

The Education (Scotland) Act 2016 Information for Parents

Scottish Government

Introduction

On 2nd February 2016 the Scottish Parliament passed the Education (Scotland) Act 2016. The Education Act creates new education law.

The purpose of this leaflet is to give information to parents on the Education Act. This leaflet will go through all of the provisions in the Act.

The [Act and its accompanying documents](#) are available on the Scottish Parliament website.

*The Education Act has 4 parts:
School Education, Gaelic Medium
Education, Miscellaneous and
General.*

Questions and Answers are provided on the following parts of the Act:

- *Reducing inequalities caused by socio economic disadvantage (page 3)*
- *National Improvement Framework for Scottish education (page 4)*
- *Gaelic Medium Education (page 5)*
- *Children's rights under Additional Support for Learning (page 6)*
- *Learning Hours (page 9)*
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- *Chief Education Officer in education authorities (page 11)*
- *Registration of teachers with General Teaching Council for Scotland (page 11)*
- *Standard for Headship qualification (page 12)*
- *Other amendments in the Education (Scotland) Act 2016 (page 12):*
 - *Free school meals*
 - *Kinship care and early learning and childcare*
- *Contact details (page 12)*



Reducing inequalities caused by socio-economic disadvantage

What is this all about?

The Education (Scotland) Act 2016 includes changes to the law which aim to close the attainment gap faced by those children from low income households. Closing that gap is key to delivering the Scottish Government's commitment to building a fairer Scotland and tackling inequality.

Why are these changes necessary?

Attainment amongst Scotland's pupils is good and improving. We have record exam results. Fewer young people are leaving school with no qualifications. School leaver destinations are the best on record with 92% of pupils who left school in 2013/14 going on to further or higher education, training or employment.

But, we know that school leavers from the most disadvantaged 20% of Scotland's communities only do half as well as those from the least deprived 20% of areas in achievement at Higher level.

We believe it is unacceptable that many children in Scotland have their life chances determined by their postcode rather than their talent.

How will the Act achieve this?

The Act introduces new laws for Scottish Ministers and councils to plan and deliver education services in a way which is designed to close the attainment gap. It requires councils to consult parents, children, schools and other partners when taking decisions about how to do this. The Act requires that Ministers and councils publish plans and reports every year setting out the steps they have taken, the steps they intend to take and the impact of those steps in narrowing the gap. Scottish Ministers will submit their

report to Parliament and councils will be accountable to their local communities and to Ministers for their reports.

How will we know if the changes are making a difference?

The new legislation will help us to ensure that the attainment gap remains a priority for those delivering our education services. It will require the publication of reports setting out progress. Those reports will form part of the National Improvement Framework, which will measure progress and deliver improvements throughout our education system.

The Scottish Government will produce detailed guidance to support councils in meeting their new responsibilities.

National Improvement Framework

What is this all about?

The Education Act introduces a new requirement for Scottish Ministers to establish a National Improvement Framework for Scottish education. The Framework sets out Scotland's vision for school education and helps to ensure that Scotland is the best place to grow up.

It is about making sure every child in Scotland has equal opportunities and the best possible education in order to succeed.

Why is this necessary?

We need Scottish education to deliver both **excellence** in terms of ensuring children and young people acquire a broad range of skills and capacities at the highest levels, whilst also delivering **equity** so that every child and young person can thrive and have the best opportunity to succeed regardless of their social circumstances or additional needs.

What are the priorities of the National Improvement Framework?

The National Improvement Framework priorities are:

- to **improve attainment**, particularly in literacy and numeracy
- to **close the attainment gap** between the most and least disadvantaged children
- to **improve children and young people's health and wellbeing**
- to **improve employability skills and sustained positive school leaver destinations** for all young people.

What does this mean for school children in Scotland?

We are committed to a Scotland in which all children and young people can realise their potential, developing the knowledge, skills and attributes they need to flourish in learning, life and work. The National Improvement Framework will let us know that how progress is being made.

As part of a wide range of evidence to support teacher judgement of progress, children in primaries 1, 4, 7 and in 3rd year of secondary

will take part in standardised assessments. The assessments will help teachers establish a good picture of where individual children are with literacy and numeracy.

Where can I find out more about the National Improvement Framework?

The National Improvement Framework is published [here](#) on the Scottish Government's website.

