



# Education (Additional Support for Learning) (Scotland) Act 2004

## 2004 asp 4

*Establishment of additional support needs and need for co-ordinated support plan*

### **6 Children and young persons for whom education authority are responsible**

- (1) Every education authority must make such arrangements as they consider appropriate for identifying—
- (a) from among the children and young persons for whose school education they are responsible—
    - (i) those who have additional support needs, and
    - (ii) those having additional support needs who require a co-ordinated support plan, and
  - (b) the particular additional support needs of the children and young persons so identified.

[<sup>F1</sup>(1A) Without prejudice to the generality of subsection (1), every education authority must in particular consider whether each child or young person falling within section 1(1A) for whose school education they are responsible requires a co-ordinated support plan.]

- (2) Where an education authority receive from a person specified in subsection (3) a request to establish whether any child or young person for whose school education the authority are responsible—

- (a) has additional support needs, or
- (b) requires a co-ordinated support plan,

the authority must, in accordance with the arrangements made by them under subsection (1), comply with the request unless the request is unreasonable.

- (3) The persons referred to in subsection (2) are—

- (a) in the case of a child, the child's parent,

[<sup>F2</sup>(aa) in the case of a child who has attained the age of 12 years and who the authority is satisfied has capacity to make the request, the child,]

- (b) in the case of a young person—
  - (i) the young person, or

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- (ii) if the authority are satisfied that the young person lacks capacity to make the request, the young person's parent.
- (4) Where, in pursuance of a request referred to in subsection (2), an education authority establish that a child or young person has additional support needs, the authority must inform—
- [<sup>F3</sup>(a)] the person who made the request of that fact[<sup>F4</sup>, and
- (b) where that person is a child falling within subsection (3)(aa), the child's parent of that fact.]
- (5) Subsection (6) applies where a child or young person for whose school education an education authority are responsible comes to the attention of the authority as—
- (a) having, or appearing to have, additional support needs, or
- (b) having such needs and requiring, or appearing to require, a co-ordinated support plan.
- (6) Where this subsection applies, the education authority must, in accordance with the arrangements made by them under subsection (1), establish whether the child or young person does have additional support needs or, as the case may be, require a co-ordinated support plan, unless the authority consider it unreasonable to do so.
- (7) Subsections (2) and (6) are without prejudice to subsection (1).

#### Annotations:

#### Amendments (Textual)

- F1** S. 6(1A) inserted (14.11.2010) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2009](#) (asp 7), **ss. 8(2), 26(3)**; [S.S.I. 2010/277](#), art. 2
- F2** S. 6(3)(aa) inserted (10.1.2018) by [Education \(Scotland\) Act 2016](#) (asp 8), s. 33(2), **sch. para. 4(a)**; [S.S.I. 2017/354](#), reg. 2(a)
- F3** Words in s. 6(4) renumbered as s. 6(4)(a) (10.1.2018) by [Education \(Scotland\) Act 2016](#) (asp 8), s. 33(2), **sch. para. 4(b)(ii)**; [S.S.I. 2017/354](#), reg. 2(a)
- F4** S. 6(4)(b) and word inserted (10.1.2018) by [Education \(Scotland\) Act 2016](#) (asp 8), s. 33(2), **sch. para. 4(b)(ii)**; [S.S.I. 2017/354](#), reg. 2(a)

#### Commencement Information

- I1** S. 6 in force at 14.11.2005 by [S.S.I. 2005/564](#), art. 2

## 7 Other children and young persons

- (1) Where an education authority receive a request of a type specified in subsection (2) relating to any child or young person—
- (a) belonging to the area of the authority, but
- (b) for whose school education [<sup>F5</sup>an] authority are not responsible,
- [<sup>F5</sup>an] authority may, in accordance with the arrangements made by them under section 6(1), comply with the request.
- (2) The types of request referred to in subsection (1) are—
- (a) a request from a person specified in subsection (3) to establish whether the child or young person in relation to whom the request is made—
- (i) has additional support needs, or

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- (ii) would, if the education authority were responsible for the school education of the child or young person, require a co-ordinated support plan,
  - (b) in the case of a child or young person being provided with school education at an independent school or a grant-aided school, a request from the managers of the school to establish whether the child or young person would, if the education authority were responsible for the school education of the child or young person, require such a plan.
- (3) The persons referred to in subsection (2)(a) are—
  - (a) in the case of a child, the child’s parent,
  - [<sup>F6</sup>(aa) in the case of a child who has attained the age of 12 years and who the authority is satisfied has capacity to make the request, the child,]
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to make the request, the young person’s parent.
- (4) Subsection (5) applies where a child or young person—
  - (a) belonging to the area of an education authority, but
  - (b) for whose school education an education authority are not responsible, comes to the attention of the authority (otherwise than as a result of a request referred to in subsection (1)) as having, or appearing to have, additional support needs.
- (5) Where this subsection applies, the education authority may, in accordance with the arrangements made by them under section 6(1), establish whether the child or young person does have additional support needs.
- (6) Subsection (7) applies where, in pursuance of this section, an education authority establish that a child or young person—
  - (a) has additional support needs, or
  - (b) would, if the education authority were responsible for the school education of the child or young person, require a co-ordinated support plan.
- (7) Where this subsection applies, the education authority must provide the persons mentioned in subsection (8) with such information and advice as to the additional support required by the child or young person as they consider appropriate.
- (8) The persons referred to in subsection (7) are—
  - (a) in the case of a child, the child’s parent,
  - [<sup>F7</sup>(aa) in the case of a child falling within subsection (3)(aa) who the authority is satisfied has capacity in relation to the information or advice, the child,]
  - (b) in the case of a young person—
    - (i) the young person, or
    - (ii) if the authority are satisfied that the young person lacks capacity to understand the information or advice, the young person’s parent,
  - (c) where the authority establish the matter referred to in subsection (6) pursuant to a request made by the managers of an independent school or a grant-aided school, those managers.
- [<sup>F8</sup>(9) Subsection (10) applies where an education authority receives a request as mentioned in subsection (1) relating to a child attending an independent or grant-aided school.

