

Rules, regulations and practices for referring students with special needs from regular to special schools or settings

Scotland

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a) Governing bodies for regular schools

Regular schools are managed by a Headteacher who is accountable to the officers and elected members of the Education Authority in which it is based. The Headteacher is also accountable to the Scottish Government, Members of the Scottish Parliament and Her Majesty's Inspectorate in Education (HMIE). This last strand of accountability is exercised through school inspection and through a system of school level self monitoring known as *How Good is Our School?* There are no governing bodies or school boards in Scotland, but schools have a legal obligation to supply information and guidance to Parent Councils (see section on parents).

b) Special needs funding

The Scottish Government pays an annual grant to each of its 32 Local Authorities and each Local Authority decides how much it will allocate to education. Education authorities then allocate budgets to schools but still retain control of these. Funding allocations to schools are calculated on a per capita (per student) basis, with additional support needs attracting extra funding. This extra funding is accessed through a process of Staged Intervention, a process which requires schools to assess children with additional support needs, consider the support required for them and to demonstrate their efforts to provide this support from within the school, before seeking additional funding.

Levels of spending on special education, including funding for children with additional support needs in mainstream schools and those in special schools, vary across Education Authorities, ranging from an Island Education Authority (Shetland) spending £1952 per child in the population on special education to a rural Education Authority (South Ayrshire) spending £401 per child in 2008-2009. A total of £509,085 was spent on special education in Scotland in the same period, approximately 9% of the total spending on school education.

c) Responsibility for students with special needs

Under the terms of the Education (Additional Support for Learning) (Scotland) Act 2004 (Amended 2009), responsibility for special needs lies with the Education Authority. This legislation introduced the new terminology, 'additional support needs', which replaces 'special needs' and which is intended to be a much broader concept. Additional support needs are the needs of individual children for support over and above, or different from, that which is normally provided within a regular school. The Additional Support Needs legislation was also significant in ending a system of assessing and recording children with significant special educational needs (similar to statementing in England and Wales). The recording system was tied to resource allocation for special educational needs and was considered unfair because of the different patterns of assessment within different Education Authorities. The introduction of Co-ordinated Support Plans to replace the system of assessing and recording has, however, attracted criticism from various groups, including parents and teacher organisations (Allan, 2009; 2010).

There is a 'presumption of mainstreaming' within the Standards in the Scotland Schools etc Act 2000, whereby the Education Authority is expected to make provision for a child with additional support needs to be educated in a regular school unless there are 'exceptional circumstances.' Education Authorities must also produce an 'accessibility strategy' indicating how they will increase children's participation in the school's curriculum, improve the physical environment of the school and improve communication with disabled pupils (Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002).

The 'presumption of mainstreaming' has been embedded in the legislation in Scotland since the Education (Scotland) Act 1980, but has co-existed with the rights of parents to choose a school for their child. These two aspects are not always compatible, that is, parents may seek a special, rather than a mainstream, placement. The co-existence of a mainstreaming presumption and parental choice within the legislation has led to an expansion of the population of children as having additional support needs rather than a movement of children from special into mainstream schools.

The Education Authority must make 'adequate and efficient' provision for additional support for children within its own authority unless this would incur an 'unreasonable' expense.

Whilst the Education Authority is responsible for ensuring adequate provision is made for children with additional support needs, schools are expected to be able to provide this additional or extra provision from within their own resources.

Where children's additional support needs are such that they require support that is external to the school (for example physiotherapy, speech therapy or occupational therapy), there is a legal duty upon Local Authorities to prepare a Co-ordinated Support Plan. This statutory document contains details of the child's additional support needs, the individuals required to provide this support and a nomination of the school to be attended by the child. The Co-ordinated Support Plan is reviewed annually by the Education Authority. Schools are expected to follow the procedures within Staged Intervention before seeking to have a Co-ordinated Support Plan opened for an individual child.

d) Parents

The terms of the Education (Additional Support for Learning) (Scotland) Act 2004 allow parents to challenge Local Authorities decisions to prepare a Co-ordinated Support Plan for a child, their refusal to prepare such a document or the school placement. Parents can do this through mediation, independent adjudication and an Additional Support Needs Tribunal. The numbers of parents in Scotland proceeding to a Tribunal is very small.

