

Additional support for learning and disability rights

This factsheet describes:

- the laws that affect the education of all children, including children with additional support needs and children with disabilities
- what these laws mean for the support your child should receive.

Meaning of words

Additional support: help given in school that is extra to or different from the help normally given to children and young people of the same age.

A child or young person with additional support needs: a child or young person who is unable to benefit from school education unless they get additional support. For example, a child may need additional support when he or she:

- has behavioural or learning difficulties
- is deaf or blind
- is particularly gifted
- is being bullied, or
- is a carer.

A child with a disability: under equality law, a disability is defined as “a physical or mental impairment that has a substantial, long-term, adverse affect on [a person’s ability] to carry out normal day-to-day activities”.

What does the law say about education and additional support for learning?

Education¹

You have to make sure your child receives an education (at a school or at home).

Local authorities have to provide an adequate and efficient education for children in their area.

The education they provide must aim to help children and young people reach their fullest potential across all areas of their development (personality, talents, and mental and physical abilities), so that they can get the best they can from their school education.

Normally, education should be provided in a mainstream school. However, in some cases a special school may be more suitable for a child.

¹Education (Scotland) Act 1980 and Standards in Scotland’s Schools, etc. Act 2000

If a child cannot attend school because they are ill or have caring responsibilities, the local authority must still provide them with an adequate and efficient education.

Additional support for learning²

Local authorities must identify which children and young people in their area have additional support needs.

They must provide those children and young people with adequate and efficient additional support and keep the support under review.

They must also identify which children and young people need a co-ordinated support plan (CSP), and prepare a CSP for those who do. For more information see **Enquire factsheet: Co-ordinated support plans**.

Involving parents, children and young people

Local authorities must publish information about their arrangements for meeting children and young people's additional support needs and tell parents and young people how they can use dispute resolution services.

They must listen to and take account of the views of children and young people and their parents, and of any information they provide.

What are your rights?

Your child should be educated in line with your wishes as far as is reasonable. This means you can choose to educate your child at home, send your child to their local school or request a place at a school of your choice.

You also have the right to:

- ask your local authority to assess your child to see if they have additional support needs
- ask your local authority to assess your child to find out if they need a co-ordinated support plan
- use different ways of resolving disagreements. For more information see **Enquire factsheet: Resolving disagreements** and the Enquire information sheet **Steps to resolving disagreements factsheets**.

Children and young people's wellbeing

Getting it right for every child (GIRFEC) is an approach that stresses the importance of everyone involved with a child taking responsibility for his or her wellbeing, and ensuring they work together to enable the child to reach his or her full potential. The approach uses 8 areas of wellbeing to assess when things are going well – the child will be: safe, healthy, achieving, nurtured, active, respected, responsible, and included. These are known as the 'SHANARRI indicators'.

GIRFEC does not change the duties that local authorities have as set out in the ASL Act. However, it may change the sort of plans that young people get for their education and who may be involved in identifying and helping to provide a young person's support needs. In practice, what this means for children, young people and their families is that:

²Education (Additional Support for Learning) (Scotland) Act 2004 as amended

- all the professionals involved in your child's life should be working together, and with you, to ensure your child's wellbeing
- your child may have a Child's Plan. A Child's Plan may be created if a child or young person needs some extra support to meet their wellbeing needs such as access to mental health services or respite care, or help from a range of different agencies. The Child's Plan will pull together all other plans, e.g. health and education plans, to create one single plan. If a child has a co-ordinated support plan, this will be included in a Child's Plan but will also need to be treated as a stand-alone document. For more information see **Enquire factsheet: Planning children and young people's learning**
- children and young people (up to the age of 18) may have access to a Named Person service to help support their wellbeing. The Named Person will take responsibility for coordinating support for the child's wellbeing, if needed, and keeping parents informed.

More information on the **Getting it right for every child** is available here:

www.gov.scot/Resource/0050/00500761.pdf

What does the law say about disability rights?

Under the **Equality Act 2010** it is unlawful for local authorities and education providers to discriminate against a pupil for a reason related to his/her disability. This law includes duties to make reasonable adjustments and not to treat a pupil less favourably.

