



Education (Additional Support for Learning) (Scotland) Bill

Bill Number:	SP Bill16
Introduced on:	06 October 2008
Introduced by:	Fiona Hyslop
Passed:	20 May 2009
Royal Assent:	25 June 2009

Passage of the Bill

The Bill was introduced on 6 October 2008 and stage 1 evidence was taken by the Education, Lifelong Learning and Culture Committee over five Committee meetings from 3 December 2008 to 21 January 2009. The stage 1 debate was held on 4 March 2009 and stage 3 on 20 May 2009.

Purpose and objectives of the Bill

The Bill as introduced aimed to make technical changes to the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act).

Provisions of the Bill as introduced

The Bill seeks to enable parents of children with additional support needs to apply directly to any local authority for the education of their child. A Court of Session ruling had made a strong inference that the legislation, as originally drafted, did not allow this. It will also add to the powers and remit of the Additional Support Needs Tribunal (the Tribunal), including interaction with Education Appeal Committees and the Sheriff Court and the creation of new grounds of appeal to the Tribunal.

Parliamentary consideration

The main amendments to the Bill were as follows:

Definitions Additional support is now defined as including provision, whether or not educational provision, to school children and children under school age. In addition, 'looked after children' will be deemed to have additional support needs, unless the education authority assesses otherwise.

Assessments An assessment of additional support needs will be able to be requested at any time. In addition, any disabled child under school age is to be entitled to an assessment.

The Tribunal New grounds for appeal to the Tribunal are; an appeal regarding any placing request to a special school; that a local authority has failed to discharge its duties on transitions from secondary school and that a local authority has failed to implement a Co-ordinated Support Plan. New powers of the Tribunal are the ability to specify when a placement will start and the ability to monitor the implementation of Tribunal decisions. In addition, Scottish Ministers will be required to provide a free advocacy service.

Mediation and dispute resolution Mediation services will be required to be independent of all functions of the local authority. Regulations may be made so that applications for dispute resolution are to be made to Ministers rather than local authorities.

Information collection and provision There were a number of changes to local authority duties to publish information under s.26 of the 2004 Act. In addition, Scottish Ministers are to collect and publish certain statistical data from local authorities. This is to be reported annually and Ministers are to report to Parliament every five years.

Policy announcements

The Minister indicated that he would issue letters of direction to local authorities regarding their duty to provide information to parents and the timescales in dispute resolution. He also said that a national advocacy scheme would be established with £100,000 funding; that he would write to local authorities about best practice in consulting with parents and commission a publicity campaign to highlight parents' rights. The Minister will establish a working group to consider the implementation of the 2004 Act with regard to certain groups of children and young people. He will also consider how the collection of statistical data can be improved.

Procedural Issues

The passage of this Bill raised procedural issues about the cost of amendments. Because the costs associated with the Bill, as introduced, were not considered to be significant, a Financial Resolution was not required and so was not lodged. However, members sought amendments which the Presiding Officer ruled would have significant costs associated with them and this created the need for a financial resolution. Only a member of the Government or a junior Minister can lodge a Financial Resolution and the Minister indicated that he did not intend to do so. As a result, members were asked to provide costings for their amendments and proceedings could not be taken on amendments which were ruled by the Presiding Officer to have significant costs. The procedural issues raised are to be considered by the Standards, Procedures and Public Appointments Committee.

Camilla Kidner
21 May 2009