

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 that came into force on 14 November 2010.

What does this mean for pupils and parents?

The 2009 Act strengthened and clarified certain duties.

Here are some of the main points:

- Under the 2004 Act 'additional support' meant 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 from 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 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 or not these children require a Co-ordinated Support Plan (CSP).
- 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 2009 Act strengthened the duties that local authorities have towards young disabled children. Local authorities have a duty to assess disabled children aged between 0 and 3 years and if needed provide them with additional support 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 places that provide school education. They also need to make sure this information is included in school handbooks and on websites.
- Parents of children with additional support needs can make placing requests to any local authority run school or independent special school in Scotland.
- All appeals about placing requests to special schools (whether the child has a CSP or not) are referred to the Additional Support Needs Tribunal.

Some of the changes made to the 2004 Act deal specifically with Co-ordinated Support Plans and in particular to disagreements between local authorities and parents about the CSP.

- The Act extends the reasons why a parent or young person can make an appeal (called a reference) to the Additional Support Needs Tribunals. Parents can make a reference when a local authority decides that a child does not need a CSP and 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, having agreed to consider whether or not a CSP is needed, have not made a decision within the required timescale.
- The Additional Support Needs Tribunal has the power to direct local authorities to provide, or make arrangements for providing, the additional support that is set out in a CSP.
- The Act includes a duty for the Scottish Government to fund a national independent advocacy service available on request and free of charge to support parents and young people in Additional Support Needs Tribunal proceedings.

The above does not include all the changes resulting from the 2009 amendments but covers the main points.

If you have any questions about the ASL Act

Please contact the Enquire Helpline on 0345 123 2303 or by email on info@enquire.org.uk