

Summary Handout on the Additional Support for Learning Bill

Who is this handout for?

If your work or interests relate to children and young people with additional support needs then the information in this handout is for you. You might be a teacher, a classroom assistant, an educational psychologist, a nursery nurse, a childcare worker, a school nurse, a paediatrician, a health visitor, a social worker or social work assistant, a family support worker, a physiotherapist, a mental health link worker, a further education lecturer, a careers advisor or a worker for one of the many voluntary organisations supporting children and families.

This summary handout tells you about some important proposed changes in the law which aim to modernise and improve the current system for identifying and addressing the needs of all children and young people who need additional support for learning.

The proposed changes are in the Education (Additional Support for Learning) (Scotland) Bill which was introduced to the Scottish Parliament on 28 October 2003. Development of the Bill has been informed by extensive consultation in the last 2 years with professionals, parents, and children and young people. A draft Bill was published in January 2003 for public consultation. Significant changes have been made to it as a result of the many responses received. We are grateful to all those who responded.

The Bill proposes ending the Record of Needs system, including the formal Future Needs Assessment and replacing it with a new system. However, until any changes become law the current system will remain in place.

What changes does the Bill propose?

- ◆ a move from the term 'special educational needs' to the much wider, and more encompassing term 'additional support needs'
- ◆ new duties on education authorities and others
- ◆ more rights for parents
- ◆ new independent mediation services for all parents of children with additional support needs
- ◆ a new dispute resolution service for parents, in addition to mediation
- ◆ a new Code of Practice which will set out how the new system will operate
- ◆ better planning and preparation for transition to post-school life
- ◆ removing the current Record of Needs and replacing it with the new Co-ordinated Support Plan (see below), for those who need it
- ◆ new independent family-friendly Tribunals to hear appeals on a range of issues relating to Co-ordinated Support Plans



◆ The new term ‘additional support needs’

This expands on the current definition of ‘special educational needs’ which traditionally only applies to children and young people with particular types of learning needs. Additional support needs can arise from any factor which causes a barrier to learning, whether that factor relates to social, emotional, cognitive, linguistic, disability, or family and care circumstances. For instance, additional support may be required for a child or young person who is being bullied; has behavioural difficulties; has learning difficulties; is a parent; has a sensory or mobility impairment; is at risk; or is bereaved.

There will be many other examples besides these. Some additional support needs will be long term while others will be short term. The effect they have will vary from child to child. In all cases though, it is how these factors impact on the individual child’s learning that is important and this will determine the level of support required.

◆ New duties on education authorities and others

Under the proposed legislation, education authorities must

- identify, address and keep under review provision for the needs of all children and young persons with additional support needs for whose education they are responsible.
- publish their policy and arrangements for identifying and addressing additional support needs, what the role and rights of parents and children and young people are and whom they should contact to obtain information and advice.
- seek and take account of information (including formal assessments) from other agencies such as health and social work services.
- seek and take account of the views of the child or young person and his/her parents and any information they may provide.
- provide independent mediation services free of charge for all parents of children and young people with additional support needs and publish information on these services.
- provide dispute resolution, as well as mediation, to further facilitate resolution for parents on matters other than those relating to the formal appeal routes.
- obtain information about the provision other agencies will have to make for the future needs of a young person with additional support needs once he/she has left school, and plan accordingly to prepare the young person and to support the transition to these other services. This must be done at least 12 months before the young person leaves school.
- provide information to other agencies at least 6 months before the young person leaves school so other agencies can be ready.
- inform parents of any plans to prepare or review a Co-ordinated Support Plan, inform parents of the outcome and of their rights of appeal, and provide them with a copy of the Plan.
- specifically co-ordinate the support to be provided as set out in the Co-ordinated Support Plan and name the person who will manage the day-to-day co-ordination of the Plan.
- keep under consideration the adequacy of a Co-ordinated Support Plan and formally review it at least every 12 months.

Agencies, such as health, social work services and others, will be expected to be involved, where necessary, and to assist education authorities in many of the above duties, such as

- providing education authorities, when requested to do so, with advice and information, including reports and formal assessments, to help them identify a child's or young person's additional support needs and requirement for a Co-ordinated Support Plan. The assessment arrangements should be tailored to the individual child, and parents will be able to request a specific type of assessment.
- making provision to address the need for additional support for learning.
- being more involved in helping prepare a young person make the transition to post-school.
- being involved in the planning, preparation, delivery and review of Co-ordinated Support Plans.

