

Enquire briefing

Extra support at school: The rights of looked after children

The law says that all looked after children should have the extra support they need to get the most out of their education and achieve their full potential. This law is the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) - the ASL Act. The Act presumes that all looked after children have additional support needs, unless the education authority decides otherwise after assessment.

Who should read this?

Residential child-care staff, social workers, advocacy workers with a responsibility for looked after children, parents, foster carers, kinship carers, children's panel members, teachers, school staff, looked after children's nurses, educational psychologists and education liaison and welfare officers.

What 'looked after' means

The term 'looked after' used in the ASL Act is based on the meaning within the Children (Scotland) Act 1995. It covers children looked after at home and children looked after away from home. Those looked after away from home may be cared for:

- by relatives (kinship carers) or foster carers
- in a children's residential unit
- in a residential school or secure unit

Not all children looked after by kinship carers are classed as looked after.

Local authorities and their schools have a responsibility to *all* looked after children, whether they live at home or have been placed elsewhere.

Why looked after children may need learning support

There are many reasons why looked after children might need extra help to get the most from their learning. These include:

- dealing with a parent's substance abuse
- chaotic home circumstances
- problems associated with trauma or abuse experienced in the early years
- moving home a lot and having to change schools
- being bullied or stigmatised
- finding it hard to control behaviour
- having a low attendance rate at school
- feeling depressed or anxious
- having difficulty finding a quiet place to do homework and accessing the internet.

What support is available?

Support should be tailored to meet a child's individual needs and may include:

- time with learning support staff
- assistance from a counsellor or therapist
- equipment, such as a laptop
- strategies, such as time out
- more time to complete school work and exams
- 'buddy' support from an older pupil
- meetings to discuss learning plans and transition between schools
- support to access further education or vocational training.

For more information, see *Enquire Factsheet 7: Who provides extra support for children's learning?* and *Enquire young people's guide: Need extra help at school?*

Who is responsible for a looked after child's education?

All education authorities should have comprehensive policies on the education of looked after children and arrangements for liaising with the child and their parents or carers and with any other professionals involved. Chapter 3 of the *Supporting children's learning code of practice* also provides guidance on how the law might work in certain situations.

If a child is looked after, their home authority has responsibility for their education. The home education authority is still responsible for:

- a looked after child placed in accommodation in another local authority and attending a school in that authority
- a looked after child placed in a school in another local authority, for example because special school provision is available there to meet their needs.

The local authority must review the circumstances of looked after children and young people within 6 weeks of them gaining looked after status or being placed in their area. Regular reviews of the child's progress should then take place.

Planning support for looked after children

Staff from education, social work and other agencies should work closely together to assess and plan the support a looked after child needs to achieve their fullest potential in all areas. The child (or young person) should be involved in this planning, having a say in decisions about what they learn at school and the support they need.

Schools use various plans to help children learn effectively. These include personal learning plans, individualised educational programmes (IEPs) or similar local plans, and co-ordinated support plans. The education authority must consider whether a looked after child needs a co-ordinated support plan (CSP). A CSP is a plan for some children who need significant additional support with their education. It includes information on what the child's learning support needs are, which agency will provide this support, and who will ensure that it is co-ordinated. At least once a year, the school and other agencies should meet with the child or young person and parent or carer to review the CSP.

The Scottish Government's *Getting it right for every child* approach aims to integrate and co-ordinate plans developed for children by different agencies. Looked after children should all have a child's plan, prepared by their home authority's social work department.

The child's plan, as defined by the Children (Scotland) Act 1995, must set out the local authority's immediate and longer term plans for the child; details of the services required to meet the care, health and education needs of the child; and the respective responsibilities of the local authority; the child; any person with parental responsibility; any foster carer or kinship carer for the child; and, where the child is placed in a residential establishment, the designated manager of that establishment. The child's plan for a looked after child must consider their learning needs and the support they require. A CSP will form part of a child's plan but should also be a stand-alone document.

For more information, see *Enquire Factsheet 1: Planning children's and young people's learning*, *Factsheet 13: Co-ordinated support plans*, and *Enquire young people's guide: Need extra help at school?*

Planning for leaving school

It is important that all looked after young people get the help they need to:

- decide what to do when they leave school
- move from school to other opportunities.

Planning should start at least 12 months before the child or young person is due to leave school. The school should gather information from agencies that may be involved in supporting the young person after they leave, for example, Skills Development Scotland, social workers and further education colleges. If the young person agrees, the school should tell these agencies about their support needs. It is vital that the young person is involved in all stages of this planning.

For more information, see *Enquire Factsheet 14: Progressing beyond school after 16* and *Enquire young people's guide: Getting ready to leave school*.

What if things are not working?

