Passage of the Bill

The Education (Additional Support for Learning) (Scotland) Bill [SP Bill 11] was introduced in the Parliament on 28 October 2003. Stage 1 commenced on 5 November 2003 with the Education Committee as the lead committee. The Stage 1 (general principles) debate took place on 28 January 2004 and the Bill was passed following the Stage 3 parliamentary debate on 1 April 2004.

Purpose and objectives of the Bill

The Bill sets out a new framework for supporting children and young people with additional support needs. It is based on the changing policies and practices which have evolved since the current framework was set up under the Education (Scotland) Act 1980 as amended.

The Bill replaces the concept of Special Educational Needs with Additional Support Needs, which will include children and young people, who, for whatever reason require support to access and benefit from education.

The Bill promotes the integrated working of education, health and social work to combine support for children and young people. It also aims to increase the involvement of parents in decisions affecting their child’s education and to support the involvement of children and young people in their own learning. Furthermore the Bill aims to safeguard the rights of those with the most significant and enduring needs.

Provisions of the Bill

The Bill replaces the Record of Needs process with a new Co-ordinated Support Plan (CSP) for children and young people who have enduring needs arising from complex or multiple factors and require support from more than one agency. It places duties on education authorities to identify and assess whether children and young people have additional support needs or require a Co-ordinated Support Plan. Education authorities will also have a duty to seek
and take account of advice and information from other agencies as appropriate.

Further provisions include:

- A duty on education authorities to establish independent mediation services for the purpose of avoiding or resolving disputes.
- The establishment of Additional Support Needs Tribunals for Scotland which will hear cases on decisions to prepare or not to prepare a CSP, review or discontinue a CSP and against a CSP’s contents.
- The publication of a Code of Practice, which will provide guidance for education authorities and other agencies of their functions.

Parliamentary consideration

The Education Committee took evidence on the Bill between November and December 2003. Based on the evidence taken, the committee raised concern regarding the following issues:

- that there should be no lessening of the rights of children to have their additional support needs met
- the criteria of eligibility for a Co-ordinated Support Plan
- the number of pupils who currently have a Record of Needs but would not be eligible for a CSP
- the provision of support for children under the age of three
- the need to ensure that other agencies, as well as education authorities, comply with their duties under the Bill
- a need to tighten the provisions for assessment of eligibility for a CSP
- powers and issues that can be referred to the tribunals
- provision for advocacy
- the clarity, consultation and legal status of the proposed code of practice
- planning arrangements for post-school transitions.

The main changes in the Bill as passed are:

- a new section which gives Scottish Ministers the power to extend the jurisdiction of the tribunal.
- that Scottish Ministers must consult widely before publishing the code of practice, and that education authorities must comply with the code of practice.
- the provision of support for children under the age of three.
- advocacy on the face of the Bill - any child, young person or parent will be able to have an advocate present during any discussions with the education authority.