◆ **New rights for parents**

Parents will have new rights:

- to ask the education authority to assess their child for additional support needs.
- to ask for a particular type of assessment for their child, for example medical or psychological assessments.
- to request access to mediation services and to dispute resolution service when they disagree with the help being given to their child.
- to make a placing request to an independent special school if their child has additional support needs (at present only those with a Record of Needs can do this).
- to ask the education authority to establish whether their child requires a Co-ordinated Support Plan.
- to ask for an early review of an existing Co-ordinated Support Plan.
- to appeal to new independent family-friendly Tribunals on a range of issues concerned with the Co-ordinated Support Plan.

Young people, aged 16 or 17 years and still receiving school education, will also have the above rights themselves.

◆ **A new independent mediation service**

All education authorities will have to provide an independent mediation service free of charge to all parents of children and young people with additional support needs. Education authorities will have the flexibility to purchase services from national or UK organisations or local voluntary sector organisations or to provide the service directly. Mediators employed by the education authority cannot be involved in any way in providing education services or in decisions relating to education provision.

The aim of mediation is to facilitate more constructive dialogue between parents and the school or education authority to help reach agreement. This will be an optional service for parents. It is voluntary and will not affect their right to appeal, nor the outcome of that appeal.



◆ A new dispute resolution service

The Bill introduces a new clause, not in the earlier draft Bill, enabling Scottish Ministers to require education authorities to provide dispute resolution, as well as mediation, to further facilitate resolution for parents on matters other than those involving the formal appeal routes. The details of dispute resolution are being developed but it will particularly aim to address concerns of parents whose child does not have a Co-ordinated Support Plan, but who does have additional support needs.

◆ A new Code of Practice

Rather than guidance, a Code of Practice will be issued. The Bill sets out the key topics to be included in the Code. The Code of Practice will be developed in collaboration with service users and providers. It will set minimum standards and will aim to promote more and better joint-planning and partnership working among agencies, and consistency across Scotland.

◆ Better planning and preparation for post-school

The Bill proposes that the formal Future Needs Assessment process, currently for those young people with a Record of Needs, will be replaced with a more person-centred system that provides for more young people who may need extra support on leaving school. The aim is to provide for a continuum of support that ensures the young person's interests are given greater consideration.

Planning and preparing a young person for post-school life will involve any agency that will become responsible for supporting the young person once he/she leaves school. This could be input from a social worker, an occupational therapist or from Careers Scotland or a FE college, for example. The education authority must also obtain information about the provision other agencies will plan to make for the future needs of the young person once they have left school, and plan accordingly to prepare the young person and to support the transition to these other services. The emphasis is on co-operation among all parties concerned, to ensure these transitions are as smooth as possible. This must all be done at least 12 months before the young person is expected to leave school.

◆ The new Co-ordinated Support Plan

This will be a statutory planning document for children and young people with enduring complex or multiple barriers to learning who need a range of additional support from different services. Co-ordination of the services is required where the education authority needs help from others both within the authority itself, such as social work, or from outside agencies, such as health. It will plan long term and strategically for the achievement of learning outcomes, rather than focussing on deficits and weaknesses, as the Record of Needs does.

The Co-ordinated Support Plan must contain:

- the reasons for the individual's additional support needs
- details of the educational objectives
- details of the additional support required to achieve the objectives and who will provide it
- details of the person responsible for co-ordinating the plan
- details of the person parents can contact for information and advice
- the name of the child's or young person's school.

Everyone involved in supporting the child's or young person's learning needs will have the opportunity to be involved in drawing up the plan, reviewing it and making provision. The education authority will have responsibility for the Co-ordinated Support Plan and for ensuring the co-ordination of the support detailed in it. However, the co-ordinator role (the person who will manage the day-to-day implementation) can be delegated to an individual outside education if he/she is more appropriate for the child or young person, such as a health worker or social worker who may have involvement with the wider family.

◆ New Additional Support Needs Tribunals

The new Tribunals will be independent and will have an expertise that will equip them to hear appeals relating to children and young people who have complex needs. The Tribunals will be designed to operate in a user-friendly way and will aim to be less intimidating for parents and children than a more traditional court setting. Legal aid will be available, to those who qualify, for legal advice before and after a Tribunal hearing but not during a hearing. The Tribunals will be able to consider all aspects relating to Co-ordinated Support Plans, including provision, and will be able to direct education authorities to take action to prepare, review or close a Co-ordinated Support Plan or to amend the contents. Ultimate responsibility for the Co-ordinated Support Plan lies with education authorities. Where a Tribunal has directed an education authority to amend the content of a plan, other agencies will have a duty to assist education authorities in implementing the changed plan.



