



Information Guide

To Your Essential Rights

The answers to the questions you
didn't know you had

www.mindroom.org

Temporary Edition (16/08/2011)

Assessment, Early Intervention and Childcare

Children under 3

If your child is under three and has additional support needs because of a disability, health professionals working with your child, such as a health visitor, or community paediatrician, should tell the education authority. The education authority must provide additional support.

A multi-agency community team may be formed to assess your child's needs and to plan support with you. The team could include a health visitor, a pre-school home visiting teacher, a social worker and perhaps someone from a voluntary agency. One of them may act as a key worker – a single point of contact for you and the other professionals. Support will vary according to your child's needs but is likely to focus on helping their development and preparation for pre-school.

If you are worried that your child may have additional support needs which have not been investigated, discuss this with your Health Visitor or GP and request a full assessment.

Enquire Factsheet 7:

Who provides extra support for children's learning?

This factsheet aims to clarify the roles and responsibilities of different people at each stage of the process of finding out about and providing the support children and young people need. It takes into account changes in the law brought about by the **Education (Additional Support for Learning) (Scotland) Act 2004** (the ASL Act) (Amended 2009).

www.enquire.org.uk
Helpline 0845 123 2303

Excellent Contact a Family Booklet:

When your child has additional needs

www.cafamily.org.uk
Helpline 0808 808 3555

Contact a Family Factsheet:

Finding and paying for childcare

www.cafamily.org.uk
Helpline 0808 808 3555

Education

Children 3 – 5

In Scotland, every child aged three and four is entitled to a free, part-time pre-school (nursery) place from the school term following the child's third birthday.

Any child aged three or over who appears to require additional support to benefit from school or pre-school education must, by law, be assessed by the education authority.

For children with complex needs, pre-school education can be provided by a pre-school home visiting teaching service.

Enquire Factsheet 10:

Early-years education

www.enquire.org.uk
Helpline 0845 123 2303

Primary School 5 – 11

Government policy at present promotes inclusive education. Parents are encouraged to send their children to mainstream schools where appropriate provision should be made for the child's additional support needs. As a parent you have the right to challenge the school placement if you feel it does not meet your child's needs adequately.

Enquire Factsheet:

Supporting your child's learning journey

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 1:

Planning children's and young people's learning

Information about Personal Learning Planning (PLP), Individualised Education Programmes (IEPs) and Coordinated Support Plans (CSPs).

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 2:

Choosing a school

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 3:

Placing requests

This factsheet covers your right to make a placing request if you are not able to reach agreement with your education authority about which school your child should attend.

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 6:

Transport to school

This factsheet gives general information about who is entitled to transport to school. It outlines the duties, powers and responsibilities of education authorities and also covers the issue of child safety.

www.enquire.org.uk
Helpline 0845 123 2303

Education

Secondary School 11 – 16

Enquire Factsheet 9:

School attendance

This factsheet outlines what to do if your child's school attendance is an issue.

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Young People's Guide:

People who can help you in and out of school

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Young People's Guide:

Getting help with exams

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 11:

Exclusion from school

This factsheet provides information about when a school can exclude your child, the procedures the school should follow and what to do if you do not agree with the exclusion.

www.enquire.org.uk
Helpline 0845 123 2303

Post 16 Education

Enquire Factsheet 14:

Progressing beyond school after 16

An overview of the different options available to young people with additional support needs after 16.

www.enquire.org.uk
Helpline 0845 123 2303

Contact a Family Factsheet:

Preparing for adult life and transition – Scotland

www.cafamily.org.uk
Helpline 0808 808 3555

Contact a Family Factsheet:

Money when your child reaches 16 years of age

www.cafamily.org.uk
Helpline 0808 808 3555

Education Maintenance Allowance (EMA) is a weekly payment for your son or daughter if they stay on at school, college or training after compulsory schooling.

Website specifically for Education Maintenance Allowance Scotland:

www.emascotland.com

Home Education

The law says that children must receive an education – not that they must go to school. Whether the child is at school or home educated, it is the responsibility of the parents to see that this education is provided.

Two useful websites for Home Education information:

www.schoolhouse.org.uk
www.he-special.org.uk

Additional Support for Learning

The Education (Additional Support for Learning) (Scotland) Act 2004

The ASL Act sets out a system for supporting children's and young people's learning; outlining the rights of parents and young people and the duties of education authorities. Amendments were made to the Act in 2009, which became law in November 2010. The Act is accompanied by Supporting Children's Learning: Code of Practice 2010, which provides detailed guidance on the system.

