

# The EKE-Out Project



***Guide No 2  
August 2004***

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

### ***Summary***

Under the Education (Additional Support for Learning) (Scotland) Act, passed in May 2004, any specific educational needs are now defined in terms of "additional support needs" encompassing psychological as well as physical barriers to learning. Potentially, the Act makes enhanced provisions for **all** children and young people within the education system to receive educational support if or when they are in need of it. Education Departments will carry the overall responsibility to implement the Act at the local level. However, in line with a move towards more joined up working between agencies, education, health, social work and other relevant services will work together when required. The Act distinctly defines the duties of the Education Authorities and accords certain rights to parents, young people and children. Voluntary groups working with parents, children and young people will need to ensure that these groups of people fully appreciate the provisions in the Act and also their rights enshrined therein.

**The new legislation does not come into force until autumn of 2005 and pending that the existing law, on how special needs are identified and what arrangements are made to meet those needs, remains in place.**

***This document is one of an occasional series of guides to key issues for the voluntary sector for children, young people and families in Edinburgh produced by the Eke-Out Project.***

## **Introduction**

Introduced in 2001 in the Scottish Parliament, the Education (Additional Support for Learning) (Scotland) Bill was passed in May 2004. This Act brings about a number of changes in the way children and young people are assessed for 'educational needs' as well as widens the remit for who is assessed. From **autumn of 2005** the "special educational needs" introduced by the Education (Scotland) Act 1980 (amended 1981) will not be applicable. The new legislation will make it mandatory for the education system to take into account the needs of **all children** who face barriers to learning and provide support accordingly.

## **What's New?**

- There is a distinct shift in focus from 'special educational provision' for children and young people who have learning difficulties or have a disability which prevents or hinders them from making use of the learning facilities, to providing support to any child or young person experiencing hurdles to learning.
- Any specific educational needs are now defined in terms of "additional support needs" encompassing psychological as well as physical barriers to learning. The barriers can range from short term to serious and continued difficulties e.g. bullying in school, problems at home, learning difficulties and mobility impairment. Support needs of students who are particularly gifted or are skipping school and classes will also be assessed.

## **How will it work?**

Education Departments will carry the overall responsibility to implement the Act at the local level. However, in line with a move towards more joined up working between agencies, education, health, social work and other relevant services will work together when required.

## **The Education authorities have two main duties to perform with regards to this Act:**

1. Identify, address and keep under review the additional educational support needs of all children and young people whose education they are responsible for.
2. Develop a Co-ordinated Support Plan (CSP) for a child or young person who has such need.

### ***Co-ordinated Support Plan (CSP)***

*CSP is for children or young people requiring long-term educational support from a range of providers due to their needs resulting from one or more complex or multiple factors.*

***CSP will replace the Record of Needs.***

This is to be done on the basis of either a child or young person **appearing to be in need of educational support as identified by the authority** or because **a request is made by the parent of a child or a young person (who is capable of doing so)** for additional educational support or a Co-ordinated Support Plan.

**Under the Act the Education Authorities have a legal duty to:**

- Identify the child or young person's need for additional educational support
- Respond to a request made by parents or a child or young person for additional educational support
- Assess the level (educational, psychological or medical) of need and intervention
- Involve both the parents and the child or the young person in the assessment
- Inform the parents or young person of the outcome
- Make adequate and efficient provisions for any additional support required
- Keep records of the provision and keep under consideration its adequacy
- Undertake an assessment of child or young person and develop a CSP as needed
- Review Coordinated Support Plans annually and take appropriate action
- Review a Coordinated Support Plan at the request of the parents or the young person (unless the request is unreasonable)
- Make appropriate plans for a child or young person with continued requirement for additional support: to support them through transition to another service and to inform the respective agency of the provisions necessary to meet the child or young persons' future needs.
- Work with or involve other agencies where required

- Seek and pay heed to views of, and any information provided by, the child or young person and his/her parents
- Seek and pay heed to relevant advice and information from appropriate agencies
- Provide a name and other contact details of an officer of the authority from whom the child's parents or a young person can obtain advice and information
- Allow parents, a child or a young person to have another person present at any discussion to support them or advocate on their behalf
- Make arrangements for an independent mediation service to avoid or resolve disagreements between the different parties (**this service is to be provided free of charge**)
- Publish information with respect to its policy on additional support needs and CSP. Also clearly outline the role parents, children and young people will have in these arrangements and also provide name/s of officers who can furnish further information
- Make available all such information to the parents

**Parents and young people age 16-17, and in relation to CSP those young people who are capable of making a request, have the right to:**

- Request for educational needs assessment and ask for intervention
- Request CSP assessment
- If dissatisfied, request for a review of an existing CSP
- Parents can make a placing request to an independent special school if their child has additional support needs
- Ask for a mediation service if the authority fails to perform any of the above duties
- Ask for tribunal hearing if not satisfied with mediation
- Appeal if not happy with the tribunal decision (the Education Authority also has this right)

### **What are the Implications?**

This law in essence impacts on every child aged three and upwards as long as she/he remains in education. Therefore the parents need to be fully aware of the Act and its outcome for them. Potentially the Act makes enhanced

provisions for all children and young people within the education system to receive educational support if or when they are in need of it.