Education (Additional Support for Learning) (Scotland) Bill

Summary Table

Now	Proposals in Bill
<p>Special Educational Needs</p> <ul style="list-style-type: none"> • Special Educational Needs framework (probably 20% pupils with special educational needs) • No legislative requirement to identify, assess and meet requirements other than for profound needs for Record of Needs, though education authorities must provide for special educational needs. • Also general duty under section 2 of Standards in Scotland's Schools etc Act 2000. 	<p>Additional Support Needs</p> <ul style="list-style-type: none"> • Additional Support Needs defined as all learning support needs, not just special educational needs • Duty on education authorities to identify and take steps to address support needs for learning of all children (for whom they provide education either directly or indirectly) • Parents able to request particular type of assessment • Duty to publish local policy, arrangements for identifying additional support needs and provision to address needs (Regulations will set minimum expected) • Duty on other agencies to help • Power for education authorities to assist with identification and support meeting the additional support needs of children outside public system (i.e. for those in independent sector, home educated, below age 3) • Parents of children outwith public system have right to request the education authority to appraise child for additional support needs and for Co-ordinated Support Plan. Education authority must provide advice and information. • Independent schools have right to request education authority to consider child's needs for Co-ordinated Support Plan.
<p>Children with other needs</p> <ul style="list-style-type: none"> • Various and disparate policies, legislative provision and intervention systems, for example, Looked after children, disabled children, Gypsy or Traveller children, English as additional language, refugees, gifted children, behavioural difficulties, children at risk, being bullied, young parents, and so on 	<p>Co-ordinated Support Plan</p> <ul style="list-style-type: none"> • Replace Record of Needs with Co-ordinated Support Plan for children with long term significant learning needs that require support services from outwith education • Co-ordinated Support Plans will directly link additional support with expected learning outcomes • Repeal need for <u>compulsory</u> educational, medical and psychological assessments – target only where needed. Parents will have right to request particular type of assessment • Parents to be informed of proposals for considering child for Co-ordinated Support Plan, the outcome and their appeal rights and must get a copy of the Plan • Co-ordinated Support Plans will be for children in public funded provision and will be for those age 3 upwards • Duty on education authority to specifically co-ordinate support to be provided as detailed in the Plan and to name person who will manage the co-ordination • Code of Practice will replace staged intervention process with minimum standards on local arrangements and will aim for a framework relevant for the whole child across all sectors
<p>Record of Needs</p> <ul style="list-style-type: none"> • Aimed at those with profound needs – 2.1% of pupils though rates vary considerably across education authorities. • Use staged intervention process (set out in guidance) to get to Record of Needs. • Certain assessments compulsory. • Lengthy process. Record of Needs kept confidential, not shared sufficiently • Available to all children from age 2 onwards until leaving school • Education authority may open and maintain a Record for child outwith public system but under no obligation to make provision` 	

<p>No conflict resolution</p> <ul style="list-style-type: none"> No requirement to offer mediation service to resolve disputes. 	<p>Mediation service</p> <ul style="list-style-type: none"> Independent mediation service to be provided free of charge by education authority for all disputes with parents of pupils with additional support needs Mediation not compulsory on either party Education authority to provide dispute resolution, as well as mediation, to further facilitate resolution for parents on matters not for formal appeal routes.
<p>Appeals</p> <ul style="list-style-type: none"> Go to Education Authority Appeal Committee, Scottish Ministers or Sheriff Court depending on nature of appeal. Only certain parts of Record can be appeal. No right of appeal about provision. 	<p>Additional Support Needs Tribunals</p> <ul style="list-style-type: none"> Set up new independent Additional Support Needs Tribunals to hear appeals relating to Co-ordinated Support Plans – appeals to get Co-ordinated Support Plan, review it and appeal any part, including provision and refused placing requests (Appeals on refused placing request where no Co-ordinated Support Plan, will continue to go to Education Authority Appeal Committee) Legal aid available (to those who qualify) for legal advice before and after a Tribunal hearing but not for legal representation at a hearing Parents can have supporter/advocate/representative attend with them Jurisdiction to be on education authorities as lead agency responsible for Co-ordinated Support Plan. Other agencies to assist, where appeal relates to their provision.
<p>Parent support / involvement</p> <ul style="list-style-type: none"> Information on process to get a Record has to be provided to parents Parents have right to be accompanied by a single 'named person' (approved by the education authority) at meetings about Record of Needs Can request child be considered for Record (so statutory assessments). No formal right to request special educational needs be assessed. 	<p>Partner</p> <ul style="list-style-type: none"> Will promote in Code of Practice parents' role in education of child. Parents should be seen as equal partner Identified official to act as contact person, for all parents, to advise on system Information on policies and arrangements for additional support for learning to be provided to all parents in an authority in understandable format In Co-ordinated Support Plan, official also to be named to liaise with parents Parents able to have any supporter with them at any meetings and no need to formally record Parents able to request child's additional support needs be appraised, and also to be appraised for Co-ordinated Support Plan. Right to request particular type of assessment such as medical or psychological. Education authority must inform them of outcome.