There is also a storyboard which was developed to help children understand the Framework which you can find [here](#).

Almost 1000 children
were consulted on
the National
Improvement
Framework

Gaelic Medium Education

What is this all about?

The Scottish Government wants to strengthen Gaelic in Scotland and an important way to do that is increasing the numbers of those using the language. Gaelic Medium Education (GME) is one way that this can be done. GME can be described as bilingual education, where the language of the classroom will usually be Gaelic. The Scottish Government believes that it is important to build on current GME but also to promote it.

What are the provisions for Gaelic?

The Act gives parents of pre-school aged children the right to request Gaelic medium primary education (GMPE).

Education authorities will assess the need for GMPE following a parental request;

In addition, education authorities will promote and support the use of GME;

And Bòrd na Gàidhlig (the body responsible for the development of Gaelic in Scotland) will prepare guidance on how GME should work in Scotland.

What are the next steps following the parental request?

Initial assessment

The parental request will result in the Council carrying out an initial assessment exercise with the aim of identifying whether there is potential need for GMPE in the area.

Full assessment

If, having followed the initial assessment, a Council decides that there is potentially a need for GMPE in their area they must then carry out a full assessment of the need for GMPE in that area. The Act sets out the things that councils must consider as part of a full assessment.

What is proposed through guidance for Gaelic education?

The Act provisions place a duty on Bòrd na Gàidhlig to produce guidance on how Gaelic education should work in Scotland. Views will be sought on this during Spring 2016.

The Act will give parents of children under school age the right to request Gaelic medium primary education for their child.

Children's rights under Additional Support for Learning

What is this all about?

This part of the Act is about giving children rights under the Additional Support for Learning Act. The Additional Support for Learning Act is the law which is about supporting children with their learning. Under this law, parents and carers and young people, aged 16-18 and still in school, have certain rights. The Act gives these rights to children who are 12 and over, who are able to, and who want to, use them.

What are the rights we are talking about? Are children getting the same rights as their parents?

The rights that parents and young people have at the moment are set out on page 8. They include rights about having additional support needs identified and assessed, access to information and access to services that will help resolve concerns.

It is suggested that children will have all of the rights set out at page 8 except for the right to make a placing request and the right to use mediation services. Instead

of using mediation services themselves, children should have their views considered as part of the process.

Children who are 12 and over, who are able to, and who want to, can use rights for themselves – what does that mean?

Children will have to have 'capacity' to use their rights, capacity will, in the main, be determined by the education authority. Children generally have capacity at 12 years old. This means that they are mature enough and able to understand at 12. For children and young people with additional support needs this is really important as some children may not have capacity at 12.

The Act sets out what it means to have capacity. The child must be mature enough and be able to understand how to carry out their right, how to make, communicate, understand and remember a decision that they want to make (they must be able to understand what that decision means for them) and the advice and information that they are given so that they can express their view.

What does that mean for parents using rights?

The rights that parents currently have under the Additional Support for Learning Act won't change. What will change is that children who are able to and who want to will be able use their rights on their own behalf.

A child will not be 'made' to use their rights if they do not want to. Their parent can continue to use them on their behalf.

How will children be helped to use their rights?

In most cases, parents will help a child who has chosen to use their rights. Children will also be given information about their rights if they are going to use them and will be able to access a children's support service, which will be managed by one overall organisation. This service will include:

- advice and information,
- advocacy support,
- legal advice and representation, and
- a children's views service.

This service is to help a child to use their rights (if they want to) and help them through the process. If needed, it will help them to understand the outcome of the decision or request or the information that they have as a result of using their right.

The children's views service is to help get the child's view when this hasn't been possible through other routes. The

views of the child will be given to whoever is carrying out the process related to the right they are using, for example the child's views can be given to support a request.

What happens if parents and children disagree?

If a child is going to use their right the education authority has to assess the child's capacity and whether using their right will affect their wellbeing. The child's parents will be notified of this assessment and the outcome of the assessment. If the parent feels that the child is doing something which would adversely affect their wellbeing or that the child doesn't have the capacity, then the parent can ask for a review of the education authority's decision. This review will be carried out by a Convener of the Additional Support Needs Tribunals for Scotland. It is intended to be a fast review so that a decision can be made quickly to confirm that the child can use their rights or to prevent them from using their rights inappropriately.

