

Leaflet 9: How does the law support children, young people and parents?

The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)

What is the Act about?

- The Education (Additional Support for Learning) (Scotland) Act 2004, came into force on 14 November 2005. It has subsequently been updated by further legislation.
- The Act introduced the term, 'additional support needs' instead of special educational needs.

What is meant by additional support needs?

- The term additional support needs covers significant numbers of children and young people.
- All children and young people need support in order to learn, but some require support which is additional to, or different from, what is normally provided.
- Additional support needs can be short or long term.
- For example, additional support may be offered for a child or young person who:
 - is being bullied
 - has behavioural or learning difficulties
 - is deaf or blind
 - is particularly able or talented
 - is bereaved
 - is not attending school regularly
 - is living with parents who are abusing substances
- For most children or young people, their needs will be planned for through normal school planning processes. It is the impact upon the individual of any particular factor which will be critical in determining whether the child or young person requires additional support.
- The Education (Additional Support for Learning (ASL)) (Scotland) Act 2004 (as amended) automatically consider all looked after children and young people to have additional support needs unless the education authority determines that they do not require additional support in order to benefit from school education.

How does the Act make a difference?

- The Act emphasises good multi agency assessment through a common approach. This approach is known as GIRFEC which stands for Getting it Right for Every Child which aims to improve the delivery of appropriate, proportionate and timely help to all children and young people as they need it.
- The Act introduced new duties on education authorities to benefit young people and parents. Full details can be accessed via the website <http://www.scotland-legislation.hms.gov.uk/legislation/scotland/> A Co-ordinated Support Plan will be prepared for a small number of children and young people with additional support needs, specifically those with:-
 - ongoing needs arising from complex or multiple factors
 - needs which are likely to continue for more than a year
 - a requirement for significant support from specified agencies other than education i.e. Health, Careers Scotland, FE/HE Institutions and/or a non-education function of

the local authority e.g. Social Work as well as significant support from education. The 2009 Act clarifies what is meant by “significant”. The duration and need for co-ordination are critical.

- 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

- Parents have the right to:
 - Ask the education authority to establish whether their child has additional support needs
 - Receive advice and information about their child’s additional support needs
 - Ask the education authority to find out whether their needs a Coordinated 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 account and noted in the plan
 - Ask, at any time, for a specific assessment and /or examination
 - Make a placing request to an independent special school if their child has additional support needs.
 - Use a free mediation service and a dispute resolution service.
 - Appeal to an independent tribunal on matters related to Coordinated Support Plans,
 - Appeal against the refusal of placing requests to special schools
 - Failures by an education authority in relation to their duties regarding school to post school transition
 - 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
 - Have a supporter or representative with them at any meeting with the school or education authority and at tribunal hearings.
 - Make a placing request to the education authority for 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 the child to attend a school under the management of that authority
 - Have access to a free advocacy service in Tribunal proceedings

The Children and Young People (Scotland) Act 2014

What is the Act about?

The Act focuses on improving outcomes for young people, based on a shared understanding of wellbeing. It sets out a common approach to gaining consent and sharing information where appropriate. This is as yet to be clarified and set in law.

What is meant by wellbeing needs?

Wellbeing needs are the basic requirements for children and young people to grow and develop in order to reach their full potential. The Wellbeing indicators are agreed to be – Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included – and are used to support and plan for children and young people.

How does the Act make a difference?

- A Child's Plan will be prepared for children and young people with wellbeing needs, specifically those with:-

needs which are not capable of being met, or fully met to some extent by targeted intervention.

The Child's Plan should contain details of the child's wellbeing need, the targeted intervention needed and how this will be provided as well as the outcome which the targeted intervention is intended to achieve.

- Parents have the right to:
have their views included and recorded in the Child's Plan

The Equality Act 2010

What is the Act about?

This Act identifies 'protected characteristics' which are protected by the law and behaviour that is unlawful. The Act aims to help the country become a fairer society, by improving public services including education.

What is meant by protected characteristics?

These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

How does the Act make a difference?

Under the Act, people are not allowed to **discriminate**, **harass** or **victimise** another person because they have any of the protected characteristics. There are also protections against discrimination where someone is perceived to have one of the protected characteristics or where they are associated with someone who has a protected characteristic.

Discrimination means treating one person worse than another because of a protected characteristic (known as direct discrimination) or

putting in place a rule or policy or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified (known as indirect discrimination)

Harassment includes unwanted conduct related to a protected characteristic which has the purpose or effect or violating someone's dignity or which creates a hostile, degrading, humiliating or offensive environment for someone with a protected characteristic.

Victimisation is treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.

What does the Act mean for schools?

The Act covers everything that is provided for pupils and goes beyond just the formal education. It covers all school activities such as extra-curricular and leisure activities, afterschool and homework clubs, sports activities and school trips as well as school facilities such as libraries and IT facilities.

The Act highlights aspects such as admissions, exclusions, curriculum delivery, academic options, school uniform, work experience / placements, assessment / exams and behaviours and discipline.

Further information is available from:

- Staff in the school or Early Learning and Childcare (ELC) setting who know your child
- The Inclusion Service in Perth and Kinross Council (ASN@pkc.gov.uk or Customer Service Centre 01738 475000)
- Further information on the Act is available from <http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/>
- Getting It Right <https://www.gov.scot/policies/girfec/principles-and-values/>
- Enquire Helpline on 0845 123 2303, www.enquire.org.uk or info@enquire.org.uk
- <http://www.legislation.gov.uk/asp/2009/7/contents>
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