It is unlawful to discriminate, without justification, against disabled pupils and prospective pupils, in all areas of school life.

Auxiliary aids and services duty

The reasonable adjustment duty for schools, local authorities and education providers includes a duty to provide auxiliary aids and services for disabled pupils. These could be:

- assistance from a sign language interpreter, lip speaker or deaf-blind communicator
- extra staff assistance
- an electronic or manual note-taking service
- audio-visual fire alarms
- specialised computer software.

Many children and young people will have this type of support provided through the ASL Act.

Further information is given in the Equality and Human Rights Commission's **Equality Act 2010 - guidance for schools**.

Disabled children and young people are entitled to have an assessment and receive support that is designed to "minimise the effect of the child's disability" and "give those children the opportunity to lead lives which are as normal as possible". The law that applies is the **Children (Scotland) Act 1995**, which gives local councils a duty to carry out social work assessments. Their families may also need help and are entitled to request assessments also.

Does the school have to make special arrangements for my child?

There is a legal duty to make “reasonable adjustments” to the way things are done and to the built environment. The ASL Act applies to these areas too, because there are general duties in the Act that mean your child’s individual needs have to be met.

The additional support your child needs should be set out in a co-ordinated support plan (CSP) or a learning plan such as an individualised educational programme (IEP). If your child’s individual needs are not being met, you can take this up with your child’s school or local authority or both. For more information see **Enquire factsheet: Resolving disagreements.**

What can I do if I think the school has unlawfully discriminated against my child?

Claims about disability discrimination in schools can now be made to the Additional Support Needs Tribunals for Scotland. For contact details see page 5.

For more about disability discrimination, contact the Equality Advisory Support Service. For contact details see page 5.

General Equality Duty

Under the general equality duty set out in the **Equality Act 2010** local authorities must:

- take effective action on equality
- make the right decisions, first time around
- develop better policies and practices, based on evidence
- be more transparent, accessible and accountable
- deliver improved outcomes for all.

Duties to improve access

Under the **Education (Disability Strategies and Pupils’ Educational Records) (Scotland) Act 2002**, all local authorities, independent and grant-aided schools have to produce a 3 year accessibility strategy, covering all pupils and prospective pupils rather than individual pupils’ needs.

All local authorities have to make education accessible and remove barriers to learning for disabled pupils. This can mean, for example:

- enabling them to take part in all lessons
- making the school physically accessible (widening doorways, installing lifts, fitting hearing loops, etc)
- providing information in Braille, audio or other formats as required.

Where to get more information

Publications

The parents' guide to additional support for learning, Enquire (2017)

Enquire factsheet: Resolving disagreements (2017)

Enquire factsheet: Mediation (2017)

Enquire factsheet: Resolving disputes using independent adjudication (2017)

Equality Act 2010 – guidance for schools, Equalities and Human Rights Commission (2010). www.equalityhumanrights.com/en/publication-download/technical-guidance-schools-scotland

Reasonable Adjustments for Disabled Pupils Scotland

www.equalityhumanrights.com/en/publication-download/reasonable-adjustments-disabled-pupils-scotland

Websites

Education Scotland's website provides information and articles on supporting learners www.education.gov.scot/scottish-education-system/Support%20for%20all

Organisations

Equality Advisory Support Service (EASS)

Telephone: 0808 800 0082

Textphone: 0808 800 0084

www.equalityadvisoryservice.com

Additional Support Needs Tribunals for Scotland

4th Floor, 1 Atlantic Quay

45 Robertson Street

Glasgow G2 8JB

Telephone: 0141 302 5860

www.asntscotland.gov.uk

ENQUIRE

Helping you understand additional support for learning

Enquire is the Scottish advice service for additional support for learning. We provide independent and impartial advice to parents and carers, to practitioners in education, social work and health services, and to children and young people themselves.

www.reach.scot offers advice to young people struggling at school. With practical tips on what can help and young people sharing their views and experiences on all sorts of life issues, Reach offers the 'go-to' source of advice to help pupils make the most out of their education.

This factsheet has been awarded the Clear English Standard.



Contact details

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