	Individual work aimed at helping John to develop and put in practice strategies for dealing with frustration.  Play therapy and art therapy to explore family relationships	1-1 direct work with the John on issues relating to self esteem, confidence and resilience as well as family relationships.	Likely for 4 months after which progress will be reviewed.	Yes because it is necessary that what is learned in the facility transfers over to regular day school and home.	See comments

<p><b>Local Authority</b> exercising a function other than education)  Social worker</p>	<p>Meet with John in facility 1x3weeks</p>	<p>Discussion Liaison with health personnel</p>	<p>1-1 with John. Family meetings 1xmonth</p>	<p>To be reviewed in 4 months with other multi-agency staff.</p>	<p>Social work support by itself not necessary significant in terms of the Act but involvement has to be co-ordinated with other agencies.</p>	
<p><b>Comments:</b> The educational objectives requiring co-ordinated input across health and education (the class in the facility and his regular primary class) are that, at the end of the 4 month period in the facility, John will:</p> <ul style="list-style-type: none"> <li>• demonstrate that he is better able to settle to work, concentrate and complete set tasks within the time allocated</li> <li>• recognise when he is becoming frustrated or upset and put into practice agreed strategies for dealing with these emotions and so avoid disrupting the class</li> <li>• be more independent and able to rely on his own resources without being over-demanding of teacher attention</li> <li>• demonstrate that his peer relationships have improved</li> <li>• evidence some insight and understanding into his own family relationships</li> </ul> <p><b>Does John require a co-ordinated support plan?</b> The support being provided by the appropriate agency is certainly significant but what will determine whether a plan is required in this case will be the outcomes achieved at the end of the 4 month period. If John has achieved his educational objectives then he is likely to be in a position where he does not require significant additional support from the NHS Board to enable him to benefit from education. Therefore, there will be no need for any significant support to be co-ordinated and, therefore, no need for a co-ordinated support plan. However, if any or all of the objectives are not achieved and it is decided that his additional support needs are going to continue for more than a year; and that the NHS Board is still going to have to provide significant additional support (either in the form of continued placement in the facility and/or through outreach services) to help him achieve his objectives; then a co-ordinated support plan will be required.</p>						

### Case study 2: An S3 pupil who is looked after

Following a decision from the Children's Hearing, which made a statutory supervision requirement, Robin in S3 is looked after at home. He is involved in group work through social work services as identified in his Care Plan to help him reflect on his poor school attendance and its causes. The school is part of the multi-agency group which is supporting the plan. Robin is well able to engage with the curriculum but does have learning support because of reading and spelling difficulties which the school is finding difficult to deal with because of poor attendance.

Agency/ies involved in addition to education	Frequency	Nature	Intensity	Duration	Test	Is a co-ordinated support plan required?
	[How often is the support provided?]	[Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	[Degree of involvement: 1-1, small group, large group]	[How long for? over weeks / terms / years]	[Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	
<b>Local Authority</b> (exercising a function other than education)	Fortnightly	Local authority social worker who is able to work with Robin and the family and who can liaise with the school.  Group work to be carried out on premises of a voluntary agency ( <i>Scotland's children</i> )	Group work 2 hours per fortnight involving social activities and discussion.	Supervision requirement will last at least one year.  For a 3 month period.	If the social work support achieves its outcome in terms of improving Robin's attendance then this will help the development of his literacy skills.	No
Social work						
<b>Comments:</b> Support from the social worker is not significant in terms of the meaning of the Act because it is lasting only 3 months and takes place in a setting where a high degree of involvement or co-ordination from the school is not necessary. There will be liaison between the school and social work agency but the overall support provided by social work services is not such as to trigger the requirement for a co-ordinated support plan.						

### Case study 3: An S2 pupil who is looked after away from home

Joanna has additional support needs arising from her family circumstances. She is on supervision because of offending behaviour and substance misuse. She has been known to social work services since she was in P1 because of parental drug abuse which led to her neglect. Subsequent foster placements did not work out well and in S2 she was placed in a residential school situated in a small town. She lives with residential child care staff in a house in the community with three other young people, attends a special school on a daily basis and has part-time attendance at the local secondary school to have the opportunity of experiencing subjects her own school is unable to offer.

Agency/ies involved in addition to education	Frequency	Nature	Intensity	Duration	Test	Is a co-ordinated support plan required?
	[How often is the support provided?]	[Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	[Degree of involvement: 1-1, small group, large group]	[How long for? over weeks / terms / years]	[Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	
<b>Local Authority</b> (exercising a function other than education)	Support is ongoing because the local authority social worker is responsible for placement in the school and for ensuring that Joanna benefits from it.	Local authority social worker who is able to work with Joanna and the family and who can liaise with the school and residential child care staff.  Specialist teaching and child care support provided through the placement.  Social worker, residential care, schools and Joanna agree on	There is regular contact with Joanna's family, Joanna herself, the schools and child care staff.  Joanna seen 1/week for 4 weeks to discuss her family story and thereafter every 6 weeks.	Supervision requirement will last at least one year.	Social work support is necessary to maintain the placement and to ensure that Joanna benefits from it in the broadest sense in terms of her overall wellbeing but also in terms of her opportunity to achieve educationally.	Yes
<b>Social work</b>						

	<p>Joanna is seen weekly for the 4 week settling in period and thereafter once every 6 weeks.</p>	<p>educational objectives.</p>				
<p><b>Comments:</b> Support from the local authority social work services is significant since they are responsible for the placement and for ensuring that within the Child's Plan prepared for Joanna there is appropriate co-ordination through the co-ordinated support plan to ensure that Joanna achieves her educational objectives. Educational objectives requiring co-ordinated input from local authority social worker, residential care staff and school staff are that Joanna will:</p> <ul style="list-style-type: none"> <li>• be able to demonstrate insight into the reasons underlying her behaviour and describe what the consequences of failing to improve it will be for herself and her family</li> <li>• learn about the effects of substance misuse and what she can do to stop it</li> <li>• develop skills in sustaining relationships with peers and her family</li> <li>• evidence an overall improvement in her behaviour</li> <li>• take a measure of responsibility for improving her literacy and numeracy skills</li> <li>• develop her own skills in looking after herself and understand the importance of healthy nutrition and physical exercise</li> <li>• co-operate with staff in the secondary school</li> <li>• make progress with the subjects studied at secondary school aiming to take Standard Grade at General Level in Biology, French and Home Economics in S3</li> </ul>						

#### Case study 4: A pre-school child preparing to transfer to primary school

Stuart is in his final six months of his nursery school placement. He has delayed speech and language development and has significant difficulties with social communication. His speech and language therapist is working with the staff, parents and Stuart to help him interact more effectively with his peers. An occupational therapist is working individually with Stuart to help him improve his fine motor co-ordination which is poorer than that of his peers and to help him learn to manage his toileting and dressing more effectively.

Agency/ies involved in addition to education	Frequency [How often is the support provided?]	Nature [Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	Intensity [Degree of involvement: 1-1, small group, large group]	Duration [How long for? over weeks / terms / years]	Test [Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	Is a co-ordinated support plan required?
<b>NHS Board</b>						
Speech and language therapist	Weekly	Speech and language therapist who can advise staff and parents on appropriate strategies to use to promote speech and language development and to assess and monitor progress.	Group work on a 6 weekly block followed by consolidation break. Pattern continued throughout the year. Advice to staff and parents following sessions. Advice to staff and parents 2x per term.	To last a year	If Stuart is to benefit from education he needs support to improve his communication, fine motor and social skills. This support needs to be co-ordinated. The support from the NHS Board in terms of speech and language therapy and occupational therapy is significant in terms of the Act.	Yes
Occupational therapist	2x per term	Occupational therapist who can advise staff on the development of Stuart's fine motor skills and self help skills, suggest strategies for others to use and can help to assess progress made.		To last a year		

**Comments:** Overall, the support provided by the appropriate agency, the NHS Board, is significant. The professionals involved will provide support to help Stuart improve his language and communication skills (speech and language therapist); advise the teacher on strategies to use in the classroom (speech and language therapist and occupational therapist); and assess and monitor Stuart's progress to ensure that educational objectives are being achieved.

Educational objectives requiring co-ordinated input between local authority and NHS Board are for Stuart to learn to:

- talk about immediate experiences and activities with the therapist and in the classroom
- increase understanding and use of pronouns, prepositions and vocabulary of emotions in group and class
- relay spoken messages to others in school
- toilet himself independently
- dress himself independently after PE
- improve gross and fine motor skills



### Case study 5: A P7 pupil attending a mainstream school

Alec in P7 has been known to speech and language therapy services since he was in nursery school. He has a long history of language and communication difficulties which have impacted quite severely on the development of his literacy skills particularly. He did have a co-ordinated support plan until he was in P5 but this was discontinued when the speech and language therapy input was reduced because it was felt that it did not need to be maintained at that level. However, his progress is still monitored by speech and language therapy who maintain contact with the school and parents.

Agency/ies involved in addition to education	Frequency [How often is the support provided?]	Nature [Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	Intensity [Degree of involvement: 1-1, small group, large group]	Duration [How long for? over weeks /terms / years]	Test [Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	Is a co-ordinated support plan required?
<b>NHS Board</b>	Once a term	Speech and language therapist	Contribute to review once a term.	Over a year.	Support is helping Alec achieve his educational objectives but is not significant.	No
Speech and language therapy		Main input now is on monitoring progress, advising staff and contributing to his individualised educational programme.				
<b>Comments:</b> Alec does not require further direct support from a speech and language therapist because school staff, parents, and Alec himself, are aware of the support strategies required. The speech and language therapist continues to advise the staff, parents and Alec, the ultimate aim being to withdraw involvement at the end of P7.						

### CASE STUDY 6: A P2 PUPIL ATTENDING A LOCAL PRIMARY SCHOOL

Mark attends his small local primary school in an isolated island community. He has additional support needs stemming from health/disability factors. He is physically disabled and while he uses a wheelchair he has some functional movement in his legs and with aids he can stand and walk short distances. He has difficulty with eating, drinking and swallowing and requires a feeding programme co-ordinated by a speech and language therapist who also requires to advise on language development. He also requires support from an occupational therapist to develop his motor skills and from a physiotherapist to help with maintaining his posture and developing his walking abilities. Since the school is isolated it is not possible for the therapists to have any prolonged direct contact with Mark. Specialist programmes have to be delivered by the school staff namely his class teacher and full-time learning support assistant, acting on the advice of the therapists, and with the co-operation of Mark's parents.

Agency/ies involved in addition to education	Frequency	Nature	Intensity	Duration	Test	Is a co-ordinated support plan required?
	[How often is the support provided?]	[Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	[Degree of involvement: 1-1, small group, large group]	[How long for? over weeks / terms / years]	[Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	
<b>NHS Board</b>  Speech and language therapist	3x/year	Assessment of Mark's feeding skills and of his language development. Preparation of a feeding programme and language programme. Reviewed and updated 3x/year.	No direct therapy provided by any of the Allied Health Professionals(AHP). Programmes delivered individually by trained full-time learning support	1 year initially but very likely to continue beyond this.	Yes – without the coordinated AHP support the educational objectives would not be achieved.	Yes

Occupational therapist	3x/year	Assessment of Mark's fine motor skills and preparation of a programme to improve them. Reviewed and updated 3x/year	assistant and class teacher through Mark's timetable.		
Physiotherapist	3x/year	Assessment of his functional movement and preparation of a programme to improve them. Reviewed and updated 3x/year  Advice on suitable physical activities for Mark as part of his school's PE programme			

**Comments:** Mark is not able to receive any significant amount of direct therapy because of where he lives and so his additional support needs have to be met by education staff working in collaboration with the AHPs. Parents and staff ensure that there is continuity between the programmes used in school and at home. Overall, the support provided by the appropriate agency, the NHS Board, is significant. The professionals involved provide support to help Mark improve his feeding, language and communication skills (speech and language therapist); his fine motor skills (occupational therapist), his functional movement skills (physiotherapist); advise the teacher and learning support assistant, providing training where necessary, on the programmes to use in the classroom (all AHPs); and assess and monitor Mark's progress to ensure that educational objectives are being achieved (all AHPs). Educational objectives requiring co-ordinated input between local authority and NHS Board are for Mark to:

- improve his self-help skills by becoming more independent with feeding
- develop his communication and language by using symbols
- improve fine motor skills, including writing
- learn to use his walking frame to walk longer distances on his own
- learn new skills through his individualised programme for physical education

**Case Study 7: Decision to discontinue a co-ordinated support plan:**

Taylor is in P7 at a special school. She has a diagnosis of autism spectrum disorder. The review of her third co-ordinated support plan has just been completed. Based on her current progress and the support she receives, the decision to discontinue the plan has been agreed. Taylor has made good progress in Art and Craft this session and has produced some good work. She enjoys exploring a wide variety of instruments in music and is demonstrating a greater degree of flexibility when choosing. Taylor is working hard on her individual sports schedule to improve her swimming technique on her front and her back. She appears happy and confident in the water and is making steady progress. Taylor is becoming more spontaneous with her spoken language. She successfully uses her Picture Exchange Communication System to choose a snack in a variety of settings. She can shop and pay for her own shopping with the use of a pictorial strip. She is now fully independent with toileting during the day. Taylor's parents are very supportive and have an effective partnership with staff at the special school.

Agency/ies involved in addition to education	Frequency [How often is the support provided?]	Nature [Type – personnel, learning and teaching approaches (L&T) – degree of individualisation / differentiation, specialist resources]	Intensity [Degree of involvement: 1-1, small group, large group]	Duration [How long for? over weeks / terms / years]	Test [Is the support significant and necessary to enable educational objectives (EOs) to be met? Do the objectives require the coordination of services - and a co-ordinated support plan - if they are to be achieved?]	Is a co-ordinated support plan required?
Social Work	1/week of 2hrs enabling	Group work to develop social interaction skills and extend social opportunities.  Focus on developing and/or adapting the	Participation in a social group.  Ongoing access to	Likely to continue until the end of the school session at which time it will be reviewed  To continue until June 2010 at which time it will be	The support is designed to create opportunities for Taylor outwith her school day.  There is no co-ordination of agency input required.	No

Speech and Language therapy	Indirect intervention	learning environment Specialist training for parents and teacher.	support at transition and/or crisis points	reviewed		
<p><b>Comments</b></p> <p>After three years of having a co-ordinated support plan with direct agency input, Taylor's additional support is now being delivered principally and appropriately by education staff based in the special school. Current input from other agencies does not require coordination in terms of her educational objectives. Agency input is currently reviewed as part of Taylor's individualised educational programme. No issues or concerns have been expressed by Taylor's parents, largely due to their trust and confidence in the work of school, local authority and health staff that has developed over the course of Taylor's school career and, in particular, during the preceding three years.</p>						

## FEATURES OF MEDIATION

The following features of mediation and performance evaluation have been provided by a range of mediation service providers.

### Features

**It is voluntary.** It is important that the parties come to the table in good faith, with a will to settle the dispute. The dispute will only be resolved in mediation if the parties voluntarily decide on a way forward which is mutually acceptable.

**It is confidential.** This means that issues and ideas for resolution of the conflict can be discussed during the mediation without fear of them being used against the parties in the future if no agreement is reached.

**Mediations are easily arranged.** Usually it only takes a few phone calls for a session to be set up at a neutral venue. It is essential that all the people who have decision making responsibility about the dispute are available.

**Mediations tend to be informal.** The mediator is trained to make the meetings as accessible as possible for everyone involved.

**It is balanced.** Everyone has a fair chance to be heard. Mediation provides an opportunity for all the parties to say what is important to them and to hear the other party's perspectives.

**The parties control the agenda and outcomes.** The mediation approach is problem-solving rather than adversarial so creative options for settlement are often the result. In mediation, the parties speak for themselves and make their own decisions.

## **Monitoring and evaluation arrangements**

Education managers with responsibility for mediation should ensure that evaluation takes place and that the findings are used to improve services. School personnel, authority officials, parents, young people, and mediators are all both stakeholders and informants — they provide information and, to differing degrees, use evaluation information to make decisions about future courses of action.

## **Performance**

A qualitative evaluation process may be more appropriate for mediation. Some performance issues that are critical to the varying purposes of mediation evaluation are listed below:

<b>Performance Areas</b>	<b>Key Performance Issues</b>
Service Efficiency	Cost to participants Time from referral to resolution
Service Effectiveness	Outcomes of mediation Participant satisfaction with mediated outcomes Durability of mediated outcomes Impact on relationship between participants Impartiality of the service
Mediation Process	Appropriateness & usefulness

Preparation process and materials

Fairness (opportunity to tell story, feeling understood, respectful treatment, control over outcomes)

Mediator Performance

Skills of the mediator

Knowledge of the mediator

Impartiality of the mediator



# Annex E

**PRACTICE MATRIX : the Universal, Targeted and Specialist Role of Allied Health Professionals (AHPs) working with Education** - A model for enabling understanding of AHP roles and ways of working between health and education that applies to a variable extent across the AHPs according to their involvement in supporting learning outcomes for children and young people. See *Partnership Working between AHP and Education Guidance Web Resource* for profession-specific examples of the Practice Matrix:

Target Population / AHP Roles	Universal Role	Targeted Role	Specialist Role
<p><b>Individual Child or Young Person - intervention may be provided within a group</b></p>	<p>Information about the AHP services available and how they can be accessed. Awareness of environments which will optimise a child's development and facilitate identification of need.</p>	<p>AHP support given to school staff to enable them to help individual children within the school to achieve their learning outcomes or particular group of children with common support needs.</p>	<p>For children in need of support and have been admitted to the AHP service.</p> <p>Following assessment of need child requires time limited periods of AHP intervention to achieve predicted outcomes. Effectiveness of AHP support must be evidenced and either further support negotiated or child and family prepared for discharge. Specialist role could include supporting school staff in meeting identified needs.</p>
<p><b>School/Educational Provision (pre-school to end of secondary school)</b></p>	<p>AHP support that impacts on the whole school population.</p>	<p>AHP support given to school staff to enable them to help a particular group of children within the school to achieve their learning outcomes.</p>	
<p><b>Local Area/National Context</b></p>	<p>AHPs work in partnership with national and local policy makers and planners to develop understanding of AHP contribution to influence best outcomes for children</p>	<p>AHPs contribute to forward planning and resourcing for children with additional support needs</p>	

## PURPOSE OF PRACTICE MATRIX AND DEFINITIONS OF UNIVERSAL/TARGETED/SPECIALIST ROLES<sup>79</sup>

### Purpose

- Each level within the matrix requires specialist AHP knowledge and skills to develop and support competence in those affecting the change
- An individual may receive support at more than one level/role at one time, or move within the matrix as they develop and progress
- Model recognises impact on functioning/activity/participation and allows for consideration of complexity of need taking into account child's or young person's setting
- Considers the most appropriate person(s) and setting or context to affect change
- Includes concept of "self-management" - supporting child or young person and parents to take responsibility for their own/their child's development/learning
- Supports decision-making frameworks
- Communicates a consistent message about AHP services working within/with education

### Universal Role - providing a universal role (if not considered a universal service)

- This type of work is more general and appropriate for all children, irrespective of need/level with a positive impact on whole population/group
- Designed to be preventative or relevant to general health promotion, health improvement and health inequality
- Training and staff development to build capacity and raise awareness in potential referrers, increasing appropriateness of referrals
- Includes developing leaflets on roles, ways of working and referral process, advice sheets and access to web-based resources
- AHP involved in educating referrers, public and other agencies about access, risk and scope of practice
- Working with the whole school to identify and implement school improvement objectives related to meeting the needs of every child
- Parent / teacher training programmes - skills groups, projects and initiatives
- Curriculum differentiation, adapting the learning environment for the whole class

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<sup>79</sup> See *Web Resource* for profession-specific examples of the practice matrix.  
<http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

**Targeted Role - for un-named children not necessarily referred (no duty of care exists for child/ young person)**

- Addresses health promotion and health inequalities for child at risk of not achieving outcomes within universal provision
- Promoting participation and self-management - supporting staff to make environmental changes within the class for particular group of children
- AHP provides support for other professional colleagues/parents to enable them to manage the care of a child/group of children
- Discussion of potential (un-named) referrals, which may include joint-planning, co-working and training sessions
- Takes account of the expertise of staff working in the setting, duty to colleagues, not child/ren
- May be pre-referral involvement or post-discharge involvement/consultation
- No AHP open duty of care. If consent has not been obtained from the parent by education to seek general advice then no identifying information should be shared. If AHP requires further more detailed information about an identified child then referral should be made to AHP service.
- A child receiving specialist input may also receive support typical of the targeted role where support is also provided for those working and spending time with the child.

**Specialist Role - AHP has open duty of care for a child who has been formally referred (therefore parental consent gained as child identified)**

- Unique contribution by predicting change of a timed episode of care for child
- Work could be with an individual child or as part of a group or both
- Aims to develop the expertise of others in managing an identified need e.g. giving advice to others about a named child
- Collaborates with professionals and parents to assess the risk and need of individual children
- Support will involve agreed desired outcomes, agreed strategies, joint goal setting and planning how identified goals can be integrated into the child's daily life at home and school.
- An AHP programme may be appropriate with specific tasks carried out by an AHP assistant/pupil support worker or others within the child's environment
- A child receiving specialist input may also receive support typical of the targeted role where support is also provided for those working and spending time with the child.
- Some direct AHP intervention may be appropriate, in or out of school to be supported by the school and family
- Effectiveness of AHP input must be evidenced and jointly reviewed leading to either further input or the child and family

## Glossary of terms

**Action plan** - a coordinated, structured plan which sets out timescales, responsibilities and services required to meet a child's assessed needs. (See integrated action plan, personal learning planning, IEP, CSP and Child's Plan).

**Additional support** - provision which is additional to, or otherwise different from, the educational provision made generally by an education authority for children or young people of the same age in schools (other than special schools) under the management of the education authority responsible for the school education of the child or young person, or in the case where there is no such authority, the education authority for the area to which the child or young person belongs.

**Appropriate agency** – an agency, or any person, specified in the Act, or by regulation, as having duties under the Act. Other agencies, whether statutory or voluntary, may work with local authorities to support a child's or young person's learning without being under a statutory duty.

**Assessment** – an ongoing process of gathering, structuring and taking a holistic approach to making sense of information about a child or young person, and their circumstances, in order to inform decisions about the actions necessary to maximise children's potential and improve their well-being.

**Advocate** – someone who with the agreement of a parent, or young person, may conduct discussions on their behalf or support them in representing their views and interests to appropriate agencies

**Carer** – includes parents and other people with parental responsibilities. The term could also include public foster carers, formal kinship carers (relatives and friends who are caring for looked after children), informal kinship carers (relatives and friends who may be caring informally for a child with parental agreement, and private foster carers (who are not close relatives, care for children with parental agreement, and must be approved as private carers after 28 days) (See also parent)

**Child's plan** – a written care plan for a child or young person looked after by a local authority or with additional needs that require a co-ordinated input from more than one agency. It includes consideration of the child or young person's family contact arrangements as well as education, health and future care arrangements.

**Co-ordinator** - person responsible for ensuring, so far as possible, that the services required to deliver the additional support identified in the CSP are in place for the child or young person and for taking action to secure services when necessary.(See also Lead Professional).

**Complex factor** – in the context of a CSP. one which has or is likely to have a significant adverse effect on the school education of the child or young person. Complex may have different meanings in terms of other professional assessment procedures.

**Co-ordinated Support Plan (CSP)** – a statutory plan to help identification and ensure provision of services for children or young people, whose additional support needs arise from complex, or multiple factors, which have a significant adverse effect on their school education and are likely to last at least a year, and which require support to be provided by an education authority and at least one other non-education service or agency.

**Dispute resolution** – the involvement, under regulations supporting the Act, of an independent, external adjudicator to review a disagreement between parents, or a young person, and an education authority, over the exercise by the authority of any of its duties or functions under the Act, and to make recommendations for parties aimed at resolving the dispute.

**Disability** – the code uses the definition of disability, set out in the Disability Discrimination Act 1995, as being a physical or mental impairment, which has a substantial and long term adverse effect on a person's ability to carry out normal day-to-day activities.

**Duty** – where the law requires an education authority or appropriate agency to do something (see power)

**Early Intervention** – identifying and meeting a child's needs early in the life of a child, the spectrum of complexity or the life of a crisis, in order to *prevent* escalation or deterioration in a child's difficulties

**Education authority** – In legal terms, education authority and local authority are both defined as a council constituted under section 2 of the Local Government etc (Scotland) Act 1994. The code refers to an education authority when considering a local authority's educational functions; and to a local authority when referring to functions other than educational ones, such as social work services.

**Grant Aided School** – a school in receipt of grant funding from the Scottish Government. At present there are eight such schools. Jordanhill School and seven Grant Aided Special Schools (GASS) – Corseford, Craighalbert Centre, Donaldson's, East Park School, Harmeny, Royal Blind School and Stanmore.

**Holistic** – a holistic view is one which addresses the whole child and his/her circumstances rather than focusing on specific isolated aspects. A holistic approach is one that considers the whole range of needs that influence a child's healthy development and well-being.

**Home education authority** - the authority for the area in which the child or young person lives

**Host education authority** - an authority other than the authority for the area in which the child or young person lives

**Independent school** – a school at which full time education is provided for children or young people of school age (whether or not such education is also provided for children or young people over that age), not being a public school or grant- aided school.

**Individualised Educational Programme (IEP)** – written document which outline the steps to be taken to help children and young people who additional support needs to achieve specified learning outcomes. (See resources section)

**Integrated Assessment Framework-** a common means for all agencies and professionals to assess children’s needs and to share information about them. Now integrated into the broader GIRFEC Assessment, Analysis and Recording practice model that seeks to ensure that assessment leads to an integrated plan (where necessary) leading to improved outcomes.

**Lead Professional** – where two or more agencies are working together to meet the identified needs of a child, a Lead Professional should be appointed. The role is to co-ordinate action, ensure the plan is produced, monitored and reviewed, ensure the child and family views are taken into account, and to ensure the child is supported through key transition points.

**Looked after child or young person** – The Children (Scotland) Act 1995 has a statutory definition of a looked after child which covers children looked after at home and children looked after away from home.

- **Looked after at home:** where the child or young person is subject to a supervision requirement with no condition of residence through the Children’s Hearing system. The child or young person continues to live in their normal place of residence (i.e. often the family home).
- **Looked after away from home** (i.e. away from their normal place of residence): where the child or young person is subject to a supervision requirement with a condition of residence through the Children’s Hearing system under section 70(3) of the Children (Scotland) Act 1995, or is provided with accommodation under section 25 of the Children (Scotland) Act 1995; or is the subject of a Permanence Order made under section 80 of the Adoption and Children (Scotland) Act 2007. The child or young person is cared for away from their normal place of residence, e.g. in a foster care placement, residential/children’s unit, a residential school, a secure unit or a kinship placement.
- In addition to the above, a child or young person may be the subject of a warrant instigated by a Children’s Hearing or Sheriff Court. These are short

term measures where the child or young person is considered **Looked after** for the duration of the warrant.

**Mediation** – a voluntary process whereby an independent third party seeks to enable both parties to a disagreement to reach an agreed resolution of their differences.

**Multi-disciplinary** - where more than one professional from different disciplines within the same agency work together ( e.g. speech therapist and health visitor).

**Multi- agency** - where professionals from different agencies work together (e.g. teachers and health or social workers).

**Multiple factors** - in the context of a CSP, these are factors which are not by themselves complex but which, when taken together, have or are likely to have a significant adverse effect on a child's or young person's school education.

**Named Person** – Person in universal services who has responsibility to facilitate early intervention and support and to make sure that the child has the right help in place to ensure his or her development and well-being across each key life stage.

**Parent** – has the same meaning as section 135(1) in the Education (Scotland) Act, as amended, and includes guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995 in relation to, or has care of a child or young person. (See also carer)

**Personal learning planning** – process by which children, young people and parents are involved in discussions with school about the goals of learning, including those for personal development. Its focus is on supporting dialogue and ultimately about engaging children and young people in their own learning.

**Placing request** – written request made to education authority for their child to attend a particular school. (See resources section for Choosing a school)

**Power** – where the law allows an education authority do something, but there is no duty to do so.

**Pre-school provision** – Act refers to pre-school provision (generally for three and four year olds (as within the categories of (prescribed pre-school children)) under the management of an education authority. It also covers circumstances where the education authority have an arrangement for the purposes of section 35 of the 2000 Act with a private provider, normally referred to as partnership nurseries. In certain circumstances, an education authority has a duty under the Act to make provision for disabled children under the age of three years.

**Prescribed pre-school child** – child eligible for pre-school provision from the start of school term following their third birthday until end of the school term before they are first eligible to attend primary school (generally between the ages of three and five).

**School** - within the Act the term 'school' has the same meaning as in the 1980 Act and means a primary, secondary or special school, and includes nursery schools and independent and grant-aided schools.

**School age** – generally from the age of 5 to 16 years.

**Special school** – a school or any class or other unit forming part of a public school which is not itself a special school, the sole or main purpose of which is to provide education specially suited to the additional support needs of children or young people selected for attendance at the school, class or (as the case may be) unit by reason of those needs.

**Specified school** – a school identified in a placing request by a parent, or, as appropriate a young person, which the parent wishes his or her son or daughter to attend, or the young person wishes to attend.

**Supporter** - someone chosen by the parent or young person to be present at any discussions with the authority for the purpose of supporting them in the course of those discussions.

**Targeted services** – action by services designed to help specific children and young people for particular needs i.e. social work, the Reporter, police, a whole range of voluntary sector provision.

**Transitions** - refers to changes in education, for example, starting nursery school, moving from primary to secondary school, leaving school and transferring schools within or outwith an education authority's area.

**Universal Services** – services which all children and young people have access to throughout their childhood i.e. health and education provision.

**Well-being** – The areas of a child's life or circumstances that when optimised will give them the best start in life and make them ready to succeed. They are Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included

**Young carer** -young people who provide care to a family member.

**Young person** – is a person who has attained the age of 16 years and who is not 18 years of age. Throughout the code the term young people is used instead of young persons, for ease of understanding.



## Resources

This section provides hyperlinks to sources of useful information. The information is grouped into web resources, publications, legislation and useful organisations.

### Web Resources

The [Additional Support Needs Tribunals for Scotland](http://www.asntscotland.gov.uk) website provides information about the tribunal.

<http://www.asntscotland.gov.uk>

The [Assessment is for Learning programme](http://www.ltscotland.org.uk/assess/index.asp) seeks to provide a streamlined and coherent system of assessment. It will ensure that parents, teachers and other professionals have the feedback they need on pupils' learning and development needs. The website also has many links to other useful information.

<http://www.ltscotland.org.uk/assess/index.asp>

The [Children's Hearings System](http://www.childrens-hearings.co.uk/) website contains background information on Children's Panels provides information on what happens in a Hearing.