Following the introduction of new legislation in 2006 (Scottish Schools (Parental Involvement) Act 2006), parents and carers are now automatically members of the Parents Forum for their School and have the right to set up a School Parent Council. The Parent Council consists of parents selected by Parent Forum members and is involved in supporting the work of the school, gathering and representing the views of parents, promoting contact between the school, parents and community, appointing senior staff and fundraising for the school. The school must provide the Parent Council with information and advice on matters relating to children's education.

Parents can exercise choice over the school for their child by making a what is known as a 'placing request'. They may request a regular or special school in the area in which the child

lives, a special school in another area (or education authority) or a special school in England, Wales or Northern Ireland. The education authority in which the child lives must grant the request unless the school or year group is too full, the school is considered inappropriate for the child's additional support needs or the placement conflicts with the education authority duties to educate a child in a mainstream school. Where a placement request is made outside of Scotland, the local authority can refuse if the child's needs can be met within a school in Scotland or if the costs of the placement are considered unreasonable. If a placing request is refused, the parents have the right to appeal. The appeal is heard by the Additional Support Needs Tribunal where the pupil has a Co-ordinated Support Plan or an education appeal committee if there is no Co-ordinated Support Plan.

e) Referral of students with special needs to other (special) schools in or outside the catchment area

Where a child is referred to a school outside the local authority in which they live, it is the local authority in which the child lives that is responsible for funding the placement, including the transport costs and residential costs where necessary. Scotland has seven special schools which are funded directly by the Scottish Government, known as 'grant-aided schools'. The justification for these schools is that they provide for needs that are so specific, for example children with cerebral palsy, visual impairment or hearing impairment, that it would be uneconomic for any one authority to fund them. These schools may often provide highly specialized health provision alongside educational support and may offer residential accommodation. Grant-aided schools are expected to provide provision on a national basis, enabling children from throughout Scotland to attend, although five of the seven schools tend to draw its pupils from the Education Authorities that are closest to them.

f) Teacher training and support

Initial teacher education programmes provide a generic introduction to special educational needs and inclusion and specify teachers' responsibility for meeting the needs of all children, under the terms of the additional support needs legislation. This, however, is limited, especially within the one year postgraduate programme for secondary teachers, the most common form of teacher education provision. The Standard for full registration and entry into the teaching profession (GTC, 2002) includes a requirement that teachers will be responsible

for all children with additional support needs and must 'value and promote fairness and justice, and adopt anti-discrimination practices in all regards, including ... disability' (GTC Scotland, 2002a). Within Scotland, teachers can undertake additional generic training within the Chartered Teacher Programme. This training provides an additional masters level qualification providing they meet the General Teaching Council's Standard for Chartered Teacher and entitles them to a salary increase. Within this programme, inclusive education and collaboration with teachers and other professionals is a key component.

Specialist teachers of children with additional support needs can undertake additional training, but this is not mandatory. Specialist training is available for teachers of the hearing and visually impaired but access to this has gradually given way to a preference by Education Authorities to support more generic forms of training. Education Authorities provide in-service training relating to inclusion and additional support needs and teacher education institutions offer Continuous Professional Development (CPD) courses.

A resource – in the form of a national framework for inclusion - has been recently developed by all of the teacher education providers in Scotland, funded by Scottish Government (Scottish Teacher Education Committee). This framework is aimed at teacher education providers, students, teachers and individuals following advanced professional courses such as the Chartered Teacher Programme. It outlines core values of inclusion and equity and provides information and guidance, through reflective tasks and an encouragement to consider barriers to inclusion, on how teachers can support children with a range of needs effectively. There is also an electronic repository of resources for meeting specific needs as well as a 'toolkit' for assessing dyslexia.