Enquire Booklet:

[The parents' guide to additional support for learning](#)

A very comprehensive document which can be downloaded from Enquire's website, or you can request a free copy.

www.enquire.org.uk
Helpline 0845 123 2303

Contact a Family Factsheet:

[Additional support for learning – Scotland](#)

An equally comprehensive guide which can be downloaded from their website or you can request a free copy.

www.cafamily.org.uk
Helpline 0808 808 3555

Mediation

The Education (Additional Support for Learning) (Scotland) Act 2004

The ASL Act places duties on education authorities to provide access to independent mediation for resolving disputes with parents and carers of children and young people with additional support needs.

Mediation is a free service to parents, carers and young people. Mediation is a voluntary process during which a neutral third person (a mediator) helps those involved in disagreement or dispute to work towards finding a mutually acceptable agreement.

Enquire Factsheet 8:

Mediation

This factsheet aims to inform parents, carers and young people about mediation and the legal requirements on education authorities to provide mediation services.

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 4:

Resolving disagreements

The **Education (Additional Support for Learning) (Scotland) Act 2004** (the ASL Act) introduced a number of processes that you can access to resolve disagreements. This factsheet describes each of the processes available and how to use them.

www.enquire.org.uk
Helpline 0845 123 2303

Enquire Factsheet 12:

Resolving disputes using independent adjudication

Through good practice, disputes or conflicts should be resolved at school or local authority level. However, if this is not possible you can apply to have your disagreement referred to dispute resolution.

www.enquire.org.uk
Helpline 0845 123 2303

The Equalities Mediation Service (EMS)

Provided by Mediation Works on behalf of the Equalities and Human Rights Commission (EHRC), the EMS liaises between disabled people and service providers such as shops, banks, restaurants, sports centres, voluntary organisations, the NHS and local authorities. Parents of children with disabilities are also able to use the EMS on behalf of their children.

The Equalities Mediation Service can be contacted through the Equalities and Human Rights Commission:

Tel: 0845 604 5510

Email: scotlandhelpline@equalityhumanrights.com

Post: Equality and Human Rights Commission Helpline Scotland, Freepost RRLL-GYLB-UJTA, The Optima Building, 58 Robertson Street, Glasgow, G2 8DU

Additional Support Needs Tribunals

You, or your child if they are aged 16 or over, can appeal to an Additional Support Needs Tribunal if you want to challenge a decision about a co-ordinated support plan and in certain other circumstances.

A guide has been produced for people using or thinking of using the tribunal system. This can be obtained from the Additional Support Needs Tribunals for Scotland:

www.asntscotland.gov.uk
Helpline 0845 120 2906
email: inquiries@asntscotland.gov.uk

More information can be found in the Enquire Factsheet 4:

Resolving disagreements

www.enquire.org.uk
Helpline 0845 123 2303

Legal advice

Legal advice can be obtained from:

Education Law Unit - Govan Law Centre

The Education Law Unit is Scotland's expert legal resource in school education, providing information and advice, training, and legal representation.

www.edlaw.org.uk
Helpline 0141 445 1955
email: advice@edlaw.org.uk

Scottish Child Law Centre (SCLC)

The SCLC is the only law centre in Scotland working exclusively for children and young people, providing free expert legal advice.

www.sclc.org.uk
Under 18 Helpline: 0800 328 8970
Tel: 0131 667 6333
email: enquiries@sclc.org.uk

Clan Child Law

Clan Child Law is an outreach law centre delivering free legal advice and representation to children and young people in Edinburgh and the Lothians.

www.clanchildlaw.org
Tel: 07527 566682
email: info@clanchildlaw.org

Social Work Assessment

You have a right to have your child's and family's needs assessed by social work and other departments.

Duties of Social Work Department:

- Providing a social worker service;
- Providing information about services which may be available;
- Assessing the needs of disabled children and their carers;
- Providing a range of services to meet these needs.

Comprehensive booklet available to download or order from Contact a Family:

A guide to assessments and services in Scotland

www.cafamily.org.uk
Helpline 0808 808 3555

Scottish local authorities have a general duty under the **Children (Scotland) Act 1995**, to safeguard and promote the interests of children in need. The law recognises disabled children as being in need. This means your local authority must carry out an assessment of your child if you ask them to under Section 23 of this act. Contact your Social Work Department for this.

<http://www.legislation.gov.uk/ukpga/1995/36/contents>

Community Care and Health (Scotland) Act 2002 – Carer's Assessment

This act introduced a right for parents to request a carer's assessment at any time, so long as they are providing care on a 'substantial and regular' basis.

<http://www.legislation.gov.uk/asp/2002/5/contents>

Available services for disabled children:

Under Section 2 of the **Chronically Sick and Disabled Persons (Scotland) Act 1972**, the duty to provide services is to the individual disabled child and does not extend to other members of the family.