<http://www.childrens-hearings.co.uk/>

The [Curriculum for Excellence](http://www.ltscotland.org.uk/curriculumforexcellence/index.asp) website offers support and guidance on all matters related to the curriculum in the early years, primary and secondary education sectors in Scotland. The website includes access to all the publications in the Building the Curriculum series, BtC 1: the contribution of the curriculum areas, BtC2: active learning in the early years, BtC3: a framework for learning and teaching, BtC4 skills for learning, skills for life and skills for work and BtC5: a framework for assessment. This site also contains the experiences and outcomes for each curricular area and a wide range of supportive materials and resources.

<http://www.ltscotland.org.uk/curriculumforexcellence/index.asp>.

The [Don't Give it, Don't take it](http://www.ltscotland.org.uk/antisectionarian/) resource has been developed to provide teachers and others who work with young people with material they can use to raise awareness of sectarianism and religious intolerance and encourage better mutual understanding. <http://www.ltscotland.org.uk/antisectionarian/>

The [Enquire](http://www.enquire.org.uk/) service offers advice and information to parents and young people by way of a telephone helpline and through written responses to email and enquiries via the website. They provide training and outreach, and produce a range of free publications.

<http://www.enquire.org.uk/>

The [Equality and Human Rights Commission](http://www.equality.gov.uk/) acts not only for the disadvantaged, but for everyone in society, and can use its new enforcement powers where necessary to guarantee people's equality. It also has a mandate to promote understanding of the Human Rights Act.

<http://www.equalityhumanrights.com/en/Pages/default.aspx>

The [Getting It Right For Every Child](#) website gives details of the developing guidelines for this programme which aims to improve outcomes for all young people.  
<http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

The [Inclusion and Equality](#) web resource brings together a wealth of up-to-date information, useful resources and connections to relevant organisations.  
<http://www.ltscotland.org.uk/inclusiveeducation/index.asp>

The [NHS Scotland Confidentiality and Data Protection](#) website contains information on the ways in which NHS Scotland protects the personal data that it needs to use to deliver health care. It contains information on basic principles, consultation and links to resources, guidance and training on the issues of confidentiality and protection of personal data held by NHS Scotland.  
<http://www.show.scot.nhs.uk/confidentiality/>

The [Parentzone](#) website helps parents to get involved in their children's education. They can find information on education in Scotland and advice on supporting their child's learning.

<http://www.parentzonescotland.gov.uk/>

The [Partnership Working](#) Scottish Government website aims to highlight guidance and practice to support school staff work in partnership with other professionals to provide support for children and young people.

*Guidance on partnership working between allied health professions and education.*

<http://www.scotland.gov.uk/Topics/Education/Schools/welfare/partnershipworking>

The [Professional Development Programme for Educational Psychologists](#) in Scotland involves groups of educational psychologists from across local authorities working together to research and report on topics relating to additional support needs. Further information is contained at the attached link.  
<http://www.ltscotland.org.uk/pdp/>

## **Publications**

[Administration of medicines in schools](#) -

<http://www.scotland.gov.uk/Publications/2001/09/10006/File-1>

[Additional Support Needs \(ASN\) Mediation Service Providers Scottish Quality Standards](#)

<http://www.commongroundmediation.co.uk/wp-content/uploads/2009/12/ASNQStandards-rev-Jan-2009.pdf>

The Quality Standards in this document are intended to form a minimum baseline for service delivery of all ASN Mediation Service Providers in Scotland.

[A Scottish Executive Review of Speech and Language Therapy, Physiotherapy and Occupational Therapy for Children and Speech and Language Therapy for Adults with Learning Disabilities and Autistic Spectrum Disorder](#)

<http://www.scotland.gov.uk/library5/health/rsltm-00.asp>

[A Scottish Framework for Nursing in Schools](#)

<http://www.scotland.gov.uk/library5/education/sfns-00.asp>

[Better Behaviour – Better Learning](#)

<http://www.scotland.gov.uk/library3/education/rdtg-00.asp> and [2004 policy update](#)  
<http://www.scotland.gov.uk/library5/education/bbssu-00.asp>

[Choosing a School: A guide for parents](#)

<http://www.scotland.gov.uk/library5/education/cas04-00.asp>

[Code of Practice for Mediation in Scotland](#)

<http://www.scottishmediation.org.uk/resources/article.asp?id=11>

These Guidelines form a baseline for the conduct of all forms of mediation in Scotland.

[Don't give it, don't take it](#)

<http://www.scotland.gov.uk/Publications/2005/04/20840/54391>

[Finding Practical Solutions to Complex Needs](#) a consultation on the arrangements for supported further education places and funding for students with complex needs.  
<http://www.scotland.gov.uk/Publications/2006/01/complexNeedsConsultation>

[For Scotland's Children](#)

<http://www.scotland.gov.uk/library3/education/fcsr-00.asp>

[Guidance on the education of children absent from school through ill-health -](#)  
<http://www.scotland.gov.uk/Resource/Doc/158331/0042883.pdf>.

[Guidelines for the practice of mediation](#) – developed by the Scottish Mediation Network these are generally accepted guidelines for the practice of mediation, and are intended to form a baseline for the conduct of all forms of mediation in Scotland.

<http://www.scottishmediation.org.uk/index.asp>

[Guidelines for Staff who provide Intimate Care for Children and Young People with Disabilities.](#)

<http://openscotland.net/library2/doc02/hhgs-00.htm>

[Hall 4 – the fourth edition of a Royal College of Paediatrics and Child Health report](#) following its most recent review of childhood screening and surveillance practice across the UK.

<http://www.scotland.gov.uk/Resource/Doc/37432/0011167.pdf>

[Happy, safe and achieving their potential](#) - a standard of support for children and young people in Scottish schools the report of The National Review of Guidance 2004.

<http://www.scotland.gov.uk/library5/education/hsap-00.asp>

[Hidden Harm](#) – the Scottish Executive Response to the Report of the Inquiry by the Advisory Council on the Misuse of Drugs.

<http://www.scotland.gov.uk/Publications/2004/10/20120/45470>

[How good is our school?](#) Her Majesty's Inspectorate of Education, Part 3 of "Journey to Excellence", one of a series of publications from HMIE supporting inclusive education.

<http://www.hmie.gov.uk/documents/publication/hgiosite3.pdf>

[Implementing Inclusiveness, Realising Potential.](#) *The Beattie Committee Report, Scottish Executive.*

<http://www.scotland.gov.uk/library2/doc04/bere-00.htm>

[Inclusive educational approaches for Gypsies and Travellers within the context of interrupted learning](#)

[http://www.ltscotland.org.uk/resources/i/genericresource\\_tcm4242131.asp?strReferringChannel=inclusiveeducation](http://www.ltscotland.org.uk/resources/i/genericresource_tcm4242131.asp?strReferringChannel=inclusiveeducation)

[Individuals in Transition: A Framework for Assessment and Information Sharing.](#)

This framework has been prepared by Careers Scotland in partnership with a wide

range of agencies and the Scottish Government to facilitate the effective sharing of information between agencies.

[http://www.careers-scotland.org.uk/careersscotland/Web/Site/GenericServices/About\\_Us/policy\\_transition.asp](http://www.careers-scotland.org.uk/careersscotland/Web/Site/GenericServices/About_Us/policy_transition.asp)

[Integrated Early Years Strategy](#)

<http://www.scotland.gov.uk/library5/education/isey-00.asp>

["It's everyone's job to make sure I'm alright"](#)

<http://www.scotland.gov.uk/library5/education/iaar-00.asp>

[Learning with care – The Education of Children Looked After Away from Home by Local Authorities.](#)

<http://www.hmie.gov.uk/documents/publication/lwc.pdf>

[Moving On from School to College, Her Majesty's Inspectorate of Education,](#)  
<http://www.hmie.gov.uk/documents/publication/more.htm>

[Needs Assessment Report on Child and Adolescent Mental Health, Public Health Institute for Scotland \(2003\) –](#)  
<http://www.phis.org.uk/pdf.pl?file=publications/CAMH1.pdf>

[Partnership Matters: A Guide to Local Authorities, NHS Boards and Voluntary Organisations on Supporting Students with Additional Needs in Further Education.](#)

<http://www.scotland.gov.uk/library5/health/glanhs-00.asp>

[Protecting Children and Young People – Framework for standards](#)

<http://www.scotland.gov.uk/library5/education/pcypfs-00.asp>

[The same as you? A review of services for people with learning disabilities](#)

<http://www.scotland.gov.uk/ldsr/docs/tsay-00.asp>

[16+ Learning Choices Policy and Practice Framework: supporting all young people into positive and sustained destinations](#)

<http://www.scotland.gov.uk/Resource/Doc/308354/0097118.pdf>

## **Legislation**

Her Majesty's Stationery Office (HMSO) are responsible for the publishing of all legislation, Command Papers and the official Gazettes. [HMSO website](#) provides electronic access to all legislation and regulations and associated explanatory notes, including the legislation referred to in Annex A.

<http://www.hmso.gov.uk/>

## **Useful organisations**

### **ASCS (Advice Service Capability Scotland)**

11 Ellersly Road, Edinburgh, EH12 6HY

Tel: 0131 313 5510 Fax: 0131 346 1681 Textphone: 0131 346 2529

Email: [ascscapability-scotland.org.uk](mailto:ascscapability-scotland.org.uk)

Web: <http://www.capability-scotland.org.uk/information.asp>

*Capability Scotland is a large disability organisation offering a range of services and support for those with cerebral palsy and other disabilities.*

### **ADDISS (Attention Deficit Disorder Information and Support Service)**

10 Station Road, Mill Hill, London, NW7 2JU

Tel: 020 8906 9068 Fax: 020 8959 0727

Email: [info@addiss.co.uk](mailto:info@addiss.co.uk)

Web: [www.addiss.co.uk/index.html](http://www.addiss.co.uk/index.html)

*ADDISS provides people-friendly information and resources about Attention Deficit Hyperactivity Disorder to anyone who needs assistance.*

## **AFASIC**

1 Prospect III, Afasic Scotland, Gemini Crescent, Dundee Technology Park, Dundee, DD2 1TY

Tel: 01382 561891

Email: [afasicScotland@btopenworld.com](mailto:afasicScotland@btopenworld.com)

Web: <http://www.afasic.org.uk/>

*AFASIC promotes understanding, acceptance, equal opportunities and inclusion of children and young adults with speech and language impairments.*

## **Association for Real Change (ARC) Scotland**

Unit 12, Hardengreen Business Centre, Eskbank, Dalkeith, Midlothian, EH22 3NX

Tel: 0131 663 4444

Email: [ARC Scotland](mailto:ARC Scotland)

<http://www.arcuk.org.uk/scotland/>

*Facilitates the ongoing development of high quality person centred services for people with a learning disability across Scotland.*

## **Barnardo's Scotland**

Headquarters, 235 Corstorphine Road, Edinburgh, EH12 7AR

Tel: 0131 334 9893 Fax: 0131 316 4008

Web: <http://www.barnardos.org.uk>

*Barnardos works to give disadvantaged children help to build their future. It runs locally based projects in Scotland, including those for families of a child with special needs.*

### **CALL Centre (Communication Aids for Language and Learning)**

Moray House School of Education, University of Edinburgh, Paterson's Land,  
Holyrood Road, Edinburgh, EH8 8AQ

Tel: 0131 651 6235/6236

Fax: 0131 651 6234

Email: [call.centre@ed.ac.uk](mailto:call.centre@ed.ac.uk)

Web: <http://www.callcentrescotland.org.uk>

*The CALL Centre provides services and carries out research and development projects, working with all those involved in meeting the needs of people who require augmentative communication and/or specialised technology, particularly in education.*

### **Childline Scotland**

18 Albion Street, Glasgow, G1 1LH

Tel: 0870 336 2910 Fax: 0870 336 2911 Helpline no: 0800 1111

Web: <http://www.childline.org.uk/Scotland.asp>

*This helpline offers children and young people confidential advice on matters concerning them.*

### **Children 1<sup>st</sup>**

83 Whitehouse Loan, Edinburgh, EH9 1AT

Tel: 0131 446 2300 Fax: 0131 446 2339

Web: [www.children1st.org.uk](http://www.children1st.org.uk)

*Children 1<sup>st</sup> works to support families under stress, protect children from harm and neglect, help children recover from abuse and promote the interests and rights of children.*



### **Children in Scotland**

Princes House, 5 Shandwick Place, Edinburgh, EH2 4RG

Tel: 0131 228 8484 Fax: 0131 228 8585

E-mail: [info@childreninscotland.org.uk](mailto:info@childreninscotland.org.uk)

Web: <http://childreninscotland.org.uk>

*This is a membership organisation representing the interests of children and young people in Scotland on behalf of its members.*

### **Common Ground Mediation**

PO Box 28094, Edinburgh, EH16 6WH

Tel: 0131 664 9324 or 07760 486 465

Email: [info@commongroundmediation.co.uk](mailto:info@commongroundmediation.co.uk)

Web: <http://www.commongroundmediation.co.uk>

*Common Ground Mediation provides independent mediation services to the education community in Scotland.*

### **Contact a Family Scotland**

Norton Park, 57 Albion Road, Edinburgh EH7 5QY

Tel: (0131) 475 2608 Fax: (0131) 475 2609

Email: [scotland@cafamily.org.uk](mailto:scotland@cafamily.org.uk)

Web: [www.cafamily.org.uk/scotland/](http://www.cafamily.org.uk/scotland/)

*This national organisation offers information and support to families who care for children with any disability or special need, and can link families with a child with a rare or specific*

*syndrome.*

### Downs Syndrome Scotland

158-160 Balgreen Road, Edinburgh EH11 3AU

Tel: 0131 313 4225 Fax: 0131 313 4285

Email: [info@dsscotland.org.uk](mailto:info@dsscotland.org.uk)

Web: [www.dsscotland.org.uk](http://www.dsscotland.org.uk)

*Downs Syndrome Scotland offers a range of support services and information for individuals with Downs Syndrome, their families and those who work with them.*

### Dyslexia Scotland

Unit 3, Stirling Business Centre, Wellgreen, Stirling FK8 2DZ

Tel: 01786 446650 Fax: 01786 471235 Helpline: 0178 644 6650

Email [info@dyslexiascotland.org](mailto:info@dyslexiascotland.org)

Web [www.dyslexiascotland.org](http://www.dyslexiascotland.org)

*Dyslexia Scotland aims to raise public awareness of dyslexia and its related difficulties, and offers advice and support for those with dyslexia.*

### Dyspraxia Foundation

8 West Alley, Hitchin, Herts, SG5 1EG

Tel: 01462 455016 Fax: 01462 455052 Helpline: 01462 454986

Web: <http://www.dyspraxiafoundation.org.uk>

*This agency aims to support individuals and families affected by developmental dyspraxia and*

*to increase understanding and awareness of dyspraxia.*

## Education Law Unit – Govan Law Centre

Govan Law Centre, 18 Orkney Street, Govan, Glasgow, Scotland, G51 2BX.

Tel/Minicom: 0141 445 1955

Fax: 0141 445 3934.

Email: [advice@edlaw.org.uk](mailto:advice@edlaw.org.uk)

Web: [www.edlaw.org.uk](http://www.edlaw.org.uk)

[www.additionalsupportneeds.org.uk](http://www.additionalsupportneeds.org.uk)

*The Education Law Unit is a specialist legal resource in the field of school education, with a particular focus on tackling discrimination, promoting human rights and the rights of disabled pupils and pupils with additional support needs.*

## ENABLE

6th Floor, 7 Buchanan Street, Glasgow G1 3HL

Tel: 0141 226 4541 Fax: 0141 204 4398

Email: [enable@enable.org.uk](mailto:enable@enable.org.uk)

Web: <http://www.enable.org.uk>

*ENABLE works to promote the interests of people with learning disabilities in Scotland. They*

*also run an information service.*

## Enquire (based at Children in Scotland)

5 Shandwick Place, Edinburgh, EH2 4RG

Tel : 0131 22 22 425 Fax : 0131 22 89 852 Helpline: 0845 123 2303

Typetalk: 0800 959598

E-mail: [info@enquire.org.uk](mailto:info@enquire.org.uk)

Web: [www.enquire.org.uk](http://www.enquire.org.uk)

*Enquire is the national advice and information service for matters related to additional support for learning.*

### **Epilepsy Scotland**

48 Govan Road, Glasgow G51 1JL

Tel: 0141 427 4911 Fax: 0141 419 1709 Helpline: 0808 800 2 200

Email: [enquiries@epilepsyscotland.org.uk](mailto:enquiries@epilepsyscotland.org.uk)

Web: [www.epilepsyscotland.org.uk/epilepsy](http://www.epilepsyscotland.org.uk/epilepsy)

*This service aims to improve the quality of life for people with epilepsy and their families in Scotland.*

### **ISEA (Independent Special Education Advice) (Scotland)**

164 High Street, Dalkeith, Midlothian EH22 1AY

Tel/Fax: 0131 454 0096

Advocacy project: 0131 454 0144

Email: [isea@isea.org.uk](mailto:isea@isea.org.uk)

Web: <http://www.isea.org.uk/>

*This organisation provides information, advice and support, including advocacy/representation, to parents and carers of children/young people with additional support needs.*

### **Learning and Teaching Scotland**

Glasgow office, The Optima, 58 Robertson Street, Glasgow, G2 8DU

Tel: 0141 282 5000 Fax: 0141 282 5050

Email: [enquires@LTScotland.org.uk](mailto:enquires@LTScotland.org.uk)

Web: <http://www.ltscotland.org.uk>

*Learning and Teaching Scotland offer consultancy to schools regarding curriculum development and produce publications on the curriculum and how to adapt it for pupils with additional support needs*

### **Linking Education And Disability (LEAD)**

Lead Scotland, Princes House, 5 Shandwick Place, Edinburgh, EH2 4RG

Tel: 0131 228 9441 Fax: 0131 229 8082

Email: [enquiries@lead.org.uk](mailto:enquiries@lead.org.uk)

Web: <http://www.lead.org.uk>

*LEAD provides guidance to physically disabled young people (16+) and adults requiring access to education and lifelong learning.*

### **Long Term Conditions Alliance Scotland**

LTCAS, Venlaw Building, 349 Bath Street, Glasgow, G2 4AA

Tel: 0141 404 0231 Fax: 0141 246 0348

<http://www.ltcas.org.uk/>

*Supporting children and young people with a disability and/or long term health conditions*

### **National Autistic Society - Scotland**

Central Chambers, 109 Hope Street, Glasgow, G2 6LL

Tel: 0141 221 8090 Fax: 0141 221 8118

Email: [scotland@nas.org.uk](mailto:scotland@nas.org.uk)

Web: <http://www.nas.org.uk>

*This service works to help people with autism and Asperger's syndrome, and their families, live as independently as possible.*

### **National Deaf Children's Society Scotland**

187 - 189 Central Chambers, 93 Hope Street, Glasgow, G2 6LD

Tel: 0141 248 4457 Fax: 0141 248 2597 Minicom: 0141 222 4476

Email: [ndcs.scotland@ndcs.org.uk](mailto:ndcs.scotland@ndcs.org.uk)

Web: <http://www.ndcs.org.uk/>

*The National Deaf Children's Society (NDCS) is the national charity dedicated to creating a world without barriers for deaf children and young people.*

### **NHS Helpline Scotland**

Network Scotland, Ruthven Lane, The Mews, Glasgow G12 8NT

Helpline: 0800 22 44 88 Fax: 0141 334 0299

*This helpline offers information on health services, practices and procedures.*

### **Parentline Scotland**

83 Whitehouse Loan, Edinburgh EH9 1AT

Tel: 0131 446 2333 Fax: 0131 446 2339 Freephone: 0808 800 22 22

Web: [www.children1st.org.uk](http://www.children1st.org.uk)

*Parentline is a confidential telephone helpline providing support to parents and carers in talking through any concerns relating to parenting issues*

### **Playback ICE**

489 Lanark Road, Edinburgh, EH14 5DQ.

Tel: 0131 453 5514

email general: [contact@playbackcompany.net](mailto:contact@playbackcompany.net)

<http://www.playbackcompany.net/>

*Supports schools and organisations working with children and young people to develop inclusive, equity based practice leading to effective citizenship*

### **Pupil Inclusion Network Scotland (PINS)**

TASC/CP, Building 5, New Parliament House, 5 - 7 Regent Road, Edinburgh EH7 5BL

Tel: 0131 555 3527

Email: [info@pinscotland.org](mailto:info@pinscotland.org)

[www.pinscotland.org](http://www.pinscotland.org)

*Supports work with pupils who are vulnerable, disaffected and excluded from school.*

### **Rathbone (Scotland)**

6th Floor, Riverside House, 260 Clyde Street, Glasgow, G1 4JH

Tel: 0140 229 6300

Fax: 0141 229 6301

*Supports all children and young people in their ability to learn, achieve and make progress in their lives.*

### **Royal National Institute for the Blind (RNIB)**

Dunedin House, 25 Ravelston Terrace, Edinburgh, EH4 3TP

Tel: 0131 311 8500 Fax: 0131 311 8529 Helpline: 0345 66 99 99

Email: [rnibscotland@rnib.org.uk](mailto:rnibscotland@rnib.org.uk)

Web: <http://www.rnib.org.uk>

*This service offers practical support and advice to blind people and those with visual impairments.*

### **Royal National Institute for the Deaf (RNID)**

Cronngate Business Centre, Brook Street, Glasgow, G40 3AP

Tel: 0141 554 0053 Fax: 0141 554 5837 Helpline: 0808 808 0123 (freephone)

Textphone: 0808 808 9000 (freephone)

Email: [informationline@rnid.org.uk](mailto:informationline@rnid.org.uk)

Web: <http://www.rnid.org/>

*This service provides services, information and campaigning for the deaf and hard of hearing people.*

### **Schoolhouse**

PO BOX 18044, Glenrothes, Fife, KY7 9AD

Tel: 01307 463120

Email: [enquires@schoolhouse.org.uk](mailto:enquires@schoolhouse.org.uk)

Web: <http://www.schoolhouse.org.uk>

*This organisation offers information and support related to home based education.*



### **Scottish Association for Mental Health**

Cumrae House, 15 Carlton Court, Glasgow, G5 9JP

Tel: 0141 568 7000 Fax: 0141 7001

Email: [enquire@samh.org.uk](mailto:enquire@samh.org.uk)

Web: [www.samh.org.uk](http://www.samh.org.uk)

*This is a national agency promoting issues affecting those with mental health problems.*

### **Scottish Consortium for Learning Disabilities (SCLD)**

Adelphi Centre, Room 16, 12 Commercial Road, Glasgow, G5 0PQ

Tel: 0141 418 5420 Fax.: 0141 429 1142

email: [administrator@sclد.co.uk](mailto:administrator@sclد.co.uk)

<http://www.sclد.org.uk/>

*This organisation promotes equality of opportunity for people with a disability, for example, developing employment opportunities.*

### **Scottish Council of Independent Schools**

21 Melville Street, Edinburgh, EH3 7PE

Tel: 0131 220 2106 Fax: 0131 225 8594

Email: [info@SCIS.org.uk](mailto:info@SCIS.org.uk)

### **Scottish Public Services Ombudsman**

SPSO, 4 Melville Street, Edinburgh, EH3 7NS

Tel: 0800 377 7330 Fax: 0800377 7331

Email: [ask@spsso.org.uk](mailto:ask@spsso.org.uk)

Web: [www.spsso.org.uk](http://www.spsso.org.uk)

*The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about organisations providing public services in Scotland. It deals with complaints about councils, the National Health Service, housing associations, the Scottish Government and its agencies and departments, colleges and universities and most Scottish public bodies.*

### **Scottish Mediation Network**

18 York Place, Edinburgh, EH1 3EP

Tel: 0131 556 1221

Web: [www.scottishmediation.org.uk](http://www.scottishmediation.org.uk)

### **Scottish Network for Able Pupils**

Room 556, St Andrew's Building, University of Glasgow, 11 Eldon Street, Glasgow, G3 6NH

Tel: 0141 330 3071

Email: [snap@educ.gla.ac.uk](mailto:snap@educ.gla.ac.uk)

Web: [www.ablepupils.com](http://www.ablepupils.com)

### **Scottish Refugee Council**

5 Cadogan Square, (170 Blythswood Court), Glasgow, G2 7PH

Tel: 0141 248 9799 Fax: 0141 243 2499

Web: [www.scottishrefugeecouncil.org.uk](http://www.scottishrefugeecouncil.org.uk)

### **Scottish Society for Autism Headquarters**

Hilton House, Alloa Business Centre, The Whins, Alloa FK10 3SA

Tel: 01259 720044 Fax: 01259 720051

Email: [info@autism-in-scotland.org.uk](mailto:info@autism-in-scotland.org.uk)

Web: [www.autism-in-scotland.org.uk](http://www.autism-in-scotland.org.uk)

*This service offers care, support and education in Scotland for people with autism and their families and others who work with them.*

### **Scottish Traveller Education Programme**

The University of Edinburgh, 2.5 Charteris Land, Holyrood Road, Edinburgh, EH8 8AQ

Tel: 0131 651 6444 Fax: 0131 651 6511

Email: [step@education.ed.ac.uk](mailto:step@education.ed.ac.uk)

Web: [www.scottishtravellered.net](http://www.scottishtravellered.net)

### **Sense Scotland**

Sense Scotland, 43 Middlesex Street, Kinning Park, Glasgow G41 1EE

Tel: 0141 429 0294 Fax: 0141 429 0295 Text: 0141 418 7170

Email: [info@sensescotland.org.uk](mailto:info@sensescotland.org.uk)

Web: [www.sensescotland.org.uk](http://www.sensescotland.org.uk)

*Sense Scotland are a service providing organisation which is also engaged in policy development for children and adults with complex support needs because of deafblindness or sensory impairment, learning disability or physical disability. Sense Scotland also provide communication and innovative support services for people who are marginalised because of challenging behaviour, health care issues and the complexity of their support needs.*

### **SHS Limited**

5b Washington Court, Washington Lane, Edinburgh, EH11 2HA

Tel: 0131 538 7717 Fax: 0131 538 7719 Textphone: 0131 477 3684

Email: [general@shstrust.org.uk](mailto:general@shstrust.org.uk)

Web: <http://www.shstrust.org.uk>

*This service offers training, research and events on advocacy and participation in services for disabled people, their families, and those who work with them - its focus is the empowerment of users.*

### **Skills Development Scotland**

Headquarters: Alhambra House, 45 Waterloo Street, Glasgow G2 6HS

National telephone number 0845 8 502 502 Tel: 0141 285 6000 Fax: 0141 285 6001

Web: <http://www.skillsdevelopmentscotland.co.uk>

*Skills Development Scotland provides careers, training and funding information and advice to help people of all ages discover and develop their skills. The national agency also works with employers wanting to recruit and maintain a productive workforce.*

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Tel: 0131 475 2348 Fax: 0131 475 2397

Email: [admin@skillscotland.org.uk](mailto:admin@skillscotland.org.uk)

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Email: [info@viascotland.org.uk](mailto:info@viascotland.org.uk)

*VIA Scotland promotes the rights and equality of people with learning difficulties*



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APS Group Scotland  
DPPAS10338 (08/10)

# **Implementation of The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)**

**Report to Parliament 2014**

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## Ministerial Foreword

We have a clear ambition and challenging agenda in Scotland for children and young people's learning and are determined that all children and young people receive the support that they need to reach their full potential. Additional support for learning plays a key role in delivering this ambition and whilst I am reassured that broadly children and young people's learning needs are well met in Scotland, that does not mean that the focus on continuing improvement can be relaxed. There are groups of children and young people whose needs are less visible and therefore do not always receive the support that they need. It is those groups of vulnerable children and young people that we must strive to provide for as we continue to meet the needs of those children who are already identified and provided for.

One of those groups whose needs are less visible under the Act are looked after children and young people. We are aware that this group of children and young people's learning outcomes are not as positive as they could be. This report seeks to highlight some of these issues and the work currently being carried out by Scottish Government and other organisations to help address the difficulties encountered by this particularly vulnerable group.

The Act is a key factor in ensuring children and young people make the most of the educational opportunities available to them and this year we hope to strengthen the Act further.

On 24 March 2015, the Education (Scotland) Bill 2015 was introduced to the Scottish Parliament. Through this Bill we will continue to support children with additional support needs, giving them a further opportunity to directly affect the support they receive by extending their rights under the Additional Support for Learning Act. We will also provide national support services for children, to ensure that those who wish to use these new rights have the support that they need to do so free of charge.

I said in last year's report that as we continue to collect and publish information on more additional support needs it is expected that more children than ever will be recorded as having an additional support need. That trend has continued this year and I expect it to continue as we improve the statistical collection relating to children and young people with additional support needs.

November 2015 will be the tenth anniversary of the additional support for learning framework being brought into force in Scotland. The next, and final report to Parliament required by the 2009 Act, will look at the significant progress that has been made overtime on implementing the Act. In the meantime we will focus on

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continued improvement in implementation of the Act and the consideration of the Education Bill which, if passed, will continue the evolution of Additional Support for Learning in Scotland.

A handwritten signature in black ink that reads "Alasdair Allan". The signature is written in a cursive style with a prominent underline under the name "Allan".

Alasdair Allan  
Minister for Learning, Science and Scotland's Languages

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## Introduction

The purpose of this report is to set out the progress in implementing the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended). The report fulfils the duties placed on Scottish Ministers at sections 26A and section 27A of the amended Act.

Scottish Ministers must report to the Scottish Parliament in each of the 5 years after the commencement of the Act on what progress has been made in each of those years to ensure that sufficient information relating to children and young people with additional support needs is available to effectively monitor the implementation of this Act. (Section 26A).

Scottish Ministers must each year collect from each education authority information on:

- ✓ the number of children and young persons for whose school education the authority are responsible having additional support needs
- ✓ the principal factors giving rise to the additional support needs of those children and young persons
- ✓ the types of support provided to those children and young persons
- ✓ the cost of providing that support

Scottish Ministers must publish the information collected each year. (Section 27A)

In addition to the information required by the Act, Scottish Ministers will provide further information and evidence from a number of sources.

This will enable the data required by the duties to be set in context and offer a fuller picture of implementation of the legislation. Sources include: Enquire, ASL Resolve and Common Ground Mediation, Independent Adjudication, Additional Support Needs Tribunals for Scotland, the Scottish Government, Let's Talk ASN, Education Scotland and the Advisory Group for Additional Support for Learning (AGASL).

This information presents as full a picture as possible of the implementation of Additional Support for Learning. This includes information from the national statistics collection of data on pupils. This collection has been slightly revised to provide more detailed information on the plans used to support children and young people's learning. This fulfils the duty provided by Section 26 of the Act.

