
Report To:	Education & Lifelong Learning Committee	Date:	12 May 2009
Report By:	Corporate Director Education and Social Care	Report No:	EDUC/47/09/CL
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Subject:	Additional Support for Learning Bill 2009		

1.0 PURPOSE

- 1.1 The purpose of this report is to advise members of the changes to Additional Support Needs Legislation introduced by the Additional Support for Learning Bill 2009.

2.0 SUMMARY

- 2.1 The Additional Support for Learning Bill makes changes to the Education (Additional Support for Learning) (Scotland) Act 2004. The Bill completed its passage through the Scottish Parliament in early March 2009 however COSLA has advised that 28 amendments have been put forward by MSPs. Some of these amendments have cost implications for Councils.
- 2.2 The Bill introduces a number of changes to Additional Support Needs (ASN) legislation caused by a number of high profile court cases and some judgments made in the Court of Session.
- 2.3 The changes can be summarised as:
- (i) Parents of children with ASN or young people themselves, including those with Co-ordinated Support Plan (CSP), can now make out of area placing requests.
 - (ii) Following the refusal of such a placing request, an appeal can be made to an ASN tribunal
 - (iii) Following such a request a young person can access mediation or dispute resolution from the host authority about the placing request
 - (iv) Following a successful request parents or young people can access mediation from the host authority about its functions under the 2004 Act
 - (v) The host authority cannot recover mediation costs from the home authority
 - (vi) Responsibility for the young person's education transfer to the host authority following a successful out of area placing request
 - (vii) An ASN Tribunal can consider a placing request where a CSP is in preparation before an Education Appeals Committee or final determination by a Sheriff
 - (viii) The circumstances whereby a parent or young person can make referral to a Tribunal for local authority procedural failures has been widened
 - (ix) Scottish Ministers can make rules to allow a Tribunal convener to sit alone to consider certain references and Tribunals can now review certain decisions

3.0 RECOMMENDATION

- 3.1 It is recommended that members note the changes introduced to ASN legislation through this Bill

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4.0 BACKGROUND

- 4.1 The Education (Additional Support for Learning (Scotland) Act 2004) came into force on 14 November 2005.
- 4.2 It widened the concept of a support need, introduced the notion of a co-ordinated support plan, (replacing Records of Need) for young people involved with multiple agencies requiring support.
- 4.3 A Code of Practice provides the framework for authority operation in this field.
- 4.4 Around 60 young people in Inverclyde now have coordinated support plans. The number is increasing. Measured against other authorities Inverclyde sits in mid-table in relation to the percentage of the school population with a CSP.

5.0 IMPLICATIONS

- 5.1 The implications of the changes brought in by the Bill are largely minor in terms of finance, except in a few cases. There is now an increasing likelihood that placements beyond Inverclyde will be requested. If these are refused, there is a stronger possibility of the authority being referred to the ASN Tribunal forum.
- 5.2 Such placements are often more expensive than the schools traditionally used and there may be high transport costs from such placements.
- 5.3 Other proposed amendments will involve greater pressure on the work of Psychological Services.

6.0 CONSULTATION

- 6.1 Scottish Government consulted widely on the proposed changes in the Bill. Education Services submitted a number of points in response.

7.0 CONCLUSION

- 7.1 Scottish Government see the changes as bringing more equitable treatment to young people with additional support needs and their parents. A number of interesting decisions from the Court of Session were used as the basis on which change was proposed.

8.0 BACKGROUND PAPERS

ASL Act: Code of Practice

Scottish Executive 2005

ASL Bill: Explanatory Notes,
Financial and Policy Memorandum

Scottish Parliamentary Corporate Body 2008