What support is there available to parents and young people?

There is a range of support currently available for parents and young people. Enquire is the national advice and information service for additional support for learning in Scotland. Enquire have a website (www.enquire.org.uk) which includes publications and information on a wide range of issues. Enquire also have a helpline which anyone can call for advice and information on their specific concern or problem. The helpline number is 0845 123 2303.

[Let's talk ASN](#) is the advocacy service which provides advocacy and representation for parents and young people about things that they might be considering making a reference to the Additional Support Needs Tribunals about.

Parents and young people have the right under the Additional Support for Learning Act to:

- ask the education authority to establish whether a child or young person has additional support needs
- request a specific type of assessment or examination (or both) at any time, including when the education authority proposes to formally identify whether a child or young person has additional support needs, or requires a coordinated support plan(a “CSP”)
- receive information or advice about a child or young person’s additional support needs
- ask the education authority responsible for their or their child’s education to find out whether they or their child requires a coordinated support plan, and to review an existing plan
- request a specific type of assessment and/or examination to find out whether they or their child require a coordinated support plan
- be asked for their views and have them taken into account and noted in the child or young person’s coordinated support plan
- receive a copy of their or their child’s coordinated support plan
- have their case heard by an Additional Support Needs Tribunal if they are involved in a dispute relating to a coordinated support plan.
- make a placing request to a special school if they or their child has additional support needs*
- appeal against the education authority’s decision to refuse their placing request. The appeal would either go to an education appeal committee or to an Additional Support Needs Tribunal depending on the situation
- use free independent mediation services*
- have a supporter or advocate present at any discussions
- request independent adjudication
- apply to the Additional Support Needs Tribunal (called 'making a reference') for decisions about a CSP and certain other issues. In particular, a parent or young person may make a reference about the decisions of an education authority:
 - to prepare or not prepare a CSP;
 - to continue or discontinue a CSP;
 - regarding the timescales for the CSP;
 - not to comply with a request to establish whether a child or young person needs a CSP;
 - to refuse a placing request where a CSP exists, or is required but has not yet been prepared, or if an appeal against a refusal of a placing request has not yet been considered.
 - have a supporter or advocate present at a Tribunal hearing.

*these rights have not been extended to children through the Act.

Learning Hours

What is this for?

This provision in the Act means that all primary school children in Scotland will be guaranteed a minimum number of hours of school education each year

The Act itself does not specify the total number of hours which should be provided to pupils over each school year. That information will be set out in secondary legislation, following a full, public consultation. The government's starting position, however, is that primary pupils should continue to receive the number of hours of school education that the vast majority of pupils receive currently: 25 hours a week, resulting in 950 hours a year.

What does this mean for primary school children?

This part of the Act makes sure that no matter where in Scotland a child lives, he or she will have the right to receive the same number of hours of primary school education.

The Act allows for some exceptions to be made, to make sure that the particular needs of individual children (for example those who have to travel long distances to school, or those with medical conditions which restrict the amount of time they can reasonably spend in school), can be met.

Why is this change necessary?

Making sure pupils have enough time with a qualified teacher is key to providing the high quality learning experiences our children and young people deserve. In recent years, a number of councils have proposed reducing the length of their primary school week, in order to make savings. This change is necessary as it will protect the learning hours children in Scotland currently receive, from being reduced for financial reasons.

School clothing grants

What does this do?

The provision in the Act means that councils will have to provide grants, of a minimum amount, for school clothing for certain pupils.

Who will this affect?

The Act itself does not specify who will qualify for a clothing grant. This will be set out in secondary legislation. However, it is likely that children who qualify for free school meals will also qualify for the clothing grant.

How much will the grant be for?

The value of the grant has not been set out in the Act. The Scottish Government hopes to negotiate a minimum amount with the Convention of Scottish Local Authorities rather than through secondary legislation.

Secondary Legislation is made by the Scottish Parliament. They set out in more detail how certain provisions in the Act will work.

Section 70 complaints

What is this about?

Under section 70 of the Education (Scotland) Act 1980, any interested party can make a complaint to Scottish Ministers that a responsible body, such as a council, has failed to carry out a legal duty. The 2016 Act improves the process for how section 70 complaints are handled.

What is a section 70 complaint?