This is the fourth of five such reports and provides a focus on children and young people who are looked after.

## Background

The Act places duties on education authorities and other agencies to provide additional support to children and young people who have additional support needs which are causing a barrier to their learning.

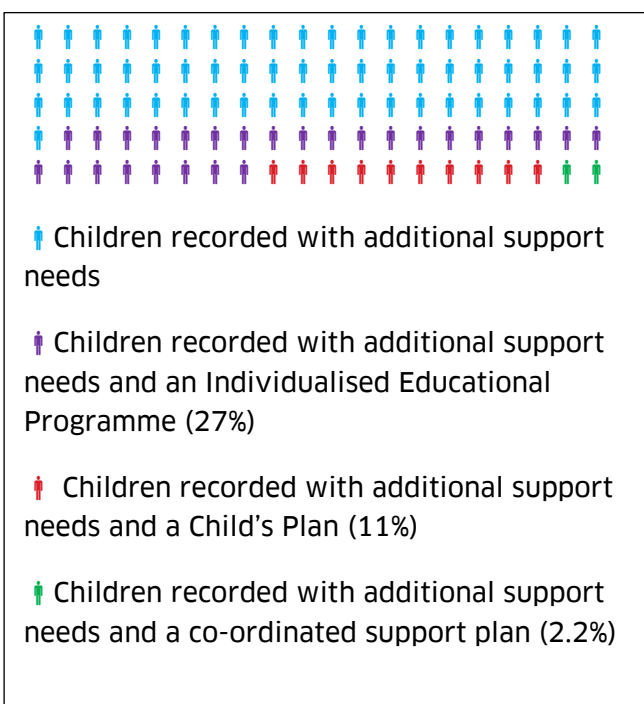
There are a wide range of factors that may lead to children and young people having a need for additional support. These fall broadly into four overlapping themes: learning environment, family circumstances, disability or health need and social and emotional factors.

Education authorities duties include- to identify, plan and make provision for the support to be provided and review that support to ensure it is appropriate. For some pupils, a co-ordinated support plan may be required. This is a statutory plan which co-ordinates and records the support to be provided. This plan has specific rights attached to it.

### Who has additional support needs?

The Summary Statistics for Schools in Scotland, No 5: 2014 Edition indicates that in 2014 there were 676,955 pupils in Scotland's local authority primary, secondary and special schools and grant-aided schools. Of those, 140,524 were identified as having an additional support need, around 20.8% of all pupils. This represents a 1.3% increase on last year's figure.

Of those pupils identified as having an additional support need 37,640 (27%) have an Individualised Educational Programme (IEP) a percentage point decrease of 3 on last year. 15,946 (11%) have a child's plan, provided through the Getting It Right for Every Child approach, a percentage point increase of 2% on last year. 3,128 (2.2%) were identified as having a co-ordinated support plan (CSP). a percentage point decrease of 0.2 on last year Those pupils with CSPs represent 0.46% of all pupils in local authority and grant-aided schools. This is demonstrated in the diagram above.



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## How are Additional Support Needs identified?

Education authorities and schools identify most children and young people with additional support needs through their arrangements for assessing learning and for monitoring the educational progress of children and young people. Assessment identifies the actions required to maximise development and learning and is a dynamic process with the child or young person at the centre.

Identification will usually include discussion with parents and professionals involved with the child or young person, for example, class teacher, support for learning staff, speech and language therapist, social worker, foster carer or residential worker. It should build on other assessment information already available. It may involve observation in one or more day-to-day situations and/or individual work with the child or young person as required.

## Looked after children

The Supporting Implementation of Additional Support for Learning plan was published in November 2012. The plan set out the specific actions that the Scottish Government planned to take over the following four years to support the ambition of Scottish Ministers that every child has access to the additional support they need to reach their full potential.

Both the plan and the inaugural report to Parliament on implementation of additional support for learning indicated that in most schools in Scotland the needs of most children and young people were being met well, with some major strengths. However both publications highlighted that additional support for some groups of children and young people could be improved upon.

One of these areas related to the provision of additional support for looked after children. It was acknowledged that in both mainstream and residential special schools, there was still much work to be done to ensure that barriers to learning for looked after children were removed or minimised, as far as possible, and that children were engaged in relevant, enjoyable and stimulating learning experiences.

Suggested actions were outlined as part of the plan, details on how this work has been implemented and further details on the current picture of the provision of additional support for looked after children and young people will be outlined in this report.

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## European learning context

The European Agency for Special Needs and Inclusive Education is an independent and self-governing organisation established by 32 member countries to act as their platform for collaboration regarding the development of provision for learners with special educational needs across Europe. The ultimate aim is to improve educational policy and practice for learners with special educational needs. This aim takes into account issues such as equal opportunities, accessibility, inclusive education and the promotion of quality of education, whilst recognising that there are differences in countries' policies, practices and educational contexts.

National representatives nominated by the ministries of education in each of the 32 member countries from the policy (Representative Board members) and practitioner levels (National Co-ordinators) who share a common understanding of key issues in special needs education and who work together to provide authoritative perspectives on special needs education in their country. The Representative Board member for Scotland is David Watt from Education Scotland. The National Co-ordinator for Scotland is Sally Cavers from Enquire.

This year Scotland, through Calderglen High School's Learning Community is one of 3 sites across Europe participating in the European Agency for Special Needs and Inclusive Education's Raising Achievement for All in Inclusive Education Project.

Calderglen High impressed the European Agency's Project Advisory Group with its commitment to innovation as well as its extensive networks of partners across East Kilbride, South Lanarkshire and beyond. Staff's commitment to leadership roles was also regarded as notable as well as their desire to improve learning and teaching.

The project will involve links being made with the European Agency and with the other two sites in Italy and Poland. These sites will serve as an "international learning zone" to explore the following questions:

What learning and teaching approaches best support learning and are effective in raising the achievement of all learners?

What school leadership strategies are most effective in raising the achievement of all learners?

The project will produce a series of publications that will be useful for schools across Europe to support inclusive practices.

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## Rights of the Child and legislation across UK education systems.

The UK Government ratified the UN Convention on the Rights of Persons with Disabilities in June 2009 but with a 'reservation' and 'interpretative declaration' in relation to Article 24 which says that persons with disabilities are not excluded from general education and that they can access inclusive, quality and free primary and secondary education in the communities in which they live. The reservation and interpretative declaration were in recognition that the parents of disabled children have the right to state a preference for a special rather than a mainstream school and that the needs of some children with complex needs are best met in residential schools. The declaration said that the United Kingdom Government is committed to continuing to develop an inclusive education system where parents have increasing access to mainstream schools and staff which have the capacity to meet the needs of disabled children. In Scotland this has been approached through a right not to attend special schools in Section 15 of the 2000 Act.

In the UK as a whole under the Equality Act 2010, schools, local authorities and others have duties not to discriminate against disabled pupils, in matters such as admissions, and to make 'reasonable adjustments', such as the provision of auxiliary aids and services, to ensure that disabled pupils are not put at a significant disadvantage as compared with their non-disabled fellow pupils.

In Scotland about 2% of the school population attend special schools and units while in England, 1.2% of pupils attend special schools. In Northern Ireland there are 1.4% of children and young people in special schools while in Wales the figure is now just under 1% (0.93%) of the school population in special schools.

In England schools and local authorities have duties under education law, recently reaffirmed by the Children and Families Act 2014 (England) to identify, assess and make suitable provision for disabled children and those with special educational needs (SEN). That legislation assumes that disabled children and those with SEN are educated alongside their peers in mainstream schools.

In Northern Ireland its SEN Code of practice operates but with new legislation is pending. In Northern Ireland there is a Community Relations and Equality Diversity policy which binds all schools to provide for the inclusion of all under equality law. The current programme for government has a priority to promote 'Together: Building a united community' May 2013 which is driving development of peace and reconciliation across religious, ethnic, ability/disability and gender difference and is promoted by the Department of Education through its shared education programme and development of shared education campuses which builds schools on a single campus to shared resources and extend the curriculum offer

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In Wales 22.4% of the school population have SEN, with 2.9% statemented.

The legislative framework for special educational needs (SEN) in Wales is set out under the Education Act 1996. This places a duty on local authorities to provide suitable education for all pupils including those who have SEN. Local authorities in Wales must also have due regard to the SEN Code of Practice for Wales. New legislation in this area is pending. The policy on Welsh education also gives consideration to inclusivity and children's rights and specifically, the 'Inclusion and Pupil Support Guidance', provides advice to schools on the inclusion and support of learners of a compulsory school age.

The 'Rights of the Children and Young Persons (Wales) Measure 2011 placed a duty on all Welsh Ministers to have due regard to the substantive rights and obligations within the UNCRC and its optional protocols. Under Section 2 of the Measure Welsh Ministers are required to publish a Children's Rights Scheme which sets out the arrangements Welsh Ministers have in place to have due regard to the UNCRC. This scheme has been in place since May 2012.



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## Scottish learning context

### Raising attainment

In addition to a range of activities that are already underway to raise attainment and close the equity gap, the First Minister recently announced a £100 million fund, created to improve educational outcomes. The new Scottish Attainment Challenge will be backed by an Attainment Scotland Fund of more than £100 million over four years to drive forward improvements on educational outcomes in Scotland's most disadvantaged communities.

The Scottish Attainment Challenge will draw on the experience of the approaches used in the London Challenge but also from further afield – especially Ontario. The first tranche of £20m for 2015-16 was announced by the Deputy First Minister in the budget debate on 4 February 2015.

The fund will be initially targeted at schools in Local Authorities with the biggest concentration of households in deprived areas. It will focus on Literacy, Numeracy and Health and Wellbeing in the Primary Sector to support children and young people in Scotland's most disadvantaged communities to achieve their potential. Our approach will be to provide support for communities with the biggest challenges in the form of poverty and deprivation.

Each of the participating Local Authorities will be provided with a dedicated support of educational and improvement experts and easy access to evidence and research. The fund will allow for substantial financial support to put in place impactful interventions and the Government will work in partnership with Local Authorities to establish the right improvement plan for their context, rather than impose solutions.

### Education Bill

On 26 November 2014 First Minister for Scotland, Nicola Sturgeon, announced the Programme for Government to the Scottish Parliament. Part of that programme included an Education Bill. The [Education Bill](#) includes provisions on Socio-Economic disadvantage, Gaelic Medium Education, Modifications of previous legislation including; the extension of rights to children under Additional Support for Learning, section 70 complaints to Scottish Ministers, employment of teachers in independent and grant-aided schools.

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## Consultation on Children and Young People Act guidance

On 6 February 2015 a [consultation](#) on draft guidance on named person, child's plan and wellbeing was launched. In addition, there is consultation on the Orders associated with the legislation, including the Child's Plan Order. This order sets out the information that is required to be part of a child's plan and includes information about the relationship between the Child's Plan and the Co-ordinated Support Plan. The consultation marks a significant milestone in the preparation for the commencement of the Children and Young People Act 2014.

## Commission for Developing Scotland's Young Workforce

The Commission for Developing Scotland's Young Workforce was set up in January 2013 to provide recommendations to Scottish Ministers on how Scotland's approach to vocational education and training could be improved and how we could get more employers more involved in all aspects of education and employing more young people. In June 2014, the Commission published its final report *Education Working for All*.

The Scottish Government worked with local government and other partners to draw up a national seven year programme aimed at Developing the Young Workforce (DYW). This is focussed on reducing youth unemployment by 40% by 2021 by ensuring a greater focus on employability within Scottish education for all young people. A joint implementation plan, taking forward the recommendations of *Education Working for All* was published on 15 December 2014 as part of the Government's Youth Employment Strategy.

The aims of the DYW programme build firmly on the existing policy framework set out by Curriculum for Excellence (CfE), Teaching Scotland's Future, GIRFEC and Raising Attainment For All. These linked policies will help us deliver on our commitment to raise attainment for all and close the equity gap between children and young people who are most and least deprived. The schools elements of the DYW programme are being taken forward as part of the CfE programme.

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## Additional Support for Learning Context

### Education Bill

On 26 November 2014 First Minister for Scotland, Nicola Sturgeon, announced the Programme for Government to the Scottish Parliament. Part of that programme included an [Education Bill](#) to include giving new rights to children who may have additional support needs. The Education Bill introduces the same rights as parents and young people currently have under the Additional Support for Learning Act, with the exception of two areas. Children will not be given rights in relation to placing requests and will not be able to refer a case to mediation services.

### Doran Review Implementation

Following the publication in November 2012 of the [Doran Review](#) and the [Scottish Government's response](#) to the review there has been significant progress in implementation of review recommendations, particularly those which focus on strategic commissioning of services for children and young people with complex additional support needs. A Strategic Commissioning Project Board (SCPB) has been set up to support delivery of the strategic commissioning project. The project will focus on recommendations 7, 17-18 (in part) and 19-21.

To support delivery of the recommendations on strategic commissioning five workstreams have been established:

- [Workstream 1](#): Support

This workstream was to support organisations currently in receipt of national grant funding to prepare for the implementation of strategic commissioning in 2017.

Support for the three national centres' and the grant-aided special schools (GASS) continues. Part of the support the Scottish Government has been able to provide is funding for an one year Research post for the GASS.

- [Workstream 2](#): Needs Analysis

The [needs analysis workstream](#) aims to deliver a quantitative and qualitative information to explain types and incidence of complex additional support needs across Scotland.

In September 2014 ODS Consulting were appointed as the contractor to undertake research to support the Needs Analysis work being completed by Workstream 2. The research has included a range of interviews and workshops with key stakeholders, including children and parents and carers. The research project will concluding in March 2015. This research will be brought together with work

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already completed to draw together, analyse and map the statistical picture in Scotland and will be published following consideration by the Doran Strategic Commissioning Project Board.

- [Workstream 3](#): National Commissioning

The National Commissioning workstream was set up to develop a national strategic commissioning model for the provision of national education services for children and young people with complex additional support needs, by middle of 2015. This model is to be implemented in 2017.

A description of the model for the commissioning of national services for children and young people with complex additional support needs was agreed on by the Doran Strategic Commissioning Project Board in November 2014.

- [Workstream 4](#): Local Commissioning

Workstream 4 will support local authorities and their partners to develop a local strategic commissioning approach to services for children and young people.

- [Workstream 5](#): Communications

Workstream 5 aims to ensure that communications are appropriately timed and targeted to support the successful development, delivery and implementation of the project. Four Learning & Communication regional events took place in 2014. The key themes and points from these events can be found in the [summary report's](#). Further information on the progress of implementing the recommendations made is available from

<http://www.scotland.gov.uk/Topics/Education/DoranReview>

## Enquire Map of Services

Recommendation 8 of the Doran Review stated that “the Scottish Government through Enquire should produce a comprehensive map of provision throughout Scotland for children and young people with complex additional support needs” has now been met.

Enquire successfully launched the map of services on their website on 10 September 2014. The map, featuring 20 different categories of 1,000 education, access to education and family support services, will benefit parents and carers and help them identify service provision in their local area.

The map of services can be accessed at: <http://enquire.org.uk/find-a-service>

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## Children too Ill to Attend School Guidance

In 2014 the review of guidance on children unable to attend school due to ill health was completed. The guidance, which will be published shortly, offers a range of advice and practice principles for education authorities and partners in their delivery of duties to ensure that children who are unable to attend school due to ill health receive educational support whilst they are unwell, wherever possible.

## Review of guidance on Administration of Medicines in Schools

In 2014, the Scottish Government also began a review of the guidance on the administration of medicines in schools. The review is being undertaken in partnership with a range of key stakeholders including representatives from health and educational services. It is intended that revised guidance will be published for consultation in summer 2015.

## Guidance on Accessibility Strategies

[“Planning improvements for disabled pupils’ access to education Guidance for education authorities, independent and grant-aided schools”](#) in November 2014. The purpose of this guidance is to provide advice to education authorities and schools about how they could meet their duties to improve access to education for disabled pupils. These planning duties came into force in 2002 with the commencement of the Education (Disability Strategies and Pupils’ Educational Records) (Scotland) Act 2002 (the Act). The new guidance replaces and updates earlier guidance. It provides advice on the provisions of the Act in the light of legislative and policy developments since 2002.

## Review of Dyslexia Services

Education Scotland’s report [‘Making Sense: Education for Children and Young People with Dyslexia in Scotland’](#) was published in May 2014. The report made five main recommendations:

- Teachers, support staff and parents should have access to up-to-date practical advice and guidance on dyslexia;
- Teachers, support staff and local authority staff should have access to a wide range of high quality career-long professional learning opportunities at school, local and national level related to meeting the needs of children and young people with dyslexia;
- Initial teacher education and postgraduate awards and courses should give a high priority to developing knowledge and skills in relation to dyslexia and additional support needs;

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- Schools, local authorities and national partners should take action to improve the quality of educational outcomes for children and young people with dyslexia; and
  - The availability and use of reliable information on children and young people's needs, development and achievement should be improved.

The Scottish Government [responded to the report](#) in June 2014. A Working Group has been established by the Scottish Government to work with key stakeholders to support delivery of the recommendations of the report.

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## Additional Support for Learning in Scotland

### Introduction

This section of the report provides statistical information on the number of children and young people in Scotland with additional support needs; the principal factors giving rise to the additional support needs and the types of support provided to these pupils, and the broad cost of providing that support. This fulfils the duty on Scottish Ministers at section 27A of the legislation.

### Sources of information

The information on additional support needs, types of support and principal factors are gathered through the pupil census, a national statistics collection on Scottish school pupils. The census is a 'snapshot' of Scottish school pupils collected from schools management information systems in a single day in September 2014. Therefore the information must be treated as indicative of the position at that particular time. Financial information is collected as part of the local government finance statistics. This covers the period April 2013 to March 2014. In addition, supplementary information including attendance, exclusion, positive destinations and qualifications data has been included

### Comparability and Reliability

Local authorities are autonomous bodies and are influenced by their values and principals, school estate, resources and staffing structures in their delivery of educational services and their duties under additional support for learning. Therefore the way in which provision is made for children and young people is unlikely to be fairly compared across authority areas without taking account of these variables. Prior to 2010, only pupils with CSPs, IEPs or who were attending a special school were recorded as having additional support needs. However, in 2010 this was extended to include anyone receiving additional support, regardless of whether it was under a formal plan. This has led to a large increase in the number of pupils recorded with additional support needs since 2010.

It is important to note that the figures provided below relate to information recorded on the school's management information system and may not reflect the 'non quantifiable' support provided to pupils in schools by classroom and support staff, or support provided which is not recorded within the management information system. Therefore the tables presented here do not represent the whole picture of the provision made for additional support needs in Scotland.

Case studies have been provided throughout this report to support a full representation of the support available in schools for children and young people with additional support needs.

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The Scottish Government has committed to considering the data collected on children and young people with additional support needs to ensure that it is what is required to ensure adequate information is available to support implementation of the Act.

In 2014 national statistics indicated that there were 676,955 pupils in Scotland's local authority primary, secondary and special schools and grant-aided schools. Of those, 140,524 were identified as having an additional support need, around 20.8% of all pupils.

Of those pupils identified as having an additional support need 37,640 (27%) have an Individualised Educational Programme (IEP) a percentage point decrease of 4 on last year. 15,946 (11%) have a child's plan, provided through the Getting It Right for Every Child approach, a percentage point increase of 2% on last year. 3,128 (2.2%) were identified as having a co-ordinated support plan (CSP) a percentage point decrease of 0.3 on last year Those pupils with CSPs represent 0.46% of all pupils in local authority and grant-aided schools. 103,568 pupils were receiving support through planning and provision which is not made through an IEP, CSP or Child's Plan. Naturally, some children and young people may have more than one of these plans, this accounts for the total number of pupils recorded as having plans being greater than the number of children recorded as having additional support needs.

The statistics also indicate that 95% of pupils with additional support needs learn within mainstream schools. 62% of pupils with additional support needs are boys, overall 15,156 pupils were recorded as assessed or declared disabled. This equates to 10.7% of pupils recorded as having an additional support need.



The number of children and young people for whose education the authority are responsible, having additional support needs.

	with Additional Support Needs	with CSP	with IEP	Other	Child Plans	Assessed or Declared Disabled	No of pupils
Aberdeen City	2,671	90	1,466	1,178	174	352	22,061
Aberdeenshire	11,422	97	1,755	10,262	0	858	35,040
Angus	1,617	58	1,072	598	32	184	15,114
Argyll & Bute	1,904	99	803	858	343	546	10,565
Clackmannanshire	1,625	34	460	909	493	118	6,564
Dumfries & Galloway	4,687	201	1,116	3,722	176	631	18,847
Dundee City	2,487	58	275	1,696	327	657	17,689
East Ayrshire	3,216	29	908	2,373	240	267	15,958
East Dunbartonshire	3,147	58	620	2,561	28	402	16,205
East Lothian	2,945	46	284	2,757	2,180	175	13,716
East Renfrewshire	2,821	129	700	1,947	400	167	16,446
Edinburgh City	9,754	149	1,538	8,114	785	1,214	46,948
Eilean Siar	1,056	34	287	807	114	35	3,361
Falkirk	3,283	29	502	1,098	1,944	386	21,341
Fife	7,035	191	3,079	3,651	504	695	48,556
Glasgow City	21,004	265	7,849	16,835	1,796	2,483	65,516
Highland	7,439	141	1,395	4,586	2,766	739	30,791
Inverclyde	2,387	58	592	1,917	27	272	10,011
Midlothian	2,236	53	637	1,698	354	318	12,041
Moray	2,747	62	755	2,224	146	185	12,048
North Ayrshire	4,675	32	935	3,768	216	337	18,169
North Lanarkshire	3,746	404	2,609	1,036	181	637	49,028
Orkney Islands	620	14	145	501	*	35	2,662
Perth & Kinross	5,565	115	1,281	4,766	*	251	17,750
Renfrewshire	3,320	229	1,296	2,196	249	261	23,245
Scottish Borders	3,622	107	550	3,205	193	154	14,553
Shetland Islands	700	32	253	497	87	61	3,226
South Ayrshire	1,676	23	917	490	490	964	14,005
South Lanarkshire	8,211	75	829	7,430	264	684	43,240
Stirling	3,007	29	518	1,951	1,007	163	12,339
West Dunbartonshire	4,574	12	583	3,994	112	337	12,365
West Lothian	5,003	97	1,418	3,861	289	400	26,273
All local authorities	140,202	3,050	37,427	103,486	15,922	14,968	675,673
Grant aided	322	78	213	82	24	188	1,282
Scotland	140,524	3,128	37,640	103,568	15,946	15,156	676,955

(1) Includes only pupils with an additional support need recorded, so excludes 18 pupils in special schools with no additional support need recorded

## The principal factors giving rise to additional support needs\*

	Pupils for whom reason for support is reported	Learning disability	Dyslexia	Other specific learning difficulty (e.g. numeric)	Other moderate learning difficulty	Visual impairment	Hearing impairment	Deaf blind	Physical or motor impairment
Aberdeen City	2,671	401	184	324	403	113	63	*	193
Aberdeenshire	11,413	1,356	1,342	1,497	3,196	254	140	*	699
Angus	1,617	211	106	169	250	49	41	0	131
Argyll & Bute	1,902	164	310	317	264	76	44	*	153
Clackmannanshire	1,625	214	156	251	86	28	26	0	120
Dumfries & Galloway	4,687	359	205	691	2,067	157	77	*	184
Dundee City	2,486	231	131	116	410	67	71	0	164
East Ayrshire	3,214	330	349	213	781	72	55	0	129
East Dunbartonshire	3,145	206	457	957	60	106	46	0	139
East Lothian	2,944	336	365	312	724	59	39	*	191
East Renfrewshire	2,820	264	864	390	142	127	75	0	169
Edinburgh City	9,752	1,095	1,031	719	381	185	167	*	596
Eilean Siar	1,056	33	117	271	181	21	20	0	43
Falkirk	3,282	570	341	340	557	134	89	*	193
Fife	7,035	571	1,376	741	758	155	188	*	420
Glasgow City	20,996	2,296	1,136	1,105	1,793	438	313	8	688
Highland	7,439	583	930	1,067	855	123	105	*	295
Inverclyde	2,387	471	558	179	239	67	53	*	101
Midlothian	2,236	229	352	190	291	64	41	0	144
Moray	2,747	241	339	418	579	67	28	*	154
North Ayrshire	4,675	473	636	612	1,171	94	69	0	134
North Lanarkshire	3,745	997	206	213	584	157	117	*	254
Orkney Islands	620	37	115	116	62	12	10	0	16
Perth & Kinross	5,562	368	864	748	707	94	97	0	467
Renfrewshire	3,313	489	346	311	293	118	89	0	215
Scottish Borders	3,621	283	259	674	775	45	41	*	146
Shetland Islands	700	26	92	102	116	13	8	0	66
South Ayrshire	1,675	308	372	161	366	125	47	*	159
South Lanarkshire	8,200	1,105	1,004	747	1,629	217	157	*	336
Stirling	3,007	286	405	461	41	65	65	*	142
West Dunbartonshire	4,569	175	304	317	681	48	37	*	107
West Lothian	4,999	725	592	580	802	123	68	*	241
All local authorities	140,140	15,433	15,844	15,309	21,244	3,473	2,486	42	7,189
Grant aided	332	167	33	19	24	71	48	0	100
Scotland	140,472	15,600	15,877	15,328	21,268	3,544	2,534	42	7,289

\* pupils may be recorded as having more than one additional support need

	Language or speech disorder	Autistic spectrum disorder	Social , emotional and behavioural difficulty	Physical health problem	Mental health problem	Interrupted learning	English as an additional language	Looked after	More able pupil
Aberdeen City	297	326	570	171	42	57	492	104	26
Aberdeenshire	1,268	693	3,097	740	266	278	1,454	359	276
Angus	215	172	449	77	14	34	125	181	29
Argyll & Bute	238	165	401	123	19	17	62	95	6
Clackmannanshire	253	75	511	74	20	29	104	167	13
Dumfries & Galloway	380	304	694	170	29	26	247	286	35
Dundee City	261	343	636	128	56	59	257	159	32
East Ayrshire	463	123	623	177	28	56	124	354	68
East Dunbartonshire	138	338	352	166	16	35	315	117	70
East Lothian	319	144	721	151	46	24	160	105	38
East Renfrewshire	253	270	382	121	15	15	334	77	26
Edinburgh City	929	658	1,385	510	120	242	3,482	302	196
Eilean Siar	145	39	214	57	*	22	58	21	137
Falkirk	422	269	717	306	48	53	198	233	22
Fife	486	518	1,499	417	43	61	579	533	136
Glasgow City	1,384	1,565	3,360	1,284	175	267	6,999	1,365	540
Highland	703	691	1,837	449	93	134	890	128	96
Inverclyde	148	238	419	111	21	22	*	104	124
Midlothian	300	204	579	177	46	57	163	178	11
Moray	338	161	609	123	66	44	350	74	39
North Ayrshire	326	225	746	213	33	61	92	328	81
North Lanarkshire	525	571	730	226	23	30	202	212	12
Orkney Islands	142	64	111	25	*	5	12	8	14
Perth & Kinross	741	339	1,645	316	278	205	705	154	85
Renfrewshire	317	234	619	210	37	50	230	214	65
Scottish Borders	284	110	626	110	32	18	330	104	39
Shetland Islands	113	39	139	52	36	15	25	17	18
South Ayrshire	240	222	657	188	58	56	30	243	*
South Lanarkshire	727	878	1,441	454	93	173	380	364	99
Stirling	358	166	666	133	16	51	259	205	36
West Dunbartonshire	193	205	952	166	10	23	172	73	278
West Lothian	635	395	887	247	80	79	592	276	51
All local authorities	13,541	10,744	28,274	7,872	*	2,298	*	7,140	*
Grant aided	156	61	80	70	*	44	*	75	*
Scotland	13,697	10,805	28,354	7,942	1,870	2,342	19,475	7,215	2,706

	Communication Support Needs	Young Carer	Bereavement	Substance Misuse	Family Issues	Risk of Exclusion	Other	Not known/Not disclosed
Aberdeen City	127	10	21	*	70	19	162	*
Aberdeenshire	219	105	89	7	681	79	294	16
Angus	38	20	*	*	28	*	77	*
Argyll & Bute	41	5	*	0	57	7	213	*
Clackmannanshire	36	26	10	7	136	12	112	*
Dumfries & Galloway	121	12	*	*	74	*	220	*
Dundee City	55	11	18	13	139	18	146	*
East Ayrshire	23	6	11	0	47	11	319	*
East Dunbartonshire	86	17	27	*	173	7	279	6
East Lothian	52	12	10	*	150	15	247	*
East Renfrewshire	66	*	15	*	36	*	193	*
Edinburgh City	225	83	31	*	308	23	1,143	*
Eilean Siar	22	*	11	0	35	*	79	0
Falkirk	263	130	22	14	230	39	289	*
Fife	120	57	17	0	122	7	401	*
Glasgow City	1,112	165	392	85	2,329	354	1,937	19
Highland	181	41	46	*	453	24	753	0
Inverclyde	43	5	*	0	28	0	288	0
Midlothian	38	21	9	*	128	22	219	0
Moray	104	21	25	7	232	26	248	0
North Ayrshire	84	80	15	0	153	9	644	*
North Lanarkshire	66	8	9	0	52	6	185	*
Orkney Islands	9	*	18	0	32	0	17	0
Perth & Kinross	83	149	60	23	396	49	500	7
Renfrewshire	78	18	25	*	251	24	251	11
Scottish Borders	38	48	25	0	150	8	626	*
Shetland Islands	13	*	9	*	48	*	125	0
South Ayrshire	54	*	*	*	51	10	155	*
South Lanarkshire	407	29	65	16	614	62	797	17
Stirling	97	55	18	*	112	6	440	0
West Dunbartonshire	113	9	18	*	75	*	1,012	5
West Lothian	76	28	54	20	380	51	399	8
All local authorities	4,090	*	*	228	7,770	904	12,770	121
Grant aided	94	*	*	0	0	0	66	0
Scotland	4,184	1,188	1,082	228	7,770	904	12,836	121

## The types of support provided to those children and young people with additional support needs

	Pupils for whom nature of support is reported	Additional Specialist teaching support	Additional Specialist non-teaching support	Social Work services	Health services	Voluntary	Other
Aberdeen City	2,670	1,750	1,006	243	537	36	378
Aberdeenshire	11,411	8,031	8,520	1,155	2,586	104	1,042
Angus	1,584	994	681	270	395	57	170
Argyll & Bute	1,786	875	1,251	212	417	19	123
Clackmannanshire	1,594	931	757	284	433	30	183
Dumfries & Galloway	4,588	3,309	2,179	459	835	48	522
Dundee City	2,114	1,490	823	183	552	71	165
East Ayrshire	3,213	2,142	1,352	483	545	15	114
East Dunbartonshire	3,144	1,057	847	307	539	10	2,243
East Lothian	2,937	1,876	1,035	329	709	83	322
East Renfrewshire	2,496	1,445	1,212	233	330	12	344
Edinburgh City	9,462	7,089	3,861	778	1,795	228	797
Eilean Siar	1,040	465	565	49	107	*	316
Falkirk	3,269	2,239	2,181	460	838	96	311
Fife	6,894	3,343	2,749	605	1,002	29	1,302
Glasgow City	20,984	9,563	4,452	2,784	2,911	313	7,106
Highland	4,608	2,298	2,756	470	866	57	980
Inverclyde	2,361	1,120	1,475	256	293	27	358
Midlothian	1,909	1,198	969	374	628	42	160
Moray	2,587	1,709	1,263	320	614	44	634
North Ayrshire	4,675	2,806	2,078	520	659	39	986
North Lanarkshire	3,627	2,352	1,553	467	833	27	449
Orkney Islands	603	307	352	54	172	*	71
Perth & Kinross	5,342	3,244	3,376	493	1,517	285	650
Renfrewshire	3,318	1,397	1,201	576	762	47	1,253
Scottish Borders	3,606	2,289	2,188	295	751	86	299
Shetland Islands	693	537	416	81	228	28	60
South Ayrshire	1,418	941	873	353	536	39	230
South Lanarkshire	8,072	4,894	4,738	1,026	1,843	124	1,359
Stirling	2,979	1,760	1,593	357	655	38	483
West							
Dunbartonshire	4,574	1,765	1,733	477	651	136	1,958
West Lothian	5,003	3,031	1,829	520	973	30	866
All local authorities	134,561	78,247	61,864	15,473	26,512	2,209	26,234
Grant aided	331	257	236	124	171	51	62
Scotland	134,892	78,504	62,100	15,597	26,683	2,260	26,296

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## The cost of providing support

Funding for Additional Support for Learning is included in the block grant which the Scottish Government provides to all local authorities as part of the annual local government finance settlement. It is the responsibility of each local authority to allocate the total financial resources available to it on the basis of local needs and priorities having first fulfilled its statutory obligations and the jointly agreed set of national and local priorities including the Scottish Government's key strategic objectives.

