

POLICY NOTE

THE ADDITIONAL SUPPORT FOR LEARNING (COLLECTION OF DATA) (SCOTLAND) REGULATIONS 2017

SSI 2017/355

The above instrument was made in exercise of the powers conferred by section 27A(1) of the Education (Additional Support for Learning) (Scotland) Act 2004. The instrument is subject to negative procedure.

Policy Objectives

The Education (Additional Support for Learning) (Scotland) Act 2004 (the “2004 Act”) provides the legal framework for identifying and addressing the additional support needs of children and young people who face a barrier, or barriers, to learning.

The 2004 Act aims to ensure that all children and young people are provided with the necessary support to help them work towards achieving their full potential. It also promotes collaborative working among all those supporting children and young people and sets out the rights of children, young people and parents within the system.

These Regulations specify the information about children and young persons with additional support needs for whose school education an education authority is responsible, that the Scottish Ministers must collect annually from each education authority. This is currently specified in section 27A of the 2004 Act, which will be replaced with a regulation-making power in January 2018¹. The information collected will continue to be:

- the number of children and young persons having additional support needs for whose school education the authority are responsible;
- the principal factors giving rise to the additional support needs of those children and young persons;
- The types of support provided to those children and young persons;
- The cost of providing such support.

Taking these requirements into Regulations rather than on the face of the 2004 Act allows Ministers flexibility should the type of information to be collected and published require to be changed in future. These regulations recreate the current requirements on Ministers so there is in effect no change to these requirements at this time.

Consultation

The development of these Regulations has been informed by The Advisory Group for Additional Support for Learning throughout.

There was a public consultation on The Additional Support For Learning (Collection Of Data) (Scotland) Regulations 2017 for 12 weeks (19 June – 12 September 2017). The public consultation confirmed that the Regulation is appropriate and therefore no changes have been made to the Regulation.

¹ The enabling provision came into force for the purposes of consulting and making regulations on 1 January 2017: S.S.I. 2016/386, regulation 2 and the schedule.

Impact Assessments

These regulations are associated with the changes to the Education (Additional Support for Learning) (Scotland) Act 2004 which are made by the Education (Scotland) Act 2016 (the “2016 Act”).

Impact assessments were undertaken prior to the 2016 Act being passed. These impact assessments included a Business and Regulatory Impact Assessment (BRIA), Equality Impact Assessment (EQIA) and a Child Rights and Wellbeing Impact Assessment (CRWIA). The assessments did not highlight any negative impacts as a result of the provisions in the bill which relate to additional support needs.

Scoping exercises were undertaken for both privacy impact and environmental impact assessments with the results that neither assessment was required with regards to the then Education Bill. There is no change in policy as a result of these regulations, as they recreate the current requirements on Ministers.

Financial Effects

As a result of the changes by the Education (Scotland) Act 2016 there is a need to consult on and make these regulations, and Scottish Government will incur associated costs such as preparation, consultation, analysis, review and printing costs.

There will be no additional costs on local authorities or any other body as these Regulations do not change the requirements on them or create new requirements.

Scottish Government
Directorate for Learning