Section 70 applies only to statutory duties that must be carried out under an Act of Parliament. It does not apply to common law duties, such as a duty of care, that have come from previous court-case decisions. It is not about questioning the decisions of responsible bodies. For example, Ministers cannot overturn a council's decision just because they disagree with it.

What does it do?

The Scottish Ministers have a power to make an order under section 70 to require a duty to be carried out. To find out if there has been a failure to carry out a duty, the responsible body and the person making the complaint will be asked for evidence. If it seems there has been a failure, Education Scotland will investigate the case and act as advisers to Ministers. After this investigation, if Ministers think the responsible body has not carried out a duty, they may make an order requiring it to do so under section 70.

What will the proposed amendments do?

The proposed amendments will do two things:

- 1) Prevent Ministers from making an order under section 70 where the complaint can be considered by the Additional Support Needs Tribunals for Scotland.
- 2) Provide a power to make secondary legislation about the procedure to be followed in section 70 complaints. This may be used to add timescales to the complaints process for everyone involved in making a complaint.

Section 70 of the 1980 Act applies only to statutory duties that must be carried out under an Act of Parliament

Chief Education Officer in education authorities

What is this for?

The Act introduces changes to the law which are designed to support councils in providing education by making sure they have a Chief Education Officer.

How will the Act do this?

The Act makes it a legal requirement for all councils to appoint a Chief Education Officer. They will provide professional advice to authorities on providing education services. This person will need to have suitable experience and qualifications.

The Scottish Government will produce guidance on the role and functions of a Chief Education Officer to help education authorities to do this.

Why is this change necessary?

There are growing ambitions within Scotland

for our education system, with a particular focus on raising educational attainment and closing the equity gap that affects young people in too many parts of Scotland. These ambitions demand a high degree of professional knowledge at a local level. The appointment of a Chief Education Officer will support education authorities in fulfilling the ambitions for Scotland's education system

Registration of practicing teachers with General Teaching Council for Scotland

What is this about?

The Act introduces changes to the law which ensure that all practicing teachers in Scottish schools, including independent and grant aided schools are registered with the GTCS.

How will the Act achieve this?

It is currently the case that all teachers who work in

council run schools must be registered with the GTCS, the majority of teachers in independent schools and all teachers in grant aided schools are registered on a voluntary basis. However, there was no requirement for independent and grant aided schools to only employ teachers who are GTCS registered. The Act enables Scottish Ministers to make secondary legislation which require all current and future teachers working in Scottish schools, including independent and grant aided schools, to be registered with the GTCS.

Why is this change necessary?

The compulsory GTCS registration of all teachers will assure parents that wherever their children attend school, the standards and quality of the teaching is regulated by a professional body.

Standard for Headship qualification.

What is this?

This will allow Scottish Ministers to set the standards of education and training which prospective head teachers are required to have before they can be appointed to the position.

How will the Act do this?

The Act will allow for regulation making powers. A consultation on draft secondary legislation will follow the Act and these will require teachers to complete a qualification for headship before being appointed.

Why is this necessary?

High quality leadership is critical to the success of a school. This will ensure that new head teachers have all the skills they need to undertake the role.

Other amendments in the Education (Scotland) Act 2016

The Act also includes technical amendments on two areas which already exist in law.

Free School Meals

Section 53 of the Education (Scotland) Act 1980 contains the law for school food in Scotland, including the arrangements for free school lunches. This has been amended a number of times since 1980 and the 2016 Act 2016 will restate this to pull all those changes together and clarify the law. The Act will also ensure that children who meet the free school lunch criteria, and who receive their funded early learning and childcare at a partner provider setting, are entitled to receive a free school lunch. It will also allow Ministers to alter the time of day at which a child in early learning and childcare can receive a free

school meal, should they wish to do this in future.

Kinship Care

The Children and Young People (Scotland) Act 2014 makes provision for early learning and childcare. It has unintentionally excluded a very small group of children from the mandatory early learning and childcare provisions - children aged 2 or over who have, or who have had, a parent appointed guardian who are not at risk of becoming looked after.

While statutory guidance has been in place to ensure that no child was excluded, the Act amends the law to address the unintentional exclusion. It will ensure that all children aged 2 and over, who have or have had, a parent appointed guardian or guardian appointed guardian, will be entitled to the mandatory amount of early learning and childcare.

If you would like any more information on the Education (Scotland) Act 2016

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