

A guide to: Additional Support Needs Legislation



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There have now been two laws passed about additional support needs:

- **Education (Additional Support for Learning) (Scotland) Act 2004**
- **Education (Additional Support for Learning) (Scotland) Act 2009**

Additional support needs

The Acts provide the legal framework underpinning the system for supporting children and young people in their school education, and their families. The framework is based on the idea of additional support needs. This broad and inclusive term applies to children or young people who, for whatever reason, require additional support, long or short term, in order to help them make the most of their school education and to be included fully in their learning. Children or young people may require additional support for a variety of reasons and may include those who:

- have motor or sensory impairments
- are being bullied
- are particularly able or talented¹
- have experienced a bereavement
- are interrupted learners
- have a learning disability
- are looked after by a local authority²
- have a learning difficulty, such as dyslexia
- are living with parents who are abusing substances
- are living with parents who have mental health problems
- have English as an additional language
- are not attending school regularly
- have emotional or social difficulties
- are on the child protection register
- are young carers.

The above list is not exhaustive nor should it be assumed that inclusion in the list inevitably implies that additional support will be necessary. The Acts also introduce duties on local authorities to benefit children, young people and give parents additional rights.

Rights of parents and young people

The Acts introduce new rights for parents and young people. Parents have rights (and young people have these rights on their own behalf) to:

- request the education authority to establish whether their child has additional support needs;
- receive advice and information about their child's additional support needs;
- request, **at any time**, a specific type of assessment and/or examination for the purpose of considering the child's additional support needs as well as when the education authority propose to establish whether a child or young person has additional support needs or requires a co-ordinated support plan (or where a plan is being reviewed);
- request the use of mediation services;
- make use of dispute resolution arrangements³ for matters about additional support needs that are specified in regulations - generally matters not eligible to be considered by the Additional Support Needs Tribunal⁴ for Scotland, although the use of these arrangements does not affect the entitlement to refer any matter to a Tribunal;
- make a placing request to the education authority requiring them to place the child or young person in 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 their child to attend a school under the management of that authority;
- 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, for example, through mediation or dispute resolution, or referred to a Tribunal or an education authority appeal committee (where it concerns a placing request where there is no related co-ordinated support plan matter and the placing request is not for a special school);

- request the education authority to establish whether their child needs a co-ordinated 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 into account and noted in the co-ordinated support plan;
- refer to the Tribunal specified matters relating to co-ordinated support plans, appeals against the refusal of placing requests to special schools and failures by an education authority in relation to their duties regarding school to post-school transitions;
- have a supporter with them or an advocate to present their case at any meeting with the school or education authority, in connection with the exercise of the education authority's functions under the Act and at Tribunal hearings, and/or have access to a free advocacy service in Tribunal proceedings.

Functions and duties of education authorities

The Act confers various functions and imposes duties on education authorities in connection with the provision of school education for children and young people with additional support needs belonging to their area. Some of the main duties are listed below.

Education authorities must:

- make adequate and efficient provision for the additional support required for each child or young person with additional support needs for whose school education they are responsible, subject to certain exceptions;
- make arrangements to identify additional support needs;
- keep under consideration the additional support needs identified and the adequacy of support provided to meet the needs of each child or young person;
- provide appropriate additional support for certain disabled children under school age (in this case, generally children under 3 years of age) belonging to their area who have been brought to the attention of the authority as having additional support needs arising from their disability;
- presume that all looked after children and young people have additional support needs unless the authority determine that they do not require additional support to enable them to benefit from school education;
- presume that all looked after children and young people require a co-ordinated support plan unless the authority determine that they do not meet the requirements for having one;
- publish, review and update, as necessary, specified information about their policy and arrangements in relation to provision for identifying, addressing and keeping under

consideration such provision for each child or young person with additional support needs for whose school education the authority are responsible;

- provide parents of children with additional support needs (and young people with additional support needs), for whose school education the education authority are responsible with all of the information they are required to publish under the Act;
- ensure that a summary of the information published under the Act is available, on request, from each place in the authority's area where school education is provided, regardless of whether the school is under the management of the education authority;
- provide the above summary in any handbook or other publications provided by any school in the authority's area or by the authority for the purposes of providing general information about the school or, as the case may be, the services provided by the authority, and on any website maintained by any such school or the authority for that purpose;
- provide those children or young people who need one with a co-ordinated support plan and keep this plan under regular review;
- provide independent and free mediation services for those parents and young people who want to use such services and publish information on these services;
- have in place arrangements for resolving disputes;
- at least 12 months prior to the expected school leaving date, request, and take account of, information and advice from appropriate agencies likely to make provision for the child or young person when he or she leaves school, and/or
- no later than 6 months before the child or young person is

expected to leave school provide information to whichever appropriate agency or agencies, as the authority think appropriate, may be responsible for supporting the young person once he or she leaves school, if the child's parent or young person agrees.

Further information can be obtained from:

Enquire

www.enquire.org.uk

Scottish Government

www.scotland.gov.uk/Topics/Education

Learning and Teaching Scotland

[www.ltscotland.org.uk/supportinglearners/
additional_supportneeds/index.asp](http://www.ltscotland.org.uk/supportinglearners/additional_supportneeds/index.asp)

West Dunbartonshire Council

[http://www.west-dunbarton.gov.uk/
education-and-learning/additional-support-needs](http://www.west-dunbarton.gov.uk/education-and-learning/additional-support-needs)

Additional Support Needs Tribunal (ANST) for Scotland

www.asntscotland.gov.uk

Govan Law Centre

www.edlaw.org.uk

Leaflets in this series. A guide to:

- Additional Support Needs Legislation
- Additional Support Needs in West Dunbartonshire Council
- The Co-ordinated Support Plan (CSP)
- Dyslexia
- Getting Help and Resolving Disagreements:
 - Mediation;
 - Dispute Resolution;
 - Additional Support Needs Tribunal for Scotland (ANSTs)
- Going to Meetings to Discuss Your Child
- Individualised Education Programmes (IEP)
- Staged Intervention
- The Network Support Resource
- The Pre-school Assessment Team (PreScAT)
- Attendance Review Committee - Attendance Orders
- Accessing Specialist Provision in West Dunbartonshire
- Attendance Procedures

For more information contact:

Additional Support Needs enquiries

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General Enquiries

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Other formats

This document can be provided in large print, Braille or on audio cassette and can be translated into different community languages. Please contact:

Corporate Communications
Council Offices
Garshake Road
Dumbarton G82 3PU
Tel: 01389 737000

本文件也可應要求，製作成其他語文或特大字體版本，也可製作成錄音帶。

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है।
ਇਹ ਦਸਤਾਵੇਜ਼ ਹੋਰ ਭਾਸ਼ਾਵਾਂ ਵਿਚ, ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਆਡੀਓ ਟੇਪ 'ਤੇ ਰਿਕਾਰਡ ਹੋਇਆ ਵੀ ਮੰਗ ਕੇ ਲਿਆ ਜਾ ਸਕਦਾ ਹੈ।

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