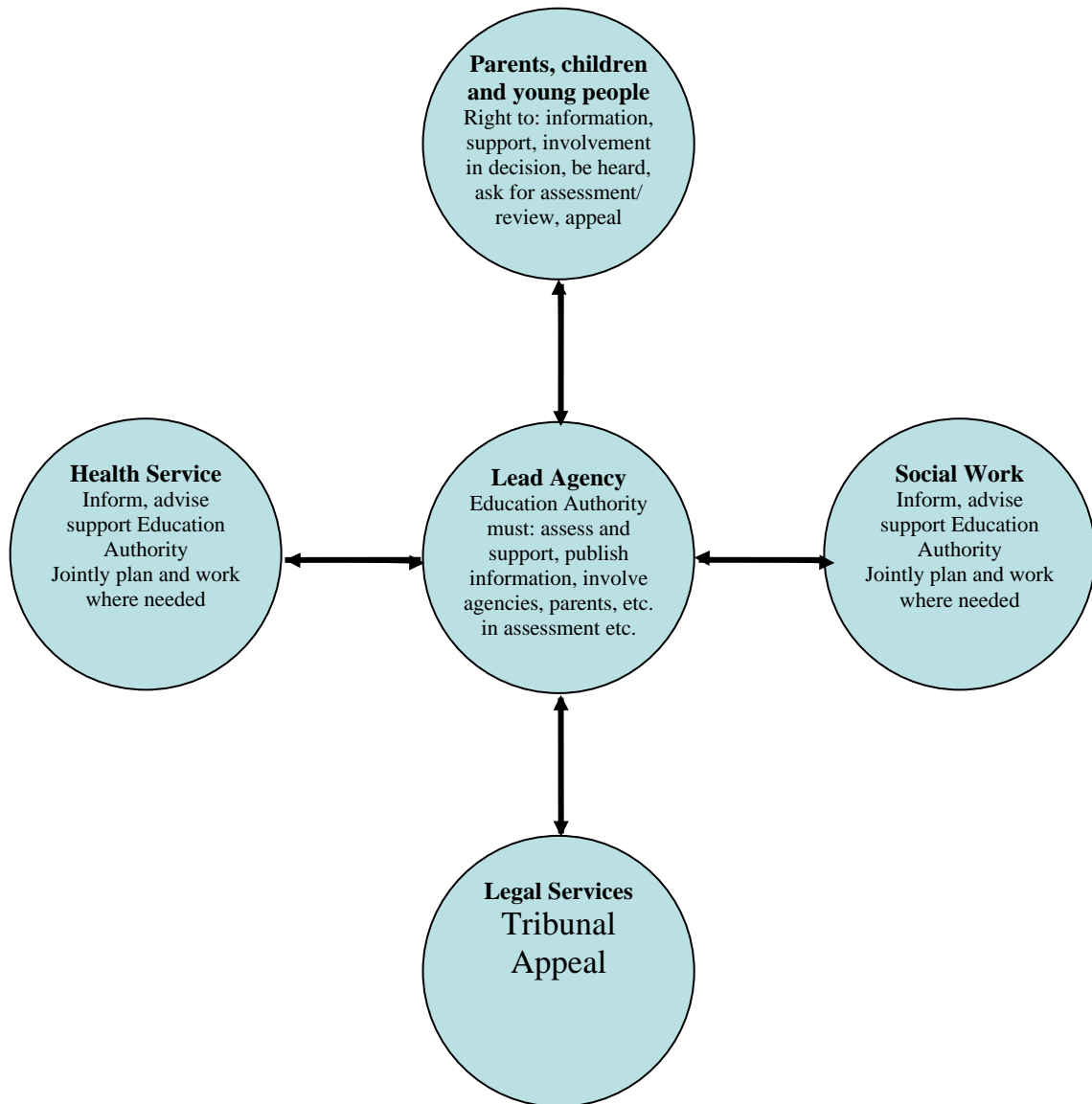
However, as the Act applies to all children and not just those who have clearly known or visible needs, the burden on the education authorities in terms of identifying and meeting any assessed needs could be enormous and thus the likelihood of slip-ups is also great. For this reason parents/guardians will have to remain particularly alert that their children are assessed, where required, and the support provided is appropriate and adequate for the need of their child/children. Voluntary groups working with parents, children and young people will need to ensure that the parents and young people fully appreciate the provisions in the Act and also their rights enshrined therein. Additionally such organisations may have to watch out for parents who may, for one reason or another, have difficulty in understanding the Act and all it entails. Also newcomers to the country such as refugees and asylum seekers may need some support in comprehending what is on offer and how to ensure that their children's needs are met appropriately.