The services detailed are:

- Practical assistance in the home such as help with the personal care of your child;
- Provision of equipment to satisfy a recreational need;
- Provision of leisure facilities;
- Travel and other assistance;
- Home adaptations/disabled facilities;
- Holidays;
- Meals;
- Telephone equipment.

www.scotland.gov.uk/library/swsg/index-f/c102.htm

The **Children (Scotland) Act 1995** sets out a range of support services which should be available, including short breaks.

The regulations and guidance for the Act say:

'Respite services are an important part of the range of services that should be available to help families with children in need. They are particularly relevant to helping children with disabilities but can also meet other needs, for example to provide a child's parents or carers under stress with a break where the absence of such support might lead to breakdown of the usual arrangements for the child's care.'

There are other services listed in the regulations and guidance. Family support services should cover both day care and home services.

These may include:

- Home help;
- Family centres offering childcare;
- Support to parents and education to increase parenting skills;
- Access to suitable housing;
- Occupational therapy;
- Special equipment and adaptations.

Importantly, the Children Act allows social work to provide help which will benefit other family members, such as siblings and other carers.

Further information relating to your child's rights

United Nations Conventions on the Rights of the Child (UNCRC)

The UNCRC is an international agreement that protects the human rights of children under the age of 18.

<http://www.uncrcletsgetitright.co.uk/>

Equality Act 2010

The Equality Act was enforced in October 2010 to give a clear framework for effectively confronting disadvantage and discrimination.

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/>

Getting It Right For Every Child (GIRFEC)

This is a national programme in Scotland with the aim of improving outcomes for all children and young people. It encourages professionals to make judgements based on the best relevant information and supports appropriate early intervention.

www.scotland.gov.uk/gettingitright

More information can be found in the Enquire Booklet:

The parents' guide to additional support for learning

www.enquire.org.uk
Helpline 0845 123 2303

Transition to Adult Services

The transition to adult services is a time of particular concerns and tensions.

The 2002 Community Care and Health (Scotland) Act makes it clear that local authorities should:

- Anticipate the need for equipment and adaptations to the home as a disabled child grows older;
- Plan and make arrangements for the child's eventual transition from children's to adult services;
- Ensure that young people and their parents have access to high quality guidance and support to enable them to make the transition from school to post-school education and training.

<http://www.legislation.gov.uk/asp/2002/5/contents>

Contact a Family Factsheet:

Preparing for adult life and transition – Scotland

www.cafamily.org.uk
Helpline 0808 808 3555

Benefits and Tax Credits

There are a range of benefits and tax credits for which you may be eligible. Each benefit or tax credit has its own set of eligibility criteria. This means you need to meet certain conditions in order to qualify.

Contact a Family Factsheets:

A checklist for parents

Benefits, tax credits and other financial help

These booklets contain a selection of the most common benefits, briefly explaining what they are, and who is entitled to claim them.

www.cafamily.org.uk
Helpline 0808 808 3555

When your child becomes 16 benefits are paid to the young adult.

<http://www.kindred-scotland.org/>

This website provides information relating to welfare rights services, and much more.

Direct Payments

If your local authority agrees that your child needs services, you can choose to get money to buy these services yourself. This is called direct payments. Direct payments should give you more control over how your child's needs are met but it also involves more responsibility for you.

http://www.direct.gov.uk/en/disabledpeople/financialsupport/dg_10016128

Contact a Family Factsheet:

A parents' guide to direct payments in Scotland

www.cafamily.org.uk
Helpline 0808 808 3555

Therapy/Support Services

There are a range of therapy and support services which may be appropriate for you and your child.

The main ones are:

- Speech and Language Therapy
- Occupational Therapy
- Physiotherapy
- Child and Adolescent Mental Health Service (CAMHS)

You can request an assessment by any of these services. Ask your GP or consultant paediatrician to make the referral.

Alternatively email mig@mindroom.org for details of who to contact in your area.

Mindroom

www.mindroom.org
Email: moreinfo@mindroom.org
Tel: 0131 475 2330

Enquire

www.enquire.org.uk
Email: info@enquire.org.uk
Helpline: 0845 123 2303

Contact a Family

www.cafamily.org.uk
Email: helpline@cafamily.org.uk
scotland.office@cafamily.org.uk
Helpline: 0808 808 3555

OAASIS

www.oaasis.co.uk
Email: oaasis@cambriangroup.com
Helpline: 0800 197 3907

Care has been taken to ensure the accuracy of the above information, which is provided for guidance and reference purposes only and which should not be construed as finite, prescriptive or exclusive; inaccuracies may, however, occur. Mindroom recommends consultation with relevant medical, educational and legal professionals on the treatment or management of learning difficulties and all associated issues, and shall not be held responsible for any damage or loss occurring as a result of references contained herein.

Contact Us

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