The Scottish Government has committed to a preventative spend approach focusing on spend in the early years and on early intervention aligned with the Early Years Framework. The work to make provision to meet the learning needs of children and young people through the additional support for learning framework contributes to this agenda.

The Local Government Finance Statistics 2014 indicate that education authorities spend just over £4.8bn on education in Scotland. Of that £555m is spent on additional support for learning. This equates to just over 11% of the overall spend on education in Scotland. Although the amount spent has increased on last year the overall percentage spend remains the same.

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## Attendance, exclusion, qualifications and positive destinations for pupils with additional support needs

National statistics on the attendance, exclusion, attainment and leaver destinations of pupils provide an indicative picture across key indicators for children and young people with additional support needs. The national statistics on attendance and exclusion are collected every second year so the information that appears below on attendance and absence is the same information as last year. The information on attainment and leaver destinations is collected each year and that information is therefore new.

### Attendance

The table below indicates that pupils with additional support needs in 2012/13 have very slightly poorer attendance than pupils without additional support needs, a percentage difference of 1.3%. National statistics on attendance are collected every two years, since the last collection in 2010/11 there has been an increase across the board in attendance for pupils with additional support needs (1%) which is greater than that for pupils who do not have additional support needs (0.6%).

Percentage attendance of pupils with Additional Support Needs <sup>(1)</sup> by sector, 2012/13

	Percentage Attendance			
	Primary	Secondary	Special	Total
Children with ASN	93.6	89.2	90.5	92.7
Children with no ASN	95.2	92.5	#	94.0

### Exclusion

The table below indicates that children and young people with additional support needs are significantly more likely to be excluded from school than pupils who do not have additional support needs, this is likely to be linked to the significant proportion of pupils with additional support needs who have social and emotional behavioural difficulties. Those children and young people with a reason for support recorded as 'Risk of Exclusion', 'Substance Misuse' or 'Social emotional behavioural difficulty' are most often excluded from school.

Cases of exclusion and rate per 1,000 by Reason for Support 2012/13			
Reason For Support	Number of exclusions	Number of pupils at census <sup>(1)</sup>	Rate per 1,000 pupils
Total	21,955	669,910	33
With ASN	10,539	117,700	90
Without ASN	11,266	552,210	20
Learning disability	1,107	15,791	70
Dyslexia	964	13,497	71
Other specific learning difficulty (e.g.numeric)	685	10,852	63
Other moderate learning difficulty	1,323	17,816	74
Visual impairment	100	2,941	34
Hearing impairment	83	2,200	38
Physical or motor impairment	201	6,403	31
Language or speech disorder	331	11,191	30
Autistic spectrum disorder	434	8,614	50
Social emotional and behavioural difficulty	6,568	23,419	280
Physical health problem	248	6,492	38
Mental health problem	270	1,253	215
Interrupted learning	302	1,689	179
English as an additional language	258	15,148	17
Looked after	1,077	5,565	194
More able pupil	26	2,407	11
Communication Support Needs	68	1,837	37
Young Carer	30	441	68
Bereavement	87	650	134
Substance Misuse	86	170	506
Family Issues	637	3,636	175
Risk of Exclusion	859	692	1,241
Not disclosed/declared	10	142	70
Other	1,040	11,836	88

(1) Pupil numbers as at September 2012

## Attainment and Destinations

Much of the previous information published on the attainment or destinations of pupils with additional support needs has only looked at one year of data and has tended to focus on secondary schools only. This short piece of analysis looks at the attainment and destinations of leavers from secondary and special schools with additional support needs and how this has changed over the past four years. As



we are looking at information on leavers from special schools as well as those from secondary schools, we are only able to use information on the initial destinations of school leavers (destination in the October after leaving school) as follow-up destination are not collected for leavers from special schools.

## Attainment

As the types of qualifications pupils may take at school varies considerably, we will be looking at the average tariff score of school leavers rather than the individual qualifications. The average tariff score is simply a number representing the overall qualifications a leaver has achieved while at school, qualifications at a higher level or with better grades receive more points. So, the larger the average tariff score the more the leaver has achieved. The table below provides information on the number of school leavers with additional support needs and their average tariff score over the last 4 years. It should be noted that there are a range of qualifications which pupils with additional support needs gain and achieve which are not collected as part of this information. This includes SCQF Level 1 qualifications and those such as ASDAN, Princes Trust Awards etc.

Average tariff score attained by leavers from secondary and special schools with additional support needs, ASN, 2009/10 - 2012/13

	Average tariff score				Number of school leavers			
	2009/10	2010/11	2011/12	2012/13	2009/10	2010/11	2011/12	2012/13
Any ASN	121	168	206	222	3,813	5,831	7,366	9314
No ASN	385	405	433	439	50,968	48,895	44,055	43,947
Learning disability	55	66	78	89	835	880	940	1,150
Dyslexia	189	222	252	273	670	1,039	1,413	1,734
Visual impairment	161	234	249	241	103	136	166	203
Hearing impairment	225	218	274	289	78	100	146	204
Autistic spectrum disorder	168	195	215	235	312	450	481	619
Physical health problem	201	248	263	253	238	380	478	596
Mental health problem	126	114	147	167	41	87	122	180

Overall average tariff scores for all pupils is an improving picture including pupils with additional support needs. However, the rate of improvement of pupils with additional support needs is greater than for pupils without additional support needs. That said there continues to be a significant difference in the average tariff score between those two groups of pupils.

## Destinations

As with the information on attainment, the destinations data will also be affected by the large increase in the number of school leavers recorded as having an additional support need due to the changes in recording practices and the inclusion of the 'Other' support type. Therefore any changes in the percentages in each destination category could simply be the result of the inclusion of a wider range of leavers rather than a real change. The table below provides information on the destinations of leavers with any additional support need over the last 4 years.

Percentage of secondary and special school leavers with any additional support need by initial destination category, 2009/10 - 2012/13

	2009/10		2010/11		2011/12		2012/13	
	No ASN	With ASN	No ASN	With ASN	No ASN	With ASN	No ASN	With ASN
Higher Education	37.4	7.8	38.2	11.1	40.4	15.0	40.3	16.0
Further Education	26	45.5	25.8	40.9	24.9	39.5	25.7	39.0
Employment	18.9	10.2	19.7	13.9	20.4	14.7	21.0	16.0
Training	4.8	11.1	5.1	10.8	4.0	9.2	4.1	9.5
Voluntary Work	0.4	0.3	0.5	0.6	0.4	0.7	0.5	0.6
Activity Agreement		N/A	1.9	1.9	0.6	3.2	0.8	4.2
Unemployed Seeking	10.8	20	9	15.9	7.7	13.6	6.4	10.9
Unemployed Not Seeking	1.2	4.5	1	4.3	1.2	3.5	0.9	3.3
Unknown	0.6	0.6	0.3	0.4	0.4	0.6	0.3	0.5
Total Positive	87.4	74.9	89.7	79.3	90.8	82.3	92.4	85.4
Number of leavers	50,882	3759	48,895	5,831	44,055	7,366	43,947	9,314

The table above shows that (85.4 per cent of 2012/13 school leavers with an additional support need were in a positive destination (Higher Education, Further Education, Employment, Training, Voluntary Work or Activity Agreements) in

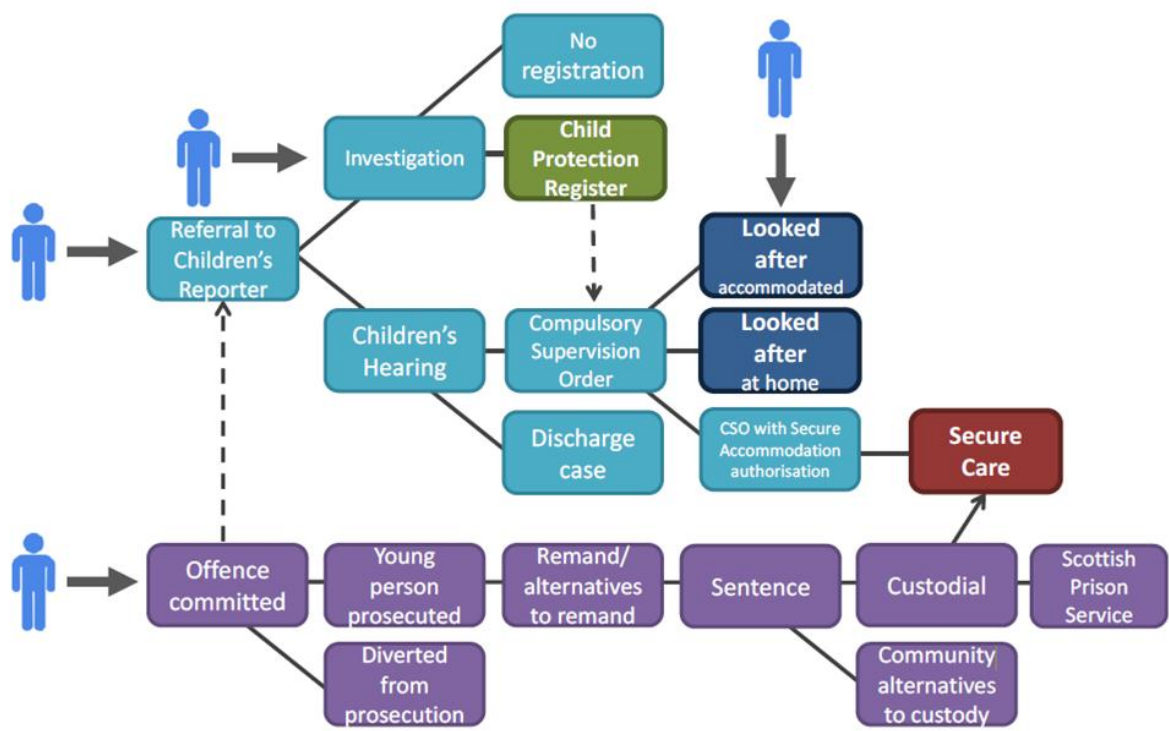
October 2013, an increase of 3.1 percentage points on 2011/12 and a 10.4 percentage point increase from 74.9 per cent in 2009/10. The percentage of leavers with Additional Support Needs entering Higher Education has also increased substantially, and while the percentage entering Further Education has decreased there is still a substantial number of leavers with Additional Support Needs in Further Education.

## Looked After Children and Young People

As the theme of this report to Parliament is looked after children and young people it is important to focus on their outcomes.

The number of children looked after increased every year from 2001 to 2012, when it seems to have peaked. At 31 July 2013 there were 16,041 children looked after by local authorities, a one per cent decrease on 2012.

Children become looked after in a number of ways (see diagram below)



The number of children being looked after by foster carers/prospective adopters or in other community placements remains at the highest level on record and, for the second year running in 2013 there were more children looked after by foster carers/prospective adopters than looked after at home.



The total number of looked after children has fallen for the first time since 2001



Continuing increase in proportion looked after **in foster care** and **kinship care**



Children continue to be looked after for a longer time

Looked after children tend to have lower levels of educational attainment than non-looked after children. These differences are, in part, linked to the fact that looked after children tend to leave school at younger ages than non-looked after children. In 2012/13 almost eight in ten (79 per cent) of looked after school leavers were aged 16 and under (i.e. they left school at the earliest point they could) compared to three in ten (30 per cent) of school leavers more generally.



Looked after children continue to have lower attainment. Their average tariff score is **improving** overall.



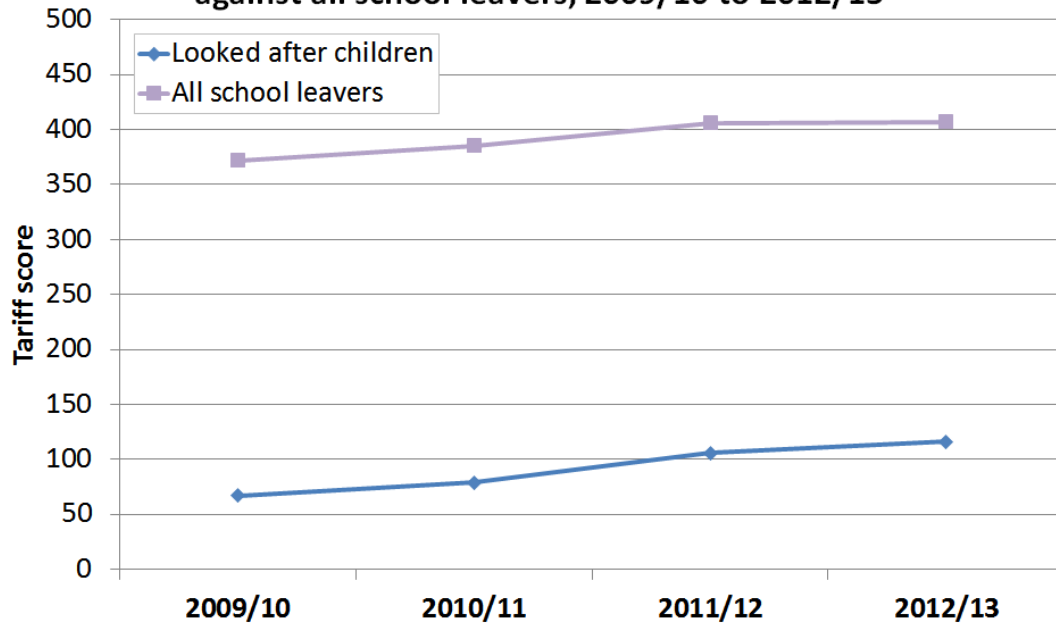
Looked after young people experiencing only **one placement** have higher average attainment than those with more placements.

The information below explores the attainment, destinations attendance and exclusions of pupils who are looked after and looked after with additional support needs. Because there are relatively small numbers of Looked After Children, there are very small numbers of Looked After Children with additional support needs, which means that any analysis has to be quite general. However, overall trends can be seen, which gives some insight into the performance of this group.

### Attainment of Looked After Children

The attainment of Looked After Children is much poorer than that of the average school leaver in Scotland. In 2012/13, Scotland leavers averaged tariff scores of over 400 points, where Looked After Children achieved over 100 points.

**Chart 1: Average tariff scores of looked after children against all school leavers, 2009/10 to 2012/13**



Average tariff score attained by looked after leavers from secondary and special schools with additional support needs, 2009/10 - 2012/13

	Average tariff score				Number of school leavers			
	2009/10	2010/11	2011/12	2012/13	2009/10	2010/11	2011/12	2012/13
Any ASN	45	49	82	93	207	284	274	258
No ASN	72	89	114	121	353	274	174	131

The number of looked after school leavers with additional support needs has remained fairly stable over the four year period for which we have data. However, the number of looked after school leavers with no additional support needs recorded has decreased substantially since 2009/10. This reflects the Act which automatically deems that all looked after children and young people have additional support needs unless the education authority determine that they do not require additional support in order to benefit from school education.

The attainment for looked after children has improved since 2009/10, but although looked after children with additional support needs have improved as well, they still underperform their peers. This pattern echoes that seen in the wider population of school leavers, although the gap between those with ASN and with no ASN is smaller among looked after children.

## Destinations of Looked After Children

The percentage of looked after children with additional support needs entering positive initial destinations has increased from 57 per cent in 2009/10 to 79 per cent in 2012/13. This is a substantial improvement, but is still lower than for all school leavers from secondary and special schools (91.2%).

It is clear from the specific destinations of looked after children with additional support needs that very few go into higher education. In 2012/13, the most common destination was further education (40%), followed by training (15%) and unemployed seeking (15%). A far higher proportion, 12 per cent in 2012/13, of looked after school leavers are participating in activity agreements compared with 1.4 per cent for all school leavers from secondary and special schools.

Percentage of secondary and special school leavers with any additional support need by initial destination category, 2009/10 - 2012/13

	2009/10	2010/11	2011/12	2012/13
Higher Education	*	*	*	*
Further Education	35	30	36	40
Employment	*	8	7	9
Training	16	15	17	15
Voluntary Work	*	*	*	*
Activity Agreement	N/A	*	11	12
Unemployed Seeking	38	32	20	15
Unemployed Not Seeking	4	7	6	6
Unknown	0	*	0	0
Total Positive	57	60	74	79
Number of leavers	207	284	274	258

## Attendance

Attendance rates for looked after children, both with and without an additional support need, have improved since 2009/10. However, attendance rates for those with an additional support need have increased at a higher rate. In 2012/13, attendance for looked after children was the same for those with an additional support need as it was for those without.

It can be seen that looked after children with learning disabilities, autistic spectrum disorders, language or speech disorder and physical or motor impairment consistently have higher attendance than looked after children with no additional support needs. Conversely, looked after children with dyslexia and social, emotional and behavioural difficulties have consistently worse attendance.

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	Percentage attendance		
	2009/10	2010/11	2012/13
Total : All looked after children	87.8%	88.6%	90.9%
Any ASN	86.9%	88.1%	90.9%
No ASN	88.3%	89.1%	90.9%
Learning Disability	89.4%	91.2%	91.5%
Dyslexia	85.0%	83.3%	86.3%
Other specific learning difficulty	88.9%	89.7%	90.8%
Other moderate learning difficulty	89.1%	89.8%	91.1%
Physical or motor impairment	92.3%	94.2%	93.8%
Language or speech disorder	93.6%	94.1%	94.8%
Autistic spectrum disorder	91.4%	93.2%	94.2%
Social, emotional and behavioural difficulty	85.5%	86.1%	89.4%

## Education Scotland picture of support and impact on outcomes

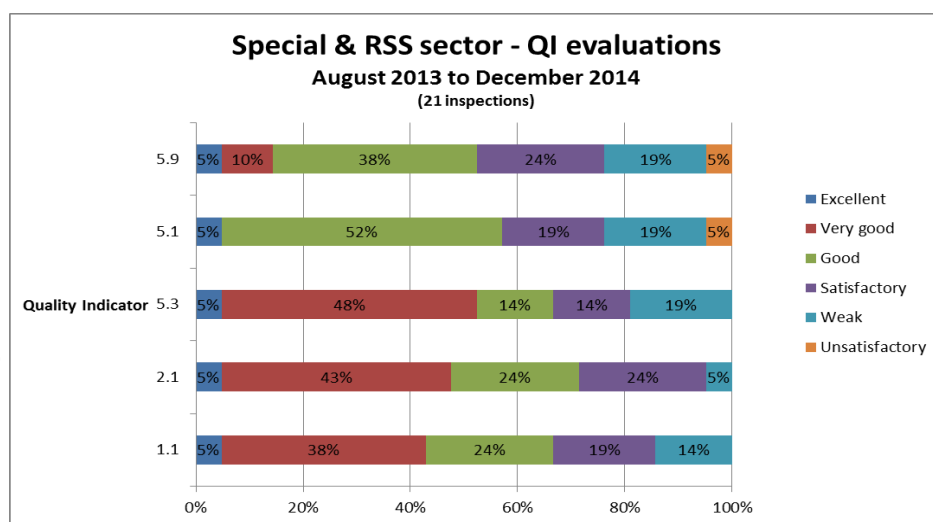
23 special schools were inspected between August 2013 and December 2014. Of these schools, 14 were local authority-managed day special schools and 9 were residential special schools. Residential special schools comprised of two grant-aided schools, one secure care service and seven independent residential special schools.

Day special schools were selected as a representative sample to meet the requirements of reporting on schools receiving positive inspection reports within the National Performance Framework (NPF). Independent residential special schools and the secure care service were not included in the NPF sample because they were not managed by local authorities.

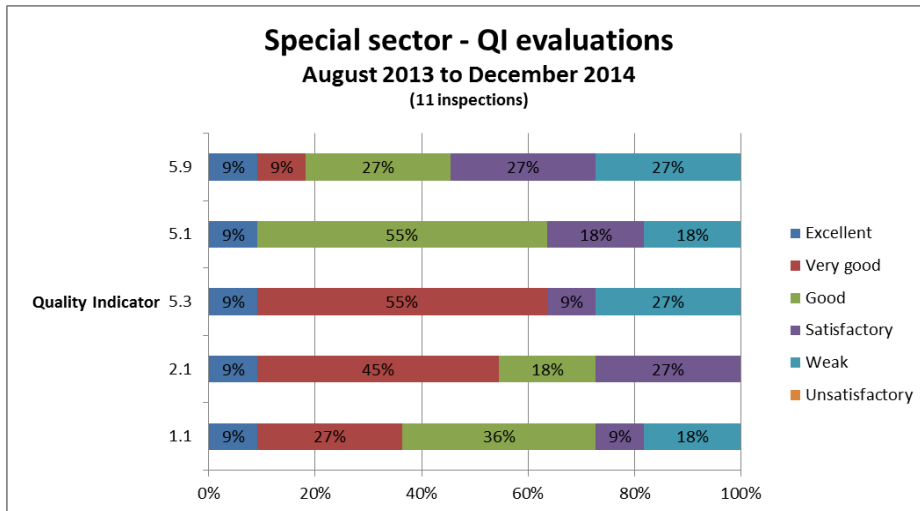
All schools inspected, including independent residential special schools, had taken account of the Inspection Advice Note 2013- 2014. The note reflected developing practice and national expectations of progress in the implementation of Curriculum for Excellence.

### An overview of key strengths and aspects for improvement

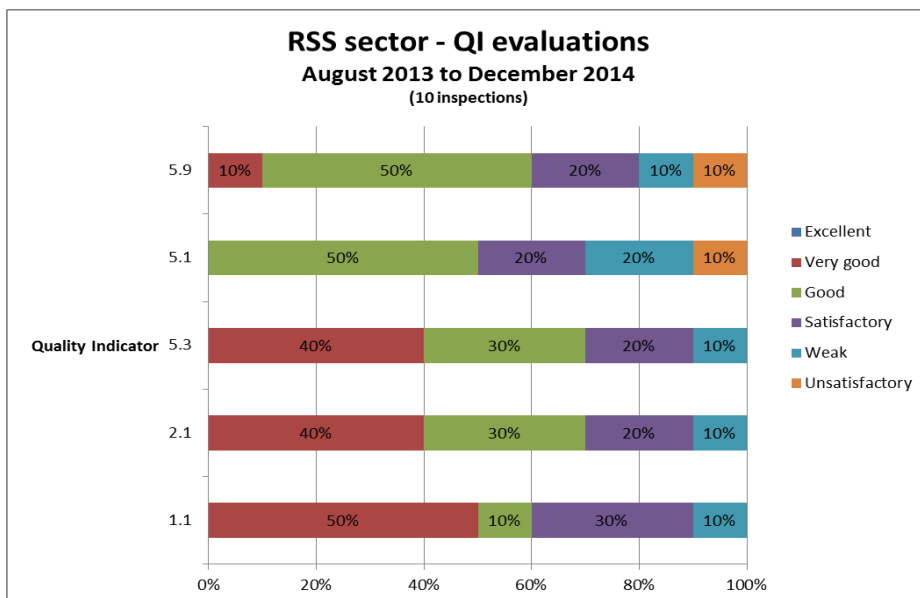
Overall, special schools and residential special schools are performing well. Learners experiences is an improving area with most schools receiving at least a good evaluation and over half judged as very good or excellent. Evidence from Records of Inspection show that schools are becoming more creative in actively involving children and young people in their learning. The strongest area in day special and residential special schools is QI 2.1 learners experiences where almost all schools received an evaluation of satisfactory or better. In both special and residential special schools, evaluations for QI 5.9 self-evaluation and QI 5.1 the curriculum, were lower than in the other three quality indicators. One possible explanation is that inspection evaluations took account of further increased expectations for schools within the Inspection Advice Note for 2013-2014. These increased expectations were related specifically to the curriculum and self-evaluation.







Most local authority day special schools achieved a satisfactory report within the National Performance Framework. This remains the same as in the previous four years 2008-2013. Records of inspection findings show that leadership plays an important role in how well schools perform overall and in the pace of implementation of Curriculum for Excellence.



Taking account of the smaller numbers of inspections in the sector, independent residential special schools continue to improve. More are receiving good or better evaluations than in the previous four years. Half of these schools achieved a very good evaluation in improvements in performance (QI 1.1) with almost all satisfactory or better in meeting learning needs.( QI 5.3). Residential special schools and secure care services have widened significantly the range of qualifications and awards that young people can achieve over the past four years. As a result, almost all young people are make notable progress from placement at the school.

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## Special and residential special schools progress in implementing Curriculum for Excellence

Key features of progress towards implementation include a small number of examples of schools which are now at a more advanced stage in implementing Curriculum for Excellence. In these schools, staff play a significant role in leading and driving forward improvements. They are notably more confident in using innovative approaches when planning learning. Good leadership with a vision for the outcomes of change is a consistent feature of such schools.

In some residential special schools and secure care services, there are examples of very effective partnership working to support young people. Education and care staff work closely with CAMHS, forensic and educational psychologists, social workers and other relevant agencies to ensure that children and young people get specialist help when they need it. While more special schools now have a clearer concept of what the senior phase looks like for young people with complex additional support needs, this is an area where more work needs to be done. Schools need to ensure that young people receive their entitlement to a senior phase and to support them to move on to a positive and sustained destination.

## Key features of successful approaches to meeting the needs of looked after children and young people at all stages

Education Scotland have considered as part of the preparation of this report best practice in meeting the needs of looked after children and young people across a range of local authorities and independent schools in Scotland. This has identified the following key features of successful approaches to meeting the needs of looked after children and young people at all stages:

- Staff's professional skills in responding to children's social and emotional needs and individual circumstances
- Highly personalised planning to develop the skills children need to be successful
- A nurturing environment which supports vulnerable children to engage with learning
- Clear and rigorous arrangements for monitoring looked after children's progress and supporting their learning
- High expectations of what looked after children and young people can achieve in their learning
- Strong partnerships with other agencies to help meet the needs of looked after children
- Making effective use of data about looked after children and young people in order to improve outcomes for them

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- Partner agencies sharing information effectively ensure continuity and consistency in delivering support to looked after children and young people
  - Planning for transitions
  - Promoting a culture and ethos of nurturing schools across local authorities
  - Shared approaches to meeting the learning and care needs of children looked after away from home across care and education settings.

Staff's professional skills in responding to children's social and emotional needs and individual circumstances

Schools ensure that all staff have suitable skills to enable them to provide a nurturing and supportive environment which provides children and their families including kinship carers with appropriate and sensitive support.

#### **Meadowview Early Education & Childcare Centre, West Dunbartonshire Council**

The nursery supports a number of kinship carers and provides a holistic approach to meeting the needs of these families including high levels of flexibility, additional input and parenting networks. Kinship carers spoke very highly of the support they have received from the nursery notably the exceptional skills of staff in responding to children's emotional needs and individual circumstances.

Meadowview provides a supportive and caring environment for looked after children and their families which are highly appreciated by parents and carers. Children are safe, happy and settled and clearly enjoy attending the nursery. Children are achieving very well in a wide range of areas including literacy and numeracy. Staff are very responsive to the needs of children interacting in a kind and sensitive manner. Partnerships with parents and carers are extremely positive and families benefit greatly from a range of projects, including those run between the centre and other professionals, such as the Early Education and Children Centre Outreach worker.

Highly personalised planning to develop the skills children need to be successful

Children experience a variety of stimulating, relevant experiences including programmes of support which help them to develop resilience. Personalised programmes are helping looked after children to manage change and loss, and develop their emotional wellbeing

#### **Aitkenbar Primary School, West Dunbartonshire Council**

At Aitkenbar Primary School, children experience a variety of stimulating, relevant experiences, often for the first time, including visits to Overtoun Estate, the local library and swimming pool, and participating in residential trips. Projects

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including 'Roots of Empathy' and 'Seasons for Growth' are making a valuable contribution towards helping looked after children to manage change and loss, and develop their emotional wellbeing.

The values and ethos of the school place a very high priority on knowing looked after children and their families. They do this extremely well. Led by a highly effective senior management team, staff across the school understand and demonstrate what they need to do to help looked after children reach their potential. Staff are very creative in providing a curriculum which is designed to develop the skills children need to be successful. Looked after children are making very good progress with their learning including literacy, numeracy and health and wellbeing. Teachers make full use of the whole school environment and the local community to enhance learning. Staff work with parents, carers and partner agencies highly effectively to ensure looked after children benefit from specialist help and advice to help them learn. Feedback from parents, carers and partners highlighted the school's holistic approach to meeting the needs of looked after children with very positive comments on transition planning, collaborative working, information sharing, an early intervention approach and highly personalised planning.

### **A nurturing environment which supports vulnerable children to engage with learning**

The emphasis within a nurture group is on emotional growth, focusing on offering broad-based experiences in an environment that promotes security, routines, clear boundaries and carefully planned learning opportunities.