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- (10) The authority may request the managers of the school to provide the authority with such information and advice as the authority thinks appropriate for the purpose of enabling the authority to assess the capacity of the child in relation to the request.]

**Annotations:**

**Amendments (Textual)**

- F5** Word in s. 7(1)(b) substituted (14.11.2010) by [Education \(Additional Support for Learning\) \(Scotland\) Act 2009 \(asp 7\)](#), **ss. 1(3)**, 26(3); S.S.I. 2010/277, art. 2
- F6** S. 7(3)(aa) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 5(a)**; S.S.I. 2017/354, reg. 2(a)
- F7** S. 7(8)(aa) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 5(b)**; S.S.I. 2017/354, reg. 2(a)
- F8** S. 7(9)(10) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\)](#), s. 33(2), **sch. para. 5(c)**; S.S.I. 2017/354, reg. 2(a)

**Commencement Information**

- I2** S. 7 in force at 14.11.2005 by [S.S.I. 2005/564](#), **art. 2**

**8 Assessments and examinations**

- (1) Where—

- (a) an education authority propose—
- (i) in pursuance of any provision of this Act, to establish whether a child or young person has additional support needs or requires, or would require, a co-ordinated support plan, or
  - (ii) to review under section 10 any such plan prepared for any child or young person, and
- (b) the appropriate person makes a request that the education authority arrange for the child or young person to whom the proposal referred to in paragraph (a) relates to undergo, for the purposes of the proposal, a process of assessment or examination (such a request being referred to in this section as an “assessment request”),

the education authority must comply with the assessment request unless the request is unreasonable.

- (2) In subsection (1)(b), “the appropriate person” means—

- (a) where the proposal referred to in subsection (1)(a) arises from a request referred to in section 6(2), 7(1) or 10(4), the person making the request,
- (b) in any other case—
- (i) where the proposal relates to a child, the child’s parent,
  - [<sup>F9</sup>(ia) where the proposal relates to a child who has attained the age of 12 years, the child,]
  - (ii) where the proposal relates to a young person, the young person or, where the authority are satisfied that the young person lacks capacity to make the request, the young person’s parent.

[<sup>F10</sup>(2A) But a child who has attained the age of 12 years is an appropriate person for the purposes of subsection (2) only if—

- (a) in a case where paragraph (a) of that subsection applies—

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- (i) the authority is satisfied that there has been no significant change in the circumstances of the child since the request mentioned in that paragraph was made, or
    - (ii) where the authority is not so satisfied, the authority is satisfied that the child has capacity to make the request referred to in subsection (1)(b) at the time that request is made,
  - (b) in any other case, the authority is satisfied that the child has capacity to make the request referred to in that subsection.]
- (3) Where a child or young person is to undergo a process of assessment or examination in pursuance of an assessment request, the process is to be carried out by such person as the education authority consider appropriate.
- (4) In subsection (1)(b), the reference to assessment or examination includes educational, psychological or medical assessment or examination.

**Annotations:**

**Amendments (Textual)**

- F9** S. 8(2)(b)(ia) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\), s. 33\(2\), sch. para. 6\(a\); S.S.I. 2017/354, reg. 2\(a\)](#)
- F10** S. 8(2A) inserted (10.1.2018) by [Education \(Scotland\) Act 2016 \(asp 8\), s. 33\(2\), sch. para. 6\(b\); S.S.I. 2017/354, reg. 2\(a\)](#)

**Commencement Information**

- I3** S. 8 in force at 14.11.2005 by [S.S.I. 2005/564, art. 2](#)

**[<sup>F11</sup>8A Assessments and examinations: further provision**

- (1) A person specified in subsection (3) may request that the education authority arrange for a child or young person to whom section 4(1)(a) applies to undergo, for the purpose of considering the additional support needs of the child or young person, a process of assessment or examination.
- (2) The education authority must comply with the request unless it is unreasonable.
- (3) The persons referred to in subsection (1) are—
- (a) where the request relates to a child, the child's parent,
  - [<sup>F12</sup>(aa) where the request relates to a child who has attained the age of 12 years and who the authority is satisfied has capacity to make the request, the child,]
  - (b) where the request relates to a young person, the young person or, where the authority are satisfied the young person lacks capacity to make the request, the young person's parent.
- (4) The education authority must, in accordance with the arrangements made by them under section 4(1)(b), take into account the results of any assessment or examination undertaken by virtue of this section.
- (5) A process of assessment or examination undertaken by virtue of this section is to be carried out by such person as the education authority consider appropriate.
- (6) In this section the reference to assessment or examination includes educational, psychological or medical assessment or examination.]

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**Annotations:****Amendments (Textual)**

- F11** S. 8A inserted (14.11.2010) by Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7), **ss. 7, 26(3)**; S.S.I. 2010/277, art. 2
- F12** S. 8A(3)(aa) inserted (10.1.2018) by Education (Scotland) Act 2016 (asp 8), s. 33(2), **sch. para. 7**; S.S.I. 2017/354, reg. 2(a)

**Changes to legislation:**

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