References

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Appendix

Vignette 1

Name: Peter
Age: 11 years old
School career: Regular primary school with additional support unit

Home situation

Peter lives with his parents and has one sister in a small village in the North East of Scotland. His parents find his behaviour at home very difficult to manage his difficulties cause some tension between his mother and father. His mother is the main contact with the school and welcomes the recognition of Peter's problems and the support that is provided. His father, on the other hand, does not accept that Peter's problems are anything more than the expressions of a normal young boy.

Support

Peter spends 75% of his time in a regular classroom and 25% in an additional support unit. This ratio is altered, however, when Peter is exhibiting particular behavioural problems, with him spending more time in the behavioural support unit. Within the unit, Peter receives small group support in the basic skills of reading, writing and numeracy. Within the classroom, an additional support needs teacher assists the class teacher for some of the time. She provides support to Peter and other students with additional support needs.

School situation

Peter has attended mainstream primary school from the age of 5 to 11 and staff feel that they are managing well. The staff particularly appreciate the flexibility to increase the time Peter spends in the special unit as and when they consider it necessary. They are concerned, however, about Peter's transition to secondary school, where they anticipate less flexibility, and fear that his behaviour will be difficult for teachers to manage and will lead to isolation from his peers and possibly bullying.

Learning process

Peter is working at a lower level than his peers, but is progressing through the curriculum. His written language skills are limited and his poor concentration means that he often performs tasks incorrectly or does not complete them.

Social and emotional development

Peter has no formal diagnoses although he has been assessed as having additional support needs. His mother has requested a diagnosis of ADHD but this has been discounted by the Clinical psychiatrist to whom he was referred. The staff consider it likely that Peter does have ADHD and would also like a diagnosis to be made because of the additional resources it would release. Within the classroom, there are episodes of 'bizarre' behaviour, where Peter uses odd language and threatens self harm or the harm of his classmates. He is also inclined to refer to himself as a 'spastic'. Staff and students collude in ignoring this behaviour when it occurs.

Vignette 2

Name: Susan
Age: 11 years old
School career: Regular primary school with additional support unit

Home situation

Susan lives with her parents and two brothers in a small Scottish town. Her accident received a great deal of local publicity and there was considerable public support while she recovered in hospital and on her return to school. Susan's parents have been actively campaigning for support for their daughter and for road safety training for all children.

Support

Following Susan's accident, and prior to her return to mainstream primary school, a Co-ordinated Support Plan was opened for Susan. This statutory document details Susan's additional support needs and the resources – in the form of specialist staff – required to meet her needs. These include occupational, speech and physio therapy as well as some support within the classroom from an additional support needs teacher. The support is not detailed as specific amounts of time, a point of contention for Susan's parents. Susan receives two hours

of physiotherapy two days a week and five hours of occupational therapy, spread over three days, but this can vary according to the availability of the specialists who are in short supply. She attends speech therapy at the local hospital on a weekly basis. Susan's mother has been battling with the Education Authority to increase the support for her daughter and has recently involved the press. The school staff take the view that whilst the additional therapeutic support is valuable for Susan, it is reducing the amount of time she can spend on curricular activities and is therefore limiting her educational progress.

School situation

Susan returned to the primary school she had attended throughout her school career, after a nine month absence following her accident. She spends the first hour of each day in the learning support unit, with the expectation that this will gradually be reduced. The rest of her time is spent in the mainstream classroom, but she is extracted for physiotherapy and occupational therapy and has to leave the school to attend her speech therapy.

Learning process

Susan is making excellent progress in recovering her speech and her memory (short and long term) is improving gradually. She is an able child who still holds to her ambition to be a teacher. She may not regain the ability to walk and her teachers take the view that if this is the case, it would be better to focus on her academic achievements rather than continuing to invest so much on specialist therapies.

Social and emotional development

Susan's dependency is a source of concern to the staff in the school. She has cultivated a set of relationships with her peers which involve them doing whatever she asks of them and the staff regard this as unhelpful. Her peers seem eager to help her, but she appears to lack strong friendships and has not remained close to the friends she had prior to her accident.