Education (Additional Support for Learning) (Scotland) Bill

Summary Table (continued)

<p>Future Needs Assessment</p> <ul style="list-style-type: none"> • Required for those with a Record, some time between 2 years and 9 months prior to age 16. • Involves formal statutory assessments, formal meeting and report. • Future Needs Assessments provided to a few young people with special educational needs but without Record, but practice varies considerably across authorities. 	<p>Future Needs Review</p> <ul style="list-style-type: none"> • Future Needs Assessment to cease. Education authority must get information about provision other agencies make for future needs once young person has left school. • This must be done at least 12 months before young person leaves school • Formal assessments only where necessary • Will be for all those with a Co-ordinated Support Plan <u>plus</u> all others with continuing additional support needs who would benefit • Must also provide information to supporting agencies at least 6 months prior to young person leaving school.
<p>Child involvement</p> <ul style="list-style-type: none"> • Level of involvement of children with special educational needs varies across country. • Education authorities do have general duty to have regard to children's views, as do parents. 	<p>Promote positively</p> <ul style="list-style-type: none"> • Promote through Code of Practice involvement of children with additional support needs in decision-making processes and support their needs to enable their involvement. • The views of the pupil will be recorded in the Co-ordinated Support Plan. • Code of Practice to state pupil should play key part and should have supporter available • Expect children to attend or have opportunity to put their views to Tribunals.



What happens next?

It is the Scottish Parliament's job to scrutinise the Bill and to consider its proposals in detail, before it will allow the Bill to become an Act. MSPs are able to suggest changes to the Bill and the suggested changes are voted on. If you have any concerns about the Bill or the Parliamentary process, you can contact your MSP at <http://www.scottish.parliament.uk/msps/index.htm>.

Even once the changes become law, it will take time to implement the new system. The legislation has to be put into practice, the Code of Practice has to be drawn up and other secondary legislation must be considered by Parliament. The secondary legislation is the various regulations, orders and rules that the Bill provides for Scottish Ministers to make.

As a first step towards this, an Additional Support for Learning Advisory Group comprising key stakeholders has been established. This group, and its sub-groups, will advise on the operational implications of the proposals and help in the production of the secondary legislation, a Code of Practice and guidance.

Scottish Executive Education Department
October 2003



Further information

You can express your views on the Bill directly to the lead Committee in the Parliament. If the Education Committee is selected as the lead Committee, comments should be e-mailed to martin.verity@scottish.parliament.uk. Comments can also be accepted in writing, these should be addressed to:

Clerk to the Committee
Education Committee
Room 2.7, Committee Chambers
The Scottish Parliament
EDINBURGH
EH99 1SP

If you require a copy of the Bill and the documents that accompany it, these should be obtained from the Parliament (see <http://www.scottish.parliament.uk/bills/index.htm>).

A report of the Consultation on the draft Additional Support for Learning Bill was also published in conjunction with the Bill. The report contains a summary of the responses made during the consultation, details of the key changes made to the draft Bill as a result and also gives some insight into the contents of a Co-ordinated Support Plan. If you require copies of this consultation report, they can be obtained at (<http://www.scotland.gov.uk>) or by contacting:

Elaine Lane
Additional Support for Learning Bill Team
Scottish Executive Education Department
Area 3B North
Victoria Quay
Edinburgh
EH6 6QQ

Telephone: 0131 244 1589
e-mail: ASLBill@scotland.gsi.gov.uk

If you would like more copies of this Summary Handout to pass on to colleagues they can be obtained at <http://www.scotland.gov.uk> or by contacting Elaine Lane as above.

In addition, a Guide for Parents about the Bill has been widely distributed throughout Scotland. Copies are available from Enquire, the national independent advice and information service, by telephoning 0845 123 2303.





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