#### **Raploch Primary School, Stirling Council**

Raploch Primary School has a well-established nurture room in place to provide an environment to support vulnerable children to fully engage with their learning and build their self- efficacy skills. Children accessing the nurture room this session have been making good progress towards their individualised targets and have improved their school attendance significantly. Children and parents spoke extremely highly of the nurture room programme notably the transferrable skills that were having a positive impact at both home and school.

The school has fully embedded values centred on improving children's life opportunities through learning in a nurturing and inclusive environment. The school has a large number of looked after children on their roll, many of whom require additional support. One of the school's major strengths is the attention to detail given to meeting the learning and pastoral needs of looked after children. The school has outstanding staged intervention systems in place to aid the

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identification of additional support needs and ensure children get the necessary supports they require quickly. Teachers intervene early when they see any requirement for additional support. All children who require specialised input from partner agencies have individual learning plans of a consistently very high standard with clear, purposeful, timeous long and short term targets in place. Children and their parents are fully involved in setting and reviewing the targets appropriately, together with partner agencies when necessary. Almost all looked after children are making very good progress towards achieving these targets.

### Clear and rigorous arrangements for monitoring looked after children's progress and supporting their learning

Children feel that their needs are well planned for, their needs are well known to staff and they feel welcome and valued. They are given a range of supports to help them settle quickly, including 'buddies'. Looked after children are confident about their learning and know the supports available to them within the school.

#### **St Michael's Primary School, Dumfries and Galloway Council**

St Michael's Primary School has exemplary arrangements for monitoring looked after children's progress and supporting their learning. The headteacher, teachers and support staff have a comprehensive overview of the needs of each looked after child within the school. This helps lead staff to having an extensive knowledge of looked after children which they use highly effectively to ensure all looked after children make significant progress with their learning. Many looked after children within the school require additional support and, as a result of the school's highly effective processes for identifying need and an early intervention approach, are making substantial progress with their individualised learning targets.

St Michael's has a very inclusive, caring and nurturing ethos across the school. Teachers and support staff are highly attentive to the health, wellbeing and learning of all children, including looked after children. The school is also imbued with a collective culture and commitment to meeting children's personal, social and health needs. Therefore, the headteacher places great emphasis on monitoring looked after children's wider achievements both within and outwith the school. Any looked after child at risk of losing out are provided with a range of personalised supports to aid their participation both within the school and the local community. Looked after children spoke very highly of this support and were keen to share their achievements.

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Looked after children away from home were also highly complementary of the support they received upon arriving at the school. Two looked after children had been to over six schools in a five year period. Both children fed back that they felt welcome and valued at St Michael's from the outset, and were given a range of supports to help them settle quickly, including buddies. All looked after children interviewed spoke very confidently about their learning and the supports available to them within the school. Parents, carers and partners spoke of the welcoming ethos within the school, highly knowledgeable staff and the outstanding leadership of the headteacher.

## High expectations of what looked after children and young people can achieve in their learning

Schools maintain consistently high expectations of looked after children's learning, attendance and behaviour and monitor these systematically.

### **Kirkintilloch High School, East Dunbartonshire Council**

Kirkintilloch High School has a strongly embedded ethos firmly focused on improving outcomes for all young people. The school successfully encourages young people to have high aspirations of what they can achieve in school and their lives beyond school. Looked after young people and their families fed back that they felt hugely supported by the school, had positive relationships with key adults and were impressed by the consistently high expectations the school maintained at all times, in terms of learning, attendance and behaviour.

Pupil support staff within the school monitor the progress of looked after young people on a regular basis and are very knowledgeable as to their individual needs. Class teachers are provided with highly detailed pupil profiles which provide advice and information on how they can best support looked after young people. Innovative approaches to engaging parents and carers have successfully ensured looked after young people and their families are well supported, particularly at key points of transition, during times of crisis and when young people are having difficulties with their learning or community issues. Pupil support staff are highly effective in identifying and accessing support from partner agencies to support additional needs of looked after young people. Well established partnerships with a very wide range of partners including for example, the Police and social work, led to positive outcomes for almost all looked after young people. Partners were welcomed as part of the school community, were a very visible presence across the school, and participated in a widespread range of activities both to enhance the curriculum and provide personalised support for individuals and small groups.

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Kirkintilloch High School shares a campus with Campsie View School, a school which supports young people with very complex needs, many of whom are looked after. High school staff and senior pupils have provided a range of opportunities for Campsie View pupils to have access to a broader curriculum and engage in a number of social activities within Kirkintilloch High School. As this initiative has developed, Campsie View young people have become an integral part of everyday life within the school. This has led to very positive outcomes for Campsie View young people, both in terms of their attainment and achievement but also, most significantly, in their personal and social development.

### **Strong partnerships with other agencies to help meet the needs of looked after children**

Looked after young people who require additional support have high quality personalised educational plans to support their learning and personal development. Effective collaboration with a range of agencies helps allow looked after young people to make significant progress.

#### **Thurso High School, Highland Council**

Within Thurso High School, looked after young people who require additional support have high quality personalised educational plans to support their learning and personal development. Very strong partnerships with other agencies such as education psychologists, social workers, health staff and children's services workers leads to effective collaborative planning in meeting the needs of looked after young people. Almost all looked after young people were making significant progress with their learning.

The school provides a safe, nurturing environment for looked after young people. Staff know young people very well, including any requirements for additional support. In particular, pupil support staff are highly adept at supporting looked after young people when they transfer from another school. They are skilled at identifying learning and pastoral needs. Furthermore, a number of looked after young people and their families spoke very highly of the support they have received. Positive factors reported included, the welcoming ethos of the school, caring staff, excellent communication links and the high levels of support provided at multi-agency meetings which helped facilitate young people and their families being able to fully contribute to reviewing, evaluating and planning next steps in their learning.



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## Making effective use of data about looked after children and young people in order to improve outcomes for them

Schools make effective use of data about looked after pupils including, attainment and achievement, attendance, exclusion rates and positive, sustained destination in comparison to their peers to inform strengths and areas for improvement in practice.

### **Wallace Hall Academy, Dumfries & Galloway Council**

In 2013, as part of their quality improvement programme, Wallace Hall Academy completed a comprehensive audit to measure whether the school was successfully meeting the needs of looked after young people. This information led to improving the outcomes of looked after young people becoming a key priority in the school's improvement plan. Following collaboration with young people, parents, carers, school staff and partner agencies, a number of new approaches to support looked after young people were introduced.

The results of this audit clearly highlighted that looked after young people had poor outcomes in comparison to their peers in areas including, attainment and achievement, attendance, exclusion rates and positive, sustained destinations. A principal teacher was allocated a key adult responsibility for all looked after young people within the school. The key adult has responsibility for rigorously monitoring the progress of all looked after young people, having frequent learning conversations with young people, being a first point of contact and communicating effectively with young people and their families, and identifying any requirements for additional support. The school has also ensured that looked after young people have access to all curricular opportunities available with a focus on the senior phase. The school has established a range of effective partnerships and out-of-class activities which has extended the curriculum and offered wider choice. Looked after young people are accessing a number of opportunities including vocational courses such as rural skills, forestry, mechanics and childcare. Many looked after young people also benefit from participating in the 'Queensberry initiative', which ensures all young people have a work experience placement within a year of exit from school. Some looked after young people have extended work experience placements and undertaken employability skills training. Young people spoke very highly of these initiatives.



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Partner agencies sharing information effectively ensure continuity and consistency in delivering support to looked after children and young people

Schools have clear and rigorous systems to track and monitor children and young people's progress at home, school and the community through the use of a shared network.

**Aspire Education (Independent residential special school)**

Aspire Education has developed a highly innovative system to track and monitor children and young people's progress at home, school and the community through the use of a shared network. All the professionals involved in supporting a looked after child or young person have access to a secure, electronic site set up by the school. This allows all agencies the opportunity to contribute to an ongoing chronology of key events and to provide evidence in monitoring a child or young person's progress towards achieving their learning targets. This has allowed purposeful collaborative working to take place, reduced bureaucracy and provided a highly efficient system to ensure continuity and consistency in delivering support to looked after children and young people.

Aspire is an independent school providing education, on both a day and residential basis, for looked after children and young people who require additional support arising from difficulties with their social, emotional and behavioural development.

Children and young people are making very good progress in developing their personal and social skills and understanding how to maintain positive wellbeing. They are learning to recognise their feelings and to use skills and strategies to help them cope with challenging situations and keep themselves safe. There is very good support for children's and young people's development and learning. Staff are highly adept at using nurturing approaches to help children and young people build resilience and engage fully with their learning. Staff are skilled at identifying needs of individuals and provide a range of effective approaches to best meet these needs. These approaches include strong partnership working which helps ensure children and young people get the appropriate support from outside agencies where appropriate.

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## Planning for transitions

Schools have highly personalised, well planned and carefully monitored transition arrangements to support looked after children to move in and on from the school successfully.

### **Harmeny Education Trust Centre (Grant-aided residential special school)**

Transition planning is a key strength of Harmeny School. The school uses highly personalised, well planned and carefully monitored transition arrangements to support looked after children to move in and on from the school successfully. Looked after children returning to mainstream school spoke extremely highly of the support they had received from Harmeny Trust to allow them a smooth transition.

Harmeny School is a grant-aided school providing specialist education services, on both a day and residential basis, for children of primary age up to S2. All children accessing Harmeny require additional support needs arising from difficulties with their social, emotional and behavioural development. Harmeny School provides a caring, secure and nurturing environment for children. Staff use nurturing approaches skilfully to help looked after children build resilience and to explore and express their feelings. Care and education staff know all of the children very well and have established positive relationships with them based on mutual trust and respect, underpinned by positive regard at all times. All children have personalised learning plans and detailed profiles based on high quality assessments and input from children, parents, carers and a wide range of specialists as appropriate. Children and parents feel they have a good say in planning their next steps. Staff use this detailed information very effectively to meet the needs of looked after children, being highly responsive to addressing ever-changing needs. This has resulted in almost all looked after children making significant progress.

## Promoting a culture and ethos of nurturing schools across local authorities

Local authorities establish a shared approach across all schools to assess and monitor looked after children and young people's physical and emotional wellbeing. This ensures that looked after children and young people receive timely, well- targeted support from appropriate professionals.

### **Stirling and Clackmannanshire Council**

Stirling and Clackmannanshire Council has adopted a strategy to embed nurture principles in all schools across Stirling and Clackmannanshire. As part of this initiative, the council have established a shared approach across all schools to

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assess and monitor looked after children and young people's physical and emotional wellbeing. This will ensure that looked after children and young people will receive the appropriate targeted support where necessary.

Stirling and Clackmannanshire Council identified that improving the outcomes of looked after children was a key priority. Therefore, they incorporated a range of actions to be taken forward by a Education Task Group within their Corporate Parenting Strategy. Through using the principles in 'How Nurturing Is Our School?' (HNIOS), the Council are developing universal training for senior managers to lead and promote nurturing environments within their schools. The Council is also auditing the impact of existing nurture groups across schools to determine the impact these initiatives are having in improving outcomes for looked after children and young people. The Council has developed high quality materials to support staff training in Child Protection. A key component of the training is to ensure all staff in educational establishments have an increased awareness of responsibilities for looked after children and young people. The Council is also developing a tracking system with a focus on attainment, attendance and well-being of looked after children and young people. This is to ensure that all education establishments across Stirling and Clackmannanshire will have effective and consistent systems in place to meet the needs of looked after children and young people.

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Shared approaches to meeting the learning and care needs of children looked after away from home across care and education settings.

Education and care staff identify and review jointly children and young people's learning needs regularly to respond promptly and flexibly their changing needs.

**Northview House (Independent residential special school)**

At Northview House, the school and houses responsible for the care of children and young people, very effectively plan and deliver interventions to meet children and young peoples' varied and, in some cases, severe and complex emotional and social needs.

Within Northview House, assistant psychologists use rigorous assessment as a starting point to identify psychological need and to build a unique profile of each child and young person in order to tailor therapeutic programmes to help meet the needs of the children and young people. These programmes are delivered in individual and group settings either in the school or in the houses. The identification and reviewing of learning needs continue on a weekly basis with all staff including care staff constantly discussing the changing needs of the children and young people in order to meet effectively and continually their learning needs. Given that the children and young people who are placed in Northview House have a wide range of changing complex needs the constant reviewing of the children and young people learning needs ensures that their learning needs are effectively and constantly met. Child protection procedures are extremely thorough. Staff are vigilant around child protection both in school and the houses. The school and houses have a high level of awareness of risk and appropriately carries out risk assessments for individual young people and children when carrying out both routine and one-off activities. The service puts in place suitable arrangements for managing identified risks.

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## Looked after children and young people – policies and programmes

Scottish Government's commitment to improvement and equality in attainment has a firm foundation in all key policies and programmes which affect children and young people, the pillars of which are Curriculum for Excellence, Teaching Scotland's Future, GIRFEC, and the Early Years Framework and Opportunities for All.

Specific policies for improving educational outcomes for looked after children and young people are enshrined in *Looked After Children and Young People: We Can and Must Do Better (Jan 2007)* report. Refreshed training materials for all professionals working with looked after children to improve their education is available at the website <http://www.wecanandmustdobetter.org/> which was launched in autumn 2013.

The Centre for Excellence for Looked after Children in Scotland (CELCIS) was created in Autumn 2011 and Scottish Government provide funding support of £3m per year.

### Children and Young People (Scotland) Act 2014

The Children and Young People (Scotland) Act 2014 will improve the way services work to support children, young people and families by ensuring there is a single planning approach for children who need additional support from services; creating a single point of contact around every child or young person; ensuring co-ordinated planning and delivery of services with a focus on outcomes, and providing a holistic and shared understanding of a child or young person's wellbeing.

The new measures starting in 2015 include entitling 16 year olds in foster, kinship or residential care to stay in their care placement up until the age of 21 before receiving Aftercare.

Approximately £5 million a year will be added to local authority funding for these provisions. These changes will also give young people in care the same opportunities that their non-looked after peers enjoy and will offer young people the extra support needed for their transition out of care and into further or high education should they wish.

### Education and Culture Committee Inquiry

During September 2011 to May 2012, the Education and Culture Committee held an inquiry to consider: "the reasons why more significant progress has not been

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made since devolution in improving the educational attainment of looked after children and what can be done to address this”.

The Committee’s report recognised that attainment cannot be improved in isolation. The report provided over 20 recommendations such as: better training for all professionals dealing with looked after children; improving stability for children in care; better joined up working by professionals – around the needs of the child. Children looked after at home were identified as a group requiring extra support as their outcomes are particularly poor in comparison to other groups of children and young people.

The introduction over the next two years of the full implementation of GIRFEC, the rollout of Permanence and Care Excellence (PACE), children’s services plans, the child’s plan, the named person and the national mentoring scheme should make a difference to LAC at home but because of the diversity of this group of children, they are only part of the solution.

If LAC at home is to be a viable, long-term solution to ensure that the children being supervised achieve a normal childhood and have positive life outcomes then there needs to be a major change in service provision. CELCIS and some third sector colleagues point to the loss of community based family services as a key factor in the poor services received by LAC at home. As it is unlikely they will be reinstated in the current financial climate, services will need to be reviewed using an assets based approach. This is not solely a Local Authority social works services issue as there is a large role for their education departments and health services to play.

The aim has to be for each LAC at home to receive the service they need, when they need it, in the same way that out of the home placements are provided for other LAC. These have to be provided by the appropriate universal services organisation, someone has to be responsible for ensuring their delivery and early and intensive intervention has to be available to all ages. The system also has to change towards one of prevention rather than being a sticking plaster, which the Looked After Children’s Unit’s Strategic Commissioning Team are looking at. Service providers will be concerned by this as intensive intervention is expensive but as Includem have shown, extensive resources can be freed by it, which will more than cover their cost as well as freeing resources to help more children.

## LACSIG Mentoring Hub – Ministerial Commitment

Scottish Ministers intend to ensure that all our looked after children and young people are offered the support of a mentoring relationship, with a trusted adult, who will remain alongside them for as long as the young person chooses.

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We know that one of the outcomes of such disruption in relationships is that many more looked after children and young people will experience mental health issues than their peers.

Therefore, action is being taken to take forward a key recommendation of the LACSIG Mentoring Hub report by Dr Susan Elsley of Nov 2013; to establish a National Mentoring Scheme for looked after children, focussing initially on those looked after at home aged between 8-14 years. Those looked after at home have the poorest outcomes of all looked after children.

Research suggests that mentoring, when offered as a long term relationship with particular features, can make a significant difference to the educational attainment and the health and wellbeing of the child or young person.

## Relationships and resolving concerns

### Rights under the Act

The Act makes provisions for the resolution of disputes between education authorities and the parents of children and young people concerning the exercise by education authorities of any of their functions under the Act.

Young People (aged 16 and over and still in school), the parents/carers of children and the parents/carer's of young people who do not have capacity to act on their own behalf have rights to access dispute resolution mechanisms under the legislation to resolve disputes.

### Information for parents

Education authorities are required to publish and provide information on their policy and arrangements for additional support for learning and for the involvement of young people and parents.

Authorities must also publish [information on the officers of the authority](#) from whom information is required. Authorities must also provide a summary of this information from learning establishments, school handbooks and on school or authority websites.

The Scottish Government provides funding to Children in Scotland to provide the Enquire service. Enquire is the national advice and information service for additional support for learning.

The service is provided directly to parents through a telephone helpline and through online services and published advice and information. The service provides valuable information to parents on services, provision and their rights.

- ✓ *Right to access Independent Mediation*
- ✓ *Right to make a referral to Independent Adjudication*
- ✓ *Right to access Advocacy services*

*Right to make a reference to the Tribunal relation to:*

- ✓ *A decision to prepare a co-ordinated support plan*
- ✓ *A decision not to prepare a co-ordinated support plan*
- ✓ *A decision to continue a co-ordinated support plan following a review*
- ✓ *A decision to discontinue a co-ordinated support plans following a review*
- ✓ *The length of time it is taking to decide whether a co-ordinated support plan is needed, to prepare the plan or review the plan. An appeal can be made if the education authority fails to review the co-ordinated support plan after 12 months*
- ✓ *A decision to refuse a parents request to determine if a child needs a co-ordinated support plans, or a request to have an early review of the plan*
- ✓ *Some of the information in the co-ordinated support plan*
- ✓ *The failure to provide the additional support included in the plan*
  - ✓ *A decision to refuse a placing request where a plan exists, or is required but not yet prepared, or if an appeal against a refusal of a placing request has not yet been considered*
- ✓ *Failures over post-school transition*



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## Enquire

In 2013-14 Enquire received 1,245 enquiries relating to Additional Support for Learning from 1005 people. 24 of these enquiries related to looked after children.

Of these 1,245 enquiries, topics included:

- ✓ Provision - support for learning
- ✓ Identification/Assessment of ASN
- ✓ Mediation
- ✓ Placing request
- ✓ School attendance
- ✓ Choosing a school
- ✓ Co-ordinated Support Plan
- ✓ Exclusion
- ✓ Health

**Avoiding and resolving disagreements**  
A user-friendly guide to navigating the dispute resolution mechanisms, which can be accessed under the Act and beyond, is available from Enquire:

<http://enquire.org.uk/20100622/wp-content/uploads/2011/06/steps-to-resolving-disagreements.pdf>

## Mediation

Mediation services are provided by a small range of independent services across Scotland through contracts with Local Authorities.

Resolve: ASL Mediation, Common Ground Mediation, The Mediation Partnership and Children 1<sup>st</sup> provide mediation services to 25 of the 32 local authorities in Scotland. The function of Independent Mediation in the Act is to support the resolution of concerns or disagreements at as early a point as possible and to re-establish relationships and communication which may be threatened or broken between services and families to be restored if possible.

In the 2013-14 period there were a total of 134 mediation related enquiries made by parents to these services relating to a range of issues.

## Independent Adjudication

Independent Adjudication supports the resolution of disagreements and concerns through a formal review of the case by someone who is independent of the education authority and the family and has expertise in dealing with children and young people with additional support needs. The adjudicator will consider the

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circumstances of the case and reach a decision, making recommendations to everyone involved. Although the decision is not legally binding there is an expectation that they will be accepted and followed. From November 2013 until November 2014 there have been 8 referrals to independent adjudication, all of these related to the provision of services.

## Section 70 Complaints

In addition, interested parties including parents, carers and young people can make a complaint to Scottish Ministers under Section 70 of the Education (Scotland) Act 1980 where it is believed that there has been a failure to fulfil a statutory duty.

From November 2013 until November 2014 there has been 1 Section 70 complaint received by Scottish Ministers about additional support for learning.

## The Additional Support Needs Tribunals for Scotland (ASNTS)

The Additional Support Needs Tribunals for Scotland consider a range of references related to additional support for learning legislation. From 1 November 2013 - 30 November 2014 the Tribunal received 78 referrals.

Following an extension to their remit in 2010, cases of alleged disability discrimination in schools. From 1 November 2013 - 30 November 2014 the Tribunal received 8 disability discrimination cases.

May Dunsmuir was appointed as the third President of the Tribunals on 12 May 2014 following the departure of Dr Joe Morrow.

Dr Morrow's final report as President was published in June 2014, details of this report can be found at the link below:

<http://www.asntscotland.gov.uk/asnts/files/Annual%20Report%202013-14.pdf>

On 26 November 2014 First Minister for Scotland, Nicola Sturgeon, announced the Programme for Government to the Scottish Parliament. Part of that programme included an [Education Bill](#). The Education Bill will include provisions on section 70 complaints to Scottish Ministers which may directly impact on the number of section 70 complaints received by Ministers and by the ASNTS.

## Independent Advocacy Service

Amendments made by the Education (Additional Support for Learning) (Scotland) Act 2009 placed a legal duty on the Scottish Government to provide free lay and legal advice to families and young people who appeal to the Additional Support Needs Tribunal against an education authority's decisions regarding the provision of educational support.

Following a competitive tendering exercise carried out in late 2013, it was announced at the Enquire annual conference that Dr Allan, Minister for Learning, Science and Scotland's Languages appointed a partnership of Govan Law Centre

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and Kindred Advocacy to provide the service from 1 April 2014 for a 3 year grant period.

An “Advocacy Service” as defined in the Education (Additional Support for Learning) (Scotland) Act 2009 “means a service whereby another person conducts discussions with or makes representations to the Tribunal”.

Since the commencement of the new service, Let’s Talk ASN have received 85 referrals to date, 72 of which have been resolved prior to a Tribunal hearing due to the service’s input.

### Strategic Partnership Funding for Community Organisations

On 16 June 2014, Minister for Children and Young People, Aileen Campbell, announced that an additional £5 million would be made available to allow strategic funding partnerships that were established in 2013 to help the government and public sector partners improve outcomes for young people and their families to be extended through to spring 2016.

As part of this, the Scottish Government will continue to fund Partners in Advocacy to provide independent advocacy support in Dundee, Glasgow and Edinburgh to children with additional support needs.

In the 2013-14 year, Partners in Advocacy received 42 referrals to their service with respect to children with additional support needs requesting advocacy services.

### Next report

The final statutory report to Parliament is due to be published in March 2016 and will focus on the implementation of Additional Support for Learning across 2015. The report will feature additional support needs arising from mental health.

# Annex A

## Total qualifications attained by leavers from secondary and special schools with additional support needs ASN

	Total leavers (=100%)	Average tariff score	1+ @ SCQF Level 2 or better	1+ @ SCQF Level 3 or better	5+ @ SCQF Level 3 or better	1+ @ SCQF Level 4 or better	5+ @ SCQF Level 4 or better	1+ @ SCQF Level 5 or better	5+ @ SCQF Level 5 or better	1+ @ SCQF Level 6 or better	3+ @ SCQF Level 6 or better	5+ @ SCQF Level 6 or better	1+ @ SCQF Level 7 or better	3+ @ SCQF Level 7 or better
<b>Total</b>	<b>53,261</b>	<b>401</b>	<b>98.0</b>	<b>97.8</b>	<b>93.2</b>	<b>95.0</b>	<b>83.3</b>	<b>81.1</b>	<b>57.9</b>	<b>54.8</b>	<b>39.4</b>	<b>27.6</b>	<b>18.0</b>	<b>2.4</b>
<b>No Additional Support need</b>	<b>43,947</b>	<b>439</b>	<b>99.1</b>	<b>99.0</b>	<b>96.4</b>	<b>97.7</b>	<b>89.1</b>	<b>86.8</b>	<b>64.5</b>	<b>61.0</b>	<b>44.6</b>	<b>31.5</b>	<b>20.4</b>	<b>2.7</b>
<b>Any Additional Support need</b>	<b>9,314</b>	<b>222</b>	<b>92.9</b>	<b>91.6</b>	<b>77.9</b>	<b>82.5</b>	<b>55.6</b>	<b>54.1</b>	<b>26.6</b>	<b>25.6</b>	<b>15.2</b>	<b>9.4</b>	<b>6.5</b>	<b>0.7</b>
<i>of which:</i>														
Learning disability	1,150	89	76.0	68.8	46.7	55.0	23.5	24.4	6.3	6.3	3.2	1.7	0.9	*
Dyslexia	1,734	273	98.3	98.1	92.8	94.1	71.7	68.3	34.0	32.6	18.3	11.0	8.6	0.6
Other specific learning difficulty (e.g. numeric)	853	251	96.8	95.9	87.9	91.3	63.5	61.8	29.4	28.0	19.0	10.8	8.9	1.2
Other moderate learning difficulty	899	145	93.9	91.7	74.5	80.0	39.5	39.0	11.3	11.5	5.1	2.8	2.6	*
Visual impairment	203	241	87.7	85.7	73.9	77.8	55.7	54.7	34.0	29.6	17.2	11.8	7.9	*
Hearing impairment	204	289	90.2	89.2	79.4	81.4	64.7	65.2	37.3	36.3	25.0	16.7	12.7	*
Deafblind	5	124	*	*	*	*	*	*	*	0.0	0.0	0.0	0.0	0.0
Physical or motor impairment	414	223	82.9	80.7	69.6	73.9	51.9	49.8	27.8	28.0	16.4	10.1	7.0	1.7
Language or speech disorder	303	107	70.6	65.0	46.9	53.8	27.4	29.4	11.2	12.2	5.9	*	1.7	0.0
Autistic spectrum disorder	619	235	85.6	83.0	70.9	76.1	56.5	57.4	30.9	30.4	17.1	11.6	8.1	1.9
Social, emotional and behavioural difficulty	2,268	118	88.8	87.5	63.5	70.9	33.4	31.8	9.2	8.0	3.7	2.0	1.4	*
Physical health problem	596	253	89.4	87.9	77.7	81.5	61.6	60.6	32.4	31.2	19.5	12.1	7.6	0.8
Mental health problem	180	167	83.9	80.0	60.6	65.0	44.4	42.8	23.3	21.7	13.3	7.2	5.0	0.0
Interrupted learning	189	85	83.6	82.0	47.6	51.9	22.2	21.2	6.3	6.9	3.7	2.6	*	0.0
English as an additional language	740	370	98.6	98.5	92.8	95.7	82.4	83.5	53.1	55.4	32.3	20.9	13.6	1.2
Looked after	492	108	87.8	85.6	57.7	66.1	27.4	28.3	8.3	6.3	2.8	2.0	1.0	*
More able pupil	121	628	100.0	100.0	99.2	100.0	97.5	97.5	91.7	88.4	79.3	58.7	36.4	5.8

Not disclosed/declared	12	166	91.7	91.7	83.3	91.7	41.7	50.0	*	*	*	*	0.0	0.0
Other	1,068	205	92.7	92.4	78.9	82.6	54.3	52.5	23.5	22.8	12.4	6.9	4.7	0.7

Information based on number of less than 5 have been suppressed for quality and disclosure reasons.

1. Leavers from publicly funded secondary and local authority special schools. All of the 11 leavers from grant-aided specials were excluded as none could be matched to census data.
2. Individuals may have more than one additional support need - numbers will not add up to the total.
3. Includes all leavers from special schools and leavers from secondary schools with Additional Support Needs. If none are specified, they are treated as having "Other or unknown" support needs.

Percentage of secondary and special school leavers from publicly funded schools in Scotland by reason for support and initial destination category, 2012/13

	Number of Leavers	Higher Education	Further Education	Training	Employment	Voluntary Work	Activity Agreement	Unemployed and Seeking Employment or Training	Unemployed and Not Seeking Employment or Training	Unknown
<b>Total</b>	<b>53,261</b>	<b>36.0</b>	<b>28.0</b>	<b>5.1</b>	<b>20.1</b>	<b>0.5</b>	<b>1.4</b>	<b>7.2</b>	<b>1.3</b>	<b>0.3</b>
<b>No Additional Support need</b>	<b>43,947</b>	<b>40.3</b>	<b>25.7</b>	<b>4.1</b>	<b>21.0</b>	<b>0.5</b>	<b>0.8</b>	<b>6.4</b>	<b>0.9</b>	<b>0.3</b>
<b>Any Additional Support need</b>	<b>9,314</b>	<b>16.0</b>	<b>39.0</b>	<b>9.5</b>	<b>16.0</b>	<b>0.6</b>	<b>4.2</b>	<b>10.9</b>	<b>3.3</b>	<b>0.5</b>
<i>of which:</i>										
Learning disability	1,150	3.1	52.1	9.2	11.0	1.1	5.1	8.5	9.3	0.5
Dyslexia	1,734	18.6	39.2	7.6	22.4	0.4	2.6	7.7	1.2	0.3
Other specific learning difficulty (e.g. numeric)	853	19.2	38.2	8.2	20.9	*	2.5	7.9	2.3	*
Other moderate learning difficulty	899	6.0	47.2	12.6	15.4	*	5.8	10.1	*	*
Visual impairment	203	18.2	49.8	7.9	8.9	*	*	4.4	7.9	0.0
Hearing impairment	204	20.1	48.0	4.9	12.3	*	3.4	3.9	4.9	*
Deafblind	5	0.0	*	0.0	0.0	0.0	0.0	0.0	*	0.0
Physical or motor impairment	414	19.3	41.8	8.5	10.6	*	*	6.8	8.5	*
Language or speech disorder	303	4.3	53.8	7.3	8.6	*	*	5.3	16.5	0.0
Autistic spectrum disorder	619	17.9	55.7	4.5	6.5	*	3.2	3.9	6.1	*
Social, emotional and behavioural difficulty	2,268	4.3	33.2	14.7	16.4	0.9	7.7	17.2	5.2	0.5
Physical health problem	596	18.8	41.3	6.5	14.4	*	3.0	6.7	7.9	*
Mental health problem	180	12.2	39.4	*	12.2	*	7.2	13.9	7.2	*
Interrupted learning	189	*	30.2	16.4	7.9	*	12.7	20.6	6.9	*
English as an additional language	740	38.1	41.5	3.0	7.8	*	1.1	6.2	1.1	*
Looked after	492	*	34.8	13.4	12.4	*	8.3	20.3	6.9	*
More able pupil	121	78.5	10.7	*	4.1	*	*	*	*	0.0
Not disclosed/declared	12	*	*	*	*	0.0	*	0.0	0.0	0.0
Other	1,068	14.2	35.2	11.6	16.2	0.5	4.5	13.5	3.6	0.7

1. Percentages may not total 100% due to rounding.

2. This table only includes leavers who have a robust match to the pupil census.



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# Education (Additional Support for Learning) (Scotland) Act 2004 2004 asp 4

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# Education (Additional Support for Learning) (Scotland) Act 2004 2004 asp 4

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 1st April 2004 and received Royal Assent on 7th May 2004**

An Act of the Scottish Parliament to make provision for additional support in connection with the school education of children and young persons having additional support needs; and for connected purposes.

