

What you need to know about the 2009 Additional Support for Learning Act

Legal information

The Education (Additional Support for Learning) (Scotland) Act 2004 came into force in November 2005. In June 2009, the Act was amended. These amendments form the Education (Additional Support for Learning) (Scotland) Act 2009, which came into force on 14 November 2010.

What does this mean for pupils and parents?

The new Act doesn't change the basic purpose of the 2004 Act – it aims to strengthen some duties under the Act and clarify parts.

Here are some of the main changes:

- Under the 2004 Act 'additional support' means support that is provided in a classroom or a school. The 2009 Act changes this to include support that is given out of school but that helps a child get the most out of their school education. This could include a social worker helping a child who refuses to go to school or a mental health nurse supporting a child to cope with issues affecting their school life.
- Children who are looked after by a local authority are now automatically assumed to have additional support needs. For looked after children who don't need extra help this will have little impact. For those who do need help it will make sure their needs are considered as they move through school or if they change school. Local authorities are also expected to check whether these children require a Co-ordinated Support Plan (CSP) or not.
- The 2009 Act allows parents to ask their local authority for a specific type of assessment at any time. Under the 2004 Act parents had this right only when asking the education authority to identify whether their child had additional support needs or when asking the education authority whether their child required a CSP.
- The duties that local authorities have towards young disabled children have been strengthened. Under the new Act local authorities have a duty to assess disabled children aged between 0 and 3 and provide them with additional support, if required, in agreement with their parents.

- Local authorities have to publish information on where parents and carers can find help, information and advice, including contact details for Enquire. Local authorities have to make sure that a summary of this information (including details of dispute resolution and mediation services) is available from all schools (and other sites that provide education). They also need to make sure this information is included in school handbooks and on their website.
- There is a section about placing requests that states that parents of children with additional support needs, (including those that have CSPs) can make placing requests to any local authority run school or independent special school in Scotland, including outside the local authority area where they live.
- All appeals about placing requests to special schools (whether the child has a CSP or not) are now referred to the Additional Support Needs Tribunal.

Some of the changes made to the Act deal specifically with children who have, or may require a CSP, and in particular to disagreements between local authorities and parents about the CSP.

- The Act extends the reasons that a parent or young person can make a referral (called a reference) to the Additional Support Needs Tribunal. Parents can make a referral when a local authority decides that a child does not need a CSP but also when local authorities have: failed to provide the additional support set out in the CSP; not responded to a parent's request to find out whether their child needs a CSP within a given time; or, after having said they will consider whether a CSP is required have not made a decision (within a given time) on whether the child needs a CSP or not.
- The Additional Support Needs Tribunal now has extra powers to force local authorities to provide, or make arrangements for providing additional support that is set out in a CSP if they have not done so.
- The new Act includes a duty for the Scottish Government to fund a national independent advocacy service (on request and free of charge) to support parents and young people in Additional Support Needs Tribunal proceedings.

The above points do not include all the changes resulting from the 2009 amendments but simply cover the main points. All Enquire guides and factsheets have been updated.

If you have any questions about the 2009 Act

Please contact the Enquire Helpline on 0845 123 2303 or by email on info@enquire.org.uk

updated 2011-03-01