### **What Next?**

The new legislation does not come into force until autumn of 2005 and pending that the existing law, on how special needs are identified and what arrangements are made to meet those needs, remains in place.

Also, process and systems are being worked out with regards to consultation on a code of practice. The consultation is scheduled to commence around the end of 2004, with the final code to be ready by March 2005.

## Network of Agencies expected be involved in Additional Education Support work



**For Further Information:**

<p><b>Enquire</b>, an independent advice and information service for additional support needs (special educational needs) in Scotland</p>	<p>Helpline telephone number: 0845 123 2303 Online enquiries: <a href="http://www.enquire.org.uk">www.enquire.org.uk</a> Enquiries Tel: 0131 222 2425 E- mail: <a href="mailto:info@enquire.org.uk">info@enquire.org.uk</a></p>
<p><b>The Education (Additional Support for Learning) (Scotland) Act 2004</b></p>	<p><a href="http://www.oqps.gov.uk/scotlegislation/acts_scotparliament.htm">http://www.oqps.gov.uk/scotlegislation/acts_scotparliament.htm</a></p>
<p><b><u>Scottish Executive</u></b></p> <p>Minister for Education and Young People - Peter Peacock MSP</p> <p>Head of Education Department - Mike Ewart</p>	<p>Education Department Scottish Executive Victoria Quay EDINBURGH EH6 6QQ</p> <p>(Tel) 0131 556 8400 or 0845 774 1741 (Fax) 0131 244 8240 (Email) <a href="mailto:ceu@scotland.gov.uk">ceu@scotland.gov.uk</a></p>
<p><b><u>Local Authority</u></b></p> <p>Chair of Children and Young people Scrutiny Panel - Tom Ponton</p> <p>Director of (Education) Children and Families Department - Roy Jobson</p>	<p>Tel: 0131 529 5956 E-mail: <a href="mailto:tom.ponton@edinburgh.gov.uk">tom.ponton@edinburgh.gov.uk</a></p> <p>Wellington Court 10 Waterloo Place Edinburgh EH13EG</p> <p>Tel: 0131 469 3000</p>

**We would be most interested in hearing from you if you have had to provide any assistance to or received complaints from parents or young people in relation to the Education (Additional Support for Learning) Scotland Act 2004.**

**We also welcome your views and concerns regarding the Act.**

This guide was written by:

Mridu Thanki

Policy Liaison and Outreach Officer

The Eke-Out Project

c/o EVOC

14 Ashley Place

Edinburgh EH6 5PX

T 0131 555 9100

F 0131 555 9101

E [mriduthanki@evoc.org.uk](mailto:mriduthanki@evoc.org.uk)

The Eke-Out Project produces an occasional series of guides to key issues for the voluntary sector for children, young people and families in Edinburgh. We welcome feedback about our work. Please get in touch with us if you have any comments about this guide or suggestions for future topics.

### The Eke-Out Project

**The Eke-Out Project is the Edinburgh Network of Voluntary Organisations for Children, Young People and Families.** The Project staff support the Network with information, policy development, research and networking services. Detailed information collected from members of the Network, held in the Eke-Out database, helps to provide a comprehensive sector profile for more effective planning and allows communications to be targeted more accurately. The Eke-Out Project aims to promote, support and develop partnership working. The staff team are:

**Carol Tinto - Network Co-ordinator**

*Overall project management.*

0131 555 9100/9130 [caroltinto@evoc.org.uk](mailto:caroltinto@evoc.org.uk)

**Phil Tully - Network Liaison Officer**

*Network communications and database management.*

0131 555 9100/9112 [philtully@evoc.org.uk](mailto:philtully@evoc.org.uk)

**Mridu Thanki - Policy Liaison and Outreach Officer**

*Policy development and partnership working.*

0131 555 9100/9133 [mriduthanki@evoc.org.uk](mailto:mriduthanki@evoc.org.uk)

**Kate Straine - Research and Development Officer**

*Issue-based research and information resources.*

0131 555 9100/9133 [katestraine@evoc.org.uk](mailto:katestraine@evoc.org.uk)

Previous Guides:

1. Early Years - July 2004