## *Main definitions*

### **1 Additional support needs**

- (1) A child or young person has additional support needs for the purposes of this Act where, for whatever reason, the child or young person is, or is likely to be, unable without the provision of additional support to benefit from school education provided or to be provided for the child or young person.
- (2) In subsection (1), the reference to school education includes, in particular, such education directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.
- (3) In this Act, “additional support” means—
  - (a) in relation to a prescribed pre-school child, a child of school age or a young person receiving school education, provision which is additional to, or otherwise different from, the educational provision made generally for children or, as the case may be, young persons of the same age in schools (other than special schools) under the management of the education authority for the area to which the child or young person belongs,
  - (b) in relation to a child under school age other than a prescribed pre-school child, such educational provision as is appropriate in the circumstances.

### **2 Co-ordinated support plans**

- (1) For the purposes of this Act, a child or young person requires a plan (referred to in this Act as a “co-ordinated support plan”) for the provision of additional support if—
  - (a) an education authority are responsible for the school education of the child or young person,

- (b) the child or young person has additional support needs arising from—
    - (i) one or more complex factors, or
    - (ii) multiple factors,
  - (c) those needs are likely to continue for more than a year, and
  - (d) those needs require significant additional support to be provided—
    - (i) by the education authority in the exercise of any of their other functions as well as in the exercise of their functions relating to education, or
    - (ii) by one or more appropriate agencies (within the meaning of section 23(2)) as well as by the education authority themselves.
- (2) For the purposes of subsection (1)—
- (a) a factor is a complex factor if it has or is likely to have a significant adverse effect on the school education of the child or young person,
  - (b) multiple factors are factors which—
    - (i) are not by themselves complex factors, but
    - (ii) taken together, have or are likely to have a significant adverse effect on the school education of the child or young person.

### **3 Children and young persons who lack capacity**

- (1) For the purposes of this Act, a child or young person lacks capacity to do something if the child or young person is incapable of doing it by reason of mental illness, developmental disorder or learning disability or of inability to communicate because of a physical disability.
- (2) However, a child or young person is not to be treated as lacking capacity by reason only of a lack or deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise).

#### *General powers and duties*

### **4 Duties of education authority in relation to children and young persons for whom they are responsible**

- (1) Every education authority must—
  - (a) in relation to each child and young person having additional support needs for whose school education the authority are responsible, make adequate and efficient provision for such additional support as is required by that child or young person, and
  - (b) make appropriate arrangements for keeping under consideration—
    - (i) the additional support needs of, and
    - (ii) the adequacy of the additional support provided for, each such child and young person.
- (2) Subsection (1)(a) does not require an education authority to do anything which—
  - (a) they do not otherwise have power to do, or

- (b) would result in unreasonable public expenditure being incurred.

## **5 General functions of education authority in relation to additional support needs**

- (1) Every education authority must in exercising any of their functions in connection with the provision of school education, take account of the additional support needs of children and young persons having such needs.
- (2) Every education authority must, subject to subsection (3), provide such additional support as is appropriate for each child—
  - (a) under school age (other than a prescribed pre-school child),
  - (b) belonging to the authority's area, and
  - (c) who has additional support needs arising from a disability (within the meaning of the Disability Discrimination Act 1995 (c.50)) which the child has.
- (3) The duty in subsection (2) applies only where the authority has established, in pursuance of section 7(5) of this Act, that the child has the additional support needs referred to in subsection (2)(c) following the child having been brought to the authority's attention as having or appearing to have such needs by a Health Board.
- (4) An education authority may provide such additional support as is appropriate for children (other than children to whom the education authority have a duty under subsection (2)) and young persons belonging to the area of the authority—
  - (a) having additional support needs, but
  - (b) for whose school education the authority are not responsible.

### *Establishment of additional support needs and need for co-ordinated support plan*

## **6 Children and young persons for whom education authority are responsible**

- (1) Every education authority must make such arrangements as they consider appropriate for identifying—
  - (a) from among the children and young persons for whose school education they are responsible—
    - (i) those who have additional support needs, and
    - (ii) those having additional support needs who require a co-ordinated support plan, and
  - (b) the particular additional support needs of the children and young persons so identified.
- (2) Where an education authority receive from a person specified in subsection (3) a request to establish whether any child or young person for whose school education the authority are responsible—
  - (a) has additional support needs, or
  - (b) requires a co-ordinated support plan,the authority must, in accordance with the arrangements made by them under subsection (1), comply with the request unless the request is unreasonable.
- (3) The persons referred to in subsection (2) are—
  - (a) in the case of a child, the child's parent,

- (b) in the case of a young person—
  - (i) the young person, or
  - (ii) if the authority are satisfied that the young person lacks capacity to make the request, the young person's parent.
- (4) Where, in pursuance of a request referred to in subsection (2), an education authority establish that a child or young person has additional support needs, the authority must inform the person who made the request of that fact.
- (5) Subsection (6) applies where a child or young person for whose school education an education authority are responsible comes to the attention of the authority as—
  - (a) having, or appearing to have, additional support needs, or
  - (b) having such needs and requiring, or appearing to require, a co-ordinated support plan.
- (6) Where this subsection applies, the education authority must, in accordance with the arrangements made by them under subsection (1), establish whether the child or young person does have additional support needs or, as the case may be, require a co-ordinated support plan, unless the authority consider it unreasonable to do so.
- (7) Subsections (2) and (6) are without prejudice to subsection (1).

## **7 Other children and young persons**

- (1) Where an education authority receive a request of a type specified in subsection (2) relating to any child or young person—
  - (a) belonging to the area of the authority, but
  - (b) for whose school education the authority are not responsible,the authority may, in accordance with the arrangements made by them under section 6(1), comply with the request.
- (2) The types of request referred to in subsection (1) are—
  - (a) a request from a person specified in subsection (3) to establish whether the child or young person in relation to whom the request is made—
    - (i) has additional support needs, or
    - (ii) would, if the education authority were responsible for the school education of the child or young person, require a co-ordinated support plan,
  - (b) in the case of a child or young person being provided with school education at an independent school or a grant-aided school, a request from the managers of the school to establish whether the child or young person would, if the education authority were responsible for the school education of the child or young person, require such a plan.
- (3) The persons referred to in subsection (2)(a) are—
  - (a) in the case of a child, the child's parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to make the request, the young person's parent.

- (4) Subsection (5) applies where a child or young person—
  - (a) belonging to the area of an education authority, but
  - (b) for whose school education an education authority are not responsible,comes to the attention of the authority (otherwise than as a result of a request referred to in subsection (1)) as having, or appearing to have, additional support needs.
- (5) Where this subsection applies, the education authority may, in accordance with the arrangements made by them under section 6(1), establish whether the child or young person does have additional support needs.
- (6) Subsection (7) applies where, in pursuance of this section, an education authority establish that a child or young person—
  - (a) has additional support needs, or
  - (b) would, if the education authority were responsible for the school education of the child or young person, require a co-ordinated support plan.
- (7) Where this subsection applies, the education authority must provide the persons mentioned in subsection (8) with such information and advice as to the additional support required by the child or young person as they consider appropriate.
- (8) The persons referred to in subsection (7) are—
  - (a) in the case of a child, the child’s parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to understand the information or advice, the young person’s parent,
  - (c) where the authority establish the matter referred to in subsection (6) pursuant to a request made by the managers of an independent school or a grant-aided school, those managers.

## **8 Assessments and examinations**

- (1) Where—
  - (a) an education authority propose—
    - (i) in pursuance of any provision of this Act, to establish whether a child or young person has additional support needs or requires, or would require, a co-ordinated support plan, or
    - (ii) to review under section 10 any such plan prepared for any child or young person, and
  - (b) the appropriate person makes a request that the education authority arrange for the child or young person to whom the proposal referred to in paragraph (a) relates to undergo, for the purposes of the proposal, a process of assessment or examination (such a request being referred to in this section as an “assessment request”),the education authority must comply with the assessment request unless the request is unreasonable.
- (2) In subsection (1)(b), “the appropriate person” means—

- (a) where the proposal referred to in subsection (1)(a) arises from a request referred to in section 6(2), 7(1) or 10(4), the person making the request,
- (b) in any other case—
  - (i) where the proposal relates to a child, the child’s parent,
  - (ii) where the proposal relates to a young person, the young person or, where the authority are satisfied that the young person lacks capacity to make the request, the young person’s parent.
- (3) Where a child or young person is to undergo a process of assessment or examination in pursuance of an assessment request, the process is to be carried out by such person as the education authority consider appropriate.
- (4) In subsection (1)(b), the reference to assessment or examination includes educational, psychological or medical assessment or examination.

*Co-ordinated support plans*

**9 Duty to prepare co-ordinated support plans**

- (1) Where an education authority establish in pursuance of any provision of this Act that a child or young person for whose school education they are responsible requires a co-ordinated support plan, they must prepare such a plan for the child or young person.
- (2) A co-ordinated support plan prepared under subsection (1) must contain—
  - (a) a statement of the education authority’s conclusions as to—
    - (i) the factor or factors from which the additional support needs of the child or young person arise,
    - (ii) the educational objectives sought to be achieved taking account of that factor or those factors,
    - (iii) the additional support required by the child or young person to achieve those objectives, and
    - (iv) the persons by whom the support should be provided,
  - (b) a nomination of a school to be attended by the child or young person,
  - (c) the name and other appropriate contact details of—
    - (i) the officer of the authority responsible for the discharge of the authority’s duty under subsection (5)(d) of section 11, or
    - (ii) if the authority arrange under subsection (6) of that section for that duty to be discharged by another person, that other person, and
  - (d) the name and other appropriate contact details of an officer of the authority from whom—
    - (i) in the case of a plan prepared for a child, the child’s parent,
    - (ii) in the case of a plan prepared for a young person, the young person or, where the authority are satisfied that the young person lacks capacity to seek advice or information, the young person’s parent,
 can obtain advice and further information.



- (3) The references in subsection (2)(a) to educational objectives are to objectives set to secure that the child or young person benefits from school education (within the meaning of section 1(1)) provided or to be provided for the child or young person.

## **10 Reviews of co-ordinated support plans**

- (1) Every education authority must keep under consideration the adequacy of any co-ordinated support plans prepared (and not discontinued) for any children or young persons belonging to their area.
- (2) The education authority must carry out a review of each such co-ordinated support plan—
  - (a) on the expiry of the period of 12 months beginning with the date on which the plan was prepared, and
  - (b) thereafter, on the expiry of each successive period of 12 months beginning with the date on which the previous review (whether carried out under this subsection or subsection (3) or (4)) of the plan was completed.
- (3) An education authority may carry out a review of such a co-ordinated support plan before the expiry of a period referred to in subsection (2) only—
  - (a) pursuant to a request referred to in subsection (4), or
  - (b) if the authority consider it necessary or expedient to do so because of a significant change in the circumstances of the child or young person for whom the plan was prepared since the plan was prepared or, as the case may be, last reviewed.
- (4) Where the education authority receive from a person specified in subsection (5) a request to carry out a review of any such co-ordinated support plan as is mentioned in subsection (1) before the expiry of a period referred to in subsection (2), the authority must carry out a review of the plan unless the request is unreasonable.
- (5) The persons referred to in subsection (4) are—
  - (a) in the case of a co-ordinated support plan prepared for a child, the child's parent,
  - (b) in the case of a co-ordinated support plan prepared for a young person—
    - (i) the young person, or
    - (ii) where the education authority are satisfied that the young person lacks capacity to make the request, the young person's parent.
- (6) In reviewing any co-ordinated support plan under this section, the education authority must, in accordance with the arrangements made by them under section 6(1), establish whether the child or young person for whom the plan was prepared still requires such a plan and—
  - (a) if so, continue the plan for the child or young person and make such amendments of it as the authority consider necessary or appropriate, or
  - (b) if not, discontinue the plan.

## **11 Co-ordinated support plans: further provision**

- (1) Subsection (2) applies where an education authority propose—
  - (a) in pursuance of any provision of this Act, to establish whether any child or young person requires, or would require, a co-ordinated support plan,

- (b) to review under section 10 any such plan prepared for any child or young person.
- (2) Where this subsection applies, the education authority must—
- (a) before proceeding, inform the persons mentioned in subsection (3) of their proposal, and
  - (b) on establishing the matter referred to in subsection (1)(a) or, as the case may be, completing the review referred to in subsection (1)(b), inform those persons of—
    - (i) the outcome, and
    - (ii) the rights (if any) which they have under section 18(1) to make a reference to a Tribunal in connection with the outcome.
- (3) The persons referred to in subsection (2)(a) are—
- (a) in the case of a child, the child's parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to understand the information, the young person's parent,
  - (c) where the proposal arises as a result of a request referred to in section 7(1) made by the managers of an independent school or a grant-aided school, those managers.
- (4) Subsection (5) applies where an education authority—
- (a) prepare a co-ordinated support plan for any child or young person under this Act, or
  - (b) amend any such plan—
    - (i) following a review carried out under section 10, or
    - (ii) pursuant to a requirement made by a Tribunal under subsection (4)(b) or (5)(b)(ii) of section 19.
- (5) Where this subsection applies, the education authority must—
- (a) give a copy of the plan or amended plan—
    - (i) in the case of a child, to the child's parent,
    - (ii) in the case of a young person, to that young person or, if the authority are satisfied that the young person lacks capacity to understand the plan, to the young person's parent,
  - (b) ensure that additional support is provided by them for the child or young person in accordance with the plan or amended plan so far as they have power to do so,
  - (c) seek to ensure that additional support is provided for the child or young person in accordance with the plan or amended plan by any person (other than the education authority) identified in the plan as a person by whom such support should be provided,
  - (d) co-ordinate, so far as possible, the provision of additional support for the child or young person as mentioned in paragraphs (b) and (c) by the authority and any other persons by whom such support is to be provided, and

- (e) inform such persons as they consider appropriate, being persons who will be involved in the provision of additional support for the child or young person, of such matters contained in the plan or amended plan as they consider appropriate.
- (6) The education authority may arrange for the discharge of their duty under subsection (5)(d) by another person.
- (7) Subsection (6)—
  - (a) does not affect the responsibility of the education authority for the discharge of their duty under subsection (5)(d), and
  - (b) is without prejudice to any other power of the education authority to arrange for the discharge of any of their functions under this Act by another person.
- (8) The Scottish Ministers may by regulations make further provision as to co-ordinated support plans including, in particular, provision as to—
  - (a) the form of such plans,
  - (b) the information (in addition to that required by section 9(2)) to be contained in them,
  - (c) the preparation, keeping, disclosure, discontinuance and destruction of such plans,
  - (d) the procedures to be followed in carrying out reviews of such plans under section 10,
  - (e) the transfer of such plans when the children and young persons for whom they are prepared move from the area of one education authority to that of another,
  - (f) without prejudice to the generality of the other paragraphs in this subsection, the times by which—
    - (i) such plans are to be prepared, and
    - (ii) reviews of them under section 10 are to be completed, and
  - (g) such other matters in relation to co-ordinated support plans as the Scottish Ministers think necessary or expedient.

#### *Exchange of information*

### **12 Duties to seek and take account of views, advice and information**

- (1) In—
  - (a) establishing in pursuance of any provision of this Act whether any child or young person—
    - (i) has additional support needs, or
    - (ii) requires, or would require, a co-ordinated support plan,
  - (b) establishing in pursuance of a review carried out under section 10 whether any child or young person still requires a co-ordinated support plan,
  - (c) preparing such a plan for any child or young person, or
  - (d) determining in pursuance of section 4(1) what provision to make for such additional support as is required by any child or young person having additional support needs,

the education authority must comply with the duty described in subsection (2).

- (2) That duty is a duty to—
  - (a) seek and take account of relevant advice and information from such appropriate agencies and other persons as the education authority think appropriate,
  - (b) subject to subsection (3), seek and take account of the views of—
    - (i) in the case of a child, the child (unless the authority are satisfied that the child lacks capacity to express a view) and the child's parent, and
    - (ii) in the case of a young person, that young person or, if the authority are satisfied that the young person lacks capacity to express a view, the young person's parent,
  - (c) take account of any relevant advice or information provided to the authority by or on behalf of the child or young person concerned, and
  - (d) take account of any relevant advice and information in the authority's possession or control by virtue of any of their functions other than their functions relating to education.
- (3) In the cases mentioned in subsection (1)(a)(i) and (d), the duty described in subsection (2)(b) applies only in relation to such children and young persons as the authority consider appropriate.
- (4) Advice or information is relevant for the purposes of subsection (2)(a), (c) or (d) if it is likely to assist the education authority in doing any of the things referred to in paragraphs (a) to (d) of subsection (1).
- (5) Every education authority must—
  - (a) no later than 12 months before the date on which any child or young person—
    - (i) having additional support needs, and
    - (ii) for whose school education the authority are responsible,is expected to cease receiving school education, or
  - (b) where the education authority become aware that the child or young person is to cease receiving school education less than 12 months before that date, as soon as reasonably practicable after they become so aware,comply with the duty in subsection (6).
- (6) That duty is a duty to—
  - (a) request from such appropriate agency or agencies as the authority think fit (if any) such information as the authority consider appropriate concerning any provision which the agency is or, as the case may be, the agencies are likely to make for the child or young person on ceasing to receive school education,
  - (b) where the authority make a request under paragraph (a), seek the views of—
    - (i) in the case of a child, that child (unless the authority are satisfied that the child lacks capacity to express a view) and the child's parent, or
    - (ii) in the case of a young person, that young person or, if the authority are satisfied that the young person lacks capacity to express a view, the young person's parent, and
  - (c) take account of—

- (i) any information provided by any appropriate agency or agencies pursuant to a request under paragraph (a),
- (ii) any views expressed by the child or young person or the child's or young person's parent pursuant to paragraph (b), and
- (iii) any provision which the education authority themselves are, in the exercise of any of their functions other than their functions relating to education, likely to make for the child or young person on ceasing to receive school education,

in considering the adequacy of the additional support to be provided for the child or young person during the period before the child or young person ceases to receive school education.

- (7) Subsections (5) and (6) are without prejudice to section 4(1)(b).

### **13 Provision of information etc. on occurrence of certain events**

- (1) Every education authority must—
- (a) no later than 6 months before the date on which any child or young person—
    - (i) having additional support needs, and
    - (ii) for whose school education the authority are responsible,is expected to cease receiving school education, or
  - (b) where the education authority become aware that the child or young person is to cease receiving school education less than 6 months before that date, as soon as reasonably practicable after they become so aware,
- comply with the duty in subsection (2).
- (2) That duty is a duty—
- (a) to provide such appropriate agency or agencies as the authority think fit (if any) with the information specified in subsection (3), and
  - (b) to—
    - (i) consider what (if any) provision the authority are, in the exercise of any of their functions other than their functions relating to education, likely to make for the child or young person on ceasing to receive school education, and
    - (ii) for that purpose, take into account any information specified in subsection (3).
- (3) The information referred to in subsection (2) is—
- (a) information as to the date on which the child or young person is expected to cease receiving school education, and
  - (b) such other information as the authority consider appropriate concerning the child or young person and the additional support needs of the child or young person.
- (4) Every education authority must, when any such child or young person as is referred to in subsection (1) ceases to receive school education, inform such appropriate agency or agencies as the authority think fit of that fact as soon as reasonably practicable.
- (5) Information is to be provided under subsection (2)(a) or (4) only with the consent of—

- (a) in the case of a child, the child's parent,
- (b) in the case of a young person—
  - (i) the young person, or
  - (ii) where the education authority are satisfied that the young person lacks capacity to give consent, the young person's parent.
- (6) The Scottish Ministers may by regulations make provision for the taking by education authorities of specified action in connection with the occurrence or likely occurrence of specified changes in the school education of children and young persons—
  - (a) having additional support needs, and
  - (b) for whose school education the authorities are responsible.
- (7) Regulations under subsection (6) may, in particular, make provision—
  - (a) for the disclosure by the authorities of specified information about such children or young persons—
    - (i) to specified persons or persons of specified descriptions,
    - (ii) subject to specified conditions,
  - (b) for such information to be disclosed, or any other action taken, by specified times.
- (8) In subsections (6) and (7), “specified” means specified in regulations under subsection (6).

*Supporters and advocacy*

**14 Supporters and advocacy**

- (1) Where, in connection with the exercise of an education authority's functions under this Act in relation to any child or young person, the relevant person wishes—
  - (a) to have another person (referred to as a “supporter”) present at any discussions with the authority for the purpose of supporting the relevant person in the course of those discussions, or
  - (b) another person (referred to as an “advocate”) to—
    - (i) conduct such discussions or any part of them, or
    - (ii) make representations to the authority,
 on the relevant person's behalf,
 the education authority must comply with the relevant person's wishes, unless the wishes are unreasonable.
- (2) In subsection (1), “the relevant person” means—
  - (a) in the case of a child, the child's parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to participate in discussions or make representations as referred to in subsection (1), the young person's parent.

- (3) Nothing in subsection (1) is to be read as requiring an education authority to provide or pay for a supporter or advocate.

*Mediation and dispute resolution*

**15 Mediation services**

- (1) Every education authority must make such arrangements as they consider appropriate for the provision of independent mediation services for the purposes of seeking to avoid or resolve disagreements between the authority and—
- (a) parents of children belonging to the area of the authority,
  - (b) young persons belonging to that area, or
  - (c) in relation to any such young persons who lack capacity to express a view or make a decision for those purposes, their parents,
- concerning the exercise by the authority of their functions under this Act in relation to such children or young persons.
- (2) Mediation services are independent for the purposes of subsection (1) if the person providing the services has no involvement in the exercise by or on behalf of the authority of their functions under this Act (apart from this section).
- (3) Arrangements made in pursuance of subsection (1)—
- (a) must not require any parent or young person—
    - (i) to refer any disagreement with the authority to the mediation services provided in accordance with the arrangements, or
    - (ii) to pay any fee or charge for the provision of the mediation services, and
  - (b) do not affect the entitlement of any parent or young person to refer any matter to a Tribunal.
- (4) In this section and section 16, references to the exercise by an education authority of any function include references to a failure to exercise the function.

**16 Dispute resolution**

- (1) The Scottish Ministers may by regulations make provision about the resolution of disputes between any education authority and—
- (a) the parent of any child belonging to the area of the authority,
  - (b) any young person belonging to that area, or
  - (c) in relation to any such young person who lacks capacity to express a view or make a decision for the purposes of resolving such disputes, the young person's parent,
- concerning the exercise by the authority of any of their functions under this Act in relation to the child or young person.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) requiring education authorities to establish a procedure in accordance with the regulations for the resolution of such disputes,
  - (b) applying to all such disputes or only to such descriptions of such disputes as may be specified in the regulations.

- (3) However, such regulations, and any provision made in pursuance of such regulations—
- (a) must not require any parent or young person—
    - (i) to use any procedure established in accordance with the regulations for the resolution of any dispute with an education authority, or
    - (ii) to pay any fee or charge for using any such procedure, and
  - (b) do not affect the entitlement of any parent or young person to refer any matter to a Tribunal.

### *Appeals*

## **17 Additional Support Needs Tribunals for Scotland**

- (1) Tribunals to be known as Additional Support Needs Tribunals for Scotland (each referred to in this Act as “a Tribunal”) are to be constituted in accordance with this Act to exercise the functions which are conferred on a Tribunal by virtue of this Act.
- (2) There is to be an officer to be known as the President of the Additional Support Needs Tribunals for Scotland (referred to in this Act as “the President”) who is to be an individual appointed by the Scottish Ministers.
- (3) The President has such functions as are conferred on the President by virtue of this Act.
- (4) Schedule 1 makes further provision about the constitution and procedures of the Tribunals, the appointment and functions of the President and administrative and other matters in connection with the Tribunals and the President.
- (5) The Scottish Ministers may by regulations make such further provision in connection with the Tribunals and the President as they think fit.

## **18 References to Tribunal in relation to co-ordinated support plan**

- (1) Any of the persons specified in subsection (2) may refer to a Tribunal any decision, failure or information specified in subsection (3) relating to any child or young person for whose school education an education authority are responsible.
- (2) The persons referred to in subsection (1) are—
  - (a) where the decision, failure or information relates to a child, the parent of the child,
  - (b) where the decision, failure or information relates to a young person—
    - (i) the young person, or
    - (ii) where the young person lacks capacity to make the reference, the young person’s parent.
- (3) The decisions, failures and information referred to in subsection (1) are—
  - (a) a decision of the education authority that the child or young person—
    - (i) requires a co-ordinated support plan, or
    - (ii) following a review carried out under section 10, still requires such a plan,
  - (b) a decision of the education authority that the child or young person—
    - (i) does not require such a plan, or
    - (ii) following a review carried out under section 10, no longer requires such a plan,



- (c) where it has been established that the child or young person does require a co-ordinated support plan, failure by the education authority to prepare a plan by the time required by regulations made in pursuance of subsection (8)(f)(i) of section 11,
  - (d) where a co-ordinated support plan has been prepared (and not discontinued) for the child or young person—
    - (i) any of the information contained in the plan by virtue of subsection (2)(a) of section 9,
    - (ii) failure by the education authority to carry out a review of the plan as required by subsection (2) of section 10,
    - (iii) where such a review is carried out, failure by the education authority to complete the review by the time required by regulations made in pursuance of subsection (8)(f)(ii) of section 11, or
    - (iv) a decision of the education authority to refuse a request referred to in subsection (4) of section 10,
  - (e) where subsection (4) applies, a decision of the education authority refusing a placing request made in respect of the child or young person.
- (4) This subsection applies where, at the time the placing request is refused—
- (a) a co-ordinated support plan has been prepared (and not discontinued) for the child or young person,
  - (b) no such plan has been prepared, but it has been established by the education authority that the child or young person requires such a plan, or
  - (c) the education authority have decided that the child or young person does not require such a plan and that decision has been referred to a Tribunal under subsection (1).
- (5) A decision of an education authority not to comply with a request referred to in section 6(2)(b) made in relation to any child or young person is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.
- (6) Where, in respect of any child or young person for whom a co-ordinated support plan has been prepared (and not discontinued), any of the information referred to in subsection (3)(d)(i) has been referred under subsection (1) to a Tribunal, a further reference under that subsection in respect of the same information is not competent unless, since the last such reference was disposed of, a review of the plan has been carried out under section 10.
- (7) Where a decision referred to in subsection (3)(e) in respect of a child or young person has been referred under subsection (1) to a Tribunal, a further reference under that subsection of such a decision in respect of the child or young person is not competent during the period of 12 months beginning with the day on which the last such reference of such a decision was made, unless, during that period—
- (a) a review of any co-ordinated support plan prepared for the child or young person has been carried out under section 10,
  - (b) any such plan prepared for the child or young person has been amended pursuant to a requirement made by a Tribunal under section 19(4)(b), or

- (c) where the last such reference of such a decision was made by virtue of subsection (4)(c), a co-ordinated support plan has been prepared for the child or young person.

## **19 Powers of Tribunal in relation to reference**

- (1) This section specifies the powers of a Tribunal in relation to a reference made under section 18.
- (2) Where the reference relates to a decision referred to in subsection (3)(a), (b) or (d)(iv) of that section, the Tribunal may—
  - (a) confirm the decision, or
  - (b) overturn the decision and require the education authority to take such action as the Tribunal considers appropriate by such time as the Tribunal may require.
- (3) Where the reference relates to a failure referred to in subsection (3)(c) or (d)(ii) or (iii) of that section, the Tribunal may require the education authority to take such action to rectify the failure as the Tribunal considers appropriate by such time as the Tribunal may require.
- (4) Where the reference relates to information referred to in subsection (3)(d)(i) of that section, the Tribunal may—
  - (a) confirm the information, or
  - (b) require the education authority to make such amendment of the information as the Tribunal considers appropriate by such time as the Tribunal may require.
- (5) Where the reference relates to a decision referred to in subsection (3)(e) of that section, the Tribunal may—
  - (a) confirm the decision if satisfied that—
    - (i) one or more of the grounds of refusal specified in paragraph 3(1) or (3) of schedule 2 exists or exist, and
    - (ii) in all the circumstances it is appropriate to do so,
  - (b) overturn the decision and require the education authority to—
    - (i) place the child or young person in the school specified in the placing request to which the decision related, and
    - (ii) make such amendments to the co-ordinated support plan prepared for the child or young person as the Tribunal considers appropriate by such time as the Tribunal may require, or
  - (c) where—
    - (i) the decision was referred to the Tribunal by virtue of the application of subsection (4)(c) of that section, and
    - (ii) the Tribunal has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,
 refer the decision to an appeal committee set up under section 28D of the 1980 Act.
- (6) Paragraphs 6 and 7 of schedule 2 apply to a reference made to an appeal committee under subsection (5)(c) as they apply to a reference made to an appeal committee under paragraph 5 of that schedule.

- (7) In exercising its powers under this section, a Tribunal must take account, so far as relevant, of any code of practice published by the Scottish Ministers under section 27(1).

## **20 References to Tribunal and powers of Tribunal: further provision**

- (1) The Scottish Ministers may by order extend the categories of decision, failure or information in respect of which a reference to the Tribunal under section 18(1) may be made; and without prejudice to the generality such further categories of decision, failure or information may include—
- (a) a decision of the education authority—
    - (i) that the child or young person has, or does not have, additional support needs,
    - (ii) that a child or young person has additional support needs of a type that the person making the referral considers are not an accurate reflection of the child or young person's additional support needs,
    - (iii) to refuse an assessment request as referred to in section 8,
    - (iv) as to the person, or to the means used, or to be used, to carry out the process of assessment or examination referred to in section 8,
  - (b) failure by—
    - (i) the education authority,
    - (ii) any person identified in any co-ordinated support plan prepared for the child or young person as a person by whom additional support should be provided, or
    - (iii) a combination of these persons,to provide the additional support required by the child or young person.
- (2) Any order made under subsection (1) may also include provision to allow the President to reject references to the Tribunal arising from any further category of decision, failure or information referred to in the order without a hearing where the President is satisfied that the reference *prima facie* raises no substantial issue.
- (3) Orders made under subsection (1) may also make such consequential provision as the Scottish Ministers consider necessary or expedient, including provision as to the Tribunal's powers in relation to any new category of decision, failure or information that may be referred to it.