The Act provides processes for resolving disagreements about additional support for learning. It is important that throughout all these processes the views of children are taken into account.

If parents or carers have any concerns about a looked after child's support their first step should be to talk to the school (or to the education authority link worker if the child is not in school). If they still feel concerned after speaking to the school, the next step is to contact the education authority. Details of local authority ASL officers are available on the Enquire website, see www.enquire.org.uk/local-authorities

Children can request to take a supporter or advocate to meetings to help them put their views across or to speak on their behalf. Young people (16-18 years) have the right to have a supporter or advocate with them at discussions or meetings where decisions are made that affect their lives. For advocacy services in your area, contact Enquire or the Scottish Independent Advocacy Alliance: www.siaa.org.uk 0131 260 5380. You could also contact Who Cares? Scotland, who run independent advocacy services for looked after children in some areas. For more information on children's participation at meetings, see *Enquire young people's guide: Going to meetings*.

If matters are still not resolved, other options may be available to try to resolve the disagreement, such as requesting Independent Adjudication and making a reference to the Additional Support Needs Tribunals for Scotland (ASNTS). If there are grounds, disagreements relating to transition arrangements and CSPs can be

referred to the ASNTS. Take Note is the national advocacy service for appeals to the Additional Support Needs Tribunal about additional support for learning: www.sclc.org.uk or call 0131 667 6333.

For more information, see *Enquire Factsheet 4: Resolving disagreements and Steps to avoid and resolve disagreements about additional support for learning*.

There is also the option for parties to access independent mediation at any stage. See *Enquire Factsheet 8: Mediation*.

School attendance

There can be many reasons for a child not to attend school. The child may be having problems at school such as bullying, or may be absent from school due to ill-health, family problems or exclusion. If a looked after child is having problems that are affecting his or her willingness or ability to go to school, it is important that the school knows about these problems. The home-school link worker plays an important role in encouraging the child to attend regularly. For more information see *Enquire Factsheet 9: School attendance*.

School exclusion

If a looked after child is excluded, the school should follow certain procedures. These include:

- checking there are proper arrangements for the child's care before they are sent home
- arranging an alternative education while they are off school
- explaining any conditions that must be met before the child can return to school
- arranging a meeting to discuss the exclusion.

If parents or carers do not agree with the exclusion, they have the right to appeal it. A child over the age of 12 also has the right of appeal.

If a child is excluded several times, this may suggest a need to review and make changes to their educational provision. For more information see *Enquire Factsheet 11: Exclusion from school*.

How Enquire can help

Enquire is the Scottish advice service for additional support for learning. Enquire provides independent advice and information through a helpline, website and guides. The service can explain the law and how it relates to the issues facing a looked after child, and advise on possible ways forward. As well as resources for

practitioners, parents and carers, there is a dedicated website and range of guides for children and young people.

Where to find out more

Organisations

- Who Cares? Scotland exists to support all children and young people in care: <http://www.whocaresscotland.org/>
- Pupil Inclusion Network Scotland: www.pinscotland.org/theme-laac-education
- Education Scotland: <http://www.ltscotland.org.uk/supportinglearners/additionalsupportneeds/lookedafter/index.asp>
- The Looked After Children Education Forum is made up of more than 200 members from different agencies who share practice and experience; <http://www.lookedafterchildrenscotland.org.uk/lifelonglearners/laceducationforum/forum.asp>
- The Centre for Excellence for Looked After Children in Scotland: <http://celcis.org/>
- Take Note Advocacy service (Scottish Child Law Centre): www.sclc.org.uk

Publications

- *Improving the Education of Looked After Children, A Guide for Local Authorities and Service Providers* (Scottish Government, 2009) www.scotland.gov.uk/Publications/2009/03/25142835/0
- *Core tasks for Designated Managers in educational and residential establishments in Scotland* (Scottish Government, 2008) www.scotland.gov.uk/Publications/2008/09/09143710/0
- *Count Us In: Improving the Education of our Looked After Children* (HMIE 2008) www.hmie.gov.uk/documents/publication/cuiielac.pdf
- *These Are Our Bairns: A guide for community planning partnerships on being a good corporate parent* (Scottish Government, 2008) www.scotland.gov.uk/Publications/2008/08/29115839/0
- *Looked after children with additional support needs in Scotland - A scoping study* (Barnardo's Scotland, 2009, funded by the Equality And Human Rights Commission Scotland) www.equalityhumanrights.com/uploaded_files/Scotland/Research/looked_after_children_asn_scotland_scoping_study_reprot.pdf
- The Education (Additional Support for Learning) (Scotland) Act 2004, as amended: www.legislation.gov.uk/asp/2004/4/contents
- *Supporting children's learning code of practice* (Scottish Government, 2010) www.scotland.gov.uk/Publications/2011/04/04090720/0

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