## **21 Appeal to Court of Session against Tribunal decision**

- (1) Either of the persons specified in subsection (2) may appeal on a point of law to the Court of Session against a decision of a Tribunal relating to a reference made under section 18.
- (2) The persons referred to in subsection (1) are—
- (a) the person who made the reference to the Tribunal,
  - (b) the education authority concerned.
- (3) Where the Court of Session allows an appeal under subsection (1) it may—

- (a) remit the reference back to the Tribunal or to a differently constituted Tribunal to be considered again and give the Tribunal such directions about the consideration of the case as the Court considers appropriate,
- (b) make such ancillary orders as it considers necessary or appropriate.

*Placing requests*

**22 Placing requests**

Schedule 2 makes provision about placing requests in relation to children and young persons having additional support needs.

*Miscellaneous*

**23 Other agencies etc. to help in exercise of functions under this Act**

- (1) Where it appears to an education authority that an appropriate agency could, by doing certain things, help in the exercise of any of the education authority's functions under this Act, the authority may, specifying what those things are, request the help of that agency.
- (2) For the purposes of this Act, each of the following is, in relation to any education authority, an appropriate agency, namely—
  - (a) any other local authority,
  - (b) any Health Board, and
  - (c) any person, or a person of any description, specified for the purposes of this subsection in an order made by the Scottish Ministers.
- (3) An appropriate agency must comply with a request made to it under subsection (1) unless it considers that the request—
  - (a) is incompatible with its own statutory or other duties, or
  - (b) unduly prejudices the discharge of any of its functions.
- (4) The Scottish Ministers may by regulations provide that, where an appropriate agency is under a duty by virtue of subsection (3) to comply with a request made to it under subsection (1), the agency must, subject to such exceptions as may be provided in the regulations, comply with the request within such period as is specified in the regulations.
- (5) Where it appears to an education authority that, by doing certain things in the exercise of any of their other functions (whether relating to education or not), they could help the exercise by them of their functions under this Act, the authority must do those things unless they consider that to do so would—
  - (a) be incompatible with any of their statutory or other duties, or
  - (b) unduly prejudice the discharge by them of any of their functions.

**24 Power to prescribe standards etc. for special schools**

- (1) The Scottish Ministers may make regulations prescribing standards and requirements relating to the conduct of special schools.

- (2) Subsection (1) is without prejudice to section 2 (power to prescribe standards etc. for education authorities) of the 1980 Act.

## **25 Attendance at establishments outwith the United Kingdom**

- (1) An education authority may make such arrangements as they consider appropriate to enable a child or young person having additional support needs to attend an establishment (whether or not a school) outwith the United Kingdom if that establishment makes provision wholly or mainly for persons having such needs.
- (2) Such arrangements may, in particular, include paying, whether wholly or partly—
  - (a) the fees payable, and any travelling, maintenance and other expenses, in respect of the child or young person's attendance at the establishment,
  - (b) where in the opinion of the authority it would be to the advantage of the child or young person if—
    - (i) one or both of the parents of the child or young person, or
    - (ii) some other person,were present with the child or young person at the establishment during the period of the child or young person's attendance at the establishment, any travelling, maintenance or other expenses of the parent, parents or other person (as the case may be) so present.
- (3) This section is without prejudice to sections 49 (power to assist persons to take advantage of educational facilities) and 50 (education of pupils in exceptional circumstances) of the 1980 Act.

## **26 Publication of information by education authority**

- (1) Every education authority must—
  - (a) publish information with respect to the matters specified in subsection (2),
  - (b) keep that information under review, and
  - (c) where necessary or appropriate, revise the information and publish that revised information.
- (2) The information referred to in subsection (1)(a) is information as to—
  - (a) the authority's policy in relation to provision for additional support needs,
  - (b) the arrangements made by the authority in pursuance of sections 4(1)(b) and 6(1),
  - (c) the other opportunities available under this Act for the identification of children and young persons who—
    - (i) have additional support needs,
    - (ii) require, or would require, a co-ordinated support plan,
  - (d) the role of parents, children and young persons in the arrangements referred to in paragraph (b),
  - (e) the mediation services provided in pursuance of section 15(1), and
  - (f) the officer or officers of the authority from whom—
    - (i) parents of children having additional support needs, and

- (ii) young persons having such needs,  
can obtain advice and further information about provision for such needs.
- (3) The Scottish Ministers may by regulations make further provision as to the publication of information under subsection (1) including, in particular, provision—
  - (a) amending subsection (2) so as to add further matters,
  - (b) as to—
    - (i) the time or times by which, and
    - (ii) the form and manner in which,the information is to be published.

## **27 Code of practice and directions**

- (1) The Scottish Ministers must publish, and may from time to time revise and re-publish, a code of practice providing guidance as to the exercise by education authorities and appropriate agencies of the functions conferred on them by virtue of this Act.
- (2) Such a code of practice may, in particular, include provision as to—
  - (a) the particular circumstances or factors which may give rise to additional support needs,
  - (b) the identification of complex and multiple factors for the purposes of section 2,
  - (c) the nature of the additional support referred to in section 2(1)(d),
  - (d) the nature of the additional support to be provided in pursuance of a co-ordinated support plan,
  - (e) the arrangements to be made in pursuance of sections 4(1)(b) and 6(1),
  - (f) the seeking of information, advice and views under section 12,
  - (g) the arrangements to be made under section 15(1),
  - (h) the carrying out of the duties under paragraph 2(1) and (2) of schedule 2,
  - (i) the particular circumstances when those duties do not apply.
- (3) Before publishing a code of practice under subsection (1), the Scottish Ministers must consult—
  - (a) each education authority and appropriate agency, and
  - (b) such other persons as they think fit.
- (4) The Scottish Ministers must lay before the Scottish Parliament a draft of any code of practice they propose to publish under subsection (1).
- (5) The Scottish Ministers must not publish the code until after the expiry of the period of 40 days beginning with the day on which the draft was laid before the Parliament.
- (6) The Scottish Ministers must, in the published code of practice, take account of any comments on the draft expressed by the Parliament within that period.
- (7) In calculating any period of 40 days for the purposes of subsections (5) and (6), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

- (8) Education authorities and appropriate agencies must, in exercising their functions under this Act, have regard to a code of practice published under this section.
- (9) The Scottish Ministers may give to education authorities directions (whether general or specific) as to the exercise of their functions under this Act.
- (10) Such directions may be given to all education authorities, to a particular authority or to authorities of a particular description.
- (11) Education authorities must comply with any directions given to them under this section.
- (12) References in this Act to a code of practice published under this section include any revised code of practice re-published under this section.

### *General*

## **28 Requests under this Act: further provision**

- (1) References in this Act to a “request” are to a request which—
  - (a) is in—
    - (i) writing, or
    - (ii) another form which, by reason of its having some permanence, is capable of being used for subsequent reference (as, for example, an audio or video recording), and
  - (b) contains a statement of the reasons for making the request.
- (2) Where an education authority decide not to comply with any request made to them under this Act, the authority must—
  - (a) inform the person who made the request of that decision,
  - (b) in so doing, give reasons for the decision,
  - (c) except where the request was of the type specified in section 7(2)(b), provide the person who made the request with information as to—
    - (i) the mediation services provided in pursuance of arrangements made by the authority under section 15(1), and
    - (ii) any procedures for the resolution of disputes established by the authority in pursuance of any regulations under section 16,
  - (d) where the request was made under section 6(2)(b) or 10(4), inform the person who made the request of the right under section 18(1) to refer the decision to a Tribunal, and
  - (e) where the request was a placing request, inform the person who made the request of—
    - (i) the right under paragraph 5 of schedule 2 to refer the decision to an appeal committee, or
    - (ii) the right under section 18(1) to refer the decision to a Tribunal,(as appropriate).

## **29 Interpretation**

- (1) In this Act—

“the 1980 Act” means the Education (Scotland) Act 1980 (c.44),

“the 2000 Act” means the Standards in Scotland’s Schools etc. Act 2000 (asp 6),

“additional support” has the meaning given in section 1(3),

“additional support needs” is to be construed in accordance with section 1(1),

“appropriate agency” is to be construed in accordance with section 23(2),

“co-ordinated support plan” has the meaning given in section 2(1) and, in relation to any such plan which has been amended by virtue of any provision of this Act, references in this Act to a co-ordinated support plan are (except where the context otherwise requires) to the plan as amended,

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

“placing request” has the meaning given in paragraph 2(3) of schedule 2,

“prescribed pre-school child” means a child of any description prescribed in an order under section 1(1A) (children under school age in respect of whom education authorities must make provision for school education) of the 1980 Act,

“President” means the President of the Additional Support Needs Tribunals for Scotland appointed under section 17(2),

“primary education” is to be construed in accordance with section 135(2) of the 1980 Act,

“special school” means—

(a) a school, or

(b) any class or other unit forming part of a public school which is not itself a special school,

the sole or main purpose of which is to provide education specially suited to the additional support needs of children or young persons selected for attendance at the school, class or (as the case may be) unit by reason of those needs,

“Tribunal” means an Additional Support Needs Tribunal for Scotland constituted under section 17(1).

- (2) In this Act, the following expressions have the meanings given in section 135(1) of the 1980 Act—

“child”,

“education authority”,

“grant-aided school”,

“Health Board”,

“independent school”,

“managers”,

“parent”,

“public school”,

“school”,

“school age”,



“school education”,

“young person”.

- (3) In this Act, references to a child or young person for whose school education an education authority are responsible are to any child or young person being, or about to be, provided with school education—
  - (a) in a school under the management of the education authority, or
  - (b) in pursuance of arrangements made or entered into by the authority.
- (4) In this Act, references to a child or young person belonging to an area are to be construed in accordance with section 23(3) of the 1980 Act.
- (5) In this Act, references to the doing of anything in writing include references to the doing of that thing by means of a document—
  - (a) transmitted by electronic means,
  - (b) received in legible form, and
  - (c) capable of being used for subsequent reference.

### **30 Transitional provision: recorded children and young persons**

- (1) This section applies to any child or young person—
  - (a) for whose school education an education authority are, at the commencement date, responsible, and
  - (b) who, immediately before that date, was a recorded child or young person within the meaning of the 1980 Act.
- (2) Such a child or young person is, for the purposes of this Act, to be taken to have additional support needs.
- (3) The education authority must, before the end of the period of 2 years beginning with the commencement date, establish, in accordance with the arrangements made by them under section 6(1), whether the child or young person requires a co-ordinated support plan.
- (4) Until the appropriate date, the education authority must ensure that the provision made by them in pursuance of section 4(1)(a) for the additional support required by the child or young person is no less than the provision which was, immediately before the commencement date, made for the child or young person under section 62(3) (duty of education authority to provide for special educational needs of recorded children and young persons) of the 1980 Act.
- (5) In subsection (4), “the appropriate date” means—
  - (a) where the education authority establish in pursuance of subsection (3) that the child or young person requires a co-ordinated support plan, the date on which they so establish that matter,
  - (b) where the authority establish in pursuance of that subsection that the child or young person does not require such a plan, the date of expiry of the period of 2 years beginning with the date on which they so establish that matter, or
  - (c) if there is a significant change in the child’s or young person’s additional support needs, the date on which the authority establish the occurrence of that change,whichever occurs first.

(6) In this section—

“the commencement date” means the date on which this section comes into force, and

“the education authority” means the education authority responsible for the child’s or young person’s school education.

### **31 Duty to inform in writing or alternative permanent form**

Where an education authority are, under this Act, to inform a parent or young person of any matter, they must do so—

(a) in writing, or

(b) in such other form as the parent or young person may reasonably require, being a form which, by reason of its having some permanence, is capable of being used for subsequent reference (as, for example, an audio or video recording).

### **32 Ancillary provision**

The Scottish Ministers may by order make such incidental, supplemental, consequential, further transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.

### **33 Modification of enactments**

Schedule 3 makes modifications of enactments in consequence of this Act.

### **34 Orders, regulations and rules**

(1) Any power of the Scottish Ministers to make orders, regulations or rules under this Act is exercisable by statutory instrument.

(2) Any such power includes power to make—

(a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,

(b) different provision for different purposes.

(3) An order under section 32 may modify any enactment, instrument or document.

(4) A statutory instrument containing an order, regulations or rules under this Act (except section 17(5), section 32 (where subsection (5) applies) and section 35) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(5) No—

(a) order under sections 20 and 32 containing provisions which add to, replace or omit any part of the text of an Act, or

(b) regulations under section 17(5),

is or are to be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, the Parliament.

**35 Commencement and short title**

- (1) The provisions of this Act, other than sections 29, 32 and 34 and this section, come into force on such day as the Scottish Ministers may by order appoint.
- (2) This Act may be cited as the Education (Additional Support for Learning) (Scotland) Act 2004.

SCHEDULE 1  
*(introduced by section 17)*

ADDITIONAL SUPPORT NEEDS TRIBUNALS FOR SCOTLAND

*Interpretation*

- 1 In this schedule—
- “panel” means a panel referred to in paragraph 3(1),
  - “regulations” means regulations made by the Scottish Ministers,
  - “Tribunal functions” means the functions which are conferred on a Tribunal by virtue of this Act,
  - “Tribunal member” means a member of a panel,
  - “Tribunal staff” means the staff provided or appointed under paragraph 9.

*The President*

- 2 (1) The Scottish Ministers must not appoint an individual under section 17(2) as President unless that individual has such qualifications, training and experience as are prescribed in regulations.
- (2) The President may serve as the convener of a Tribunal.
  - (3) The President’s functions may, if the office of the President is vacant or the President is for any reason unable to act, be exercised by one of the members of the panel referred to in paragraph 3(1)(a) appointed for that purpose by the Scottish Ministers.
  - (4) Regulations may make provision for the delegation by the President of any of the President’s functions to any member of that panel or any member of the Tribunal staff.
  - (5) Paragraphs 3(2), 5, 6 and 7 of this schedule apply, with any necessary modifications, to the President as they apply to a Tribunal member.

*The panels*

- 3 (1) The Scottish Ministers must appoint—
- (a) a panel of individuals having such qualifications, training and experience as may be prescribed in regulations each of whom may act as the convener of a Tribunal, and
  - (b) a panel of individuals having such qualifications, training and experience as may be prescribed in regulations each of whom may act as a member of a Tribunal other than the convener.
- (2) An individual is disqualified from appointment as, and from being, a Tribunal member if the individual is—
- (a) a member of the Scottish Parliament,
  - (b) a member of the Scottish Executive or a junior Scottish Minister, or
  - (c) of such other description as may be prescribed in regulations.

*Constitution of Tribunals*

- 4 (1) The President must from time to time constitute such number of Tribunals as the President thinks necessary to exercise Tribunal functions.
- (2) A Tribunal constituted under sub-paragraph (1) must consist of—
- (a) either—
    - (i) the President, or
    - (ii) one member selected by the President from the panel referred to in paragraph 3(1)(a),who is to act as the convener of the Tribunal, and
  - (b) two other members selected by the President from the panel referred to in paragraph 3(1)(b).

*Terms of office*

- 5 (1) Each Tribunal member—
- (a) holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment,
  - (b) may at any time resign office by giving notice in writing to the Scottish Ministers,
  - (c) vacates office on becoming disqualified from being a Tribunal member under paragraph 3(2),
  - (d) in other respects holds office in accordance with the terms of the member's instrument of appointment.
- (2) A Tribunal member whose period of office (including any period of office following re-appointment under this sub-paragraph) expires under sub-paragraph (1)(a) may be re-appointed by the Scottish Ministers for a further period to the same panel to which the member was last appointed, unless—
- (a) the member has declined re-appointment,
  - (b) the President has recommended to the Scottish Ministers that the member should not be re-appointed and the Scottish Ministers have accepted that recommendation,
  - (c) since the member was last appointed to the panel, there has been a reduction in the overall number of members of the panel which the Scottish Ministers consider are needed to enable the President to carry out the functions under paragraph 4,
  - (d) the member has, since the member was last appointed to the panel, failed without reasonable excuse to comply with the terms of the member's appointment,
  - (e) the member no longer has the qualifications, training or experience prescribed under paragraph 3(1) for appointment to the panel.

*Removal from office*

- 6 The Scottish Ministers may remove a Tribunal member from office if the member is unfit for office by reason of inability, neglect of duty or misbehaviour.

*Allowances for Tribunal members*

- 7 The Scottish Ministers may pay to a Tribunal member such allowances as they may determine.

*Administration of Tribunal functions*

- 8 (1) The Tribunals constituted under paragraph 4(1) are to sit at such times and in such places as the President may determine.
- (2) The President must ensure that Tribunal functions are exercised by those Tribunals efficiently and effectively.
- (3) The President may—
- (a) give such directions, and
  - (b) issue such guidance,
- as respects the administration of the Tribunals, or any one of them, as appear to the President to be necessary or expedient for the purpose of ensuring that Tribunal functions are exercised efficiently and effectively.

*Staff, property and services*

- 9 (1) The Scottish Ministers are to provide the President and the Tribunals, or ensure that they are provided, with such property, staff and services as the Scottish Ministers consider are required for the exercise of the functions of the President and Tribunal functions.
- (2) Without prejudice to sub-paragraph (1), the Scottish Ministers may appoint such staff for the President and the Tribunals as the Scottish Ministers may determine and on such terms and conditions as the Scottish Ministers may determine.
- (3) The Scottish Ministers may pay, or make provision for paying, to or in respect of staff appointed under sub-paragraph (2) such pensions, allowances and gratuities (including by way of compensation for loss of employment) as the Scottish Ministers may determine.

*Finance*

- 10 The Scottish Ministers are to pay any expenses reasonably incurred by the President or a Tribunal in the exercise of the President's functions or, as the case may be, Tribunal functions.

*Rules of procedure*

- 11 (1) The Scottish Ministers must make rules as to the practice and procedure of the Tribunals.
- (2) Such rules may, in particular, include provision for or in connection with—
- (a) the form and manner in which references to a Tribunal under section 18(1) are to be made,
  - (b) the time within which such references are to be made,
  - (c) the withdrawal of references,
  - (d) the recovery and inspection of documents,

- (e) the persons who may appear on behalf of the parties,
  - (f) the persons who may be present at proceedings alongside any party or witness to support the party or witness,
  - (g) enabling specified persons other than the parties to appear or be represented in specified circumstances,
  - (h) requiring specified persons to give notice to other specified persons of specified matters,
  - (i) the time within which any such notice must be given,
  - (j) enabling Tribunal proceedings to be conducted in the absence of any member of a Tribunal other than the convener,
  - (k) enabling any matters that are preliminary or incidental to the determination of proceedings to be determined by the convener of a Tribunal alone or with such other members of the Tribunal as may be specified,
  - (l) enabling Tribunal proceedings to be held in private,
  - (m) enabling a Tribunal to exclude any person from attending all or part of Tribunal proceedings,
  - (n) enabling a Tribunal to impose reporting restrictions in relation to all or part of Tribunal proceedings,
  - (o) enabling a Tribunal to determine specified matters without holding a hearing,
  - (p) the recording and publication of decisions and orders of a Tribunal,
  - (q) enabling a Tribunal to commission medical and other reports in specified circumstances,
  - (r) requiring a Tribunal to take specified actions, or to determine specified proceedings, within specified periods,
  - (s) enabling a Tribunal to make an award of expenses,
  - (t) the taxation or assessment of such expenses.
- (3) In sub-paragraph (2), “specified” means specified in the rules.

*Practice directions*

- 12 The President may give directions as to the practice and procedure to be followed by Tribunals in relation to any matter.

*Evidence*

- 13 (1) A Tribunal may by citation require any person—
- (a) to attend proceedings of the Tribunal, at such time and place as is specified in the citation, for the purposes of giving evidence,
  - (b) to produce any document in the custody, or under the control of, that person.
- (2) A Tribunal may administer oaths to persons giving evidence.
- (3) A person is not obliged by virtue of this paragraph to answer any question or produce any document which that person would be entitled to refuse to answer or produce in civil proceedings before the Court of Session.

- (4) If a person on whom a citation under sub-paragraph (1) has been served—
- (a) fails to attend the Tribunal proceedings as required by the citation,
  - (b) refuses or fails, whilst attending proceedings as so required, to answer any question,
  - (c) deliberately alters, conceals or destroys any document which that person is required by the citation to produce,
  - (d) refuses or fails to produce any such document,
- that person is guilty of an offence.
- (5) It is a defence for a person charged with an offence under sub-paragraph (4)(a), (b) or (d) to show that the person had a reasonable excuse for the refusal or failure.
- (6) A person who commits an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### *Decisions of a Tribunal*

- 14 (1) A decision of a Tribunal—
- (a) may be reached by majority, and
  - (b) must be recorded in a document which contains a full statement of the facts found by the Tribunal and the reasons for the decision.
- (2) The Tribunal must—
- (a) inform each party of its decision, and
  - (b) send a copy of the document mentioned in sub-paragraph (1)(b) to each party as soon as reasonably practicable after it is prepared.

#### *Annual report*

- 15 (1) The President must, in respect of each reporting year, prepare a written report as to the exercise of Tribunal functions during that year.
- (2) The President must submit each report prepared under sub-paragraph (1), as soon as practicable after the end of the reporting year to which it relates, to the Scottish Ministers.
- (3) The Scottish Ministers must lay before the Scottish Parliament a copy of each report submitted to them under sub-paragraph (2).
- (4) A reporting year for the purposes of this paragraph is—
- (a) the period beginning with the date on which the first President is appointed and ending with 31st March next following that date, and
  - (b) each successive period of 12 months ending with 31st March.

#### *Disclosure of information*

- 16 The President must, at such times and in respect of such periods as regulations may specify, provide to—
- (a) the Scottish Ministers, and



- (b) such persons as the regulations may specify,  
such information relating to the exercise of Tribunal functions as is specified in the regulations.

*Allowances etc. for attendance at hearings and preparation of reports*

- 17 A Tribunal may pay to any person (other than the President, a Tribunal member or a member of the Tribunal staff)—
- (a) such allowances and expenses as the President may determine for the purposes of or in connection with the person’s attendance at hearings of the Tribunal,
  - (b) such amounts as the President may determine in connection with any report prepared in pursuance of rules made under paragraph 11(2)(q).

SCHEDULE 2  
*(introduced by section 22)*

CHILDREN AND YOUNG PERSONS WITH ADDITIONAL SUPPORT NEEDS: PLACING REQUESTS

*Introductory*

- 1 Sections 28A, 28C, 28E, 28F and 28G of the 1980 Act (which make provision as to the making of placing requests and appeals in relation to the refusal of such requests) do not apply in relation to children and young persons having additional support needs and instead the provisions of this schedule apply in relation to such children and young persons.

*Duty to comply with placing requests*

- 2 (1) Where the parent of a child having additional support needs makes a request to an education authority to place the child in the school specified in the request, being a school under their management, it is the duty of the authority, subject to paragraph 3, to place the child accordingly.
- (2) Where the parent of a child having additional support needs makes a request to the education authority for the area to which the child belongs to place the child in the school specified in the request, not being a public school but being—
- (a) a special school the managers of which are willing to admit the child,
  - (b) a school in England, Wales or Northern Ireland the managers of which are willing to admit the child and which is a school making provision wholly or mainly for children (or as the case may be young persons) having additional support needs, or
  - (c) a school at which education is provided in pursuance of arrangements entered into under section 35 of the 2000 Act,
- it is the duty of the authority, subject to paragraph 3, to meet the fees and other necessary costs of the child’s attendance at the specified school.
- (3) A request made under sub-paragraph (1) or (2) is referred to in this Act as a “placing request” and the school specified in it is referred to in this schedule as the “specified school”.

- (4) Where a placing request relates to 2 or more schools being—
- (a) schools under the management of the education authority to whom it is made, or
  - (b) schools mentioned in sub-paragraph (2)(a), (b) or (c) the managers of which are willing to admit the child in respect of whom the request is made,
- the duty imposed by sub-paragraph (1) or, as the case may be, sub-paragraph (2) applies in relation to the first mentioned such school, which is to be treated for the purposes of this schedule as the specified school.

*Circumstances in which duty does not apply*

- 3 (1) The duty imposed by sub-paragraph (1) or, as the case may be, sub-paragraph (2) of paragraph 2 does not apply—
- (a) if placing the child in the specified school would—
    - (i) make it necessary for the authority to take an additional teacher into employment,
    - (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school,
    - (iii) be seriously detrimental to the continuity of the child's education,
    - (iv) be likely to be seriously detrimental to order and discipline in the school,
    - (v) be likely to be seriously detrimental to the educational well-being of pupils attending the school,
    - (vi) assuming that pupil numbers remain constant, make it necessary, at the commencement of a future stage of the child's primary education, for the authority to elect either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at the school, or
    - (vii) though neither of the tests set out in paragraphs (i) and (ii) is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers,
  - (b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child,
  - (c) if the education authority have already required the child to discontinue attendance at the specified school,
  - (d) if, where the specified school is a school mentioned in paragraph 2(2)(a) or (b), the child does not have additional support needs requiring the education or special facilities normally provided at that school,
  - (e) if the specified school is a single sex school (within the meaning of section 26 of the Sex Discrimination Act 1975 (c.65)) and the child is not of the sex admitted or taken (under that section) to be admitted to the school,
  - (f) if all of the following conditions apply, namely—
    - (i) the specified school is not a public school,
    - (ii) the authority are able to make provision for the additional support needs of the child in a school (whether or not a school under their management) other than the specified school,

- (iii) it is not reasonable, having regard both to the respective suitability and to the respective cost (including necessary incidental expenses) of the provision for the additional support needs of the child in the specified school and in the school referred to in paragraph (ii), to place the child in the specified school, and
  - (iv) the authority have offered to place the child in the school referred to in paragraph (ii), or
  - (g) if, where the specified school is a special school, placing the child in the school would breach the requirement in section 15(1) of the 2000 Act.
- (2) An education authority may place a child in the specified school notwithstanding sub-paragraph (1)(a) to (e).
  - (3) The duty imposed by sub-paragraph (1) or, as the case may be, sub-paragraph (2) of paragraph 2 does not apply where the acceptance of a placing request in respect of a child who is resident outwith the catchment area of the specified school would prevent the education authority from retaining reserved places at the specified school or in relation to any particular stage of education at the school.
  - (4) Nothing in sub-paragraph (3) prevents an education authority from placing a child in the specified school.
  - (5) In sub-paragraph (3), “reserved places” means such number of places (not exceeding such number or, as the case may be, such percentage of places at the school or relating to the particular stage of education as the Scottish Ministers may by regulations prescribe) as are in the opinion of the education authority reasonably required to accommodate pupils likely to become resident in the catchment area of the school in the period from the time of consideration of the placing request up to and during the year from 1st August to which the placing request relates.
  - (6) In sub-paragraphs (3) and (5) “catchment area”, in relation to a school, means the area from which pupils resident therein will be admitted to the school in terms of any priority based on residence in accordance with the guidelines formulated by the authority under section 28B(1)(c) of the 1980 Act.

*Placing requests: further provision*

- 4 (1) An education authority must inform a parent in writing of their decision on a placing request made by the parent.
- (2) On complying with a placing request relating to a child for whom a co-ordinated support plan has been prepared (and not discontinued), an education authority must modify accordingly the nomination in the plan of a school to be attended by the child.
- (3) The Scottish Ministers may, by regulations, make provision for deeming an education authority to have refused a placing request in the event of their not having informed the parent of their decision on it in accordance with sub-paragraph (1) within such period or before such date as may be prescribed in the regulations.

*Reference to appeal committee of refusal of placing request*

- 5 (1) A parent who has made a placing request may refer a decision of the education authority refusing the request to an appeal committee set up under section 28D of the 1980 Act.

- (2) Sub-paragraph (1) does not apply where the decision of the education authority refusing the request may be referred to a Tribunal under section 18(1).
- (3) Where a reference under this paragraph has been made in respect of a child, no further such reference in respect of the child is competent during the period of 12 months beginning with the day on which the immediately preceding such reference was lodged.
- (4) A reference under this paragraph must be lodged with the appeal committee within 28 days of the receipt by the parent of the decision of the education authority.
- (5) For the purposes of sub-paragraph (4), a decision which is posted is to be presumed to have been received (unless the contrary is proved)—
  - (a) on the day after the date on which it was posted, or
  - (b) if posted on a Friday or Saturday, on the Monday next following.
- (6) The committee may, on good cause being shown, hear such a reference notwithstanding that it was not lodged within the time mentioned in sub-paragraph (4).

*References to appeal committees: supplementary provisions*

- 6 (1) An appeal committee may, on a reference made to them under paragraph 5, confirm the education authority's decision if they are satisfied that—
  - (a) in relation to the placing request, one or more of the grounds of refusal specified in paragraph 3(1) or (3) exists or exist, and
  - (b) in all the circumstances it is appropriate to do so,
 but otherwise must refuse to confirm the authority's decision.
- (2) Where they so refuse, the appeal committee shall require the education authority—
  - (a) in the case of a placing request made under paragraph 2(1), to place the child in the specified school,
  - (b) in the case of a placing request made under paragraph 2(2), to meet the fees and other necessary costs of the child's attendance at the specified school,
 and the authority must comply with that requirement.
- (3) An appeal committee must notify their decision under this paragraph and the reasons for it in writing to the parent who made the reference and to the education authority and, where they confirm the authority's decision, they must inform the parent of the right of appeal to the sheriff under paragraph 7.
- (4) Sub-paragraph (5) applies where—
  - (a) after a reference is made to an appeal committee under paragraph 5, but
  - (b) before the committee has disposed of the reference,
 there is referred to a Tribunal under section 18(1) a decision of the education authority that the child to whom the reference relates does not require a co-ordinated support plan.
- (5) Where this sub-paragraph applies—
  - (a) the appeal committee must transfer the reference to the Tribunal, and
  - (b) on being so transferred, the reference is to be treated as if made to the Tribunal under section 18(1).

- (6) The Scottish Ministers may by regulations make provision for procedure in relation to references under paragraph 5 and any such regulations may, in particular, include provision—
- (a) requiring an education authority to make information relevant to their decision available to the appeal committee and to the parent referring the decision to the committee,
  - (b) deeming, for the purposes of this Act, an appeal committee to have confirmed the decision of an education authority on a placing request if the committee has not complied with sub-paragraph (3) of this paragraph within such period or before such date as may be prescribed in the regulations.

*Appeal to sheriff from appeal committee*

- 7 (1) A parent who has made a reference to an appeal committee under paragraph 5 may appeal to the sheriff against the decision of the appeal committee on that reference.
- (2) The education authority may, but the appeal committee may not, be a party to an appeal under this paragraph.
- (3) An appeal under this paragraph—
- (a) is to be made by way of summary application,
  - (b) must be lodged with the sheriff clerk within 28 days from the date of receipt of the decision of the appeal committee, and
  - (c) is to be heard in chambers.
- (4) For the purposes of sub-paragraph (3)(b), a decision which is posted is to be presumed to have been received (unless the contrary is proved)—
- (a) on the day after the date on which it was posted, or
  - (b) if posted on a Friday or Saturday, on the Monday next following.
- (5) On good cause being shown, the sheriff may hear an appeal under this paragraph notwithstanding that it was not lodged within the time mentioned in sub-paragraph (3)(b).
- (6) The sheriff may, on an appeal made under this paragraph, confirm the education authority's decision if satisfied that—
- (a) in relation to the placing request, one or more of the grounds of refusal specified in paragraph 3(1) or (3) exists or exist, and
  - (b) in all the circumstances, it is appropriate to do,
- but otherwise must refuse to confirm the authority's decision.
- (7) Where the sheriff so refuses, the sheriff must require the education authority—
- (a) in the case of a placing request made under paragraph 2(1), to place the child in the specified school,
  - (b) in the case of a placing request made under paragraph 2(2), to meet the fees and other necessary costs of the child's attendance at the specified school,
- and the authority must comply with that requirement.
- (8) Sub-paragraph (9) applies where—

- (a) after an appeal is made to the sheriff under this paragraph, but
  - (b) before the sheriff has disposed of the appeal,
- there is referred to a Tribunal under section 18(1) a decision of the education authority that the child to whom the appeal relates does not require a co-ordinated support plan.
- (9) Where this sub-paragraph applies—
    - (a) the sheriff must transfer the appeal to the Tribunal, and
    - (b) on being so transferred, the appeal is to be treated as if it were a reference made to the Tribunal under section 18(1).
  - (10) The sheriff may make such order as to the expenses of an appeal under this paragraph as the sheriff thinks fit.
  - (11) The judgment of the sheriff on an appeal under this paragraph is final.

*Young persons having additional support needs*

- 8 (1) Paragraphs 2 to 7 apply to a young person having additional support needs as they apply to a child having such needs.
- (2) For the purposes of the application of those provisions to a young person having additional support needs references in the provisions to the parent of a child having additional support needs (as well as references to the child) are to be construed as references to the young person.
- (3) Sub-paragraph (2) does not apply in a case where the education authority are satisfied that the young person lacks capacity to do anything which the parent of a child may do under the provision concerned.

SCHEDULE 3  
*(introduced by section 33)*

MODIFICATION OF ENACTMENTS

*Teaching Council (Scotland) Act 1965 (c.19)*

- 1 In the Teaching Council (Scotland) Act 1965, in Part I of Schedule 1 (constitution of the Council), in paragraph 1(9)(c), for the words from “with” to “(c.44)” substitute “having additional support needs within the meaning of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)”.

*National Health Service (Scotland) Act 1978 (c.29)*

- 2 In the National Health Service (Scotland) Act 1978, in section 16A (power to make payments towards expenditure on community services), in subsection (1)—
  - (a) in paragraph (b)—
    - (i) sub-paragraph (i) is repealed, and
    - (ii) for “those terms” substitute “that term”,
  - (b) after paragraph (b) insert—

“(ba) any functions under section 4 or 5 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) in making provision for additional support needs;”.

*Education (Scotland) Act 1980 (c.44)*

- 3 (1) The Education (Scotland) Act 1980 is amended as follows.
- (2) In section 1(5) (definitions of certain terms)—
- (a) in paragraph (a), sub-paragraph (ii) is repealed,
  - (b) paragraphs (c) and (d) are repealed.
- (3) In section 4 (duty of education authority to provide a psychological service)—
- (a) the words “in clinics or elsewhere” are repealed,
  - (b) in paragraph (a), for “with special educational needs” substitute “having additional support needs”,
  - (c) in paragraph (c)—
    - (i) for “special educational needs” substitute “additional support needs”,
    - (ii) the words “in clinics” are repealed.
- (4) In section 23 (provision by education authority for education of pupils belonging to areas of other authorities)—
- (a) in subsection (1), after “Act” insert “or additional support within the meaning of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (referred to in this section as “the 2004 Act”)”,
  - (b) in subsection (1A)—
    - (i) after “Act” in the first place where it occurs insert “or any provision of the 2004 Act”,
    - (ii) after “Act” in the second place where it occurs insert “or their functions under sections 4 and 5 of the 2004 Act”,
    - (iii) after “education” in the fourth place where it occurs insert “or additional support within the meaning of the 2004 Act”,
  - (c) in subsection (1B), after “Act” insert “or the 2004 Act”,
  - (d) in subsection (2), after “authority” in the second place where it occurs insert “or have provided additional support within the meaning of the 2004 Act for any such pupil”,
  - (e) in subsection (3)—
    - (i) the words from “1(5)(c)” to “Act)” are repealed,
    - (ii) for the words “51 and 60 to 65F” substitute “and 51”,
    - (iii) after “Act” in the second place where it occurs insert “and for the purposes of the 2004 Act”.
- (5) In section 28A(3) (circumstances in which the duty to comply with placing requests does not apply), in paragraph (d), for “special educational needs” substitute “additional support needs”.

- (6) In section 28B (information as to placing in schools and other matters), after subsection (1) insert—
- “(1A) In the application of subsection (1)(b)(ii) above in relation to a child who has additional support needs—
- (a) for the reference to section 28A(1) and (2) of this Act there shall be substituted a reference to paragraph 2 of schedule 2 to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), and
- (b) “placing request” means a placing request within the meaning of that Act.”.
- (7) In section 28D (appeal committees), in subsection (1)—
- (a) for the words “, 28H and 63” substitute “and 28H”, and
- (b) after “Act” insert “and paragraph 5 of schedule 2 to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)”.
- (8) In section 28E (reference to appeal committee of refusal of placing request), subsection (2) is repealed.
- (9) In section 38(2) (schools which may be named in attendance orders), in paragraph (b), for “is a recorded child” substitute “has additional support needs requiring the education or special facilities normally provided at the school”.
- (10) In section 40 (period of operation of attendance orders), the proviso is repealed.
- (11) In section 54(4) (provision of clothing for pupils at public schools), for paragraph (b) substitute—
- “(b) a child or young person—
- (i) having additional support needs, and
- (ii) who is, for the purposes of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), a child or young person for whose school education an education authority are responsible by virtue of section 29(3)(b) of that Act,
- shall be deemed to be attending a school under the management of that authority.”.
- (12) Sections 60 to 65G are repealed.
- (13) In section 135 (interpretation)—
- (a) in subsection (1)—
- (i) at the appropriate place, in alphabetical order, insert the following definition—
- ““additional support needs” and references to any child or young person having such needs shall be construed in accordance with section 1(1) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4);”,
- (ii) the definitions of “psychological examination”, “Record” and “recorded”, and “special educational needs” are repealed,



- (iii) in the definition of “special school”, for the words from “means” to the end substitute “has the meaning given in section 29(1) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)”,
  - (b) in subsection (2), in each of paragraphs (a)(ii) and (b)(ii)—
    - (i) for “with special educational needs” substitute “having additional support needs”,
    - (ii) for “his special educational needs” substitute “those needs”.
- (14) Schedule A2 is repealed.

*Education (Scotland) Act 1981 (c.58)*

- 4 In the Education (Scotland) Act 1981, the following provisions are repealed—
- (a) section 3(1) (special educational needs),
  - (b) section 4(1) and (3) (children and young persons with certain special educational needs),
  - (c) in Schedule 2—
    - (i) paragraph 4(a)(ii), and
    - (ii) paragraphs 6 to 8, and
  - (d) Schedule 3.

*Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33)*

- 5 In the Disabled Persons (Services, Consultation and Representation) Act 1986, the following provisions are repealed—
- (a) section 13 (disabled persons leaving special education: Scotland),
  - (b) in section 14 (assessment and recording of children and young persons), subsections (3) to (6).

*Self-Governing Schools etc. (Scotland) Act 1989 (c.39)*

- 6 In the Self-Governing Schools etc. (Scotland) 1989, the following provisions are repealed—
- (a) section 71,
  - (b) section 72, and
  - (c) in Schedule 10, paragraph 8(2).

*Further and Higher Education (Scotland) Act 1992 (c.37)*

- 7 In the Further and Higher Education (Scotland) Act 1992, the following provisions are repealed—
- (a) section 23 (duties of boards of management as regards recorded children),
  - (b) in Schedule 9 (miscellaneous and consequential amendments), paragraph 7(4).

*Tribunals and Inquiries Act 1992 (c.53)*

- 8 In Part II of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Scottish Committee of the Council on Tribunals), in paragraph 50, after sub-paragraph (b) insert—

“(ba) Additional Support Needs Tribunals for Scotland constituted under section 17(1) of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4).”

*Children (Scotland) Act 1995 (c.36)*

- 9 In the Children (Scotland) Act 1995, in Schedule 4 (minor and consequential amendments), paragraph 28(4) is repealed.

*Education (Scotland) Act 1996 (c.43)*

- 10 In the Education (Scotland) Act 1996—
- (a) in section 4 (quality assurance), in paragraph (a), for “with special educational needs” substitute “having additional support needs within the meaning of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4)”,
  - (b) in section 33(1) (placing requests), the words “and that section as substituted for certain purposes by Schedule A2 to that Act” are repealed.

*Standards in Scotland’s Schools etc. Act 2000 (asp 6)*

- 11 In the Standards in Scotland’s Schools etc. Act 2000, sections 43(4) and 44(7) are repealed.

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# Education (Additional Support for Learning) (Scotland) Act 2009 2009 asp 7

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# Education (Additional Support for Learning) (Scotland) Act 2009

## 2009 asp 7

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 20th May 2009 and received Royal Assent on 25th June 2009**

An Act of the Scottish Parliament to amend the law in respect of placing requests in relation to the school education of children and young persons having additional support needs and in respect of arrangements between education authorities in relation to such school education; to make minor provision in relation to additional support needs; to make further provision in relation to the practice and procedure of the Additional Support Needs Tribunals for Scotland; and for connected purposes.

### *Placing requests etc.*

#### **1 Placing requests**

- (1) The Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (“the 2004 Act”) is amended in accordance with this section.
- (2) In section 1(3)(a) (additional support needs), after “authority” insert “responsible for the school education of the child or young person, or in the case where there is no such authority, the education authority”.
- (3) In section 7(1)(b) (other children and young persons), for “the” substitute “an”.
- (4) In section 10 (reviews of co-ordinated support plans)—
  - (a) in subsection (1), for “belonging to their area” substitute “for whose school education they are responsible”,
  - (b) after subsection (5) insert—

“(5A) Where any such co-ordinated support plan as is mentioned in subsection (1) is transferred to the education authority by virtue of regulations made in pursuance of section 11(8), the authority must carry out a review of the plan as soon as practicable after the date of transfer.”
- (5) In section 11(8) (co-ordinated support plans: further provision), in paragraph (e) the words from “when” to the end of the paragraph are repealed.
- (6) In section 12 (duties to seek and take account of views, advice and information), after subsection (3) insert—

- “(3A) Where any such co-ordinated support plan as is mentioned in section 10(1) is transferred to the education authority by virtue of regulations made in pursuance of section 11(8), the authority’s duty under subsection (2)(a) includes a duty to seek and take account of information and advice (within such period as will enable the authority to comply with their duty under section 10(5A)) from the education authority from which the plan was transferred and any agencies or persons involved in providing support under the plan prior to its transfer.”.
- (7) In section 18 (references to Tribunal in relation to co-ordinated support plan)—
- (a) after paragraph (d) of subsection (3) insert—
- “(da) a decision of an education authority refusing a placing request made in respect of a child or young person (including such a decision in respect of a child or young person for whose school education the authority refusing the request are not responsible)—
- (i) made under sub-paragraph (1) of paragraph 2 of schedule 2 in relation to a special school, or
- (ii) made under sub-paragraph (2) of paragraph 2 of schedule 2 in relation to a school mentioned in paragraph (a) or (b) of that sub-paragraph,”.
- (b) in paragraph (e) of subsection (3)—
- (i) for “the”, where it occurs for the first time, substitute “an”,
- (ii) after “request” insert “, other than a placing request mentioned in paragraph (da),”,
- (iii) for “the”, where it occurs for the second time, substitute “a”,
- (iv) at the end add “(including such a decision in respect of a child or young person for whose school education the authority refusing the request are not responsible)”.
- (c) after that paragraph insert—
- “(f) a decision of an appeal committee on a reference made to them under paragraph 5 of schedule 2 but only where the things mentioned in any of paragraphs (a), (b), (ba) and (c) of subsection (4) occur—
- (i) after the decision of the appeal committee, but
- (ii) before the time by which any appeal must be lodged in accordance with paragraph 7(3) of schedule 2.”.
- (d) in subsection (4)—
- (i) the words “, at the time the placing request is refused” are repealed,
- (ii) after paragraph (b) insert—
- “(ba) no such plan has been prepared, but under subsection (2)(a) of section 11 the education authority have informed the persons mentioned in subsection (3) of that section of their proposal to establish whether the child or young person requires, or would require, such a plan,”.
- (e) in subsection (7), for “(3)(e)” substitute “(3)(da) or (e)”.
- (8) In section 19 (powers of Tribunal in relation to reference)—

(a) after subsection (4) insert—

“(4A) Where the reference relates to a decision referred to in subsection (3)(da) of that section the Tribunal may—

(a) confirm the decision if satisfied that—

- (i) one or more grounds of refusal specified in paragraph 3(1) or (3) of schedule 2 exists or exist, and
- (ii) in all the circumstances it is appropriate to do so,

(b) overturn the decision and require the education authority to—

- (i) place the child or young person in the school specified in the placing request to which the decision related by such time as the Tribunal may require, and
- (ii) make such amendments to any co-ordinated support plan prepared for the child or young person as the Tribunal considers appropriate by such time as the Tribunal may require.”,

(b) in subsection (5)—

(i) in paragraph (b), at the end of sub-paragraph (i) insert “by such time as the Tribunal may require”,

(ii) after paragraph (b) insert—

“(ba) where—

- (i) the decision was referred to the Tribunal by virtue of the application of subsection (4)(ba) of that section, and
- (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the Tribunal under subsection (1) of that section by the time within which such references are to be made,

refer the decision to an appeal committee set up under section 28D of the 1980 Act,”,

(iii) after paragraph (c) add—

“(d) where—

- (i) the decision was transferred from an appeal committee to the Tribunal by virtue of paragraph 6(4) and (5) of schedule 2 because the thing described in subsection (4)(ba) of that section occurred, and
- (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the Tribunal under subsection (1) of that section by the time within which such references are to be made,

refer the decision back to the appeal committee,

(e) where—

- (i) the decision was transferred from an appeal committee to the Tribunal by virtue of paragraph 6(4) and (5) of schedule 2 because the things described in subsection (4)(c) of that section occurred, and

- (ii) the Tribunal has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,

refer the decision back to the appeal committee,

- (f) where—

- (i) the decision was transferred from the sheriff to the Tribunal by virtue of paragraph 7(8) and (9) of schedule 2 because the thing described in subsection (4)(ba) of that section occurred, and

- (ii) the education authority have decided the child or young person does not require a co-ordinated support plan and that decision has not been referred to the Tribunal under subsection (1) of that section by the time within which such references are to be made,

refer the decision back to the sheriff,

- (g) where—

- (i) the decision was transferred from the sheriff to the Tribunal by virtue of paragraph 7(8) and (9) of schedule 2 because the things described in subsection (4)(c) of that section occurred, and

- (ii) the Tribunal has confirmed the decision of the education authority that the child or young person does not require a co-ordinated support plan,

refer the decision back to the sheriff.

- (5A) Where the reference relates to a decision referred to in subsection (3)(f) of that section the Tribunal has the powers as mentioned in paragraphs (a) and (b) of subsection (5) of this section.”,

- (c) in subsection (6), for the words “subsection (5)(c)” substitute “paragraph (ba) or (c) of subsection (5)”.

- (9) In schedule 2 (placing requests)—

- (a) after paragraph 2(4) add—

“(5) In sub-paragraph (1), the reference to an education authority includes an education authority which are not responsible for the school education of the child.”,

- (b) after paragraph 4(2) insert—

“(2A) Sub-paragraph (2) does not apply where the placing request was made to an education authority which, at the time of the request, were not responsible for the school education of the child.”,

- (c) in paragraph 6—

- (i) in sub-paragraph (1), after “paragraph 5” insert “(including such a reference relating to a decision which has been referred back under section 19(5)(d) or (e))”,

- (ii) in sub-paragraph (4), for the words from “there” to the end of the sub-paragraph substitute—

“the things mentioned in any of paragraphs (a), (b), (ba) and (c) of section 18(4) occur.”,



(d) in paragraph 7—

(i) in sub-paragraph (1), after “paragraph 5” insert “(including such a reference relating to a decision which has been referred back under section 19(5)(d) or (e))”,

(ii) after that sub-paragraph insert—

“(1A) Sub-paragraph (1) does not apply where the decision of the appeal committee may be referred to a Tribunal under section 18(1).”,

(iii) in sub-paragraph (8), for the words from “there” to the end of the sub-paragraph substitute—

“the things mentioned in any of paragraphs (a), (b), (ba) and (c) of section 18(4) occur.”,

(iv) after sub-paragraph (11), add—

“(12) Any references to an appeal under this paragraph (however expressed), except such references in sub-paragraphs (3)(a) and (b) and (5), include references to an appeal relating to a decision which has been referred back under section 19(5)(f) or (g).”.

## **2 Mediation services**

In section 15(1) of the 2004 Act (mediation services)—

(a) for paragraph (a) substitute—

“(a) the parents of any children,”,

(b) for paragraph (b) substitute—

“(b) any young persons,”,

(c) in paragraph (c), the word “such” is repealed,

(d) after the word “of”, where it occurs for the fifth time, insert “any of”,

(e) for the word “such”, where it occurs for the third time, substitute “the”.

## **3 Dispute resolution**

In section 16(1) of the 2004 Act (dispute resolution), the following are repealed—

(a) in paragraph (a), the words “belonging to the area of the authority”,

(b) in paragraph (b), the words “belonging to that area”,

(c) in paragraph (c), the word “such” where it occurs for the first time.

## **4 Contributions not recoverable in respect of certain services**

In section 23 of the Education (Scotland) Act 1980 (c.44) (provision by education authority for education of pupils belonging to areas of other authorities), after subsection (2) insert—

“(2A) Subsection (2) does not permit an education authority to recover contributions in respect of—

(a) mediation services provided under arrangements made in pursuance of section 15(1) of the 2004 Act (mediation services), or

- (b) services provided by the authority forming part of any procedure provided for in regulations under section 16(1) of that Act (dispute resolution).”.

## **5 Arrangements between education authorities**

In section 29 of the 2004 Act (interpretation)—

- (a) in subsection (3), after the word “Act” insert “and subject to subsection (3A)”,  
 (b) after that subsection insert—

“(3A) For the purposes of this Act, where arrangements are made or entered into by an education authority in respect of the school education of a child or young person with another education authority, the authority responsible for that school education is the authority for the area to which the child or young person belongs despite the education being, or about to be, provided in a school under the management of another authority.”.

### *Additional support needs*

## **6 Additional support**

In section 1(3) of the 2004 Act (additional support needs)—

- (a) in paragraph (a), after “provision”, where it occurs for the first time, insert “(whether or not educational provision)”,  
 (b) in paragraph (b), for “educational provision” substitute “provision (whether or not educational provision)”.

## **7 Assessments and examination**

After section 8 of the 2004 Act insert—

### **“8A Assessments and examinations: further provision**

- (1) A person specified in subsection (3) may request that the education authority arrange for a child or young person to whom section 4(1)(a) applies to undergo, for the purpose of considering the additional support needs of the child or young person, a process of assessment or examination.
- (2) The education authority must comply with the request unless it is unreasonable.
- (3) The persons referred to in subsection (1) are—
  - (a) where the request relates to a child, the child’s parent,
  - (b) where the request relates to a young person, the young person or, where the authority are satisfied the young person lacks capacity to make the request, the young person’s parent.
- (4) The education authority must, in accordance with the arrangements made by them under section 4(1)(b), take into account the results of any assessment or examination undertaken by virtue of this section.
- (5) A process of assessment or examination undertaken by virtue of this section is to be carried out by such person as the education authority consider appropriate.

- (6) In this section the reference to assessment or examination includes educational, psychological or medical assessment or examination.”.

## **8 Additional support needs etc.: specified children and young people**

- (1) In section 1 (additional support needs) of the 2004 Act, after subsection (1) insert—
- “(1A) Without prejudice to the generality of subsection (1), a child or young person has additional support needs if the child or young person is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c.36)).
- (1B) But where, in the course of identifying (in accordance with the arrangements made by them under section 6(1)(b)) the particular additional support needs of a child or young person who is looked after by a local authority (within the meaning of section 17(6) of the Children (Scotland) Act 1995 (c.36)), an education authority form the view that the child or young person is, or is likely to be, able without the provision of additional support to benefit from school education provided to or to be provided for the child or young person, subsection (1A) ceases to apply.”.
- (2) In section 6 (children and young persons for whom education authority are responsible) after subsection (1) insert—
- “(1A) Without prejudice to the generality of subsection (1), every education authority must in particular consider whether each child or young person falling within section 1(1A) for whose school education they are responsible requires a co-ordinated support plan.”.

### *Pre-school children*

## **9 Functions of education authority in relation to certain pre-school children with additional support needs**

In section 5 of the 2004 Act (general functions of education authority in relation to additional support needs), for subsections (2) and (3) substitute—

- “(2) Where a child falling within subsection (3) has been brought to the education authority’s attention as appearing to have needs of the type mentioned in subsection (3)(c), the authority must (unless the child’s parent does not consent)—
- (a) in accordance with the arrangements made by them under section 6(1), establish whether the child does have such needs, and
- (b) provide such additional support as is appropriate for the child.
- (3) A child falls within this subsection if the child—
- (a) is under school age (unless the child is a prescribed pre-school child),
- (b) belongs to the authority’s area, and
- (c) appears to have additional support needs arising from a disability (within the meaning of the Disability Discrimination Act 1995 (c.50)) which the child has.”.

*Advocacy services***10 Provision of advocacy service: Tribunal**

After section 14 of the 2004 Act (supporters and advocacy), insert—

**“14A Provision of advocacy service: Tribunal**

- (1) The Scottish Ministers must, in respect of Tribunal proceedings, secure the provision of an advocacy service to be available on request and free of charge to the persons mentioned in subsection (2).
- (2) The persons are—
  - (a) in the case of a child, the child’s parent,
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) where the young person lacks capacity to participate in discussions or make representations of the type referred to in subsection (3), the young person’s parent.
- (3) In subsection (1) “advocacy service” means a service whereby another person conducts discussions with or makes representations to the Tribunal or any other person involved in the proceedings on behalf of a person mentioned in subsection (2).”.

*Mediation services***11 Mediation services**

In section 15(2) (independence of mediation services) of the 2004 Act, for the words “under this Act” substitute “relating to education or any of their other functions”.

*Dispute resolution***12 Dispute resolution**

In section 16(2) (dispute resolution) of the 2004 Act, before paragraph (a), insert—

- “(za) requiring any application by a person mentioned in subsection (1)(a) to (c) for referral to dispute resolution to be made to the Scottish Ministers,”.

*Publication of information by education authority***13 Provision of published information to certain persons**

In section 26 of the 2004 Act—

- (a) in subsection (1)—
  - (i) the word “and” immediately following paragraph (b) is omitted, and
  - (ii) after paragraph (c), insert “, and
  - (d) provide the persons mentioned in subsection (2A) with any information published under paragraph (a) or (c).”.
- (b) after subsection (2), insert—

“(2A) The persons referred to in subsection (1)(d) are—

- (a) in the case of a child with additional support needs for whose school education the authority are responsible, the child’s parent,
- (b) in the case of a young person with additional support needs for whose school education the authority are responsible—
  - (i) the young person, or
  - (ii) if the authority are satisfied that the young person lacks capacity to understand the information published under this subsection by the authority, the young person’s parent.”.

**14 Availability of published information**

In section 26(1) of the 2004 Act (publication of information by education authority), after paragraph (a) insert—

- “(e) ensure that a summary of the information published by the authority under this subsection is available—
  - (i) on request, from each place in the authority’s area where school education is provided,
  - (ii) in any handbook or other publications provided by any school in the authority’s area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and
  - (iii) on any website maintained by any such school or the authority for that purpose (whether or not the website is also maintained for any other reason),”.

**15 Publication of information on dispute resolution**

In section 26(2) of the 2004 Act (publication of information by education authority), after paragraph (e) insert—

- “(ea) any dispute resolution procedures established by the authority in pursuance of section 16,”.

**16 Power to specify additional sources of information**

In section 26(2) of the 2004 Act (publication of information by education authority), after paragraph (h) insert “, and

- (i) any other persons specified by the Scottish Ministers by order as persons from which the persons referred to in subsection (2)(f)(i) and (ii) can obtain advice, further information and support in relation to the provision for such needs, including such support and advocacy as is referred to in section 14”.

*Provision of information by education authority on occurrence of certain events***17 Provision of information by education authority on occurrence of certain events**

In section 13 of the 2004 Act (provision of information etc. on occurrence of certain events), after subsection (4) insert—

- “(4A) In relation to the provision of any information under subsection (2)(a) or (4) in the case of a child, the education authority must seek and take account of the views of the child (unless the authority are satisfied that the child lacks capacity to express a view).”.

*Additional Support Needs Tribunals for Scotland***18 References to Tribunal in relation to co-ordinated support plan**

- (1) In section 18 of the 2004 Act (references to Tribunal in relation to co-ordinated support plan)—

- (a) after subsection (3)(d)(i) insert—

“(ia) failure by the education authority to provide, or make arrangements for the provision of, the additional support (whether relating to education or not) identified by virtue of section 9(2)(a)(iii),”.

- (b) after subsection (5) insert—

“(5A) Where an education authority fail, in response to a request referred to in section 6(2)(b)—

- (a) to inform under subsection (2)(a) of section 11 the persons mentioned in subsection (3) of that section of their proposal to establish whether a child or young person requires, or would require, a co-ordinated support plan by the time required by regulations made in pursuance of subsection (8) of that section, or

- (b) to inform those persons of any decision not to comply with the request by the time required by such regulations,

that failure is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.

- (5B) Where under subsection (2)(a) of section 11 the education authority have informed the persons mentioned in subsection (3) of that section of their proposal to establish whether the child or young person requires, or would require, a co-ordinated support plan, failure by the authority so to establish by the time required by regulations made in pursuance of subsection (8) of that section is to be treated for the purposes of this section as a decision of the authority that the child or young person does not require a co-ordinated support plan.”.

- (2) In section 19(3) of the 2004 Act (powers of Tribunal in relation to reference) for “(d)(ii)” substitute “(d)(ia), (ii)”.

**19 References to Tribunal in relation to duties under section 12(6) and 13**

- (1) In section 18 of the 2004 Act—

- (a) in the title, omit “in relation to co-ordinated support plan”, and
  - (b) in subsection (3), after paragraph (f) (as inserted by section 1(7)(c) of this Act), insert—
    - “(g) failure by the education authority to comply with their duties under section 12(6) and 13 in respect of the child or young person (except where consent for information to be provided under section 13(2)(a) or (4) has not been given under section 13(5)).”.
- (2) In section 19(3) of the 2004 Act, for “or (d)(ii) or (iii)”, substitute “, (d)(ii) or (iii) or (g)”.

## 20 Power to make rules in respect of Tribunal practice and procedure

In paragraph 11(2) of schedule 1 to the 2004 Act (Additional Support Needs Tribunals for Scotland)—

- (a) after paragraph (k) insert—
  - “(ka) enabling specified matters relating to the failure by an education authority to comply with time limits required by virtue of this Act to be determined by the convener of a Tribunal alone,”,
- (b) after paragraph (t) add—
  - “(u) enabling a Tribunal, in specified circumstances, to—
    - (i) review,
    - (ii) vary or revoke,
 any of its decisions, orders or awards,
  - (v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.”.

## 21 Power to monitor implementation of Tribunal decisions

In schedule 1 of the 2004 Act (Additional Support Needs Tribunals for Scotland) after paragraph 11, insert—

### *“Power to monitor implementation of Tribunal decisions*

- 11A The President may, in any case where a decision of a Tribunal required an education authority to do anything, keep under review the authority’s compliance with the decision and, in particular, may—
- (a) require the authority to provide information about the authority’s implementation of the Tribunal decision,
  - (b) where the President is not satisfied that the authority is complying with the decision, refer the matter to the Scottish Ministers.”.

### *Availability of information on additional support needs*

## 22 Availability of information on additional support needs

After section 26 of the 2004 Act insert—



**“26A Availability of information on additional support needs**

The Scottish Ministers must report to the Scottish Parliament in each of the five years following the commencement of this section on what progress has been made in each of those years in ensuring that sufficient information relating to children and young persons with additional support needs is available to effectively monitor the implementation of this Act.”.

*Collection of data on additional support needs***23 Collection of data on additional support needs**

After section 27 of the 2004 Act insert—

**“27A Collection of data on additional support needs**

- (1) The Scottish Ministers must each year collect from each education authority information on—
  - (a) the number of children and young persons for whose school education the authority are responsible having additional support needs,
  - (b) the principal factors giving rise to the additional support needs of those children and young persons,
  - (c) the types of support provided to those children and young persons, and
  - (d) the cost of providing that support.
- (2) The Scottish Ministers must publish the information collected each year under subsection (1).
- (3) The Scottish Ministers may (after consulting such persons as they consider appropriate) by regulations specify the format in and method by which the information mentioned in subsection (1) is to be—
  - (a) provided to, and
  - (b) published by,
 them.”.

*General***24 Ancillary provision**

- (1) The Scottish Ministers may by order make such transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in consequence of, or for the purposes of giving full effect to, any provision of this Act.
- (2) An order under this section may modify any enactment, instrument or document.

**25 Orders**

- (1) Any power conferred by this Act on the Scottish Ministers to make an order—
  - (a) must be exercised by statutory instrument,
  - (b) may be exercised so as to make different provision for different purposes.
- (2) A statutory instrument containing an order under section 24 is, subject to subsection (3), subject to annulment in pursuance of a resolution of the Scottish Parliament.



- (3) An order containing provisions which add to, replace or omit any part of the text of an Act is not to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, the Parliament.

## **26 Short title and commencement**

- (1) This Act may be cited as the Education (Additional Support for Learning) (Scotland) Act 2009.
- (2) This section and sections 24 and 25 come into force on Royal Assent.
- (3) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

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